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21 November 2018

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* Associated Firm
** In cooperation with
Trench, Rossi e Watanabe
Advogados

Erick Smith
South African Revenue Services

Our ref: D Bernstein

By email
[REDACTED]

Dear Sirs

South African Revenue Services (SARS) / Bain & Company South Africa, Inc.


1. We represent Bain & Company South Africa, Inc.
2. As you are no doubt aware, as a result of the establishment of the Commission of Inquiry into Tax Administration and Governance by SARS (**the Commission**), and the Commission's enquiries into the relationship between our client and SARS, we were briefed to conduct an independent investigation into, *inter alia*, the consulting work provided by our client to SARS (**the Project**).
3. We are still in the process of conducting this investigation and, as part of the investigation, have undertaken a large scale document review of relevant documents obtained from our client.
4. However, many of the documents which would be relevant to our investigation, especially in relation to the procurement process followed prior to the award of the work to our client, are not in our client's possession.
5. Consequently, we write to you to request that you provide us with copies of the following documents for the purposes of facilitating our investigation:
 - (a) SARS' delegation of authority policy;
 - (b) the letter submitted by former SARS Commissioner Tom Moyane (**the Commissioner**) to the then Minister of Finance justifying the Project;
 - (c) any submission or determination by the Commissioner regarding the shortening of the 21 day advertising period of the RFP;
 - (d) any submissions by the Commissioner to National Treasury under section 54(2) of the Public Finance Management Act 1 of 1999;
 - (e) the procurement plan submitted by SARS to National Treasury and the provision of a motivated business case in respect of the Project;
 - (f) our client's submitted bid to SARS arising out of the RFP 26/2014, dated 12 December 2014, in respect of 'Consultancy Services To Review The SARS Operating Model' (RFP);

- (g) all other bids received in response to the RFP. We note that these bids may contain sensitive commercial information and would be happy for you to redact such documents as appropriate;
- (h) the evaluation and adjudication documents completed by SARS in respect of our client's bid;
- (i) the evaluation and adjudication documents completed by SARS in respect of other bids received, once again we are happy for sensitive commercial information to be redacted;
- (j) any letters of complaint received from other bidders to the RFP after our client was awarded the Project;
- (k) concurrence of the relevant treasury and a motivated business case in respect of the Phase 2 and Phase 3 of the Project;
- (l) the motivations justifying deviations from a competitive bidding process recorded by the SARS procurement unit and record of the reports that ought to have been made by the SARS procurement unit setting out the reasons for dispensing with a competitive bidding process in respect of Phase 2 and Phase 3. These reports would also be known as the first and second deviation letters, respectively.

6. We respectfully request that you revert to us as urgently as possible and by no later than close of business on **Friday, 24 November 2018**. Any delay in assisting our client with this information would delay our client's ability to cooperate with other relevant government authorities.

7. We look forward to receiving your urgent response.

Yours faithfully


Darryl Bernstein
Partner

