



REPUBLIC OF NAMIBIA

MINISTRY OF FINANCE

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**PUBLIC PROCUREMENT REVIEW PANEL**

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**Windhoek**

**Namibia**

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**IN THE PUBLIC PROCUREMENT REVIEW HEARING**

**HELD ON 23 JUNE 2023**

**IN THE MATTER BETWEEN**

**BERTHA SECURITY SERVICES CC**

**APPLICANT**

**AND**

**MINISTRY OF MINES AND ENERGY**

**OMAMBUNDU SECURITY COMPANY CC**

**SHIKUVULE TRADING CC**

**CHIEF NANGOLO SECURITY SERVICES CC**

**SIX THOUSAND SECURITY SERVICES CC**

**SHINE TECHNOLOGIES SOLUTIONS (PTY) LTD**

**REFLECTOR TRADING ENTERPRISES CC**

**NAMIBIA PROTECTION SERVICES (PTY) LTD**

**WINDHOEK SECURITY SERVICES CC**

**OMEYA INVESTMENT CC**

**DOGFORCE SECURITY SERVICES CC**

**KIMPERT INVESTMENTS CC**

**TRIPPLE ONE INVESTMENT CC**

**SECURITY TRAINING COLLEGE OF NAMIBIA CC**

**AFRICAN KING SECURITY SERVICES CC**

**EWOGO TRADING CC**

**INLAND INVESTMENT CC**

**TWENTY-NINE BATTALION INVESTMENT CC**

**1<sup>ST</sup> RESPONDENT**

**2<sup>ND</sup> RESPONDENT**

**3<sup>RD</sup> RESPONDENT**

**4<sup>TH</sup> RESPONDENT**

**5<sup>TH</sup> RESPONDENT**

**6<sup>TH</sup> RESPONDENT**

**7<sup>TH</sup> RESPONDENT**

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**12<sup>TH</sup> RESPONDENT**

**13<sup>TH</sup> RESPONDENT**

**14<sup>TH</sup> RESPONDENT**

**15<sup>TH</sup> RESPONDENT**

**16<sup>TH</sup> RESPONDENT**

**17<sup>TH</sup> RESPONDENT**

**18<sup>TH</sup> RESPONDENT**

<b>SIRKA INVESTMENT CC</b>	<b>19<sup>TH</sup> RESPONDENT</b>
<b>SHIELD FORCE SECURITY SERVICES CC</b>	<b>20<sup>TH</sup> RESPONDENT</b>
<b>RUBICON SECURITY SERVICES CC</b>	<b>21<sup>ST</sup> RESPONDENT</b>
<b>BAOBAB SECURITY SERVICES CC</b>	<b>22<sup>ND</sup> RESPONDENT</b>
<b>KESSANE SECURITY INVESTMENT CC</b>	<b>23<sup>RD</sup> RESPONDENT</b>
<b>IMMINENT GROWTH INVESTMENTS CC JV</b>	
<b>NALKAL SECURITY SERVICES CC</b>	<b>24<sup>TH</sup> RESPONDENT</b>
<b>EXTRA DEFENCE PROTECTION SERVICES CC</b>	<b>25<sup>TH</sup> RESPONDENT</b>
<b>PIS SECURITY SERVICES CC</b>	<b>26<sup>TH</sup> RESPONDENT</b>
<b>ROYAL SECURITY FAMILY INVESTMENT CC</b>	<b>27<sup>TH</sup> RESPONDENT</b>
<b>NAHOLE SECURITY AND DEBT COLLECTION SERVICES CC</b>	<b>28<sup>TH</sup> RESPONDENT</b>

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**IN A REVIEW APPLICATION MADE IN TERMS OF SECTION 59 OF THE PUBLIC PROCUREMENT ACT, 2015 (ACT 15 OF 2015) AS AMENDED**

**BID NO: NCS/ONB/ORTC/15-02/2022- PROVISION OF SECURITY SERVICES TO THE MINISTRY OF MINES AND ENERGY WINDHOEK HEAD OFFICE, ORANJEMUND OFFICE, LUDIRITZ OFFICE, SWAKOPMUND REGIONAL OFFICE, KHORIXAS OFFICE AND TSUMEB GEOPHYSICAL STATION FOR THE PERIOD OF THIRTY -SIX (36) MONTHS (3YEARS)**

**Coram: Gilbert Habimana (Chairperson), with Ehrenfried Honga, Kenandei Tjivikua, Selma-Penna Utonih and Paulina Kandali Iyambo concurring**

**Heard : 23 June 2023**

**Decided : 23 June 2023**

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**REVIEW PANEL ORDER**

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**1. INTRODUCTION:**

A hybrid meeting was held, using both physical and virtual modes.

Having heard **Mr. S. Lasarus** representing the Applicant, **Mr. N. S. Musenge** representing the 1<sup>st</sup> Respondent, and having read the application for review in terms of Section 59(1) of the Public Procurement Act, 2015 (Act No.15 of 2015) (hereinafter referred to as the "Act"), read with Regulation 42 of the Public Procurement Regulations: Public Procurement Act, 2015 (hereinafter referred to as the "Regulations").

Having read the application for review and other documents filed as part of the record, the Review Panel, in respect of the matter and made the following findings and subsequent order.

**2. GROUNDS FOR THE REVIEW AS CONTAINED IN THE APPLICANT'S APPLICATION FOR REVIEW:**

2.1 The Applicant argued that they duly submitted their bid in full compliance with the bidding documents however, on 25 April 2023 a notice of selection of award was issued wherein it was stated that the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents were the successful bidders.

2.2 The 1<sup>st</sup> Respondent issued an executive summary that stated that the Applicant's bid was found to be non-responsive since the Applicant failed to attach employee contracts.

2.3 The Applicant requested reconsideration from the 1<sup>st</sup> Respondent stating that the attachment of employee contracts was not contained in the bidding documents and demand a re-evaluation of the bids.

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### 3. APPLICANT'S SUBMISSIONS AT THE REVIEW PANEL HEARING:

- 3.1 The Applicant requested clarification as to how many marks would have been allocated if the employee contracts were attached because that did form part of the technical evaluation.
- 3.2 The Applicant wanted to know where in the bidding document the contracts of employees were stated as a requirement and compulsory.

### 4. FIRST RESPONDENT'S SUBMISSION AT THE REVIEW PANEL HEARING:

- 4.1 The First Respondent stated that the attachment of the contracts of employees is part of the bidding document however not part of the evaluation criteria but is compulsory as stated in Annexure 2 (2.7) of the bidding document.

### 5. FINDINGS OF THE REVIEW PANEL:

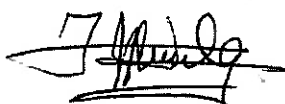
Having heard the Parties at the Review Panel hearing and having considered the written submission of the Parties, the Review Panel made the following findings:

- 5.1 The Review Panel found that in the absence of the contracts of the employees, as stated in Annexure 2 (2.7), the bid of the Applicant was non-responsive. Annexure A: Evaluation Criteria, under point 2 with the heading: *"The following obligatory documentary evidence is required and should be attached during the submission of the bid"*, it is stated under point 2.7 the following: *"Attach current contract of at least 5 Security guards (Compulsory)"*.

### 6. DECISIONS OF THE REVIEW PANEL:

Based on the above findings in paragraph 5.1, the Review Panel orders the following:

- 6.1 That the Review Panel hereby dismisses the review application of the Applicant in terms of Section 60(a) of the Public Procurement Act, 2015 (Act No. 15 of 2015) as amended.
- 6.2 That the Review Panel hereby confirms the decision of the Respondent (the Ministry of Mines and Energy) in terms of Section 60(e) of the Public Procurement Act, 2015 (Act No. 15 of 2015) as amended.
- 6.3 That the effective date of this order is 23 June 2023.
- 6.4 The First Respondent must provide proof of the implementation of this Order to the Procurement Policy Unit within thirty (30) days from the receipt of this Order.



**GILBERT HABIMANA**  
**CHAIRPERSON: REVIEW PANEL** (in this matter)

