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## **ANNEXURES TO CONCESSION AGREEMENT [1]**

### **ANNEXURE A1 - SHAREHOLDERS OF THE CONCESSIONAIRE**

### **ANNEXURE B2 - ASSET SCHEDULE**

The assets to be transferred to the Council by the Ministry are as follows

### **ANNEXURE C3 - CONCESSION AREA**

The Concession Area means the area within the municipal boundaries of [ ] as depicted in the maps annexed to this **Annexure C3**.

## Water and Sanitation Concession Agreement - Example 1 (Annexures)

### ANNEXURE D4 - ANNUAL CONCESSION FEE AND PAYMENT PROVISION SCHEDULE

1. The Concessionaire will pay to the Council a fixed Concession Fee of [amount and currency]) inclusive of Service Tax for the first 12 (twelve) month period of the Contract calculated with effect from the Effective Date.
2. The Concession Fee payable in paragraph 1 above will escalate per annum by the CPI in respect of each subsequent year of the Contract until the end of the first 5 (five) year period of the Contract.
3. The amount of the annual Concession Fee payable in respect of year 6 (six) and each year of the next 5 (five) year periods will be agreed between the Council and the Concessionaire 6 (six) months prior to the effluxion of year 5 (five) of the Contract on the basis that the Concession Fee shall cover reasonable costs of the Council pursuant to it conducting and fulfilling its monitoring function.
4. In the event that no agreement is reached between the Parties as to the Concession Fee to be paid and the annual escalation indices to be applied, in respect of the annual escalation of such fee for each year of such 5 (five) year period the matter shall be referred to the President of the Institute of Chartered Accountants or his nominee for decision. The President or his nominee shall act as an expert not as an arbitrator in determining the annual Concession Fee to be paid having regard to the basis referred to in 3 above and the escalation indices to be used in respect of the annual escalation of the Concession Fee and their decision shall be final and binding on the Parties. In the event that the decision of the expert is not rendered prior to the effluxion of any 5 (five) year period, the Concession Fee payable in respect of the first year of the next 5 (five) year period shall be the Concession Fee paid in respect of 5 (five) year escalated by the CPI pending decision of the expert. The Concession Fee paid shall be adjusted in accordance with the decision of the expert and any monies due and payable by either the Concessionaire and/or the Council shall be paid within 7 (seven) days of the date of the experts decision.
5. The provisions of 3 and 4 shall apply *mutatis mutandis* in respect of each subsequent 5 (five) year period of the Contract Term.
6. The annual Concession Fee to be paid by the Concessionaire to the Council will be due and payable as follows-
  - a. in respect of the 1st year of the Contract Term, [amount and currency]) shall be due and payable 7 (seven) days after the Effective Date with the balance of [amount and currency]) been due and payable on within 6 (six) months of the Effective Date;
  - b. in respect of each subsequent year of the Contract Term the Concession Fee due and payable shall be paid in 4 (four) equal installments each instalment been due and payable on or before the end of each 3 (three) month period.

## Water and Sanitation Concession Agreement - Example 1 (Annexures)

### ANNEXURE E5 - PERFORMANCE AND SERVICE LEVELS

[by way of example only]

#### 1. PERFORMANCE LEVELS

Water Supply services shall be made available to the Consumers of the Developed Areas within the time frames and in accordance with the levels of service as follows	<b>COVERAGE (%)</b>	
	<b>AREA</b>	<b>WATER SUPPLY SERVICES</b>
	<b>WATER SUPPLY SERVICES</b>	<b>SANITATION SERVICES</b>

A 24 (twenty four) hour continuous Supply of Water Supply Services shall be available to all formal stands in [ ] within 3 (three) years and within 5 (five) years of the Contract Term in all other areas of the Concession Area.

#### On Site Sanitation Services

In addition to financing, providing and maintaining the Sanitation Services Works in areas requiring a full level 4 or upgrading full level 5 service, the Concessionaire shall facilitate and manage the improvement of household sanitation to levels of service 2 and 3, as defined. This shall include improving the on-site Sanitation Services system in accordance with prevailing government policies with due regard to government grants for the provision of Basic Sanitation.

The Concessionaire shall provide technical and logistical support to Consumers and emerging Contractors in the construction of VIP (Ventilated Improved Pit) latrines and sullage soakaways, and other suitable systems. The Concessionaire's strategy shall also support Consumers wishing to upgrade their Sanitation Services to allow for in-house waterborne systems and properly functioning septic tanks and soakaways.

Further Sanitation Service upgrading, to fully reticulated waterborne sewage, shall be undertaken on the basis of Consumer affordability.

## Water and Sanitation Concession Agreement - Example 1 (Annexures)

### 1. LEVELS OF WATER SUPPLY SERVICE AND SANITATION SERVICES

The levels of service as referred to above are defined as follows:

LEVEL OF SERVICE	SERVICE	DESCRIPTION OF SERVICE
Minimum Level 1	Water Supply Service	
	Sanitation Service	
Basic Level 2(a)	Water Supply Service	
	Sanitation Service	
Modified Basic Level 2 (b)	Water Supply Service	
	Sanitation Service	
Intermediate Level 3	Water Supply Service	
	Sanitation Service	
Full Level 4	Water Supply Services	
	Sanitation Service	

## Water and Sanitation Concession Agreement - Example 1 (Annexures)

LEVEL OF SERVICE	SERVICE	DESCRIPTION OF SERVICE
Upgraded Full Level 5	Water Supply Services	
	Sanitation Service	

The provision of Water Supply Services and Sanitation Services to Consumers shall be developed simultaneously, endeavouring to avoid installing Sanitation Services without installing Potable Water Supply systems and vice versa.

### 2. SERVICE QUALITY STANDARDS

The Concessionaire shall maintain a register of service complaints and advice of service disruptions. A 24 (twenty four) hour a day, 7 (seven) day a week, service shall be maintained to receive advice of disruptions and to react as required. The Concessionaire shall establish offices, accessible to all Consumers and potential Consumers in the Developed Areas and the offices must be open to the public during working hours for attending to complaints and queries from Consumers. The offices shall be manned by competent personnel.

The response times which are to be achieved by the Concessionaire in respect of any disruption of the Water Services shall be as follows:

- a. Category 1 - Disruptions causing life threatening situations and/or potential damage to properties and other facilities - attend to incident within 2 (two) hours of being notified or becoming aware of the fact and effect repair with due diligence employing all necessary reserves irrespective of cost.
- b. Category 2 - Disruptions causing significant water losses or discomfort to the public - attend to incident within 4 (four) hours of being notified or becoming aware of the fact and effect repair with due diligence including providing alternative Supply if the service cannot be resumed within 12 (twelve) hours of notification.
- c. Category 3 - Disruptions generating no damage or significant water losses - effect repair within 24 (twenty four) hours of being notified or becoming aware of the fact.

In all cases the Concessionaire must, within 18 (eighteen) hours of being notified or becoming aware of the fact, inform affected Consumers of the measures adopted, or to be adopted, to resolve the disruption, including, where appropriate, alternative Water Supply Services and/or Sanitation Services arrangements.

No individual Consumer shall be without their normal water Supply service and/or Sanitation Service for a period of more than 24 (twenty four) hours and no area shall

be without its normal Water Supply Services for a period of more than 12 (twelve) hours without alternative arrangements being put in place by the Concessionaire.

In the event of planned water Supply and/or Sanitation Service cuts, 48 (forty eight) hours notice must be given to all affected Consumers.

Complaints and enquiries, other than those dealt with above, shall be dealt with by the Concessionaire within 7 (seven) days of receipt.

3. **SEWER OVERFLOWS AND POLLUTION CONTROL**

The Concessionaire shall operate, clean, repair, replace and extend the Sanitation Service Works on a continual basis so that the risk of flooding measured in terms of the number of premises and/or areas subject to flooding, during each year of the Contract, by overflows from sewer lines as a result of under capacity or specific construction problems is gradually eliminated within the first 5 (five) years of the Contract.

Should a pollution incident occur which may affect the Raw Water, the Concessionaire shall immediately take all measures required for detecting and preventing any pollution entering any treatment plants. The Concessionaire shall cooperate with all relevant authorities to identify and resolve the cause of the problem and shall provide the Council with all available information in respect of the extent of the pollution incident and the remedial measures taken to contain and/or eliminate the pollution incident with due regard to and all Regulatory Provisions.

4. **REPORTING**

The Concessionaire shall, within 3 (three) months of the Effective Date, have a reporting procedure in place which shall be approved by the Council. The purpose of such reporting procedures shall be to record the types of water service Supply complaints received and the response times achieved by the Concessionaire. The reporting procedure shall also record the Concessionaire's compliance with all performance level and service quality requirements in respect of the Supply of Water Services.

## ANNEXURE F6 - QUALITY SPECIFICATION

### **1. POTABLE WATER**

Potable Water shall be supplied to Consumers with a quality that complies with [ ].

### **2. DESIGN OF WATER SERVICES**

The planning and design of all Water Supply Services Works and all Sanitation Services Works shall conform to the requirements of [engineering standards] or such other standard that is accepted by the majority of local authorities as being the replacement for them.

Potable water Supply shall have a minimum residual pressure within the limits set in the above guidelines. The areas which will be classified as being applicable “for lower income levels” will be agreed with the Council before undertaking such designs. For fire fighting purposes the area outside [ ] shall generally be classified as “Low risk- Group 3” unless specific factors indicate that a higher classification should be used. Fire hydrants within major industrial facilities must be served by combination meters. The provision of the applicable regulations regarding calculating the diameter required for house connections shall be complied with.

### **3. EFFLUENT TREATMENT**

Treated effluent to be discharged into natural water courses shall comply with [relevant regulations]. Before any new or upgraded treatment facility is commissioned a copy of the required approvals shall be lodged with the Council.

### **4. CONSTRUCTION WORK AND NEW EQUIPMENT**

All construction, maintenance and repair work shall be carried out using new materials and equipment which shall comply with [relevant standards] or other equivalent quality standard which together with the workmanship shall comply to best practice adopted in [country]. All mechanical and electrical equipment shall have spare parts and service facilities readily available in [country].

A consulting engineer appointed by the Concessionaire shall act as technical auditor to certify to the Council that all planning, design and construction work has been undertaken in accordance with the required specification, appropriate local standards and relevant Regulatory Provisions. Any items found not to conform to standard during such inspections shall be immediately rectified by the Concessionaire at their own cost. The town engineer of the Council or his authorised representative :

- a. may audit the testing procedures of the Concessionaire and may require the provision of samples of materials at no cost for independent testing;
- b. shall have the right of access to all Works and may inspect workmanship at any time.



Any deviations from standard identified as a result of such audit, testing or inspections shall be reported to the Concessionaire for them to take the appropriate action within a defined period of time.

- c. Operation manuals shall be maintained by the Concessionaire in respect of the Works. Such manuals shall be maintained in good condition and handed over to the Council on termination of the Contract.

5. **MAINTENANCE PROCEDURES**

- a. The Concessionaire shall maintain a maintenance register for each asset or part thereof. Such register shall record the on-going maintenance and preventative maintenance procedures.
- b. The standard of maintenance of the Works shall be of the highest possible standard and shall at all times be subject to the approval of the Council who may inspect and test any maintenance performed and carried out by the Concessionaire.

6. **ENVIRONMENTAL ASPECTS**

The Concessionaire acknowledges that it is aware of the potential operating and capital costs involved in managing and undertaking the Supply of Water Services and the demand therefor as well as the handling of waste water. [country] is a semi-arid country and droughts are regular events that need to be planned for. The Concessionaire shall comply fully with all environmental Regulatory Provisions and the environmental management plan as contained in the approved integrated development plan of the Council. The Concessionaire shall investigate and implement within 3 (three) years from the Effective Date an integrated environmental management system complying with [ISO [ ]] standards which incorporates policies and procedures for upgrading or establishing, operating and maintaining the Works and which include environmental impact assessments and environmental audits as prescribed by relevant Regulatory Provisions.

7. **MAINTENANCE AND PROVISION OF INFORMATION**

- a. The Concessionaire shall comprehensively record and collate information about the Works and the Supply of Water Services on a continuous basis on the basis set out in 9(c) below, by the use of appropriate computer software and suitable hard copy storage. The records shall include databases, calculations, “as built” plans and diagrams, historical records in respect of construction, repairs and maintenance of the Works. This information shall be compiled into appropriate reports and delivered to the Council, and all competent authorities associated with or connected to the Supply of Water Services.
- b. The Concessionaire shall also maintain suitable and complete financial records which summarise all pertinent information pertaining to the Supply of Water Services and the Contract. Such information shall be prepared in accordance with the generally accepted accounting principles applicable in [country].
- c. Subject to reasonable notification from the Council, all records shall be



made available to the Council or its duly appointed agents during normal working hours with the object of verifying that they are being correctly maintained and to facilitate the regulatory and monitoring functions of the Council in respect of the Supply of Water Services.

- d. The Concessionaire shall keep records with regard to all employees associated with or connected to the Supply of Water Services in accordance to the provisions of the reporting schedule annexed hereto **Annexure J**.
- e. To enable the Council to prepare the Water Services development plan for the Council's area of jurisdiction, the Concessionaire shall submit all the relevant information requested for such plan by the Council timeously and render all reasonable assistance to the Council.
- f. The recording and retention of information and data in respect of the Works and the Supply of Water Services shall accord with the following procedure

**ARCHIVE DATA**

Ref.	Description	Archive

## ANNEXURE G7 - TAKE-OVER PROCEDURE SCHEDULE

1. The implementation plan to be prepared by the Concessionaire and submitted to the Council for approval shall consist of and/or deal with *inter alia* the following issues-
  - the Council will within 14 (fourteen) days of the Effective Date prepare and deliver to the Concessionaire a schedule setting out full details of the Consumers to whom the Concessionaire is obliged to Supply Water Services to;
  - the Council will within 180 (one hundred and eighty) days from the Effective Date to the extent authorised deliver to the Concessionaire the originals or copies of all the written Contracts and Tender documents in the possession of or under the control of the Council and in respect of which Concessionaire may be obliged to render the Supply of Water Services after the Effective Date.
  - the take-over and assumption of control of the Works and the Water Supply Services;
  - the take-over of the transfer employees with effect from the Effective Date;
  - the conclusion of the electricity Supply and refuse removal Contracts between the Council and the Concessionaire;
  - the conclusion of the necessary Water Supply Services Contract between the Council and the Concessionaire;
  - the effective transfer of data in respect of the Works and the Supply of Water Services from the Council's system to that of the Concessionaire;
  - the transfer within 180 (one hundred and eighty) days from the Effective Date of documentation, records and such other data or documents associated with the Supply of Water Services and/or the Works;
  - the verification of the Stock schedule reflecting the Stock to be made available by the Council to the Concessionaire by the Parties.

## ANNEXURE H8 - HANDOVER CERTIFICATE

1. This handover certificate is executed by and between the [ ] (“the Council”) and [ ] (“the Concessionaire”) on [DATE] in terms of the provisions of clause [12.4] of the written Contract entered into between the Council and the Concessionaire dated [DATE] (“the Contract”).
2. The Council and the Concessionaire hereby record and agree as follows-
  - a. all terms used herein which are defined in the Contract shall have, for all purposes of this certificate, their respective meanings under the Contract;
  - b. the Council hereby delivers to the Concessionaire and the Concessionaire hereby accepts from the Council under, in terms of and pursuant to the Contract -
    - i. the Works and all Existing Assets comprised in the Works. Such delivery shall include the physical delivery of all such assets insofar as practically possible by the Council handing same over to the Concessionaire and the constructive delivery of all Existing Assets not physically delivered;
    - ii. the use of the Existing Assets of a movable nature listed in **Annexure [ ]** to the Contract;
    - iii. the use of the Existing Assets of an immovable nature listed in **Annexure [ ]** to the Contract;
    - iv. the originals of -
      - A. all written agreements of whatsoever nature to which the Council is a Party and relating to the Supply of Water Services in the Concession Area (including, but not limited to, all written service or other agreements with Consumers for the Supply of Water Services to Consumers, all Bulk Water Supply Agreements and all water extraction permits;
      - B. all written licences, permits, authorisations issued to the Council to Supply Water Services in the Concession Area by any Competent Authority under any applicable Regulatory Provision;
      - C. all written guarantees, specifications, operating manuals and other documents of whatsoever nature relating to the Works or any Existing Assets comprised therein or relating to the Supply of Water Services;
      - D. all other books, documents, records and data of an operating nature relating to the Existing Assets and the Supply of Water Services and all technical information relating to the operation and maintenance of the Works, the Supply of Water Services and the Existing Assets.
3. The Concessionaire hereby assumes responsibility in terms of and pursuant to the Contract-
  - a. the Supply of Water Services in the Concession Area;
  - b. the employees of the Council named in **Annexure [ ]** to the Contract;
  - c. the control, operation and maintenance of the Works and all Existing Assets comprised therein;
  - d. the collection of all revenue associated with the Supply of Water Services;

4. The Council and the Concessionaire hereby confirms that:-
- a. the Consumers within the Concession Area to whom the Concessionaire is obliged to Supply Water Services to are the Consumers whose full details have been furnished to the Concessionaire in electronic format; and
  - b. the terms and conditions of service contained in [ ] to be handed to the Concessionaire by the Council are the terms and conditions applicable to the Transferring Employees.
5. As from the date hereof, the Council shall at all times allow representatives of the Concessionaire to have full and free access to and to take copies of all documentation, books, records and data, whether of accounting or operating nature or otherwise, in the possession of the Council or any of its representatives and/or agents and relating to the Works or the Supply of Water Services.
6. All the provisions of the Contract are hereby incorporated by reference in this certificate to the same extent as if fully set forth herein.
7. This certificate may be signed and executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall together constitute but one and the same certificate.
8. This certificate shall be governed by and construed and interpreted in accordance with the laws of the [country].

SIGNED at [ ] on \_\_\_\_\_.

\_\_\_\_\_  
Duly authorised

SIGNED at [ ] on \_\_\_\_\_.

\_\_\_\_\_  
Duly authorised

**ANNEXURE I - STOCK SCHEDULE**

AREA SECTION SUB-SECTION										
>[amount and currency] - Group items if less than [amount and currency]										
No	Item	Asset description	Purchase date (approx)	Original cost	Replacement cost	Quantity	Serial, registration No. any other No	Item on asset list Yes/No	Projected quantity	Comments

## ANNEXURE J9 - PERSONNEL SCHEDULE

## ANNEXURE K10 - EMPLOYEE DEVELOPMENT PLAN

1. During the first 6 (six) months of the Concession period, the staffing operation will be analysed and, where deemed necessary, restructured for optimum coverage and efficiency. This will highlight areas of over- and under- staffing and where employees' abilities are wasted or suitable people are faced with demands beyond their abilities.
2. Existing members of staff joining the Operator will be assessed for their potential and advancement. Those identified will receive the necessary training for more responsible positions where such positions are available.

### 3. PRINCIPLES

All development and training plans shall be undertaken in accordance with the following principles, namely -

- Training should provide the knowledge, skills and behaviours needed to meet the technical, commercial, economic and social objectives of the Operator, and to meet individual staff development needs for skills growth and career development;
- the Operator shall develop and publish a training plan, which identifies the objectives to be achieved, the strategies, events and actions planned and the resources to be committed and the timetable as set to achieve the objectives. The training plan will be based on an analysis of training needs derived principally from a strategic review of the Operator's objectives. Training needs will be identified from individual staff appraisals, undertaken on an annual basis.

Training offered by the Operator shall include at least the following-

- All new employees shall receive induction orientation training which will include *inter alia* the Operator's organisation and culture, core values, job safety and human resources policies;
- 
- All new employees will receive induction training specific to their positions, including job-specific safety instructions;
- 
- Training plans needed to meet the social objectives of the Operator's business plan and the acquisition of skills specific to employee involvement;
- 
- Technical training as set out in paragraph [ ].

### 4. TRAINERS

- The core training staff will consist of an experienced Training Manager and clerical support.
- Dedicated trainers, led by the Training Manager, will be used in the early days of the Concession for the intensive training of the existing staff.
- Experienced Operator staff, introduced into the company to establish new systems and technology, will be actively involved in a programme of mentoring target



- groups to develop their technical and managerial skills.
- Use will be made of outside consultants for particular aspects of training. Equipment manufacturers will be co-opted to provide course material and specific training (eg Chlorine safety) as will technical and personnel staff from the the Operator organisation to cover specific topics.
- Respective departmental supervisors will be involved in the practical “on the job” training following modular course material developed by the Training Manager.
- Individual supervisors will also note individuals’ suitability for promotion and responsibility and their need for training. It will be a function of the supervisor to pass on to a senior, recommendations for action in these areas.

## 5. TRAINING REGIME

the Operator will impose an ongoing training regime by providing training for senior discipline staff and the establishment of a training facility in [location].

- The first step will be to determine the need and level of training required. In the case of training staff on the operation and maintenance of sewage utilities, specific rather than general training is desirable where suitable pre-qualified staff can be identified and cross-trained.
- Skill requirements will be established to enable the compilation of job specifications. Evaluation of potential candidates will proceed once these criteria have been set.
- The assessment of training needs will be based on the difference between the pre-training and post-training ability required. The training programme will be scheduled taking into account the extent of necessary skills and technology to be transferred.

## 5. TRAINING PROGRAMME

- Based on the assessment of training needs, the the Operator will devise a training programme to be implemented, in co-operation with unions and workers, under which all employees will benefit.
- This training programme will include details of the title, duration and dates of each training course and will be prepared in conjunction with the employee and trainer to ensure that any confusion or extra work is avoided. Each training programme will include the following information -

Course Title;  
 Course Number;  
 Mechanical / Electrical;  
 Designation of staff for which the course is designed;  
 Key elements;  
 Performance objectives to be achieved to demonstrate competence;  
 Task Assessment Criteria;  
 Assessment Forms;  
 List of Associated Courses;  
 Handouts;  
 Viewfoils.

## 6. ASSESSMENTS

- Properly documented assessments will be carried out at the end of each module immediately after training. Assessments will be carried out by the senior instructor or engineer and signed at the time of assessment. This will ensure that each employee is fully assessed and that a physical record of the training undertaken exists so that any future queries concerning training can be properly addressed.
- In addition, for each training module successfully completed, the employee will be awarded a certificate to signify recognition of competence and personal achievement.

## 7. **TRAINING CENTRE**

- A training centre will be established in [location] and supervisors will organise on the job training at the site where staff and trainers will be operating. The benefit of expertise gained by those senior discipline staff who have participated in the training programme will be called on from time to time in order that they may transfer the technology they have gained to operating and maintenance staff.
- The training centre will be established and operational within the first year the Concession period. In the interim period premises will be hired for classroom based training, while practical training takes place at the work site.

## 8. **TRAINING WILL INCLUDE -**

### Awareness Education

Culture and purpose of the Concessionaire and the Operator

### Wastewater Operations

Safety;  
 Confined Space working;  
 Permits to work;  
 Activated sludge process sewage treatment plants;  
 Pump Stations;  
 Working in sewers;  
 Disinfection processes;  
 Flocculation;  
 Flushing and cleaning sewage systems;  
 Monitoring final water flows and quality;  
 Sludge handling and disposal;  
 Laboratory quality control techniques;  
 Process specifically applicable to this project.

### Wastewater Maintenance

Safety;  
 Confined Space working;  
 Permits to work;  
 Pump maintenance and testing;  
 Switchgear maintenance and testing;  
 Standby generator maintenance and testing.

### Water Operations

Safety;Permits to work;

Water treatment plant operations;  
Reservoirs and booster pumping station;  
Transmission mains and distribution mains;  
Laboratory quality control techniques;  
Leakage monitoring and burst repair.

Water Maintenance

Safety;  
Permits to work;  
Pump maintenance and testing;  
Switchgear maintenance and testing.

Only properly trained and well-informed staff will be allowed to work in any part of the utilities. Refresher courses will be routinely given by the Operator, particularly those concerning safety and permit to work systems. No one will be permitted to work without having completed a safety induction course.

## ANNEXURE L11 - AFFIRMATIVE ACTION SCHEDULE

### 1. POLICY

- a. The Concessionaire shall comply with all Regulatory Provisions in respect of employment Equity and implement and adhere to the following principles in respect of its employment practices, namely-
  - i. preference will be given to the employment of suitably qualified and experienced previously disadvantaged individuals from communities within the Concession Area, based on the operational needs of the Concessionaire as well as its training and development requirements;
  - ii. the Concessionaire shall, as far as possible, maintain and employ a staff complement that is representative in terms of the demographic composition of the community within the Concession Area;
  - iii. internal promotions of suitably qualified staff will be the preferred solution when filling vacancies;
  - iv. international experts will transfer skills and expertise to employees through a mentorship process.

### 2. TARGETS

- a. The Concessionaire will set “affirmative action” targets to be achieved within 5 (five) years. Targets will be set for all levels in the organisational hierarchy. These targets will be set after consultation with the workforce and their unions and take into account the specific realities pertaining at any given time and, if necessary, revised to remain achievable.
- b. The following “affirmative action” targets (as a percentage of employees from designated groups as defined in the [relevant legislation]) are considered achievable within 5 (five) years of the Effective Date -

Senior Management	50%
Supervisors	75%
Technicians	75%
Foreman	80%
Trainers	80%

## ANNEXURE M12 - DEVELOPMENT INCENTIVES

### **DEVELOPMENT PROGRAMMES**

The Concessionaire shall establish and constitute a separate fund under its control, within 6 (six) months after the Effective Date, which will primarily be used with the objective to develop particularly the youth and uplift the community as a whole within the Concession Area via the provision of, *inter alia* -

- technical training and assistance by the Concessionaire in *inter alia* bricklaying, VIP construction, plumbing, carpentry, welding, urban farming, irrigation, adult literacy and financial skills for business management;
- financial support to upgrade to functional standards various existing training, educational, medical and sporting facilities within the Concession Area;
- bursaries to selected persons within the Concession Area to facilitate their education and training in various technical fields;
- school awareness programs such as (but not limited to) the provision of science apparatus, the arranging of school trips and visits to Water Services installations and the presenting of guest lectures in respect of water management and conservation;
- adult education in sanitation, water demand management and conservation.

To achieve the objectives set out above, the Concessionaire shall make available an amount of [AMOUNT AND CURRENCY] during each 12 (twelve) month period as from the Effective Date for the duration of this Contract. The amount of [AMOUNT AND CURRENCY] will be revised annually on each anniversary of the Effective Date in order that its initial value will be maintained relative to the increase in the CPI over the relevant period.

The views of the local community will be taken into consideration by the Concessionaire in determining the application and implementation of the fund.

### **EMPLOYEE LOAN FUND**

The Concessionaire will, within 6 (six) months as from the Effective Date, establish an employee loan fund to assist employees of the Concessionaire in financial difficulty due to circumstances beyond their control. The amount of and conditions attaching to the grant of an individual loan will be at the discretion of the board of directors of the Concessionaire.



upgrading, expansion, rehabilitation, maintenance, operation and management of water and Sanitation Services forming the subject matter of the Concession Contract;

- iii. "Contract" means the written Concession agreement for the award of the Concession to and the exercise thereof by the Concessionaire, concluded between the Council and the Concessionaire dated [ ], in terms of which this guarantee is issued;
  - iv. "Council" means \_\_\_\_\_ ;
  - v. "guarantor" means \_\_\_\_\_ ;
  - vi. "Lender" means \_\_\_\_\_ ;
  - vii. "maximum amount" means the amount referred to in paragraph 5 hereof.
- c. expressions defined in this Performance Guarantee shall bear the same meanings as defined in the Contract which do not themselves contain their own definitions.
- i. 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 Contract;
  - ii. when any number of days is prescribed in this Contract, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or public holiday in [country], in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday in [country].
  - iii. where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.

## **2. GUARANTEE**

On the terms and conditions set out herein, the guarantor hereby guarantees and undertakes to pay to the Council and/or the Lenders an amount calculated in accordance with 26.4 of the Contract on account of the Concessionaire's failure to perform or non-performance of its obligations in terms of or pursuant to the Contract.

## **3. PROCEDURE**

- a. Should the Concessionaire breach any of its obligations to the Council in terms of or pursuant to the Contract, which breach entitles the Council and/or the Lenders to call upon the guarantor to pay in terms of clause 57 of the Contract and should the Council and/or the Lenders wish to claim an amount from the guarantor hereunder, then the Council and/or the Lenders shall -
  - i. in addition to any requirement of the Contract, deliver a written notice to the Concessionaire, with a copy simultaneously sent to the guarantor and to the other of the Council and/or the Lenders, notifying the Concessionaire of the breach giving rise to the enforcement of the Performance Guarantee and requesting the Concessionaire to remedy the breach within 60 (sixty) days of receipt of such notice.



- ii. if the Concessionaire, after having received the notice referred to in clause 3.a.i, fails to remedy the breach within the 60 (sixty) day period, deliver a further written notice to the guarantor (with a copy to the Concessionaire ) and to the other of the Council and/or the Lenders, declaring an amount determined terms of 28.4 of the Contract as being due and payable.
- b. The notice in 3.a.ii shall, in order for it to constitute a valid claim under this Performance Guarantee, be accompanied by a certificate issued by the auditors of the Council and the Lenders certifying the amount due and payable to in terms of 28.4 of the Contract.
- c. Upon receipt of a written notice from the Council and/or the Lenders in terms of clause 3.a.ii, the guarantor shall within 15 (fifteen) calendar days following receipt of such notice pay into the joint interest bearing trust account in terms of 28.7 of the Contract , in cash, the amount so notified less any amount recovered under any insurance policy up to the maximum amount.
- d. The demand for payment together with the certificate in clauses 3.b above shall constitute *prima facie* proof of the guarantor's indebtedness hereunder for the purposes of any proceeding including but not limited to provisional sentence proceedings instituted against the guarantor in any court of law having jurisdiction.

#### **4. MAXIMUM AMOUNT**

The total amount which the guarantor undertakes to pay in terms of this Performance Guarantee will be the sum of [AMOUNT AND CURRENCY]

#### **5. DURATION**

This Performance Guarantee shall come into operation on the Effective Date of the Contract and shall automatically expire, whether or not returned to the guarantor at the earlier of -

- a. a date agreed to in writing between the Concessionaire and the Council;
- b. 90 (ninety) caLender days after the date of termination of the Contract;
- c. the maximum amount of the Performance Guarantee has been drawn down;
- d. the delivery to the Council and the Lenders of a new Performance Guarantee by the Concessionaire in substitution hereof and on substantially the same terms save for the maximum amount which varies each year of the Contract pursuant to 28.2 of the Contract.

## 6. MISCELLANEOUS

- a. The clause headings have been inserted for convenience only and shall not be taken into account in interpreting this Performance Guarantee.
- b. This Performance Guarantee shall be governed by the laws of [country] and the Parties consent to the jurisdiction of [RELEVANT COURTS].
- c. The guarantor acknowledges that all amounts due and payable by the Concessionaire to the Council and the Lenders shall be recoverable from and paid by the guarantor notwithstanding that the Concessionaire and/or the Lender may have any claim or counter-claim of whatsoever nature and howsoever arising against the Council.
- d. No consensual cancellation, variation or modification of the terms of this Performance Guarantee shall be binding on the Council and/or the Lenders unless reduced to writing and signed by or on behalf of the Council, the Lender and by an authorised signatory and the guarantor.
- e. The costs of the preparation of and the stamp duty on this Performance Guarantee shall be paid by the guarantor.
- f. This Performance Guarantee shall not be ceded or assigned by the Council and/or the Lenders, or otherwise dealt with in any manner whatsoever (save for the purposes and in the manner referred to in the Contract ) without the prior written consent of the Concessionaire and the guarantor.
- g. The guarantor shall be responsible for all costs Charges and expenses of whatsoever nature which may be incurred by the Council and the Lenders in enforcing its rights in terms hereof including, without limitation, legal costs on the scale as between attorney and own client and collection commission irrespective whether any action has been instituted against the guarantor or not.
- h. The guarantor shall have no right of recourse or claim of whatsoever nature against the Concessionaire arising out of its obligation to pay or arising out of actual payment under this Performance Guarantee.

## 7. DOMICILIUM CITANDI ET EXECUTANDI

- a. The Parties choose as their *domicilia citandi et executandi* for all purposes under this Performance Guarantee , whether in respect of court process, notices or other documents or communications of whatsoever nature (including the exercise of any option), the following addresses -

The guarantor:

Physical :

Postal:

Fax:

The Council:  
Physical:  
  
Postal:  
  
Telefax:  
  
Contact person: Chief Executive Officer

Concessionaire :  
Physical:  
  
Postal:  
  
Telefax:  
  
Contact person: Managing Director

the Lenders : such physical and postal address in [country] as the Lenders may nominate in writing to the Council and the Concessionaire upon their acceptance in terms of [80.1].

- a. Any notice or communication required or permitted to be given in terms of this Performance Guarantee shall be valid and effective only if in writing but it shall be competent to give notice by telefax.
- b. Either Party may by notice to the other Party change the physical address chosen as its *domicilium citandi et executandi* to another physical address where postal delivery occurs in [country] or its postal address or its telefax number, provided that the change shall become effective on the 10th business day from the deemed receipt of the notice by the other Party.
- c. Any notice to a Party -
  - A. sent by prepaid registered post (by airmail if appropriate) in a correctly addressed envelope to it at an address chosen as its *domicilium citandi et executandi* to which post is delivered shall be deemed to have been received on the 10th business day after posting (unless the contrary is proved);
  - B. delivered by hand to a responsible person during ordinary business hours at the physical address chosen as its *domicilium citandi et executandi* shall be deemed to have been received on the day of delivery; or
  - C. sent by telefax to its chosen telefax number stipulated in clause [ ], shall be deemed to have been received on the date of despatch (unless the contrary is proved).
- d. Notwithstanding anything to the contrary herein contained a written notice or communication actually received by a Party shall be an adequate written notice or

communication to it notwithstanding that it was not sent to or delivered at its chosen *domicilium citandi et executandi*.

SIGNED at \_\_\_\_\_ on [DATE].

AS WITNESS:

1. \_\_\_\_\_

2. \_\_\_\_\_

## ANNEXURE O14 - INSURANCE SCHEDULE

1. Pursuant to and subject to the provisions of 27 of the Contract, the Concessionaire shall effect and maintain the following insurance policies -
  - a. Construction All Risk Insurance
    - i. The policy shall be issued in the joint names of the Council, the Concessionaire and all Subcontractors to be employed by the Concessionaire in respect of the Concession.
    - ii. The policy shall cover -
      - A. the Works and all temporary works, all facilities, materials and other goods intended for incorporation therein (including all designs, drawings, specifications and plans to be provided and work to be done under the Contract) relating to the service, design, Supply, erection, installation, and commissioning of the Works or any other property, leased assets for use in connection with or incorporation into the Works whether supplied by or on behalf of the Concessionaire or installed by any insured Subcontractor for the full replacement value thereof;
      - B. key construction plant, tools and operating equipment, temporary buildings and contents thereof; and
      - C. insured property whilst in transit or temporarily stored at any premises en route to or from the Concession Area within the Republic of [country] but excluding transport which originates outside the Republic of [country].
      - D. The cover shall commence from the commencement date of the construction of any Works until the date when the interest insured transfers to the operational insurance programme, plus 12 (twelve) months maintenance period thereafter.
      - E. The policy will be subject to the normal terms, exceptions, exclusions and conditions applicable to this type of insurance.
      - F. The sum insured shall be an amount of [AMOUNT AND CURRENCY] or the estimated construction Contract value, whichever is the greater.
  - b. Public Liability (including products liability)

- i. The policy shall be issued in the joint names of the Council, the Concessionaire, and all Subcontractors to be employed by the Concessionaire, in respect of their respective rights and interests in the Contract.
- ii. The policy shall have a minimum limit of indemnity of [AMOUNT AND CURRENCY] for any one incident.
- iii. The policy shall be subject to the normal terms, exceptions, exclusions and conditions applicable to this type of insurance.
- iv. The policy shall cover the legal liability of the insured to pay (including claimants costs and expenses) as damages in respect of –
  - A. death or bodily injury to or illness or disease Contracted by any person;
  - B. loss or damage to property;
  - C. interference to property or any right of access, right of air, light, water or way or the enjoyment or use thereof by construction, trespass, loss of amenities, nuisance or any like cause, happening during the Contract period and arising out of or in connection with the Contract.
  - D. The insured Parties shall be the Concessionaire and any Subcontractor and their vagarious liability in respect of consultants, Subcontractors of any tier and servants, or agents acting on their behalf.
  - E. The period of cover shall be for 12 (twelve) months and annual renewal thereafter.
- c. Professional Indemnity

The policy shall cover legal liability arising as a direct result of a negligent act, or omission arising out of professional duties in connection with the design and construction of the Works.
- d. Employers Liability Cover

The Concessionaire shall keep itself insured against any liability arising and maintain that insurance with respect to all personnel employed by it for the purposes of the Supply of Water Services and/or operation of the Works in a form complying with current legislation.
- e. Material Damage All Risks

- Potential or total used for in a connection with to the Supply of Water Services which are handed over to the Concessionaire pursuant to the Lease Agreement and any assets which replace, extend or improve them and those incorporated by the Concessionaire.
- i. The insured Parties shall be the Concessionaire and any Subcontractor and their vagarious liability in respect of consultants, Subcontractors of any tier and servants, or agents acting on their behalf.
  - ii. All risks, loss or damage to the Works from any cause not excluded and including machinery breakdown and computer cover in respect of appropriate equipment.
  - iii. The period of cover shall be for 12 (twelve) months and annual renewal thereafter.
  - iv. The amount of cover shall be sufficient to pay claims on a full reinstatement value basis as agreed with the Council.
- f. Loss of Revenue (Business Interruption Insurance)
- i. If any of the Works insured under the material damage all risk policy is damaged or destroyed by any of the risks thereunder and the operation of the Works are in consequence thereof interrupted or interfered with, then this policy shall indemnify the Insured in respect gross revenue, including without limitation personnel expenses (including directors remuneration and fees) operating costs, capital construction costs including standing Charges and variable expenses, insurance interest payments, bank Charges incurred as a result of, floods, storm and tempest and such perils agreed to in conjunction with the Council. The policy will be subject to the normal terms, exceptions and conditions applicable to this type of insurance.
  - ii. The sum insured shall be an amount representing gross revenue anticipated during a 15 (fifteen) month period after expiry of the insurance.
  - iii. The indemnity shall be for a 15 (fifteen) month period from the commencement of the damage.
  - iv. The insured Parties shall be the Concessionaire and any sub- Contractor and their vagarious liability in respect of consultants, Subcontractors of any tier and servants, or agents acting on their behalf.
- g. Motor Insurance
- The policy shall cover third Party liability and passenger liability.



## ANNEXURE P15 - CHARGE SCHEDULE

**BASE CASE FOR CHARGES IN RESPECT OF THE SUPPLY OF WATER AND SANITATION SERVICES FROM [ ] TO [ ]  
SUBJECT TO ESCALATION AS DETAILED IN ANNEXURE F2**

### **PART 1**

#### **SUPPLY OF WATER**

##### **1. MINIMUM MONTHLY CHARGE**

- a. Where any stand, lot or other area, with or without improvements, is connected to the main system, whether water is consumed or not, the following minimum monthly charge shall apply -

\* Minimum Monthly Charge = [AMOUNT AND CURRENCY]

- b. Provided that no minimum monthly Charges shall be payable on any stand, lot or other area on condition that the relevant property is to be consolidated with an adjoining property or properties.

##### **2. CHARGES FOR SUPPLY OF WATER WITHIN THE MUNICIPALITY PER MONTH**

- a. Household - Low Pressure

Metered consumption

	<b>Water consumption per month</b>	<b>Charge per kilolitre</b>
Band 1	Up to and including [ ] kilolitres	[ ]
Band 2	Over [ ] and up to and including [ ] kilolitres	[ ]
Band 3	Over [ ] and up to and including [ ] kilolitres	[ ]
Band 4	Over [ ] kilolitres	[ ]

b. Household - High Pressure

Metered consumption

	<b>Water consumption per month</b>	<b>Charge per kilolitre</b>
Band 1	Up to and including [ ] kilolitres	[ ]
Band 2	Over [ ] and up to and including [ ] kilolitres	[ ]
Band 3	Over [ ] and up to and including [ ] kilolitres	[ ]
Band 4	Over [ ] kilolitres	[ ]

c. Industrial , Commercial and Institutional

Metered consumption

	<b>Water consumption per month</b>	<b>Charge per kilolitre</b>
<b>Band 1</b>	Up to and including [ ] kilolitres	[ ]
<b>Band 2</b>	Over [ ] and up to and including [ ] kilolitres	[ ]
<b>Band 3</b>	Over [ ] and up to and including [ ] kilolitres	[ ]
<b>Band 4</b>	Over [ ] kilolitres	[ ]

The above are stepped charge structures. All Consumers to pay the Band 1 charge for the first [ ] kilolitres or less of water consumed per month, Band 2 charge for the next [ ] kilolitres, Band 3 charge for the next [ ] kilolitres and Band 4 charge for all water consumed in excess of [ ] kilolitres.

Month in this context will be the period between monthly meter readings. If a monthly meter reading does not take place, a pro rata consumption based on the stepped charge structure will apply for that month.

d. Industrial, Commercial and Institutional

Fixed Charges

	<b>Water consumption per month</b>	<b>Charge per kilolitre</b>
Band 1	Up to and including [ ] kilolitres	[ ]
Band 2	Over [ ] and up to and including [ ] kilolitres	[ ]
Band 3	Over [ ] and up to and including [ ] kilolitres	[ ]
Band 4	Over [ ] kilolitres	[ ]

In addition to the stepped variable Charges, Industrial, Commercial and Institutional Consumers will pay a fixed charge related to the band of total water consumed.

The fixed and variable Charges in 2.3 and 2.4 above are directly related to the amount of water consumed and as such form a different basis for revenue collection to that currently in use by the Council, in order to prevent the possibility of some Consumers receiving bills that differ by 20% (twenty per centum) or more, the Concessionaire and the Council will jointly examine recent billing records prior to the Effective Date and agree appropriate adjustments to the Charges taking account of the premise and basis of the Financial Base Case.

e. Households - with high pressure stand connections - Unmetered consumption [AMOUNT AND CURRENCY] per month

Households with unmetered ground tank, filled daily 200 litres  
Supply - [AMOUNT AND CURRENCY] per month

Purchases from water bailiff [AMOUNT AND CURRENCY] per 10 litre container or part thereof

i. Religious and Educational Institutions

A special charge per kilolitre will be determined after detailed investigation. This charge will be applicable up to a maximum consumption of [AMOUNT AND CURRENCY] kilolitres per month after which the charge in (b) will be applicable.

ii. Consumers excluding those mentioned in item (a) -

As Industrial, Commercial and Institutional Charges in [ ] and [ ].

f. Semi-treated water -

\* Semi-treated water may, on receipt of a written request by any Consumer and with the consent of the Concessionaire be supplied at Charges agreed between the Concessionaire and the Consumer.

**3. CONSUMER OUTSIDE THE MUNICIPALITY**

At the discretion of the Concessionaire Consumers outside the Concession Area may be provided with a water Supply service. The Charges payable for such supply of water to Consumers outside the municipality shall be as set out in this schedule, plus a surcharge of 30% (thirty per centum) of such Charges until the cost of implementation and delivery is recovered in full.

**PART 2**

**FIRE EXTINGUISHING SERVICES**

**SPRINKLER INSTALLATIONS**

For the inspection and maintenance of the communication pipe - [AMOUNT AND CURRENCY] per annum

**DRENCHER INSTALLATIONS**

For the inspection and maintenance of the communication pipe, if it is part of the general sprinkler installation - Free of charge

For the inspection and maintenance of the communication pipe, if it is not part of the general sprinkler installation - [AMOUNT AND CURRENCY] per annum

**HYDRANT INSTALLATIONS OTHER THAN SPRINKLERS AND DRENCHERS, NOT BEING THE PROPERTY OF THE CONCESSIONAIRE OR COUNCIL**

For the inspection and maintenance of communication pipe - [AMOUNT AND CURRENCY] per annum

For resealing each hydrant installation where the seal has been broken by any person other than an officer of the Concessionaire and -

- the Concessionaire is satisfied that no water went through the hydrant installation system except for the purposes of drenching a fire, for each hydrant installation so resealed - [AMOUNT AND CURRENCY]
- the Concessionaire is not satisfied that no water went through the hydrant installation system, except for the purposes of drenching a fire, for each hydrant installation so resealed as well as for water so used through the hydrant installation - [AMOUNT AND CURRENCY]

The valve fitted to a hydraulic fire hose shall be deemed for the purposes of this item to be a hydrant installation.

**PART 3**  
**GENERAL**

**DEFINITIONS**

The consumption of water shall, in the case of meters which register in gallons, be converted to kilolitres on the basis that 220 gallons are equivalent to one kilolitre.

Households are defined as private dwellings, flats and town houses.

Religious Institutions shall mean public premises such as churches and church halls, mosques, synagogues and the like, which are exclusively used for public worship and which have been designated as such by the Concessionaire pursuant to an application to the Concessionaire and the approval thereof.

Institutions shall mean public premises such as schools, prisons, and hospitals, but excluding religious institutions.

**CHARGES FOR CONNECTION OF WATER SUPPLY**

For the connection of a high pressure water Supply at the request of a new household Consumer : [AMOUNT AND CURRENCY] minimum charge above costs.

For the connection of a high pressure water Supply at the request of a new industrial, commercial or institutional Consumer : a 40% (forty per centum) surcharge on cost with a minimum charge of [AMOUNT AND CURRENCY] above costs.

If the Supply of water is disconnected under the terms of the Consumer Rules and the Council's Water Supply By-laws, a charge of [AMOUNT AND CURRENCY] during working hours and [AMOUNT AND CURRENCY] after working hours shall be payable for each call made by an authorised employee of the Concessionaire in respect of reconnection. The outstanding amount owing including interest thereon together with the reconnection charge shall be paid to the Concessionaire prior to reconnection.

The charge for a low pressure connection to the premises of a new Consumer shall be the actual cost of material (including the cost of the meter) and labour used to make a connection to the nearest water main of the Concessionaire, plus a surcharge of 20% (twenty per centum) on such amount.

### **DEPOSIT**

A deposit is required in all cases where accounts are payable in arrears. Deposits are required prior to the connection of a Supply and will be refunded, after deduction of outstanding amounts, when the Consumer leaves the Concession Area or terminates the arrangements.

The deposit payable for a low pressure household Supply to a high tank is [amount and currency] provided that only 50% (fifty per centum) of this charge shall be payable for the first 2 (two) years of the Concession term.

The deposit payable for a high pressure household Supply is [AMOUNT AND CURRENCY]

The deposit payable for a high pressure industrial, commercial or institutional Supply is [AMOUNT AND CURRENCY] or the projected 2 (two) months average water charge whichever is the higher.

### **METER CHARGES**

For the special reading of a meter : [AMOUNT AND CURRENCY] per reading.

For the testing of a meter supplied by the Concessionaire in cases where it is found that the meter does not show an error of more than 2% (two per centum) high or low : [AMOUNT AND CURRENCY] per test.  
For the hire of a portable meter : [AMOUNT AND CURRENCY] per month.

Deposit for each portable meter hired : [AMOUNT AND CURRENCY].

### **WATER PRESSURE TESTS**

The Charges payable for water pressure tests shall be [AMOUNT AND CURRENCY] per test.

### **CHARGES FOR WORK**

For all work in connection with the Supply of water performed by the Concessionaire and for which no charge has been specified herein, the Charges shall be the actual cost of material and labour, plus a surcharge of 20% (twenty per centum) on such amount.

### **VALUE ADDED TAX**

The Charges set out in paragraphs 1 to 6 above do not include value added tax which will be added to each bill in accordance with the legislation applicable at the time.

### **CHARGES FOR SUPPLY OF TANKS**

Ground tanks : [AMOUNT AND CURRENCY] inclusive of Service Tax

High level tanks (Not including support structure) : [AMOUNT AND CURRENCY] inclusive of Service Tax.

For the first two years from the Effective Date, tanks will be offered to Consumers at 50% (fifty per centum) of the above Charges.

## **PART 4**

### **DETERMINATION OF CHARGES FOR SANITATION SERVICES**

#### **CHARGES**

#### **SEWERAGE CHARGES**

The owner or occupier of a stand, lot or other area which is connected to the main sewer, shall pay the following Charges, per month or part thereof to the Concessionaire -

## Private Dwellings

### Households - Fixed Charges

The owner or occupier of a stand, lot or other area which is connected to the sewer or, in the opinion of the Concessionaire, can be connected to the sewer shall pay to the Concessionaire an amount of [AMOUNT AND CURRENCY] per month or part thereof in respect of each such piece of land.

Provided that -

No amount will be payable in respect of religious institutions which are connected to the main sewer.

No amount will be payable in respect of any erf, stand, lot or other area purchased from the Council on condition that such a stand, lot or other area is to be consolidated to an adjoining property or properties.

### Households - Variable Charges

Variable Charges for Sewage Services capped at 40 (forty) kilolitres per month per household

	<b>Water consumption per month</b>	<b>Charge per kilolitre</b>
Band 1	Up to and including [ ] kilolitres	[ ]
Band 2	Over [ ] and up to and including [ ] kilolitres	[ ]
Band 3	Over [ ] and up to and including [ ] kilolitres	[ ]
Band 4	Over [ ] kilolitres	[ ]

The above is not a stepped charge structure. All Consumers will pay the household fixed charge and the Band 1 charge per kilolitre if [ ] kilolitres or less of water is consumed per month or Band 2 charge per kilolitres if [ ] kilolitres or less of water is consumed per month, Band 3 charge per kilolitre if [ ] kilolitres or less of water is consumed per month and Band 4 charge per kilolitres for all water consumed if total consumption is in excess of [ ] kilolitres.

### Households - Unmetered Water Supply



Sewage charge for households connected to the waterborne sewage system but with an unmetered water Supply - [AMOUNT AND CURRENCY] per month per household.

where a stand is served by a single meter and contains more than one housing unit then the amount to be charged shall be calculated on a deemed use basis for each unit.

For Industrial , Commercial and Institutional

Fixed Charges

	Water consumed per month	Fixed Charges
<b>Band 1</b>	Up to and including 6 kilolitres	[ ]
<b>Band 2</b>	Over 6 and up to and including 30 kilolitres	[ ]
<b>Band 3</b>	Over 30 and up to and including 100 kilolitres	[ ]
<b>Band 4</b>	Over 100 kilolitres	[ ]

In addition to the variable Charges, industrial, commercial and institutional Consumers will pay the above fixed Charges related to the Band of consumed water.

Variable Charges (but excluding industries classified as “wet”)

Measured on metered water consumptions

	Water consumption per month	Charge per kilolitre
Band 1	Up to and including [ ] kilolitres	[ ]
Band 2	Over [ ] and up to and including [ ] kilolitres	[ ]
Band 3	Over [ ] and up to and including [ ] kilolitres	[ ]
Band 4	Over [ ] kilolitres	[ ]

The above is not a stepped charge structure. All Consumers will pay the industrial, commercial and institutional fixed charge and the Band 1 charge per kilolitre if 6 kilolitres or less of water is consumed per month or Band 2 charge per kilolitre if 30 kilolitres or less of water is consumed per month, Band 3 charge per kilolitre if 100 kilolitres or less of water is consumed per month and Band 4 charge per kilolitre for all water consumed if total consumption is in excess of 100 kilolitres.

Institutions where a significant quantity of water is used for irrigation purposes will be given the option of a two meter water Supply, at their cost, with that Supply dedicated to irrigation excluded from the metered sewage Charges.

The fixed and variable Charges in 1.2 above is directly related to the amount of water consumed and as such form a different basis for revenue collection to that currently in use by the Council, in order to prevent the possibility of some Consumers receiving bills that differ by 20% (twenty per centum) or more, the Concessionaire and the Council will jointly examine recent billing records prior to the Effective Date and agree appropriate adjustments to the Charges taking account of the premises and basis of the Financial Base Case.

#### **DISCHARGE OF SWIMMING POOL WATER**

For the discharge of swimming pool water into a drainage installation in accordance with [ ], [AMOUNT AND CURRENCY] per 5 kilolitres following approval of the Concessionaire.

#### **REMOVAL OF BLOCKAGES FROM A DRAINAGE INSTALLATION**

The owner or occupant is subject to the provisions of [ ] and is in the first instance responsible for the removal of blockages from a drainage installation.

When the Concessionaire is requested to remove blockages from a drainage installation in terms of [ ] the following Charges will be applied -

During working hours : [AMOUNT AND CURRENCY] per hour or part thereof

After working hours : [AMOUNT AND CURRENCY] per hour or part thereof

#### **CONNECTION FEE**

Connection fee for waterborne sewage (all users) : [AMOUNT AND CURRENCY] minimum charge above cost.

### **SEPTIC TANK**

Septic Tank / VIP (ventilated improved pit latrine) clearance by sucker truck - [AMOUNT AND CURRENCY] (adequate vehicular access must be provided by the user for this service to be provided). Call out charge of [AMOUNT AND CURRENCY] will be levied should vehicular access not be adequate.

### **RECEIPT OF SEWAGE**

For receipt of sewage transported by tanks other than in 6 above - [AMOUNT AND CURRENCY] per kilolitre.

### **DISCHARGE OF “WET” INDUSTRIAL EFFLUENT**

(Industries which use or generate a considerable quantity of water)

The owner of or occupier of premises on which any trade or industry identified by the Concessionaire as a “wet” trade or industry, is carried out and from which as a result of such trade or industry or of any process incidental thereto, any effluent is discharged into the sewer, shall in addition to the fixed Charges set out in table 1.2.1 for which he is liable in terms of this determination, pay to the Concessionaire in place of the variable Charges set out in table 1.2.2 an amount calculated on the quantity of water consumed during the period and in accordance with the Treatment Charge Formula and the Disincentive Formula set out hereunder -

#### **Treatment Charge Formula**

$$To = C(Q_i)/(Q_t)(0,31 + 0,22K_c + 0,27K_s + 0,20K_n)$$

Where

To = Charges due by an individual contributor

C = Total capital redemption, interest, operation and maintenance cost of the sewage treatment works set by the Concessionaire

Q<sub>i</sub> = Sewage flow from an individual contributor (megalitre per day)

Q<sub>t</sub> = Total sewage flow in the system (megalitre per day)

K<sub>c</sub> = COD<sub>i</sub> / COD<sub>t</sub>

K<sub>s</sub> = SSi / SS<sub>t</sub>

K<sub>n</sub> = Ni / N<sub>t</sub>

COD<sub>i</sub> = Chemical oxygen demand of the settled sewage originating from the contributor (milligrams per litre)

COD <sub>t</sub>	=	Average chemical oxygen demand of settled sewage in the total inflow to the system (milligrams per litre)
SSi	=	Suspended solids concentration originating from the contributor (milligrams per litre)
SSt	=	Average (suspended solids concentrated chemical oxygen demand of settled sewage) in the total inflow to the system (milligrams per litre)
Ni	=	Ammonia concentration originating from the contributor (milligrams per litre)
Nt	=	Average ammonia concentration in the total inflow to the system (milligrams per litre)

### Disincentive Formula

$$P = P1 + P2 + P3 + P4 + P5 + P6 + P7$$

Where :

$$P = \text{Disincentive Cost Charge in cents per kilolitre}$$

$$P1 = [(E - 100)/2] \times 25,0$$

Where :

$$E = \text{Maximum recorded conductivity (mS/m)}$$

$$P2 = [(M1 - 20)/10] \times 25,0$$

Where :

$$M1 = \text{Maximum recorded concentration of any individual metal in Group 1 (milligrams per litre)}$$

$$P3 = [(M2 - 50)/2] \times 25,0$$

Where :

$$M2 = \text{Maximum recorded concentration of all metals in Group 1 (milligrams per litre)}$$

$$P4 = [(M3 - 5)/2] \times 25,0$$

Where :

M3 = Maximum recorded concentration of all metals in Group 2 (milligrams per litre)  
P5 =  $[(M4 - 10)/4] \times 25,0$

Where :

M4 = Maximum recorded concentration of all metals in Group 2 (milligrams per litre)  
P6 =  $[(6 - pH_{min})/2] \times 25,0$

Where :

pH<sub>min</sub> = Minimum recorded pH value  
P7 =  $[(pH_{min} - 10)/2] \times 25,0$

Where :

pH<sub>max</sub> = Maximum recorded pH value

### **Application of Formula**

The average of the seven highest values of the different analyses from 24 (twenty four) hourly composite samples of the effluent, taken during the period of charge, will be used to determine the treatment Charges payable.

In the absence of a complete set of 24 (twenty four) hourly composite samples, the average of not less than three highest values and not more than seven highest values of the different analysis results of either snatch, or hourly composite, or 24 (twenty four) hourly composite samples of the effluent, taken during the period of charge, may be used to determine the Charges payable.

In order to determine the strength (Chemical oxygen demand, Suspended Solids concentration, Ammonia concentration) in the effluent as well as the concentration of Group 1 and 2 metals, pH value and conductivity, the Concessionaire will use the tests normally used for these respective purposes and as previously used by the Council.

The disincentive formula is calculated on the basis of the different analysis results of individual snatch or composite samples, the period of calculation shall not be less than a full 24 (twenty four) hours period unless strong evidence is submitted on behalf of the Consumer to the Concessionaire that a lesser period is actually applicable.

The terms  $P_1$  to  $P_7$  of the disincentive formula have a maximum individual value of R0.25 (twenty five cents) per kilolitre and cannot assume a negative value.

The calculated treatment Charges shall remain constant for a period of not less than one month from the date of commencement of these Charges, after expiry whereof they may be amended or revised from time to time depending on such changes in the analysis results of further samples as may take place from time to time : provided that the Concessionaire in its discretion in any particular case may levy the minimum Charges prescribed in rule 6, without taking any samples.

Whenever a sample is taken by the Concessionaire in terms of 1 above, one-half thereof shall be made available to the owner of the premises if applicable.

In the absence of any direct measurement, the quantity of Industrial Effluent discharge during a period shall be measured or determined by the Concessionaire according to the quantity of water consumed on the premises during that period and in the determination of that quantity the quantity of the water consumed on the premises for domestic purposes, lost to atmosphere during the process of manufacture or present in the final product, shall be deducted.

If a meter whereby the quantity of water consumed or sewage discharged from the premises is measured is proved to be defective, the appropriate adjustments shall be made to the quantity of Industrial Effluent discharge when calculated as prescribed in 3 above.

Where Industrial Effluent is discharged into the sewer from more than one point, whether these points are on the same floor or on different floors of the premises the Concessionaire may in its discretion, for purpose of making a charge in terms of this Tariff, including the taking of test samples, treat each such point of discharge as a separate point for the discharge of Industrial Effluent into the sewer.

For the purposes of calculation, as prescribed in 3 above, of the quantity of effluent discharge from each point of discharge as aforesaid, the total quantity of water consumed on the premises shall be allocated among the several points of discharge as accurately as is reasonably practicable after consultation between the Concessionaire and the occupier.

Current Charges for discharge of Industrial Effluent into the sewer, based upon existing Contracts -

Manganese Metal Company [AMOUNT AND CURRENCY] plus Service Tax per month;

Abattoir [AMOUNT AND CURRENCY] plus Service Tax per month

Other than mentioned in 6.1 and 6.2 as per the formula.

Value Added Tax

The Charges do not include value added tax which will be added to each bill in accordance with legislation applicable at the time.

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## ANNEXURE Q16 - CHARGE ESCALATION FORMULA

### 1. PRINCIPLES

The annual escalation of the Charges to be done in terms of clause 41 of the Contract to which this schedule is annexed ("the Contract") shall be governed by and done in accordance with the following overriding principles -

- a. the objective of the annual escalation and the charge escalation formula to be applied as set out below is such that escalation should neither favour the Concessionaire nor the Council, but that the Concessionaire should be suitably compensated for increases in the cost of predetermined items from time to time. To achieve an equitable escalation rate a formula has been derived whereby the individual elements of operating costs, interest expense and capital expenditure is forecast for the forthcoming financial year and each of these elements, weighted in proportion to the total annual cash flow and an appropriate index is applied to achieve an overall weighted escalation index. As the formula works on forecast price indices and cash flows for the forthcoming financial year, and in order to compensate for the difference between the previous year's applied forecast escalation and the actual escalation incurred in that year a correction is then calculated by which the next financial year's escalation factor is adjusted;
- b. in recognition of the capital costs to be incurred by the Concessionaire in order for it to fulfil its obligations under the Contract, the Concessionaire shall be entitled to a base rate increase on the basis set out below. The intention of such base rate being to ensure that the Concessionaire receives sufficient funds from Consumers to pay in a timely fashion the on-going capital portion of debt incurred by the Concessionaire.

The formula is set out in clause 3 below.

### 2. CHARGE ESCALATION PROCEDURE

The charge in force from time to time shall be escalated on an annual basis as envisaged in clause 39 of the Contract on and with effect from 1 July of each year, commencing on 1 July [ ] in accordance with the following procedures -

- a. the Concessionaire shall, by no later than 15 April of each year furnish the Council with -



- b. a certificate issued by its auditors certifying the balances in the accounting records of the Concessionaire as at the financial year end of the Concessionaire immediately preceding such date and the amounts expended by the Concessionaire during such financial period;
- c. the forecasted capital expenditure of the Concessionaire for the 12 (twelve) month period for which the escalated charge will apply, as are required for the calculation of the charge escalation factor in terms of the escalation formula set out below;
- d. by no later than 3 (three) days after receipt by the Council of the audit certificate and information referred to in 2(a), the Parties shall meet at the Council's office at a mutually convenient time and negotiate with one another in good faith with a view to reaching agreement, in writing, on the specific figures to be used as inputs required for the calculation of the charge escalation factor in terms of the escalation formula -
  - i. should the Parties, for whatsoever reason, fail to reach agreement, in writing, on the inputs referred to in 2(b) by 6 May of the relevant year, then the determination of the inputs referred to in 2(b) shall be referred to the chairman for the time being of the Concessionaire's firm of auditors, or to such other partner or director of such firm as the chairman may appoint, to determine the inputs based on the information presented by the Concessionaire and referred to in 2(a) In determining such inputs the chairman or other relevant partner/director shall -
    - A. act as expert and not as arbitrator;
    - B. not be bound by any rules of procedure or evidence;
    - C. hear the matter informally and give a ruling by no later than 14 May of the relevant year

and his decision in respect of the inputs shall be final and binding on the Parties. If the Concessionaire's firm of auditors is not one of the four largest firms of auditors in the Republic of [country] then the relevant firm of auditors referred to in this clause 2 shall be any one of such four firms of auditors which is independent and which is appointed for such purposes by the President for the time being of the [country] Institute of Chartered Accountants;

- a. as soon as possible after -
  - i. agreement has been reached on the inputs in terms of 2(b) or
  - ii. the inputs have been determined in terms of 2.2.1

as the case may be, such inputs will be referred back to the chairman or other relevant partner/director of the firm of auditors referred to in 2 to apply the inputs so finalised and in accordance with the escalation formula set out below. In doing so, the chairman or other relevant partner/director shall -

- act as an expert and not as an arbitrator;
  - not be bound by any rules of procedure or evidence;
  - hear the matter to proceed informally and give a ruling by no later than 14 May of the relevant year;
  - certify in writing the escalation factor, determined in terms of the escalation formula set out below
  - and his decision shall be final and binding on the Parties;
- b. the escalation factor certified in terms of 2 expressed as a percentage, or the base factor, expressed as a percentage, whichever is the greater, shall then be applied to each individual charge then in force and each such individual charge shall be escalated by the relevant percentage;

## ANNEXURE R - SCHEDULE OF SANCTIONS

Pursuant to the provisions of 9 of the Contract -

### CATEGORY ONE SANCTION

The Concessionaire may be sanctioned by way of a penalty of [AMOUNT AND CURRENCY] in the following circumstances -

- recurrence within a period of 1 (one) year of a breach previously sanctioned by a warning.
- not responding to a complaint or enquiry within 7 (seven) days of receipt.
- failure to give 48 (forty eight) hours notice by radio, newspaper advertisement or any other appropriate means of planned service cut.
- any unforeseen Water Supply Services cut to an area for a period exceeding 12 (twelve) hours but not exceeding 18 (eighteen) hours from being notified or becoming aware of the fact without alternative arrangements being put in place.
- any unforeseen Water Supply Services cut to an individual Consumer for a period exceeding 24 (twenty four) hours but not exceeding 36 (thirty six) hours from being notified or becoming aware of the fact without alternative arrangements being put in place.
- not advising affected Consumers within 18 (eighteen) hours from being notified or becoming aware of the fact of the measures adopted to resolve a disruption or of the alternative arrangements to be put in place.
- any category 3 (three) unforeseen Water Supply Services cut longer than 24 (twenty) hours but shorter than 48 (forty eight) hours from being notified from becoming aware of the fact.
- repeat of incorrect invoicing to a Consumer where the latter has justifiably complained on at least 2 (two) occasions about previous substantially incorrect invoicing;
- any discriminatory or incorrect conduct in the treatment of a Consumer or group of Consumers in particular.

## **CATEGORY TWO SANCTION**

The Concessionaire may be sanctioned by way of a penalty of [AMOUNT AND CURRENCY] in the following circumstances -

- recurrence within the period of 1 (one) year of one of the breaches included in 1.1 that have been sanctioned previously;
- any unforeseen Water Supply Services cut to an area for a period exceeding 18 (eighteen) hours but not exceeding 24 (twenty four) hours from being notified or becoming aware of the fact without alternative arrangements being put in place;
- any unforeseen Water Supply Services cut to an individual Consumer for a period exceeding 36 (thirty six) hours but not exceeding 48 (forty eight) from being notified or becoming aware of the fact without alternative arrangements being put in place;
- any category 3 unforeseen Water Supply Services cut longer than 48 (forty eight) hours but shorter than 72 (seventy two) hours of being notified from becoming aware of the fact;
- any category 2 unforeseen Water Supply Services cut where repair is not effected or an alternative service is not provided within a period of 12 (twelve) hours but is resumed within a period of 18 (eighteen) hours from being notified or becoming aware of the fact;
- any category 2 unforeseen Water Supply Services cut where the incident is not attended to within 4 (four) hours but is attended to within 6 (six) hours of being notified from becoming aware of the fact.

## **CATEGORY THREE SANCTION**

The Concessionaire may be sanctioned by way of a penalty of [AMOUNT AND CURRENCY] in the following circumstances-

- recurrence within the period of 1 (one) year of one of the breaches in Level 2 that have been sanctioned previously;
- any unforeseen Water Supply Services cut to an area for a period exceeding 24 (twenty four) hours but not exceeding 36 (thirty six) hours from being notified or becoming aware of the fact without alternative arrangements being put in place;
- any unforeseen Water Supply Services cut to an individual Consumer for a period exceeding 48 (forty eight) hours but not exceeding 72 (seventy two) hours from being notified or becoming aware of the fact without alternative arrangements being put in place;

- any category 3 unforeseen Water Supply Services cut longer than 72 (seventy two) hours from being notified or becoming aware of the fact;
- any category 2 unforeseen Water Supply Services cut where repair is not effected or an alternative services is not provided within a period of 18 hours but is resumed within a period of 24 (twenty four) hours from being notified or becoming aware of the fact;
- any category 2 unforeseen Water Supply Services but where the incident is not attended to within 6 (six) hour but is attended to within 12 (twelve) hours from being notified or becoming aware of the fact;
- any category 1 unforeseen Water Supply Services cut where repair is not attended to within 2 (two) hours but is attended to within 4 (four) hours from being notified or becoming aware of the fact;
- any discharge without serious consequences of effluents from a treatment plant that do not achieve the required quality levels for 95% (ninety five per centum) of the time;
- failure to request the intervention of the Competent Authority in environmental matters through the Council of which the Concessionaire has become aware;
- any omission in the agreed processes of quality control of Potable Water where there is no agreed waiver in place.

#### **CATEGORY FOUR SANCTION**

The Concessionaire may be sanctioned by way of a penalty of [AMOUNT AND CURRENCY] in the following circumstances-

- recurrence within the period of 1 (one) year of one of the breaches in Level 3 that have been sanctioned previously;
- any unforeseen Water Supply Services cut to an area for a period exceeding 36 (thirty six) hours from being notified or becoming aware of the fact without alternative arrangements being put in place;
- any unforeseen Water Supply Services cut to an individual Consumer for a period exceeding 72 (seventy two) hours from being notified or becoming aware of the fact without alternative arrangements being put in place;

- any category 2 unforeseen Water Supply Services cut where repair is not effected or an alternative service is not provided within a period of 24 (twenty four) hours from being notified or becoming aware of the fact;
- any category 2 unforeseen Water Supply Services cut where the incident is not attended to within a period of 12 (twelve) hours from being notified or becoming aware of the fact;
- any category 1 unforeseen Water Supply Services cut where repair is not attended to within 6 (six) hours but is attended to within 6 (six) hours from being notified or becoming aware of the fact;
- delay in presenting the reports required under the Contract or their incomplete presentation without reasonable explanation;
- failure to present the Consumer Rules timeously;
- manifest reluctance of the Concessionaire to Supply material information required by the Council in terms of this Contract timeously.

#### **CATEGORY FIVE SANCTION**

The Concessionaire may be sanctioned by way of a penalty of [AMOUNT AND CURRENCY] in the following circumstances-

- recurrence within the period of 1 year of one of the breaches in Level 4 that have been sanctioned previously;
- any category 1 unforeseen Water Supply Services cut where repair is not attended to within 6 (six) hours of being notified or becoming aware of the fact;
- any unforeseen sewerage service cut with serious consequences;
- any default of permitted water quality parameters with serious consequences.

Application of any sanction will be independent of the Concessionaire's obligation to refund or offset Tariffs improperly collected from any Consumer, or to indemnify the Council, Consumers or third Parties in respect if any damage and/or loss connected with such breach.

A sanction invoked in accordance with 49 will constitute a valid ground for the purposes of considering any recurrence of a breach. Notwithstanding in the event of a judicial revocation of a sanction, any sanction that may have been invoked will be modified to comply with the order of court. Application of a sanction will not release the Concessionaire from its obligations pursuant to this Contract and/or any Regulatory Provision. Notification to the Concessionaire and the Lender of the application of a sanction will also require fulfilment of the obligation within a reasonable time period failing which further sanctions may be applied.

Without prejudice to any procedure stated elsewhere in this Contract, the application of a sanction shall conform to the following procedure -

- notification of the breach and the grant of a 2 (two) working day period under normal circumstances and 24 (twenty four) hours under emergency circumstances for the Concessionaire to justify why the breach occurred and to provide proof of extenuating circumstances;
- in the event that the breach has not been properly justified within the time limit in 8.1, the Council will notify the Concessionaire of the sanction applied.

Any administrative or judicial appeal or review against a sanction applied by the Council will suspend its implementation and effect pending the grant of any such order.

Sanctions will be evaluated in accordance with the following criteria -

- the seriousness and repetitive nature of the breach;
- the difficulties or losses which the breach causes to the supply of Water Services provided to Consumers;
- the degree of impairment to public interest;
- the degree of negligence of the Concessionaire;
- the diligence displayed by the Concessionaire in rectifying the effects of the breach.

Without prejudice to the obligation to notify and remedy the breach, the following acts will not be liable to sanction by way of a penalty-

- during the first 6 (six) months calculated with effect from the Effective Date where the Council grants such exemption whenever the Concessionaire rectifies or causes cessation of a minor breach by the Concessionaire of obligations imposed in terms of the Contract. If at the end of the first 6 (six) month period there are justifiable reasons for extending the 6 (six) month period by a further 6 (six) months the Council will consider the grant of such extension and than such extension will not be unreasonably withheld by the Council.

If any conduct sanctioned in terms of a penalty receives subsequent criminal sanction, the fine applied will be conditional and the procedure will be in accordance with [Regulatory Provision].

The Council may deduct and set-off any penalty sum due and payable to the Council, save to the extent that any such sums have been recovered from any Subcontractor.

The Concessionaire is required to complete the approved annual construction programme during each 12 (twelve) month period. The Concessionaire is further required to show apportionate progress towards achieving the prescribed performance levels for each 12 (twelve) month period of the Contract Term, including making up any shortfall in progress carried over from previous years, which will lead to the achievement of the defined target in the defined time period. If these requirements are not met for any 12 (twelve) month period then the Concessionaire will be sanctioned according to the following procedure -

- a written warning may be applied where the above requirements are not met but where more than 90% (ninety per centum) is achieved;
- a penalty of [AMOUNT AND CURRENCY] may be applied where the above requirements are not met where more than 80% (eighty per centum) of the requirements are met on average across the Concession Area;
- a penalty of [AMOUNT AND CURRENCY] may be applied where the above requirements are not met and where less than 80% (eighty per centum) of the requirements have been met on average across the Concession Area.

If 100% (one hundred per centum) of the above requirements are not met for any 5 (five) year period then a penalty of [AMOUNT AND CURRENCY] will be levied.



Penalties may be applied at the discretion of the Council after consideration of all delays that occur in respect of approved Water Services aims or Works committed to, taking into account the degree of fulfilment of the Five Year Plan in progress and the aims declared by the Concessionaire in its annual report.

The imposition of a penalty by the Council will be accompanied by a notice from the Council ordering the Concessionaire to rectify the delay within a reasonable time period specified in the notice. If the Concessionaire fails to comply with such notice the penalty may be repeated at double the amount and a further time limit will be set by the Council without prejudice to the provisions of 1.

Penalties shall be paid by the Concessionaire to the Council within 30 (thirty) days of their determination and notification by the Council.

The values of the penalties stated in this annexure will be adjusted at the same time and at the same average increase which is applied to the Charges. Any dispute as to the value of any penalty in any given year shall be referred to accountants agreed to by the Parties and failing agreement within 3 (three) days accountants appointed by the President of the [country]n Institute of Chartered Accountants for decision. The accountants shall act as experts not as arbitrators and their decision will be final and binding on the Parties. The costs of the accountants will be apportioned equally between the Parties.

### ANNEXURE S17 - CONTRACT SCHEDULE

CONTRACT IDENTITY	CONTRACTING PARTIES	SCOPE OF CONTRACT	DATE OF CONTRACT

### ANNEXURE T18 - CAPITAL PROJECTS SCHEDULE

## ANNEXURE U19 - ECONOMIC EMPOWERMENT INCENTIVES SCHEDULE

1. The Concessionaire shall ensure that it, the Operator undertake to utilise labour from within the Concession Area in carrying out work in respect of the Supply of Water Services and the operation and maintenance of the Works unless a special skill or experience is required which is not readily available in the Concession Area on reasonable terms.
2. The Concessionaire will make use of labour intensive construction techniques where applicable and appropriate in respect of the construction, upgrading, expansion and/or rehabilitation of the Works. Safety, speed of execution and similar considerations will be taken into consideration when selecting a particular construction technique without derogating from the Concessionaire's obligation to use its best efforts to adhere to the economic empowerment incentives contained in this **Annexure H3**.
3. Any additional staff required by the Concessionaire for *inter alia* for plumbing installation and maintenance work will be recruited from the local community within the Concession Area on the basis of ability and aptitude. Should the relevant skills not be available from within the local community in the Concession Area, then such staff will be recruited from outside the Concession Area with preference given to suitable persons from previously disadvantaged groupings.
4. Customer training and information centres will be staffed mainly by residents from within the Concession Area.
5. Residents from various communities within the Concession Area will be employed to participate in special campaigns, such as (*inter alia* and without limitation), leak detection and water conservation projects.
6. The customer centre to be established by the Concessionaire in the Concession Area will provide details of services that the Concessionaire is seeking to sub-Contract.
7. The Concessionaire shall ensure that it, the Operator shall wherever practical use materials and goods produced within or sourced from suppliers within the Concession Area provided that such materials and goods are readily available in the Concession Area on reasonable terms. In the event such materials and goods are not readily available within the Concession Area in reasonable terms, the Concessionaire and the Operator undertake to use materials and goods manufactured or distributed from within [country] provided such materials and goods are available in [country] on reasonable terms.

8. The Concessionaire undertakes to increase its procurement for items such as (*inter alia* without limitation) chemicals, stationery, office equipment, furniture, uniforms and building material from local suppliers from within the Concession Area over time to the maximum level possible, subject to the availability, quality and cost of goods on offer.
9. Residents in local previously deprived areas will be informed of the services to be sub-Contracted by the Concessionaire with a view to optimising the employment of local residents and Contractors from within the Concession Area. Registers of local pre-qualified Subcontractors in each discipline and value of work capacity will be established by the Concessionaire within the first 6 (six) months as from the Effective Date. In appointing Subcontractors preference shall be given to local Subcontractors and Subcontractors from previously disadvantaged groupings provided that the Tenders they submit are commercially, technically and economically competitive. The Concessionaire will, through direct Contracting and through its Subcontractors, promote, where possible, a policy of allowing investment in the Works for local small, medium and emerging Contractors. The Concessionaire will use its best endeavours to require Subcontractors to assist and train local Subcontractors enabling them to execute their business more effectively.
10. The Concessionaire undertakes that it and the Operator shall favour local small, medium and emerging Contractors when Subcontractors are appointed for (*inter alia* and without limitation) transport needs, plumbing installation, maintenance, construction, security, cleaning services and gardening in the manner set out in clause 51 of the Contract to which this document is annexed as an annexure.
11. Registers of local pre-qualified Subcontractors in each discipline and the value of work capacity will be established by the Concessionaire within the first 6 (six) months as from the Effective Date.
12. The Concessionaire shall ensure that it and the Operator shall use their best endeavours to appoint consultants from within the Concession Area and shall give preference to consultants from previously disadvantaged groupings unless a special skill or experience is required which is not readily available on reasonable terms and subject to the technical and other ability of the consultant to perform the work or services concerned.

## ANNEXURE V - OPERATING AGREEMENT

## ANNEXURE W - REPORTING SCHEDULE

### 1. MAINTENANCE AND PROVISION OF INFORMATION

- a. The Concessionaire shall use archives and such other means of recording information in the quality and quantity required for facilitating efficient management of the Contract, the Works and the Supply of Water Services, in order to provide information to the Council, Consumers and competent authorities in respect of the Supply of Water Services.
- b. The Concessionaire shall keep records including *inter alia* computer models, databases, calculations, as built plans and diagrams and the like, as well as historical records in respect of the construction, repairs and maintenance of any assets or the Works and the extent and location of assets in sufficient and reasonable detail to enable the Council to regulate and monitor the Contract and the Supply of Water Services.
- c. The Concessionaire shall also maintain suitable and complete accounting records which summarise all the technical, commercial, financial and personnel information pertaining to the Supply of Water Services, the Concession Assets and the Contract. Such records shall represent the time period from the start of the Contract and include the present and proposed state of the Supply of Water Services. Information in respect of revenue, costs, expenses, assets and Liabilities (both current and contingent), shall be prepared in accordance to the generally accepted accounting principles.
- d. Subject to reasonable notification from the Council, the records shall be made available to the Council or its duly appointed agents during normal working hours with the object of examining the content and verifying that they are being correctly maintained and to facilitate the regulatory and monitoring functions of the Council in respect of the Supply of Water Services.
- e. All records shall be updated on an on-going basis by the Concessionaire so that they may be consolidated periodically to provide a comprehensive overview of the Supply of Water Services, to facilitate the efficient Supply of Water Services, issuing of reports and to facilitate the regulation of the Contract and the Supply of Water Services by the Council.
- f. To enable the Council to prepare the Water Services development plan for the Council's area of jurisdiction. The Concessionaire shall submit all the relevant information requested for such plan by the Council timeously and render all reasonable assistance to the Council.

### 2. THE FIVE YEAR PLAN

- a. The first Five Year Plan by the Concessionaire will be in accordance to the Five Year Plan, as amplified by the approved peri-urban rural area expansion programme, a copy of which is annexed hereto marked **Schedule I**.
- b. Within the first 12 (twelve) months from the Effective Date and annually thereafter the Concessionaire shall carry out and submit to the Council an upgraded Five Year Plan covering the ensuing five years covering the Works and the particulars and conditions pertaining to the Supply of Water Services within the Concession Area. The plan must include *inter alia* an analysis of the Works, a detailed water balance analysis, required capital investment programme, Consumer particulars, demand patterns, conditions in respect of the Supply of Water Services and any other aspect reasonably required by the Council. The plan will be developed in conjunction with and take cognisance of the preparation of the integrated development plan of the Council.
- c. The Concessionaire shall submit all the relevant information requested by the Council and render all reasonable assistance to the Council to enable the Council to prepare the water service development plan for the municipal area of the Council.
- d. Each Five Year Plan shall -
  - i. contain the general outline of capital works and actions to be carried out in the subsequent five year period;
  - ii. analyse in depth alternatives for achieving the aims envisaged, considering operational or capital investment requirements and identifying their impact, if any, on Tariffs;
  - iii. include a valuation system for costs to be incurred to make it possible to produce an annual balance sheet between costs actually incurred and those originally projected;
  - iv. include mechanisms for updating costs of projects in progress and projections of costs associated with projects, and mechanisms for evaluating the degree of physical progress of the Concessionaire and the progress as a function of the amounts disbursed by the Concessionaire.
- e. The content of each Five Year Plan shall consist of at least the following sections -
  - Water resources;
  - Water treatment;
  - Water services Works;
  - Water services Supply;

Sanitation services Works;  
Sanitation services;  
Effluent treatment and final disposal.

- f. A description of the commercial, administrative, management and operational aspects of the Concession.
- g. Each Five Year Plan shall contain a separate indication of capital investment costs and operating, administrative and commercial costs, including the reasons for including each particular work or action in a given category.
- h. Each Five Year Plan shall also contain in tabular form for the Five Year Plan proposed the cost structure elements which the Concessionaire considers relevant, indicating the percentage indices of each element on the total cost structure. The Five Year Plans following the first one shall, be accompanied by certificates from both the technical and accounting auditors.
- i. Each Five Year Plan, including the first one, must include an expansion area declaration proposing the geographical limitation, developed from areas serviced, of the Water Supply Services and Sanitation Services Expansion Areas which the Concessionaire propose that the Council approve.
- j. On the basis of the latest existing national population census, published by the relevant authority, the Concessionaire shall make total population projections for each district of Concession Area, stating the total resident population figures to be considered. Expansion areas will be determined geographically, taking into account that the estimated total population contained in them justifies the corresponding five year coverage. The Concessionaire shall have provided the corresponding service to 100% (one hundred per centum) of that area by the end of each Five Year Plan. If 100% (one hundred per centum) of that area is not covered, there will be deemed to be a breach of the Five Year Plan. Until there is new data available in inter census periods that justify adjustments of the figures obtained by the above projection, the latter figures will be taken as the denominator in the calculation of coverage percentages.
- k. On the basis of the available pattern of Consumers, which has to be updated by the Concessionaire and the population density data per district obtained from the relevant authority the Council will calculate the figures for the population served with Water Supply Services and Sanitation Services in each district. These figures will be used as the numerator for calculating the existing percentages and coverage.



1. Together with each Five Year Plan, including the first one, the Concessionaire shall submit a declaration of service aims to be achieved in the corresponding five year period in relation to the aims achieved in the preceding period and the Service Standards described in the Contract.

### **3. SERVICE IMPROVEMENT AND EXPANSION**

- a. The service improvement and expansion plan shall identify the necessary Works and actions required for achieving the prescribed Water Service Standards, within the periods determined by that plan and in respect of first 5 (five) year period of Concession.
- b. The object and aim of the service improvement and expansion plan is to ensure the improvement of the state of efficiency and functioning and the expansion to the Water Services Works required for providing the services;
- c. Each service and expansion plan shall contain as a minimum the capital works and actions required for covering the balance between the water service aims proposed by the Concessionaire in its Tender, those actually achieved, any updated aims and those projected for achievement in the remaining 6 (six) month period of the Five Year Plan in progress.

### **4. ANNUAL REPORT**

The Concessionaire shall annually produce, commencing with the first year, a written report called the Report on Service Levels which will state the service levels achieved in each of the areas into which the Water Services have been divided in relation to the water service aims set and the Service Standards described in 2.12. The format of the report shall be approved by the Council in consultation with the Concessionaire. The report shall include –

- a. all information which in the Concessionaire's opinion is necessary for the proper understanding of the report and of the quality of services, compared with the relevant aims;
- b. a statement of the methods used for maintaining service quality and the steps followed by it for monitoring and determining the quality of services;
- c. statement in respect of the labour relations, employment practices in place, training activities undertaken and objectives achieved;
- d. a statement concerning the procedure followed in treating claims for losses and damage caused if the Concessionaire has notified the Council of a case of flood damage due to overflows on the sanitation Water Supply Works or such other deficiencies or incidents;
- e. any reason which will enable it to achieve any service aim or which has made it impossible for it to achieve any service aim to its full extent;
- f. reasons that have made it impossible for it to determine either accurately or with a reasonable degree of reliability whether a service aim had been achieved;

- g. proposals for achieving service aims which have not been possible to achieve or the readjustment of its service aim declaration. The report on service levels shall be certified by the technical auditors;
- h. together with the submission of each new Five Year Plan, the Concessionaire must submit to the Council a Five Year Plan situation report in respect of the current period, in a format approved by the Council in consultation with the Concessionaire.
- i. The Five Year Plan situation report shall summarise the state of capital investments up to 6 (six) months of that period, in comparison with the corresponding Five Year Plan. The Five Year Plan situation report must be certified by the technical and accounting auditors.

During the 3 (three) months subsequent to the submission of the Five Year Plan report of the Council, the Concessionaire shall carry out an evaluation and apply by mutual agreement with the Council any corresponding modifications to the next Five Year Plan submitted for approval. Once the modifications have been agreed, the Council shall at least 45 (forty five) days prior to the end of the current five year period, so as to allow implementation of any corresponding Tariff modification, notify the Concessionaire of the approval of the next Five Year Plan and declare the Expansion Areas according to the plan approved.

In the event that the Water Services provided by the Concessionaire do not substantially fulfil the conditions required in the Contract, the Council may require extraordinary reports from the Concessionaire at such intermediate periods determined by the Council.

##### **5. PREVENTION AND EMERGENCY PLAN**

- a. The CONCESSION COMPANY shall submit within 6 (six) months from the Effective Date a “Prevention and Emergency Plan” and include in it the methods and procedures implemented and to be implemented in the future for preventing Emergency Situations, including *inter alia* the methods and procedures that will be adopted for complying with and resolving Emergency Situations as and when they arise.
- b. In Emergency Situations, the Concessionaire shall take reasonable steps to provide a Basic Water Supply and Basic Sanitation services at the cost of the Council.
- c. The Prevention and Emergency Plan shall be presented to the Council, together with any updates thereof which the Concessionaire introduces either of its own volition or in accordance with any Regulatory Provisions.

##### **6. MAINTENANCE OF ASSETS REGISTER**

The Concessionaire, as part of its obligations to maintain a database, maintain and update the Concession Assets register, in respect of Existing Assets and New Assets, during the term of the Contract.

##### **7. PUBLICATION AND ACCESS TO INFORMATION**

- a. The Concessionaire shall carry out the following at the time of providing the report on service levels –

- i. inform Consumers of the Service Standards and service levels achieved;
- ii. make a copy of the most recent information about Service Standards and service levels available for inspection by any person so requesting at each of its offices during normal office hours.
- iii. The Concessionaire shall at the time of submitting the annual report of progress of the Five Year Plan to the Council-
- iv. publish an annual report containing at least all relevant information summarised from the annual report of progress of the Five Year Plan, and inform Consumers of its existence;
- v. make a copy of the annual report for inspection by any Consumer, at each of its offices during normal working hours.

## 8. **FINANCIAL REPORTS**

- a. The Concessionaire shall deliver to the Council no later than 120 (one hundred and twenty) days after the end of each financial year –
  - i. 3 (three) copies of the Concessionaire’s complete financial statements for each financial year (which are consistent with the books of accounts and prepared in accordance with generally accepted accounting standards), together with an audit report thereon;
  - ii. a copy of any audit letter, management letter or other communication sent by the auditors to the Concessionaire’s financial statements, expressing a view as to the reasonableness of the systems, management and accounts.
  - iii. A list of insured values applicable to the Concession Assets.
  - iv. The Concessionaire shall deliver to the Council as soon as practicable, but in any event no later than 60 (sixty) days after the end of each quarterly period of each financial year, (except for the last quarterly period of each financial year)-
  - v. management accounts in respect of the previous quarter;
  - vi. a report on any factors materially and adversely affecting or which might materially and adversely affect the Concessionaire’s business and operation or its financial condition;
  - vii. a list of each of its Lenders and creditors to which the Concessionaire owes a sum in excess of the equivalent of [AMOUNT AND CURRENCY] escalated by CPI including the amounts due to each of them;
  - viii. a statement identifying the capital costs, construction costs and operation and maintenance costs during the respective period.
- b. The Concessionaire shall deliver to the Council as soon as practicable, but in any event no later than 30 (thirty) days prior to the end of each financial year, the projected profit and loss account and the budget for the following year, together with an analysis thereof.

## **ANNEXURE X - DRAWDOWN PROCEDURE FOR EXISTING CONSUMER DEPOSITS**

1. The Concessionaire shall be entitled to receive payment in respect of the failure or refusal of a Consumer to make timeous or full payment or to meet other conditions for the Supply of Water Services subject to the delivery to the Council of a certified copy of the following –
  - a. the invoice in respect of the Water Services as set out in [ ];
  - b. the letter of demand addressed to the Consumer as set out in [ ];
  - c. notice advising the Consumer of the cutting off of the Supply of Water Services as set out in [ ]; and
  - d. lapse of the prescribed periods as set out in [ ] and the amount due and payable by the Consumer default.
  
2. On receipt of the documentation in paragraph 1 above, the Council shall within 24 (twenty four) hours of receipt of all the prescribed documentation instruct the Bank Manager of the [ ] Branch of [ ] to arrange for the amount due and payable by the Consumer to be electronically transferred to the account notified to the Bank Manager by the Concessionaire.
  
3. The Bank Manager shall submit a monthly statement of account to both the Concessionaire and the Council indicating all transfers and the credit balance of the account.

## ANNEXURE Y - RECOVERY PERFORMANCE CRITERIA SCHEDULE

1. Performance criteria for billing and cash collection functions to be undertaken by the Council.

2. Billing

- a. The Council shall read all water meters within the Concession Area in accordance with a meter reading schedule which will be agreed to between the Parties prior to the Effective Date. Failure to meet the performance standards set out in such meter reading schedule will result in a penalty payable by the Council to the Concessionaire, calculated as to the daily value of the budgetary invoices multiplied by the number of days in arrears and charged at an interest rate which is 2% (two per centum) points higher than the published [ ] Bank Prime Rate.
- b. The Council shall prepare all water and sanitation invoices within 5 (five) working days of receipt of meter reading records and post or otherwise initiate delivery of such invoices to all customers. In the event that the Council does not meet the performance standards due to an act or omission of the Council an amount by way of a penalty shall be paid to the Concessionaire. The penalty shall be calculated as to the daily value of bills multiplied by the number of days in arrears and charged at an interest rate which is 2% (two per centum) points higher than the published [ ] Bank Prime Rate.

3. Cash collections

The Council shall make appointment arrangements, both at the Town Hall and at other pre-determined cash points within the Concession Area to receive cash on a daily basis during the week between the hours 08h00 and 16h00. The cash so received shall be banked during the course of the day or within the first 3 (three) hours of the day following and that cash shall be transferred by automatic transfer to bank account at [ ] Bank to be nominated by the Concessionaire. Where the Council receives deposits on a daily basis direct into its account, these shall be identified within the day following the date of receipt and a transfer made by the Council to the [ ] Bank on that day. Should the Council fail to adhere to the above procedure, then the Concessionaire will be entitled to a penalty calculated as to the value of cash delayed in transfer to the [ ] Bank - multiplied by the number of days deferral of 2% (two per centum) points above the published [ ] Bank Prime Rate.

4. The Council shall take all reasonable steps necessary -
  - a. to collect all Charges in respect of all water and sanitation invoices issued by the Council, within 30 (thirty) days from the date of invoice thereof, being the stipulated normal credit terms within the Concessionaire's Consumer Rules ("the 30 (thirty) day credit period"). In the event that the Council does not

receive payment of a water and sanitation invoice within the said 30 (thirty) day credit period, the Council shall be obliged, by no later than 3 (three) days following the 30 (thirty) days credit period, to post or otherwise initiate delivery of a reminder to effect payment to all customers who had not effected payment of such invoices. In the event that the Council does not meet the performance standards due to an act or omission of the Council an amount by way of a penalty shall be paid by the Council to the Concessionaire. The penalty shall be calculated as to the daily value of such invoices on which the said act or omission has occurred multiplied by the number of days exceeding the 30 (thirty) day credit period plus 3 (three) days and charged at an interest rate which 2% (two per centum) points higher than the published [ ] Bank Prime Rate; and

- b. to collect all Charges in respect of all water and sanitation invoices issued and in respect of which a reminder had been issued as contemplated 4.1, within 7 (seven) days after the date upon which the reminder had been issued, and the Council shall be obliged, within 3 (three) days after the said 7 (seven) day period, to notify the Concessionaire and a firm of attorneys appointed by the Concessionaire in writing as to the physical address, the amount due and account numbers of all remaining unpaid invoices. In the event that the Council does not meet the performance standards due to an act or omission of the Council, an amount by way of a penalty shall be paid by the Council to the Concessionaire. The penalty shall be calculated as to the daily value of the unpaid invoices in arrears multiplied by the number of days in arrear in excess of the 30 (thirty) days credit period plus 13 (thirteen) days and charged at an interest rate which is 2% (two per centum) points higher than the published [ ] Bank Prime Rate.

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