



REQUEST FOR PROPOSAL:

Professional service provider for the provision of legal advisory and litigation services in accordance with the given scope.

Procurement Number –
OW- 469/2018/19

29 January 2019

DOCUMENT INFORMATION SHEET

Title of Document : *Professional service provider for the provision of legal advisory and litigation services in accordance with the given scope*

Type of Document : *Request for Proposal*

Document Number : *OW-469/2018/19*

Technical Specifications Prepared by : *Thozama Rani*

Technical Specifications Typed by : *Precious Motlhaga*

Department : *Office of the CEO*

Prepared for : *Overberg Water Board*

Date of Issue : *29 January 2019*

DOCUMENT CONTROL SHEET

We, the undersigned, accept this document as a stable work product.

ORIGINAL	Technical Specifications Prepared by	Technical Specifications Reviewed by	Technical Specifications Approved by
Date: 30 November 2018	Name: Thabiso Mamabolo	Name: Thozama Rani	Name: Phakamani Buthelezi
	Signature:	Signature:	Signature:

Distribution:	<i>Potential Bidders</i>
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REQUEST FOR PROPOSAL

Professional service provider for the provision of legal advisory and litigation services in accordance with the given scope.

Procurement Number: OW – 469/2018/19

Overberg Water Board is a Water Services Entity in accordance with the Water Services Act, Act No 108 of 1997 and owns several Water treatment schemes within the Overberg Region. Rûensveld West, a Water Treatment Work, is situated close to Caledon, off the N2 (-34.095814, 19.315934) and delivers water to various parts of Theewaterskloof Municipality.

INVITATION AND SCOPE OF SERVICES

Overberg Water (OW) is inviting Service Providers for Professional service provider for the provision of legal advisory and litigation services in accordance with the given scope. The contract entails Commercial Law (Contract Law & Construction Law), Debt Collection law, Intellectual Property law, Procurement Law (Administrative & Constitutional law), corporate law, Criminal, Tax Law, Litigation, Labour law and other legal matters.

CONDITIONS

- (a) Preference will be given to respondents who comply with the Overberg Water Supply Chain Management Policy & Procedures.
- (b) Preferential Procurement Policy Framework Act (PPPFA) principles and its Regulations, as updated, shall apply, whereby submissions will be evaluated according to the provisions of that Act, its Regulations and the Public Finance Management Act (PFMA).
- (c) Bidders must submit a valid BBBEE Verification Certificate from SANAS Accredited Verification Agency in order to be eligible for empowerment points. The Exempted Micro Enterprises (EME) may submit a sworn affidavit from the Commissioner of Oath confirming its and turnover and black shareholding.
- (d) The following scores will be applied:
 - (i) Price - 80,
 - (ii) BBBEE Status - 20.

Request for Proposal (RFP) documents will be available on our website www.overbergwater.co.za and E-Tender Portal.

One original completed bid document shall be placed in a sealed envelope clearly marked: “**OW – 469/2018/19 – Professional service provider for the provision of legal advisory and litigation services**”.

The closing date and time for the receipt of completed bids is **Friday, 03 May 2019 at 12h00** at the reception desk tender box of the **Overberg Water Board’s Corporate Office, Trident Park 3, Ground Floor, 1 Niblick Way, Somerset West, Cape Town**. Bids will not be opened in public and no late submissions will be considered.

Failure to provide any mandatory information required in this Bid will result in the submissions being deemed null and void and shall be considered non-responsive. Respondents must include their Tax Compliance Pin Number and CSD report with their submissions in order to be considered.

Telegraphic, telexed, facsimiled or e-mail submissions will not be accepted.

COMPULSORY BRIEFING

Detail specifications on the projects will be available during the compulsory briefing to be held **Wednesday, 17 April 2019 at 12h00** at the Boardroom of the **Overberg Water Board’s Corporate Office, Trident Park 3, Ground Floor, 1 Niblick Way, Somerset West, Cape Town**.

All enquiries regarding this bid must be in writing only, and must be directed to:

Thozama Rani (technical) at 021 – 851 2155 or email hrmanager@overbergwater.co.za, or Precious Motlhaga (SCM official) at 021 - 851 2155 or email tmotlhaga@overbergwater.co.za.

The OW reserves the right not to accept the lowest proposal in part or in whole or any proposal.

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1 OBJECTIVE

The Overberg Water Board (OWB) wishes to appoint a service provider to provide legal advisory and litigation services to the OWB.

2 BACKGROUND

The Overberg Water Board was established in 1993 and provides bulk water services in terms of Water Services Act. It is a 3B Scheduled Public Entity in terms of the Public Finance Management Act of 1999 as amended. It is governed by the Board as appointed by the Minister of Water and Sanitation as appointed from time-to-time. One of the strategic objectives of the OWB is to ensure compliance with all applicable laws that manages its legal risks efficiently and effectively. The Office of the CEO & Human Resource Management of the OWB is responsible for the provision of legal and secretariat services to the organisation. The matters and enquiries that these two units sometimes deal with require expert legal opinion and some matters require that the organisation is defended in Courts and in other quasi-judicial.

Accordingly, the OWB is seeking to procure the services of qualified and experienced service provider to assist Overberg Water Board in rendering legal services on an ad hoc basis for specific assignments.

3 SCOPE OF WORK

The successful bidders shall be required to assist the Ceo's Office, The Secretariat and Human Resource Department with the following services;

Commercial and Contract Law

- Commercial and Civil Litigation
- Labour and Employment Law
- Constitutional Law
- Debt Collection Law
- Administrative Law
- Corporate Law
- Customary Law
- Corporate Governance Law
- Supply Chain Management Law
- Any other specialized field of law that the firm of attorneys has expertise in and that is relevant to the working environment of Overberg Water Board

3.1.1 The services that may be required from the service providers include but not are not limited to the following;

3.1.1.2 Drafting of legal opinions on various legal aspects pertaining to the mandate of the OWB, performance and other related matters.

3.1.1.3 Advising and representing the OWB in industrial relations matters which may include, inter alia the appearance at CCMA, Labour Appeal Court and handling disciplinary actions and proceedings.

3.1.1.4 Advising and representing the OWB on any litigious matter that may be brought against or initiated by the OWB in the execution of its mandate, protection of its goodwill and/or acting in the public interest.

3.1.1.5 Drafting pleadings, notices and legal documents.

3.1.1.6 Attending to any other matters related to legal issues relevant to the execution of the mandate of the OWB.

3.2 ESSENTIAL SPECIALIZED FIELD OF LAW

3.2.1 Commercial and Litigation Law

3.2.1.1 Attorneys will attend to Civil Litigation on behalf of the OWB, either in the court of law or through arbitrations. Attorneys are required to have an in-depth practical knowledge of civil litigation procedures through arbitration or in the High Court and Magistrates' Court.

3.2.1.2 Attorneys are required to have practical knowledge of:

The entire spectrum of Public Sector law, and the related regulatory environment, but not limited to the knowledge of relevant legislation, including the constitution of the Republic of South Africa, Water Boards legislation and conventions, Promotion of Administrative Justice Act, Preferential Procurement Policy Framework Act and Public Finance Management Act (Including all relevant practice notes and regulations).

3.2.1.3 Commercial Contract Drafting

Practical knowledge is required of all spheres of commercial and public law including but not limited to knowledge and application of the standard forms of contract, including the Government Procurement General Conditions of Contract and Special Conditions of Contract. Over and above the above mentioned standard forms of contract, Attorneys may be required to attend to drafting, negotiation and interpretation of commercial agreements more specifically but not limited to;

- Service Level Agreements
- Employment Agreements
- Memorandum of Understandings

3.2.1.4 LABOUR AND EMPLOYMENT LAW

Expertise in labour and employment law matters is required, more specifically;

- Ability to prosecute employees law in disciplinary hearings
- Ability to chair disciplinary hearings
- Advise on procedural and substantive issues relating to disciplinary hearings conducted
- Representation at the CCMA, Labour Court and Labour Appeal Court
- Advise and assist in process and compliance with South African Labour Law

- Negotiation and settlement of labour disputes whether with individual employees or the bargaining unit represented by a union.
- Provision of legal opinions
- Investigation of alleged misconduct and other labour relations disputes

3.2.1.5 DEBT COLLECTION

Overberg water is expected the service provider to perform the following duties:

- Call centre phone calls, text messages and emails to debtors
- Default listing on credit bureau of debtors
- With your prior consent, initiate legal procedure where summons is issued from the local Magistrates Court giving regards to jurisdiction and type of debt
- Ensure that local Sheriff are sent to the debtor for enforcement, including warrant of execution or emoluments attachment order
- In the event that contact details are no longer valid, trace the bad debtor and trace alert must also be uploaded to the credit bureaus.
- Send section 129 and 130 letter or final notice in accordance to the National Credit Act

Period of Performance

The period of performance of the contract resulting from this solicitation is expected to commence as soon as the process of evaluating the tender is concluded. The contract will run from then for a period of 36 months (3) years.

- **EVALUATION PROCESS/ ASSESSMENT CRITERIA**

Bids received will be evaluated in accordance with the evaluation process stated below.

2.1 Responsiveness Assessment

The following criteria will be used in assessing the responsiveness of tenders.

Table 1: Mandatory Requirements to be submitted

NO.	DESCRIPTION	YES	NO
1	Central Supplier Database (CSD)/SARS tax compliant		
2	Completed and signed all the attached bid documents (SBD 1, SBD 3.3, SBD 6.1, SBD 6.2, SBD 8, SBD 9, SBD 4)		
3	Central Supplier Database (CSD) registration document or number		
4	Latest financial statement		

5	Joint ventures with notary if any:		
6	Notary Joint Venture Agreement / Association Agreement (if applicable)		
7	B-BBEE rating certificate issued by a SANAS recognised entity / sworn affidavit. A minimum of level 2 is required for a main bidder		
8	B-BBEE rating certificate issued by a SANAS recognised entity / sworn affidavit for the sub-contractor or joint ventures if applicable:		
9	Company profile with a description of past experience		
10	Bidders shall submit subcontracting agreements between the main contractor and the subcontractor with this bid (if applicable):		
11	<p>If the bidder is not an Exempted Micro Enterprise (EME) or Qualifying Small Enterprise (QSE) at least the minimum of 30% should be subcontracted to EME or QSE which is at least 51% Black Owned;</p> <p>The subcontractors shall be EMEs or QSEs that are 51% Black Owned by the following enterprises;</p> <ul style="list-style-type: none"> • Black Owned • Owned by black youth • Black Women Owned • Owned by black people with disabilities • Black people living in rural or underdeveloped areas and / or townships • Cooperatives • Military veterans 		
12	Attach a copy of Attendance Register for the Briefing Session		

N.B - Failure of bidders to meet all the above mandatory requirements will result in submissions being deemed null and void and shall be considered “non – responsive” and therefore not considered.

Evaluation Method 2, which entails the balance between Functionality, Financial offer and Price & Preferences 80/20 points system, will be adopted as follows;
Functionality Points = max 100 points (Minimum threshold=70%)
Price=80 points (tenders will be awarded a maximum of 80 points for price)
Preference (B-BBEE) = 20 points

2.1 Evaluation criteria

The 80/20 preference points system as prescribed in the Preferential Procurement Regulations, 2011 Pertaining to the Preferential Procurement Policy Framework Act, (ACT NO 5 OF 2000) (PPPFA) will be applied to evaluate this bid. The lowest acceptable bid will score 80 points for price and a maximum of

20 points will be awarded for attaining the Broad-Based Black Economic Empowerment (B-BBEE) Status Level of Contribution. Bids received will be evaluated on the three (3) phases namely **Mandatory Requirements, Functionality Compliance / Specification Compliance** and **Price and Preference**.

Phase 2: Functionality Compliance.

Bidders must score at least 70 out of 100 in respect of functionality in order to qualify for advancement to Phase 3. A bidder that scores less than 70 out of 100 will be regarded as submitting a non-responsive bid and will be disqualified. Bidders who fail to obtain a minimum score for each criterion will be disqualified.

The weight that will be allocated to each functionality criterion is as follows:

1 = poor, 2 = average, 3 = good, 4 = very good, and 5 = excellent

Criteria	Sub-Criteria	Points Value	Weight of Criterion	Bidder Score
Company past Experience	Contactable reference for evaluation. Bidders must submit signed reference letter(s) from previous clients/employer. Relevant work experience in water industry/public sector: <ul style="list-style-type: none"> • Commercial and Civil Litigation • Labour and Employment Law • Constitutional Law • Debt Collection • Administrative Law • Business and Corporate Law • Customary Law • Criminal litigation, • Property transactions, • Taxation and estate planning • Understanding of governance • Drafting and vetting contracts • Any other specialized field of law that the firm of attorneys has expertise on and that is relevant to the working environment of Overberg Water Board Bidders must provide a minimum of 3 written references from Clients whom legal services were provided to in the last 3 years. The reference letters must be on the clients letterhead and contain the following information: <ul style="list-style-type: none"> • contact person; • contact number; and • e-mail address. 		30	
	5 or more reference letters within the last 3 years	5		
	4 reference letters within the last 3 years	4		
	3 reference letters within the last 3 years	3		
	2 reference letters within the last 3 years	2		
	1 or less reference letters within the last 3 years	1		

Capacity of the relevant Partner(s)	The Partner(s) and/or Director(s) or Sole Proprietor must have a minimum of seven (7) years post admission experience in Law (including civil litigation, labor law, corporate law and etc) .		20	
	Please furnish us with a CV(s) of Partner(s) and/or Director(s) or Sole Proprietor at least indicating the following: <ul style="list-style-type: none"> • Personal information; • Qualification and date of admission (Proof of admission); • Work experience; and • Contactable References. 			
	12 years and more of post-admission experience in law including but not limited to civil litigation, labor law, corporate law and etc.	5		
	10 to 11 years but less than 12 years of post-admission experience in law including but not limited to civil litigation, labor law, corporate law and etc.	4		
	7 to 9 years but less than 10 years of post-admission experience in law including but not limited to civil litigation, labor law, corporate law and etc.	3		
	4 to 6 years but less than 7 years of post-admission experience in law including but not limited to civil litigation, labor law, corporate law and etc.	2		
0 to 3 years but less than 4 years of post-admission experience in law including but not limited to civil litigation, labor law, corporate law and etc.	1			

Capacity of the relevant Lead Attorney (s)	The Lead Attorney(s) must have post admission experience of a minimum of seven (7) years in Law (including civil litigation, labor law, corporate law and etc). Please furnish us with a CV(s) of the Lead Attorney(s) at least indicating the following: <ul style="list-style-type: none"> • Personal information; • Qualification and date of admission (Proof of admission); • Work experience; and • References. 		10	
	12 years and more of post-admission experience in law including but not limited to civil litigation, labor law, corporate law and etc.	5		
	10 to 11 years but less than 12 years of post-admission experience in law including but not limited to civil litigation, labor law, corporate law and etc.	4		
	7 to 9 years but less than 10 years of post-admission experience in law including but not limited to civil litigation, labor law, corporate law and etc.	3		
	4 to 6 years but less than 7 years of post-admission experience in law including but not limited to civil litigation, labor law, corporate law and etc.	2		
	0 to 3 years but less than 4 years of post-admission experience in law including but not limited to civil litigation, labor law, corporate law and etc.	1		
Capacity of the relevant other staff	The Bidder(s) must provide the OVB with the CV(s) detailing the background and years of experience in law including but not limited to civil litigation, labor law, corporate law and etc of the staff that will assist Lead Attorney Partner(s) and/or Director(s) or Sole Proprietor , i.e.: <ul style="list-style-type: none"> • Professional Assistant(s)/Associate(s) and etc. 		10	
	5 years and more of post-admission experience in law including but not limited to civil litigation, labor law, corporate law and etc.	5		
	4 years but less than 5 years of post-admission experience in law including but not limited to civil litigation, labor law, corporate law and etc.	4		

	3 years but less than 4 years of post-admission experience in law including but not limited to civil litigation, labor law, corporate law and etc.	3		
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	2 years but less than 3 years of post-admission experience in law including but not limited to civil litigation, labor law, corporate law and etc.	2		
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	0 to 1 years but less than 2 years of post-admission experience in law including but not limited to civil litigation, labor law, corporate law and etc.	1		
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Registration with Law Society	<p>The Lead Attorney must have Right of Appearance in the High Court of South Africa, from the relevant Law Society.</p> <p>The Right of Appearance Certificate must be submitted as proof of this requirement.</p>		10	
Debt collection experience	<p>Contactable reference for evaluation. Bidders must submit signed reference letter(s) from previous clients/employer. Bidder must demonstrate the ability to ensure effective and efficient debt collection that will result in the recovery of bad debts.</p> <p>Relevant work experience in water industry/public sector:</p> <ul style="list-style-type: none"> • Debt collection • Tracing • Query management • Customer relations • Soft collection • Litigation <p>Bidders must provide a minimum of 3 written references from Clients whom debt collection services were provided to in the last 3 years. The reference letters must be on the clients letterhead and contain the following information:</p> <ul style="list-style-type: none"> • contact person; • contact number; and • e-mail address. 		20	
	5 or more reference letters within the last 3 years	5		
	4 reference letters within the last 3 years	4		
	3 reference letters within the last 3 years	3		
	2 reference letters within the last 3 years	2		
	1 or less reference letters within the last 3 years	1		

2.1 Additional Information Required

The following additional information is required for the assessment of bids:

- (a) BBBEE Verification Certificate from SANAS Accredited Verification Agency or sworn affidavit from Commissioner of Oath in case of Exempted Micro Enterprises (EME);
- (b) Company registration documents; and
- (c) Company Profile with list of relevant projects completed in the past 3 years.

2.1 Quantitative Assessment

Bids that achieve the minimum technical requirement will be further adjudicated on Price and BEE status. The method of scoring Financial Proposals and the BEE Verification Certificate is described in the attached Preference Points Claim document (SBD 6.1).

The allocation of tender adjudication points for this Contract shall be as follows:

Area of Adjudication	Maximum Points
Tendered Price (S_P)	80
Empowerment Objectives (S_E)	20
Total Points (S)	100

- **SPECIFIC CONDITIONS**

- (a) Respondents should complete all the returnable ANNEXUREs listed below.

RETURNABLE ANNEXURES

(All ANNEXUREs must be completed and returned by the supplier when submitting the bid.)

ANNEXURE 1: Invitation to Bid (SBD 1)
ANNEXURE 2: Pricing Schedule (SBD 3.3)
ANNEXURE 3: Declaration of Interest (SBD 4)
ANNEXURE 4: Preference Points Claim Form (SBD 6.1)
ANNEXURE 5: Declaration of Local content (SBD 6.2) (if applicable)
ANNEXURE 6: Declaration of Supplier's Past Supply Chain Management Practices (SBD 8)
ANNEXURE 7: Certificate of Independent Bid Determination (SBD 9)

• TERMS AND GENERAL CONDITIONS

- (a) All submissions must be received by the OVERBERG WATER no later than **12h00, Friday, 03 May 2019**. Respondents must submit their proposals before the closing date and time. No late submissions will be considered;
- (b) All submissions and subsequent information received will become the property of the Overberg Water and will not be returned;
- (c) Failure to complete all supplementary information will result in submissions being deemed null and void and shall be considered “non-responsive” and therefore not considered;
- (d) Telegraphic, telexed, faxed or e-mailed submissions will not be accepted;
One original document shall be placed in sealed envelopes clearly marked. “**OW – 469/2018/19 - Professional *service provider for the provision of legal advisory and litigation services*”.**
- (e) at the Reception desk tender box of Overberg Water Board’s Corporate Office, Trident Park 3, Ground Floor, 1 Niblick Way, Somerset West, Cape Town;7137
- (f) Respondents or their representatives (including the courier services) must ensure that they register their submissions in the **Lodging Sheet** at the Reception Desk of the above-mentioned Overberg Water offices, wherein they will indicate the name of the person delivering the submission, the number of copies submitted, the time and date of submission and sign the document;
- (g) All enquiries and submissions regarding this Request for Tender (RFT) must be directed to: -
 - (i) Mr Precious Motlhaga: Supply Chain Management Unit
Contact Number: 021 – 851 2155
Email: tmotlhaga@overbergwater.co.za and/or
 - (ii) Ms Thozama Rani (Technical Queries)
Contact Number: 021 – 851 2155
Email: hrmanager@overbergwater.co.za
- (j) The contact persons reflected above shall be the only point of contact for this contract. Failure to observe this requirement might lead to immediate disqualification of the respondent;
- (k) The Overberg Water reserves the right not to accept any submission.
- (l) Bidders must comply with Regulation 13(c) of the Public Service Regulations, 2016 which states that “*an employee in the public service shall not conduct business with any organ of state or be a director of a public or private company conducting business with an organ of state, unless such employee is in an official capacity a director of a company listed in ANNEXURE 2 and 3 of the PFMA*”.
- (m) Submission of a Request for Proposal and its subsequent receipt by the Overberg Water does not represent a commitment on the part of the Overberg Water to proceed further with any Respondent or any project;
- (n) No costs incurred by the Respondents in the preparation of their submission will be reimbursed;
- (o) **Public Liability** - Overberg Water shall not be liable in respect of any claims, damages, accidents, etc. to persons, properties, vehicle rights, etc. that may arise from the carrying out of this contract.
- (p) Tender prices must remain valid for a period of 90 days (calculated from closing date of the bid).

6 DISQUALIFICATION

- (a) It must be stressed that any queries relating to this request must be addressed only to Precious Motlhaga and/or Thozama Rani who are identified as a contact person for this contract;
- (b) Respondents are not to communicate in any manner or form whatsoever with members of Overberg Water personnel about the RFT until the preferred Service Provider has been selected and the procurement process completed;
- (c) Respondents are advised that should there be any contact with Overberg Water staff and the Adjudication Team which could in any way be seen or deemed to constitute a conflict of interest, bribe or otherwise influence the process and the outcome thereof, will result in immediate disqualification;
- (d) Misrepresentation of information presented to the Overberg Water, be it on capability statement or empowerment credentials will also lead to disqualification of the respondent.

ANNEXURE 1: INVITATION TO BID AND THE TERMS AND CONDITIONS OF BIDDING (SBD 1)

SBD1

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE OVERBERG WATER					
BID NUMBER:	OW-469/2018/19	CLOSING DATE:	03 May 2019	CLOSING TIME:	12H00
DESCRIPTION	Professional service provider for the provision of legal advisory and litigation services for a period of 36 Months				
THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).					
Overberg Water Board's Corporate Office					
Trident Park 3, Ground Floor,					
1 Niblick Way, Somerset West					
Cape Town.					
7137					
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
		TCS PIN:		OR	CSD No:
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]		<input type="checkbox"/> Yes			B-BBEE STATUS LEVEL SWORN AFFIDAVIT
		<input type="checkbox"/> No			<input type="checkbox"/> Yes
		<input type="checkbox"/> No			
IF YES, WHO WAS THE CERTIFICATE ISSUED BY?					
AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA) AND NAME THE APPLICABLE IN THE TICK BOX		<input type="checkbox"/>	AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA)		
		<input type="checkbox"/>	A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN ACCREDITATION SYSTEM (SANAS)		
		<input type="checkbox"/>	A REGISTERED AUDITOR		
		NAME:			
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/SWORN AFFIDAVIT(FOR EMEs& QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]					

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ANSWER PART B:3 BELOW]
SIGNATURE OF BIDDER	DATE	
CAPACITY UNDER WHICH THIS BID IS SIGNED (Attach proof of authority to sign this bid; e.g. resolution of directors, etc.)			
TOTAL NUMBER OF ITEMS OFFERED		TOTAL BID PRICE (ALL INCLUSIVE)	
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:		TECHNICAL INFORMATION MAY BE DIRECTED TO:	
DEPARTMENT/ PUBLIC ENTITY		CONTACT PERSON	
CONTACT PERSON		TELEPHONE NUMBER	
TELEPHONE NUMBER		FACSIMILE NUMBER	
FACSIMILE NUMBER		E-MAIL ADDRESS	
E-MAIL ADDRESS			

PART B

TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:	
1.1.	BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
1.2.	ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR ONLINE
1.3.	BIDDERS MUST REGISTER ON THE CENTRAL SUPPLIER DATABASE (CSD) TO UPLOAD MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS; AND BANKING INFORMATION FOR VERIFICATION PURPOSES). B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.
1.4.	WHERE A BIDDER IS NOT REGISTERED ON THE CSD, MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS MAY NOT BE SUBMITTED WITH THE BID DOCUMENTATION. B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.
1.5.	THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER LEGISLATION OR SPECIAL CONDITIONS OF CONTRACT.
2. TAX COMPLIANCE REQUIREMENTS	
2.1	BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
2.2	BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.
2.3	APPLICATION FOR TAX COMPLIANCE STATUS (TCS) OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.
2.4	BIDDERS MAY ALSO SUBMIT A PRINTED TCS TOGETHER WITH THE BID.
2.5	IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE PROOF OF TCS / PIN / CSD NUMBER.
2.6	WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS	
3.1.	IS THE BIDDER A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? <input type="checkbox"/> YES <input type="checkbox"/> NO
3.2.	DOES THE BIDDER HAVE A BRANCH IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO
3.3.	DOES THE BIDDER HAVE A PERMANENT ESTABLISHMENT IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO
3.4.	DOES THE BIDDER HAVE ANY SOURCE OF INCOME IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO
<p>IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN, IT IS NOT A REQUIREMENT TO OBTAIN A TAX COMPLIANCE STATUS / TAX COMPLIANCE SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 ABOVE.</p>	

NB: FAILURE TO PROVIDE ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID

ANNEXURE 2: PRICE SCHEDULE (SBD 3.3)

BIDDER: _____

The financial proposal should be submitted in a separate sealed envelope, with the documents as stated below.

FINANCIAL PROPOSAL

It is understood that Legal Firms are based on hourly rates and that budgets are compiled once the appointed Service Provider has assessed the likely extent of the work. Financial proposals will be compared on the basis of hourly rates or unit rate. Firms are required to submit a table of hourly rates as per the table below. Rates should be **inclusive** (but exclusive of disbursements and related VAT). If a particular category does not exist for the firm, it can be omitted.

The price should be done per unit rate (i.e. per hour, per call and etc). The below list of description is indicative

ITEM	DESCRIPTION	UNIT	QUANTITY/ HOURS	RATE (R)	PRICE (R)
1.	Engagement Partner				
2.	Partner				
3	Senior Manager				
4	Manager				
5	Assistant Manager				
6	Director				
7	Senior Associate				
8	Associate				
9	Specialists (e.g. tax, technical)				
10					
11					
12					
13					
14	Subtotal A				R
15	Contingency (10%) of Subtotal A (If applicable				R
16	Subtotal B (Subtotal A + Contingency)				R
17	VAT (15%)				R

18	TOTAL (incl. VAT)	R
19	Average Price Year 1	
20	Average Price Year 2 (plus inflationary adjustment)	
21	Average Price Year 3 (plus inflationary adjustment)	

NB: Due to the nature of the project the actual hours and number of cases can't be determine at this stage. The quote above should be done per unit rate (i.e. Hourly, KM, per call and etc). The average rate per unit rate will be used for price evaluation purpose. The award will be done in line with Overberg Water budget.

Guidelines in respect of Legal Costs charged by Attorney(s)

Travelling expenses: A Successful Bidder will be requested to specify dates, purpose, as well as expenses for the distance travelled with regard to any matters. The Successful Bidder will be governed by the OVB Travel Policy.

Any additional costs to be incurred shall be invoiced based on actual costs. Prior approval must be obtained from Overberg Water.

Debt collection rate

The debt collection will be based on commission only. The commission shall be based on the amount collected. No other costs shall be recovered. The below percentages are fixed. Overberg Water reserve the rights to negotiate the percentages downwards in order to improve cost efficiency.

	90 days	120 days	180 days
Commission %	5%	8%	10%

Overberg Water reserve the rights to hand-over the debtors' book that is long overdue. The payment of the commission will be linked with the performance of the successful bidder.

Pricing Instructions:

2.1 By signing the Price Schedule, a bidder warrants that:

- 2.1.1 the relevant quotation is correct;
- 2.1.2 the rates(s) and prices(s) quoted cover all the work/item(s) specified in the quotation document;
- 2.1.3 the rate(s) and price(s) cover all the supplier's obligations under a resulting contract, including all disbursements;

2.1.4 any mistakes and/or omissions regarding rate(s) and price(s) or errors in calculation shall be at the supplier's risk.

2.2 Bidders must show VAT payable separately on the Price Schedule.

SIGNED at _____ (place) on the _____ day of _____ (month), 20_____.

Signature

Date

Print name: _____

On behalf of the Supplier (duly authorised)

ANNEXURE 3: DECLARATION OF INTEREST (SBD 4)

1. Any legal person, including persons employed by the state¹, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-

- the bidder is employed by the state; and/or
- the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

2. **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

2.1 Full Name of bidder or his or her representative:

2.2 Identity Number:

2.3 Position occupied in the Company (director, trustee, shareholder²):

2.4 Company Registration Number:

2.5 Tax Reference Number:
.....

2.6 VAT Registration Number:

2.6.1 The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / persal numbers must be indicated in paragraph 3 below.

¹"State" means –

- (a) any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (b) any municipality or municipal entity;
- (c) provincial legislature;
- (d) national Assembly or the national Council of provinces; or
- (e) Parliament.

²"Shareholder" means a person who owns shares in the company and is actively involved in the management of the enterprise or business and exercises control over the enterprise.

2.7 Are you or any person connected with the bidder
presently employed by the state? **YES / NO**

2.7.1 If so, furnish the following particulars:

Name of person / director / trustee / shareholder/ member:

Name of state institution at which you or the person connected to the bidder is employed :

Position occupied in the state institution:

Any other particulars:

.....

.....

.....

2.7.2 If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector? **YES / NO**

2.7.2.1 If yes, did you attached proof of such authority to the bid document? **YES / NO**

(Note: Failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.

2.7.2.2 If no, furnish reasons for non-submission of such proof:

.....

.....

.....

2.8 Did you or your spouse, or any of the company's directors / trustees / shareholders / members or their spouses conduct business with the state in the previous twelve months? **YES / NO**

2.8.1 If so, furnish particulars:

.....

.....

.....

2.9 Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

2.9.1 If so, furnish particulars.

.....

.....

.....

2.10 Are you, or any person connected with the bidder, aware of any relationship (family, friend, other) between any other bidder and any person employed by the state **YES/NO**

who may be involved with the evaluation and or adjudication of this bid?

2.10.1 If so, furnish particulars.

.....

2.11 Do you or any of the directors / trustees / shareholders / members of the company have any interest in any other related companies whether or not they are bidding for this contract? **YES/NO**

2.11.1 If so, furnish particulars:

.....

3 Full details of directors / trustees / members / shareholders.

Full Name	Identity Number	Personal Reference Number	Tax	State Number / Persal Number	Employee

4 DECLARATION

I, THE UNDERSIGNED (NAME).....

CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2 and 3 ABOVE IS CORRECT.
 3 I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 23 OF THE GENERAL CONDITIONS OF CONTRACT SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Position

.....
Name of bidder

ANNEXURE 4: PREFERENCE POINTS CLAIM FORM (SBD 6.1)

SBD 6.1

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017

1.

This preference form must form part of all bids invited. It contains general information and serves as a claim form for preference points for Broad-Based Black Economic Empowerment (B-BBEE) Status Level of Contribution

NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017.

1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to all bids:

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

1.2

- a) The value of this bid is estimated to not exceed R50 000 000 (all applicable taxes included) and therefore the **...80/20....** preference point system shall be applicable;

1.3 Points for this bid shall be awarded for:

- (a) Price; and
(b) B-BBEE Status Level of Contributor.

1.4 The maximum points for this bid are allocated as follows:

	POINTS
PRICE	80
B-BBEE STATUS LEVEL OF CONTRIBUTOR	20
Total points for Price and B-BBEE must not exceed	100

1.5 Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

1.6 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.

2. DEFINITIONS

- (a) **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (b) **“B-BBEE status level of contributor”** means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (c) **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods or services, through price quotations, advertised competitive bidding processes or proposals;
- (d) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (e) **“EME”** means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (f) **“functionality”** means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.
- (g) **“prices”** includes all applicable taxes less all unconditional discounts;
- (h) **“proof of B-BBEE status level of contributor”** means:
 - 1) B-BBEE Status level certificate issued by an authorized body or person;
 - 2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;
 - 3) Any other requirement prescribed in terms of the B-BBEE Act;
- (i) **“QSE”** means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (j) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

3. POINTS AWARDED FOR PRICE

3.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

A maximum of 80 or 90 points is allocated for price on the following basis:

80/20 **or** **90/10**

$$P_s = 80 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right) \quad \text{or} \quad P_s = 90 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

P_s = Points scored for price of bid under consideration

P_t = Price of bid under consideration

P_{\min} = Price of lowest acceptable bid

4. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR

4.1 In terms of Regulation 6 (2) and 7 (2) of the Preferential Procurement Regulations, preference

points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

5. BID DECLARATION

5.1 Bidders who claim points in respect of B-BBEE Status Level of Contribution must complete the following:

6. B-BBEE STATUS LEVEL OF CONTRIBUTOR CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 4.1

6.1 B-BBEE Status Level of Contributor: . =(maximum of 10 or 20 points)
 (Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

7. SUB-CONTRACTING

7.1 Will any portion of the contract be sub-contracted?

(Tick applicable box)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

7.1.1 If yes, indicate:

- i) What percentage of the contract will be subcontracted.....%
- ii) The name of the sub-contractor.....
- iii) The B-BBEE status level of the sub-contractor.....
- iv) Whether the sub-contractor is an EME or QSE

(Tick applicable box)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

v) Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations,2017:

Designated Group: An EME or QSE which is at last 51% owned by:	EME	QSE
Black people	√	√

Black people who are youth		
Black people who are women		
Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		
Black people who are military veterans		
OR		
Any EME		
Any QSE		

8. DECLARATION WITH REGARD TO COMPANY/FIRM

8.1 Name of company/firm:.....

8.2 VAT registration number:.....

8.3 Company registration number:.....

8.4 TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
- One person business/sole propriety
- Close corporation
- Company
- (Pty) Limited

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....
.....
.....
.....

8.6 COMPANY CLASSIFICATION

- Manufacturer
- Supplier
- Professional service provider
- Other service providers, e.g. transporter, etc.

[TICK APPLICABLE BOX]

8.7 Total number of years the company/firm has been in business:.....

8.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in

paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;

iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –

- (a) disqualify the person from the bidding process;
- (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
- (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
- (d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
- (e) forward the matter for criminal prosecution.

WITNESSES
1.
2.

.....
SIGNATURE(S) OF BIDDERS(S)
DATE:
ADDRESS

ANNEXURE 5: DECLARATION CERTIFICATE FOR LOCAL PRODUCTION AND CONTENT FOR DESIGNATED SECTORS (SBD 6.2)

This Standard Bidding Document (SBD) must form part of all bids invited. It contains general information and serves as a declaration form for local content (local production and local content are used interchangeably).

Before completing this declaration, bidders must study the General Conditions, Definitions, Directives applicable in respect of Local Content as prescribed in the Preferential Procurement Regulations, 2011, the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:2011 (Edition 1) and the Guidance on the Calculation of Local Content together with the Local Content Declaration Templates [Annex C (Local Content Declaration: Summary Schedule), D (Imported Content Declaration: Supporting Schedule to Annex C) and E (Local Content Declaration: Supporting Schedule to Annex C)].

1. General Conditions

- 1.1. Preferential Procurement Regulations, 2011 (Regulation 9) makes provision for the promotion of local production and content.
- 1.2. Regulation 9.(1) prescribes that in the case of designated sectors, where in the award of bids local production and content is of critical importance, such bids must be advertised with the specific bidding condition that only locally produced goods, services or works or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered.
- 1.3. Where necessary, for bids referred to in paragraph 1.2 above, a two stage bidding process may be followed, where the first stage involves a minimum threshold for local production and content and the second stage price and B-BBEE.
- 1.4. A person awarded a contract in relation to a designated sector, may not sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- 1.5. The local content (LC) expressed as a percentage of the bid price must be calculated in accordance with the SABS approved technical specification number SATS 1286: 2011 as follows:

$$LC = [1 - x / y] * 100$$

Where

- x is the imported content in Rand
- y is the bid bid price in Rand excluding value added tax (VAT)

Prices referred to in the determination of x must be converted to Rand (ZAR) by using the exchange rate published by South African Reserve Bank (SARB) at 12:00 on the date of advertisement of the bid as indicated in paragraph 4.1 below.

The SABS approved technical specification number SATS 1286:2011 is accessible on [http://www.thedti.gov.za/industrial development/ip.jsp](http://www.thedti.gov.za/industrial%20development/ip.jsp) at no cost.

1.6 A bid may be disqualified if –

- (a) this Declaration Certificate and the Annex C (Local Content Declaration: Summary Schedule) are not submitted as part of the bid documentation; and
- (b) the bidder fails to declare that the Local Content Declaration Templates (Annex C, D and E) have been audited and certified as correct.

2. Definitions

- 2.1. **“bid”** includes written price quotations, advertised competitive bids or proposals;
- 2.2. **“bid price”** price offered by the bidder, excluding value added tax (VAT);
- 2.3. **“contract”** means the agreement that results from the acceptance of a bid by an organ of state;
- 2.4. **“designated sector”** means a sector, sub-sector or industry that has been designated by the Department of Trade and Industry in line with national development and industrial policies for local production, where only locally produced services, works or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content;
- 2.5. **“duly sign”** means a Declaration Certificate for Local Content that has been signed by the Chief Financial Officer or other legally responsible person nominated in writing by the Chief Executive, or senior member / person with management responsibility(close corporation, partnership or individual).
- 2.6. **“imported content”** means that portion of the bid price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its subcontractors) and which costs are inclusive of the costs abroad (this includes labour or intellectual property costs), plus freight and other direct importation costs, such as landing costs, dock duties, import duty, sales duty or other similar tax or duty at the South African port of entry;

- 2.7. **“local content”** means that portion of the bid price which is not included in the imported content, provided that local manufacture does take place;
- 2.8. **“stipulated minimum threshold”** means that portion of local production and content as determined by the Department of Trade and Industry; and
- 2.9. **“sub-contract”** means the primary contractor’s assigning, leasing, making out work to, or employing another person to support such primary contractor in the execution of part of a project in terms of the contract.
3. **The stipulated minimum threshold(s) for local production and content (refer to Annex A of SATS 1286:2011) for this bid is/are as follows:**

<u>Description of services, works or goods</u>	<u>Stipulated minimum threshold</u>
_____	_____ %
_____	_____ %
_____	_____ %

4. Does any portion of the services, works or goods offered have any imported content?

(Tick applicable box)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

- 4.1 If yes, the rate(s) of exchange to be used in this bid to calculate the local content as prescribed in paragraph 1.5 of the general conditions must be the rate(s) published by SARB for the specific currency at 12:00 on the date of advertisement of the bid.

The relevant rates of exchange information are accessible on www.reservebank.co.za.

Indicate the rate(s) of exchange against the appropriate currency in the table below (refer to Annex A of SATS 1286:2011):

Currency	Rates of exchange
US Dollar	
Pound Sterling	
Euro	
Yen	
Other	

NB: Bidders must submit proof of the SARB rate (s) of exchange used.

5. Were the Local Content Declaration Templates (Annex C, D and E) audited and certified as correct?

(Tick applicable box)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

5.1. If yes, provide the following particulars:

- (a) Full name of auditor:
- (b) Practice number:
- (c) Telephone and cell number:
- (d) Email address:

(Documentary proof regarding the declaration will, when required, be submitted to the satisfaction of the Accounting Officer / Accounting Authority)

6. Where, after the award of a bid, challenges are experienced in meeting the stipulated minimum threshold for local content the dti must be informed accordingly in order for the dti to verify and in consultation with the AO/AA provide directives in this regard.

LOCAL CONTENT DECLARATION

(REFER TO ANNEX B OF SATS 1286:2011)

LOCAL CONTENT DECLARATION BY CHIEF FINANCIAL OFFICER OR OTHER LEGALLY RESPONSIBLE PERSON NOMINATED IN WRITING BY THE CHIEF EXECUTIVE OR SENIOR MEMBER/PERSON WITH MANAGEMENT RESPONSIBILITY (CLOSE CORPORATION, PARTNERSHIP OR INDIVIDUAL)

IN RESPECT OF BID NO.

ISSUED BY: (Procurement Authority / Name of Institution):

.....
NB

1 The obligation to complete, duly sign and submit this declaration cannot be transferred to an external authorized representative, auditor or any other third party acting on behalf of the bidder.

2 Guidance on the Calculation of Local Content together with Local Content Declaration Templates (Annex C, D and E) is accessible on <http://www.thdti.gov.za/industrial-development/ip.jsp>. Bidders should first complete Declaration D. After completing Declaration D, bidders should complete Declaration E and then consolidate the information on Declaration C. **Declaration C should be submitted with the bid documentation at the closing date and time of the bid in order to substantiate the declaration made in paragraph (c) below.** Declarations D and E should be kept by the bidders for verification purposes for a period of at least 5 years. The successful bidder is required to continuously update Declarations C, D and E with the actual values for the duration of the contract.

I, the undersigned, (full names), do hereby declare, in my capacity as of(name of bidder entity), the following:

- (a) The facts contained herein are within my own personal knowledge.
- (b) I have satisfied myself that:
 - (i) the goods/services/works to be delivered in terms of the above-specified bid comply with the minimum local content requirements as specified in the bid, and as measured in terms of SATS 1286:2011; and
 - (ii) the declaration templates have been audited and certified to be correct.
- (c) The local content percentage (%) indicated below has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E which has been consolidated in Declaration C:

Bid price, excluding VAT (y)	R
Imported content (x), as calculated in terms of SATS 1286:2011	R
Stipulated minimum threshold for local content (paragraph 3 above)	
Local content %, as calculated in terms of SATS 1286:2011	

If the bid is for more than one product, the local content percentages for each product contained in Declaration C shall be used instead of the table above.

The local content percentages for each product has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E.

(d) I accept that the Procurement Authority / Institution has the right to request that the local content be verified in terms of the requirements of SATS 1286:2011.

(e) I understand that the awarding of the bid is dependent on the accuracy of the information furnished in this application. I also understand that the submission of incorrect data, or data that are not verifiable as described in SATS 1286:2011, may result in the Procurement Authority / Institution imposing any or all of the remedies as provided for in Regulation 13 of the Preferential Procurement Regulations, 2011 promulgated under the Preferential Policy Framework Act (PPFA), 2000 (Act No. 5 of 2000).

SIGNATURE: _____

DATE: _____

WITNESS No. 1 _____

DATE: _____

WITNESS No. 2 _____

DATE: _____

ANNEXURE 5: DECLARATION OF SUPPLIER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES (SBD 8)

- 1 This Standard Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by institutions in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
- 3 The bid of any bidder may be disregarded if that bidder, or any of its directors have-
 - a. abused the institution's supply chain management system;
 - b. committed fraud or any other improper conduct in relation to such system; or
 - c. failed to perform on any previous contract.
- 4 **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

Item	Question	Yes	No
4.1	<p>Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector? (Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).</p> <p>The Database of Restricted Suppliers now resides on the National Treasury's website (www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	<p>Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	<p>Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		

4.4	Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		

SBD 8

CERTIFICATION

**I, THE UNDERSIGNED (FULL NAME).....
CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS
TRUE AND CORRECT.**

**I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT, ACTION MAY
BE TAKEN AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.**

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

ANNEXURE 6: CERTIFICATE OF INDEPENDENT BID DETERMINATION (SBD 9)

- 1 This Standard Bidding Document (SBD) must form part of all bids¹ invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).² Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3 Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
 - a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
 - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
- 4 This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

¹ Includes price quotations, advertised competitive bids, limited bids and proposals.

² Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of Institution)

do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of: _____ that:
(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - (a) has been requested to submit a bid in response to this bid invitation;
 - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder

Part 3: SPECIAL CONDITIONS OF CONTRACT

1. RELATIONSHIP

- 1.1 The relationship which the Supplier holds to Overberg Water is that of an independent Supplier. The Supplier shall not have any authority to create or assume in the name of Overberg Water, or on its behalf, any obligation expressed or implied, or to act or purport to act as an agent of Overberg Water or legally empowered representative for any purpose whatsoever, except as expressly provided for herein.

2. TAXES

- 2.1 All amounts payable in terms of this Agreement exclude Value-added Tax ("VAT"), but are inclusive of all other costs and no contributions, levies, imposts, duties or the like shall be payable by Overberg Water.

3. GOODS/SERVICES

- 3.1 The Supplier shall have readily available capacity to provide goods/services as specified in the prices scheduled in section SBD 3.3.
- 3.2 The Supplier shall deliver the Goods/Services to Overberg Water at the Place of Delivery at own cost, risk and expenses.
- 3.3 Should any of the Goods become damaged during or prior to the delivery process to Overberg Water (irrespective of the cause thereof), Overberg Water shall not be liable for any costs related to the repair of such Goods. In the Event that the Goods are expired or damaged beyond repair, the Supplier will remove and recover the damaged goods and supplies at its own costs.

4. PAYMENTS OF GOODS/SERVICES

- 4.1 Payment by Overberg Water for the Goods/Services shall be in accordance with the provisions in clause 18.

5. INDEMNITY

- 5.1 The Supplier agrees to indemnify, hold harmless and defend Overberg Water and its officers, employees, agents, Suppliers and representatives from and against any claims, demand, cause of action, liability, loss and/or expense arising from:
- 5.1.1 Any claims, irrespective of the cause of action, against Overberg Water or its employees arising, directly or indirectly, from the supply of Goods/Services by the Supplier, its sub Suppliers, employees, agents, representatives or invitees, irrespective of the degree of fault involved.
- 5.1.2 Any damage to or loss of the property of the Supplier (including the property of the offices, employees, agents, sub Suppliers and representatives of the Supplier) arising directly or indirectly through the acts or omissions to act of Overberg Water or its sub-Suppliers, employees, or agents, irrespective of the fault, delict or negligence of Overberg Water (including its officers, employees, agents, Suppliers and representatives).
- 5.1.3 Any injury to or death of the personnel of the Supplier (including officers, employees, agents, sub-Suppliers and representatives, and suppliers of the Supplier) arising directly or indirectly through acts or omission to act of Overberg Water or its sub-Supplier, employees, agents, irrespective of the fault, delict or negligence of Overberg Water (including its officers, employees, agents, Suppliers and representatives.);
- 5.1.4 Any failure of the Supplier to comply with any Act of Parliament, ordinance, regulation, provincial, regional, municipal, local or other authority, provided that compliance by the Supplier was required under the provisions of this agreement,

in law or otherwise, including, without limitation, failure of the Supplier to pay taxes, duties or fees.

- 5.1.5 Any actual or asserted infringement or improper appropriation or use by the Supplier of trade secrets, proprietary information, intellectual property rights, know-how copyright (both statutory and non-statutory) or patent or unpatented inventions, or for actual or alleged unauthorised imitation of the work of others, or arising out of the use of methods, processes, designs, information, or other things furnished or communicated to Overberg Water by the Supplier in connection with the supply of the Goods/Services; and
- 5.1.6 The failure of the Supplier to comply with any collective agreement, statute, arbitration award, court order, wage determination or similar instrument regulating terms and conditions of employment, health and safety, dismissal or termination of employment.
- 5.2 The Supplier shall issue itself against any liability (see Clause 6) arising from the above indemnities and Overberg Water will require proof of such insurance within 14 days after the commencement date of the contract. If the Supplier fails to take such insurance, Overberg Water reserves the right to procure insurance on behalf of and for the cost of the Supplier. These costs will be deducted from amounts due to the Supplier.
- 5.3 The Supplier shall inform its employees of the above indemnities, and Overberg Water may require proof of knowledge by the employees of the above indemnity undertakings.

6. INSURANCE

- 6.1 In addition to the insurance referred to in sub-clause **Error! Reference source not found.**, the Supplier shall be responsible for providing his own insurance, inclusive of public liability insurance (to the value of R10million), and specifically comprehensively insure all his own material and equipment on an all-risk basis, as well as workmen's compensation insurance as required in terms of the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993 as amended or any similar enactment which may replace this act.
- 6.2 The Supplier's total liability for any and all claims arising out of this Agreement or the provision of the Goods/Services shall be limited to the extent to which the Supplier is indemnified in respect of such claim/s and shall exclude damage or loss due to theft.

7. SAFETY, HEALTH AND THE ENVIRONMENT

- 7.1 The Supplier shall ensure that it complies with all relevant occupational health and safety (OHS) legislation. The Supplier may be required to disclose its OHS file to Overberg Water as and when required.
- 7.2 The Supplier shall ensure that the supply of Goods/Services comply with the Environmental Management Plans of Overberg Water.

8. SECRECY AND CONFIDENTIALITY

- 8.1 Both parties undertake to keep hold secrets and confidential all information regarding the business of Overberg Water howsoever obtain and shall not use the same other than for purposes of the parties' association with each other, nor disclose to or discuss the same with each other parties without the express prior consent of each other.
- 8.2 The foregoing restrictions shall not, however, apply to any portion of the said information which at the time of disclosure is or thereafter becomes part of public domain by publication or otherwise, or corresponds in substance to information furnished to the Supplier as a matter of right without restriction on disclosure and was not acquired directly from Overberg Water.

- 8.3 Notwithstanding the termination of this Agreement for any reason whatsoever, the contents of this clause 8 shall be valid effective for a period of two (2) years.

9. CONFLICT OF INTEREST

- 9.1 Both parties shall not engage in practices or pursue interest which are in conflict with the interests of the other party and which could result in financial damage or loss being suffered by the parties or the reputation of the parties being harmed in the eyes of business community or the public at large.

10. DOCUMENTATION

- 10.1 All information and/or documentation given to the Supplier by Overberg Water, for purposes of assisting the Supplier in the execution of the supply of Goods/Services shall be used solely with regards to rendering the supply of Goods/Services, shall remain the property of Overberg Water and shall be returned to Overberg Water on termination of this Agreement.
- 10.2 Any documentation or intellectual property of whatever nature resulting from the supply of Goods/Services shall be the property of Overberg Water and may be used by Overberg Water without restriction, unless marked and proved to Overberg Water's reasonable satisfaction as being confidential or proprietary information of the Supplier in which case Overberg Water shall protect the confidential or proprietary nature of the information to the same degree as if it was the property of Overberg Water and use the information only for the purpose for which the disclosure was originally made.

11. RIGHT OF AUDIT

- 11.1 The Supplier shall maintain all records and accounts pertaining to the supply of Goods/Services performed by the Supplier under this Agreement for a period of two (2) years after the final payment. Overberg Water or its representatives shall have the right to audit, copy and inspect the said reports and accounts at all reasonable times during the currency of Agreement and for the above two year period purpose of verifying incurred.

12. APPLICABLE LAW AND DISPUTES

- 12.1 This Agreement shall be governed by and construed in accordance with laws of the Republic of South Africa.
- 12.2 No dispute or reference to litigation shall entitle the Supplier to discontinue or suspend the execution of any of the supply of Goods/Services under this Agreement or Overberg Water for non-payment of goods/services.

13. WAIVER

- 13.1 No relaxation or indulgence which either party may allow the other at any time with regard to the carrying out of its effective obligations under this Agreement shall prejudice or be regarded as a waiver of any of such party's rights under this Agreement in any manner whatsoever, especially the right to insist on specific performance.

14. FORCE MAJEURE

- 14.1 For the purpose of this Agreement, Force Majeure is described as any occurrence which could not have been reasonably foreseen, controlled or prevented by the party who is experiencing Force Majeure and which occurrence makes it impossible for such party to partially or fully adhere to its obligation in terms of this Agreement. The party experiencing Force Majeure is excused from proper performance in terms of this Agreement for as long as Force Majeure exists and to the extent that such party is unable to fulfil its obligations in terms of agreement. Should Force Majeure exist for a period of more than thirty (30) days either party may terminate this Agreement by means of written notice to the other and the other and the Supplier shall be paid for the delivery of goods/services by Overberg.

15. DEFAULT

- 15.1 In the event of:

- 15.1.1 The estate of the Supplier being sequestrated as insolvent or places under judicial management provisionally or finally.
 - 15.1.2 The Supplier publishing a notice of surrender or approaching any court for the acceptance of the surrender of his estate as insolvent or making an arrangement with or composition or assignment in favour of its creditors or agreeing to carry out this Agreement under a committee of his creditors or goes into liquidation, whether provisionally or finally; or
 - 15.1.3 The Supplier defaulting in the performance of any express or material obligation to be performed by him under this Agreement and fails to correct such default within fifteen (15) days following written notice from Overberg Water; Overberg Water may, without prejudice to any other rights or remedies which Overberg Water may have in common law or otherwise, terminate this Agreement by written notice to the Supplier specifying the date of termination.
- 15.2 In the event of such termination Overberg Water may take possession of all documents of whatsoever nature generated by the Supplier in fulfilment of his obligations in terms of this Agreement and complete the supply of Goods/Services by whatever method may deem expedient and/or prudent.

16. PAYMENT

- 16.1 Overberg Water agrees to pay the Supplier in accordance with the relevant Price/Rates Schedule in this Agreement for supply of such Goods/Services to the satisfaction of Overberg Water. No payment or reimbursement shall be due by Overberg Water to the Supplier unless otherwise specifically provided for in this Agreement.
- 16.2 A 10% Retention applies to this bid and will be paid 365days after final completion.
- 16.3 The supplier's prices and/or rates are fully inclusive of all the Supplier's cost and expenses for supply of Goods/Services pursuant to this Agreement, including but not limited protective and safety clothing, mobilisation and demobilisation costs, compliance with laws, the Supplier's portion of any employee insurance and social security benefits, payroll and income benefits and costs to the Supplier for its personnel, unless otherwise specifically provided for in this Agreement.
- 16.4 All prices and/or rates are fully inclusive of any and all costs and expenses incurred by its Supplier in establishing and maintaining a supply base/office or any other establishment.
- 16.5 The supplier shall be deemed to have satisfied itself as regards the sufficiency of its prices and/or rates for the supply of Goods/Services as specified herein and all such prices and/or rates shall remain fixed and firm until agreed differently in writing.
- 16.6 The Supplier shall invoice Overberg Water as per clause 18 below.
- 16.7 If Overberg Water queries or disputes any part of an invoice, it shall give written notice to the Supplier of that and of the reasons thereof as soon as reasonable practicable and shall hereupon be entitled to withhold payment of the amount in question or dispute, without any liability for interest, pending resolution of dispute.
- 16.8 Overberg Water shall not be obliged to pay any invoices or demand payment received by Overberg Water more than ninety (90) days from completion of the relevant service forming part of the supply of Goods/Services.

17. SCHEDULE OF PRICES

- 17.1 Prices should include items as priced per the Pricing Schedule as well as insurance, warrantees, guarantees and freight.

18. TERMS OF PAYMENT

- 18.1 Original invoice and statements are to be sent to:

Overberg Water

PO Box 1005
Somerset Mall
7137

Attention: Creditors Department (krediteure@overbergwater.co.za)

by the end of a calendar month. Invoices shall only be considered for payment when accompanied by originals of the supporting documentation signed by the authorised Overberg water representative and the invoice has been approved for payment.

Overberg Water's VAT NO. 4420102347

18.2 Payment will be made at the end of the following month.

Part 4: AGREEMENT

WHEREAS Overberg Water is desirous of engaging the Supplier for the provision of Goods/Services and have same readily available as described hereunder; and

WHEARES the Supplier represent and warrants that it owns and/or possesses the required Goods/Services and shall deliver same to Overberg Water at the premises of Overberg Water situated at:

1. Ruensveld West WTW (-34.095319, 19.314672)

Hereafter referred as the "Place of Delivery".

IT IS HEREBY AGREED AS FOLLOWS:

1. AGREEMENT DOCUMENTS

- 1.1 The supplier shall supply, deliver, install, commission a 6 ton vacuum insulated CO₂ tank and its components and provide all warrantees, services, guarantees, drawings and certificates related to carrying out the construction and workings of the tank and its components. The Agreement consist of the following:

Agreement
General Conditions of Contract
Special Conditions of Contract
Specifications

2. VARIATION

- 2.1 The parties agree that this Agreement constitutes the entire agreement between them and that no alteration or variation thereof shall be of any force or effect unless recorded in writing and signed by both parties
- 2.2 Notwithstanding the provisions of clause 2.1, the Scope of the Supply shall be subject to changes by additions, deletions or revisions thereto by Overberg Water. The Supplier shall be advised of any such changes by written notification from Overberg Water describing the change. The Supplier shall promptly perform and strictly comply with each such change when so instructed by Overberg Water. Any additional obligations resulting from such changes will be charged at the Supplier's normal or agreed prices.

3. REFERENCE TO DAYS

Where reference is made to a number of days 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.

4. HEADINGS

The headings contained in this Agreement are inserted for convenience only and shall not be deemed to have any substantive meaning in interpreting this Agreement.

5. ADDRESSES AND NOTICES

Each party chooses, for the purpose of all notices in terms on this Agreement and the serving of any process, its Domicillium Citandi et Executandi addresses as follows:

7.1 Overberg Water Board

Physical Address:

Unit 17, Ground Floor
Trident Park 3
1 Niblick Way
Somerset West
Western Cape

Postal Address:

P O Box 1005
Somerset Mall
7137

7.2 The Supplier: _____

Physical Address:

Postal Address:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

7.3 All notices and other communication required, permitted, or desired to be given hereunder must be in writing and sent by registered or certified mail (return receipt requested), or by courier or overnight delivery, with all postage or charges fully repaid, or by hand delivery or by electronic mail.

7.4 Date of service by mail or hand deliver is the date on which such notice or other communication is received by the addressee, or if by electronic mail, receipt of notice or communication shall be the date the electronic mail is sent, provided however, if such date is not a business day, then the date of notice or communication shall be the next day succeeding business day. Each party may change its address by notifying the other party in writing.

Thus done and signed at _____ on this ____ day of _____, 20__

Witnesses:

1. _____
2. _____

For on behalf of:
Overberg Water

Thus done and signed at _____ on this ____ day of _____, 20__

Witnesses:

3. _____

4. _____

For on behalf of:
SUPPLIER

Part 5: SECTION 37(2) OF THE OCCUPATIONAL HEALTH AND SAFETY ACT, 1993

WRITTEN AGREEMENT

**THIS IS IN TERMS OF SECTION 37(2) OF THE OCCUPATIONAL HEALTH AND SAFETY ACT, 1993
(ACT 85 OF 1993)**

BETWEEN:

OVERBERG WATER

AND

(Mandatory)

INTRODUCTION

The Occupational Health and Safety Act, 1993 (Act 85 of 1993) stipulates that the Chief Executive Officer is primarily responsible or liable for the health and safety of all his/her employees. This is embedded in Section 16(1) of the said Act. This responsibility or liability is also extended to include a mandatory that performs work on behalf of the employer on his/her premises.

A "mandatory" is defined in the said Act as: - *"Including an agent, contractor or subcontractor for work, but without derogating from his status in his own right as an employer or user"*

In terms of Section 37(2), read with Section 41, of the said Act, it is legally possible for an employer to indemnify himself from this responsibility or liability regarding the actions of the mandatory. Section 37(2) stipulates that there should be a written agreement in place between the employer and the mandatory regarding the arrangements and procedures between them to ensure compliance by the mandatory with the provisions of the Occupational Health and Safety Act, 1993.

By ensuring that there is a written agreement in place, the Management of Overberg Water is acting in a responsible manner, so as to ensure that this requirement is indeed being met.

In order to ensure that this written agreement is honoured at all times, regular inspections of work that is performed will be conducted and if found not complying with the said agreement, a notice of non-compliance will be issued. All work will be stopped and reasons for non-compliance must be given and what corrective action will be taken to rectify the situation must be stipulated.

Signed – Management

WRITTEN AGREEMENT

This is a written agreement between

Overberg Water

And

(Name of Mandatory)

**IN TERMS OF SECTION 37(2) OF THE OCCUPATIONAL HEALTH AND SAFETY ACT, 1993
(ACT 85 OF 1993) as amended.**

I, _____,
representing the MANDATARY do hereby acknowledge that _____ (*mandatary*) is an employer in its own right with duties as prescribed in the Occupational Health and Safety Act, 1993 (Act 85 of 1993) as amended and agree to ensure that all work that will be performed, any article or substance that will be produced, processed, used, handled, stored or transported and plant and machinery that will be used, will be done in accordance with the provisions of the said Act.

I furthermore agree to comply with the Health and Safety requirements and to liaise with Overberg Water should I, for whatever reason, be unable to perform in terms of this Agreement.

SIGNED ON BEHALF OF SUPPLIER			
DATE:		PLACE:	
PRINT NAME:			
CAPACITY:			
SIGNATURE:			

SIGNED ON BEHALF OF OVERBERG WATER			
DATE:		PLACE:	
PRINT NAME:			
CAPACITY:			
SIGNATURE:			