



TRANS-CALEDON TUNNEL AUTHORITY

A body corporate established by Government Notice No 2631 in Gazette No 10545 dated 12 December 1986 and replaced by the National Water Act, 1998 and Government Notice No 277 in Gazette No 21017 dated 24 March 2000

**THE OPERATION AND MAINTENANCE OF THE AMD TREATMENT PLANT AT
EASTERN BASIN FOR 5-YEARS**

REQUEST FOR TENDER

CONTRACT NO: TCTA-08-032

TENDER DOCUMENT

TENDERER: _____

ISSUED BY:
TCTA
PO Box 10335
CENTURION
0046



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SECTION 1
INFORMATION TO TENDERERS

1. CONDITIONS OF TENDER

The TCTA STANDARD CONDITIONS OF TENDER, August 2018 are applicable to this tender. A copy of the conditions is attached as **Appendix 1**.

2. SPECIAL CONDITIONS OF TENDER

Tender Number	TCTA-08-032
Title of this RFT	The Operation and Maintenance of the AMD treatment plant at Eastern Basin.
Site Inspection and Briefing Session	Date: 15 July 2020 Time: 11:00 AM Venue: Eastern Basin AMD Treatment Plant (26°15'.02.2"S and 28°29.11'8"E) Grootvlei Proprietary Mines, Van Niekerk Road, Springs, 1559
Communication	All communication relating to this RFT must be addressed to "The Receiving Officer" and sent to the following email address and the Tender Number as the subject: tenders01@tcta.co.za TCTA shall not be held responsible for any eventuality resulting from the sending of RFT related communication/correspondences to a different email address.
Tender Validity	All tender proposals must remain valid from the stipulated closing date and time of the RFT for a period of 120 days. Each tender proposal will constitute an irrevocable offer which remains open for acceptance by TCTA during the validity period.
RFT Closing Time & Date	14 August 2020 at 14:00
Delivery Address	Tender submissions must be hand delivered to TCTA's offices located at the address indicated below and addressed to The Receiving Officer , and marked RFT No: TCTA-08-032 on or before the closing date and time: 265 West Avenue Ground Floor Tuinhof Building Stinkhout Wing

	Centurion
Tender security	No Tender Security is required
Opening of tender submissions	Only the tenderers that meet the minimum functional requirement will be invited for the opening of the financial submission.

3. PREQUALIFICATION

Only tenders with a B-BBEE contributor status level of 1, 2, 3 or 4, are eligible to tender.

4. SUBMITTING A TENDER OFFER

The tenderer is required to complete in full the Returnable Schedule and Bills of Quantities and attach all relevant documents in order for his tender to be responsive. Original and three (3) copies of the tender documents shall be duly completed and signed, shall be submitted as follows:

- a) The original tender proposal, together with the covering letter and any supporting documents, shall be sealed in an envelope endorsed:

“ENVELOPE A **TECHNICAL** PROPOSAL: **ORIGINAL** Contract NO TCTA 008-032: THE OPERATION AND MAINTENANCE OF THE AMD TREATMENT PLANT AT EASTERN BASIN and the name of the Tenderer shall be clearly shown”

“ENVELOPE A **TECHNICAL** PROPOSAL: **COPY** Contract NO TCTA 008-032: THE OPERATION AND MAINTENANCE OF THE AMD TREATMENT PLANT AT EASTERN BASIN and the name of the Tenderer shall be clearly shown”

- b) The original tender proposal, together with the covering letter, letter of offer and any supporting documents, shall be sealed in an envelope endorsed:

“ENVELOPE B **FINANCIAL** PROPOSAL: **ORIGINAL** Contract NO TCTA 008-032: THE OPERATION AND MAINTENANCE OF THE AMD TREATMENT PLANT AT EASTERN BASIN and the name of the Tenderer shall be clearly shown”

“ENVELOPE B **FINANCIAL** PROPOSAL: **COPY** Contract NO TCTA 008-032: THE OPERATION AND MAINTENANCE OF THE AMD TREATMENT PLANT AT EASTERN BASIN and the name of the Tenderer shall be clearly shown”

The tender offer shall be made by the tenderer completing and submitting the Schedule of Returnable documents and Schedules, including:

- (a) Any other documents prepared by the Tenderer to supplement the required returnable documents and schedules.
- (b) Copies of and receipt slips for Addenda.

No other documents shall be submitted by the Tenderer unless they are directly related to the requirements for the relevant returnable documents and schedules, in particular that no company brochures or promotional materials are to be submitted with the tender offer.

The TCTA's address for delivery of tender offers and identification details to be shown on each tender offer package areas specified in the tender notice. If the envelopes are not sealed and marked as

instructed, then TCTA will assume no responsibility for the misplacement of any contents of the submission.

Telephonic, telegraphic, telex, facsimile, electronic or emailed tenders will be rejected.

5. SUBMISSION

The following documents must be filled in and / or copy submitted as part of compliance requirement

Table 1: Envelope A - Functional proposal

SECTION	DESCRIPTION	ACTION	STATUS
Section 4	Appendix 2: Acknowledgment of the RFT	Complete form	Returnable document
	Appendix 3: Standard Bidding Documents		
	SBD 1: Invitation to bid and terms and conditions of bidding	Complete forms	Returnable documents
	SBD 4: Declaration of interest		
	SBD 5: The National Industrial Participation Programme		
	SBD 6.1: Preference points claim form in terms of the Transformation Procurement Regulations 2017		
	SBD 8: Declaration of bidder's past supply chain management practices		
	SBD 9: Certificate of independent bid determination		
	Appendix 4: Supply Chain Management Documents		
	Covenant of Integrity Affidavit	Complete forms	Returnable documents
	Bribery and Corruption Declaration		
	Enterprise Information Affidavit		
	Enterprise Information		
	Appendix 5: Functional Evaluation Forms	Complete forms and supply relevant certificates in respect of qualifications	Compulsory document
	BBBEE status level of contributor certificate (Include joint venture BBBEE certificate if applicable)		
	Central Supplier Database Report	Attach copy	Returnable document

SECTION	DESCRIPTION	ACTION	STATUS
	Tax Compliance Status	Attach copy	Returnable document
	Appendix 6 – Joint and Several Liability	Attach copy Where applicable	Returnable document, where applicable

Table 2: Envelope B – Financial Proposal

SECTION	DESCRIPTION	DOCUMENT STATUS	STATUS
	Appendix 7: Staffing Requirements (Class of works Schedule 2A)	Complete form	Returnable document
	Appendix 7: Schedule of rates and prices (Operation fees).	Mandatory	Mandatory document
	Appendix 8: Form of Offer	Complete forms	Compulsory document
	Appendix 9: Contract Data	Complete form	Returnable document

6. GROUNDS FOR DISQUALIFICATION

TCTA will disqualify any Tenderer that fails:

- To meet minimum BBBEE criteria.
- To meet the minimum functional evaluation score.
- Failure to submit Form of offer, Schedule of rates and prices.
- Failure to submit the returnable document within seven days.

7. EVALUATION OF TENDER OFFERS

Tender proposals will be evaluated in terms of the Preferential Procurement Regulations, 2017. A three-phase approach will be adopted where two envelope evaluation criteria as listed below will be followed, in addition the tenderers who do not meet minimum BBBEE requirements will not be considered.

7.1. PREQUALIFICATION

On opening of Envelope A the BBBEE certificate will be checked to ensure that the tenderer is a level 4 contributor or higher. If the tenderer does not meet this criteria they will be disqualified and no further evaluation will be undertaken.

7.2. FUNCTIONALITY EVALUATION

Tenders will be evaluated in terms of the functional evaluation criteria tabled below. The Tenderers must score a minimum of 60 points (out of 100 points) for functional criteria to qualify for further evaluation on price and B-BBEE status level contribution.

Table 3: Functional evaluation criteria

FUNCTIONAL EVALUATION CRITERIA				Max
Form 1 A) and B)	1. COMPANY EXPERIENCE			
	<p>The demonstrated ability to operate and maintain an asset management system and process control for plants of this size over the previous 10 years.</p> <p>(Tenderer must complete a form and provide contactable reference)</p>	<p>Points will be awarded as follows up to a maximum of 40 points:</p> <ul style="list-style-type: none"> For each plant between 5 and 20 ML/day (activated sludge, HDS plant or water treatment plant) operated by the company, 10 points to a maximum of 20 points. For each plant > 20 ML/day (activated sludge, HDS plant or water treatment plant) 15 points to a maximum of 40 points. 	<p>20</p> <p>40</p>	40
Form 2	2. PERSONNEL KEY EXPERIENCE			
	Tenderer shall include completed form (Form 2) including relevant qualifications for each of the personnel, failing which the staff member will not be scored.			60
	Responsible Manager (Refer to note below)	<p>Experience in the operation and management of activated sludge, HDS plant or water treatment plants.</p> <p>4 points for the first 5 years', thereafter 1 point for each year up to maximum of 15 points.</p>	15	
	Operations manager (Refer to note below)	<p>Experience of operating High Density Sludge or water treatment plants.</p> <p>5 points for the first 5 years', thereafter 1 point for each year up to maximum of 13 points.</p>	13	
	Class 5 operator (site supervisor)	<p>Experience of operating activated sludge, HDS plant or water treatment plants.</p> <p>3 points for the first 5 years, thereafter 1 point for each year up to a maximum of 6 points.</p>	6	
	Maintenance Manager (GMR 2.1, Refer to note below)	<p>Experience of maintaining activated sludge, HDS plant or water treatment plants.</p> <p>5 points for the first 5 years', thereafter 1 point for each year up to maximum of 14 points.</p>	14	
	Process Engineer	<p>Experience of managing process of HDS or water treatment plants.</p> <p>3 points for the first 5 years, thereafter 1 point for each year up to a maximum of 6 points</p>	6	

FUNCTIONAL EVALUATION CRITERIA			Max
	Process Technician	Experience of maintaining the process of activated sludge, HDS plant or water treatment plants. 3 points for the first 5 years, thereafter 1 point for each year up to a maximum of 6 points	6
TOTAL			100

GMR 2.1 is a requirement and any of the site-based management personnel (i.e. Responsible Manager, Operations Manager or Maintenance Manager) shall show proof of accreditation.

7.3. PRICE AND B-BBEE STATUS LEVEL CONTRIBUTION

Tenderer/s who meet the minimum functional scores will be evaluated further in terms of the 90/10 preference point system will apply, where 90 points will be allocated for price and 10 points will be

allocated for BBBEE status level contribution. A copy of the regulations can be downloaded from http://ocpo.treasury.gov.za/Buyers_Area/Legislation/Pages/PPPFA---Regulations.aspx

Points for price will be calculated as follows:

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

P_s = Points scored for price of tender under consideration

P_t = Price of the tender under consideration; and

P_{min} = Price of lowest acceptable tender.

The following table will be used to calculate the score out of 10 for B-BBEE Status level of contribution. Joint Ventures must submit a consolidated BBBEE certificate.

Table 4: B-BBEE Status level of contribution

B-BBEE Status level of contribution	Number of points
1	10
2	9
3	6
4	5

8. ALTERNATIVE TENDER OFFERS

TCTA issued two tenders for the Operation and Maintenance of Acid Mine Drainage treatment plants as follows:

- The Operation and Maintenance of the AMD Treatment Plant at Central Basin - Contract No: **TCTA-08-030**
- The Operation and Maintenance of the AMD Treatment Plant at Eastern Basin - Contract No: **TCTA-08-032 (This Tender)**.

These tenders will be evaluated and awarded independently. It is possible that both tenders may be **awarded to a single Tenderer** following the conclusion of the evaluation of the tenders on the base offers. To this effect, TCTA requests that Tenderers who will be tendering for both contracts include an "Alternative Tender Offer" which will take into account a single management team, senior level, which will be responsible for managing both plants.

The tenderer is required to complete and submit two (2) separate Forms of Offer for the Base Offer and Alternative Offer.

SECTION 2
CONDITIONS OF CONTRACT

1. DEFINITIONS

In this Agreement and the annexures hereto, unless the context indicates otherwise, the words and expressions set out below shall bear the meanings assigned to them and cognate words and expressions shall have a corresponding meaning:

- | | |
|-------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.1. "AMD" | means Acid Mine Water Drainage; |
| 1.2. "Abnormal Raw Water" | means Raw Water that contains levels of substances in sufficiently high concentrations that cannot be treated with the processes necessary for the treatment of the water to achieve the Compliance Criteria. OPERATOR shall demonstrate to the Operations Agent that the substances are at a concentration sufficient to cause interference with the treatment process; |
| 1.3. "Agreement" | means this agreement and all annexures attached hereto as may be amended, from time to time by agreement between the Parties; |
| 1.4. "Assets" | means the buildings and other permanent fixed assets of the Facility, and includes all mechanical, electrical and instrumentation equipment that forms part of the Facility; |
| 1.5. "Best Practices" | means best Operations and Maintenance and management practices as established in accordance with industry standards which a commercially reasonable and prudent operator of the Facility would follow in similar circumstances, having regard to the objectives and terms of this Agreement; |
| 1.6. "Capital Improvements" | means expenditures, repairs or replacements which are permitted to be capitalised in accordance with generally accepted accounting principles, (including, but not limited to, the roofing, structural elements, exterior wall systems, plumbing and drainage systems, foundations, floors, electrical systems, SCADA and related computer systems, pipes, tanks, valves, pumps and other equipment, and all material and labour related hereto, but excluding office furniture and office equipment, and excluding expenditures made for Routine Maintenance and Repairs and Replacement); |
| 1.7. "Civil, Structural and Site-Related Assets" | means the permanent fixed assets of the Facility but shall not include the Mechanical and Electrical Equipment; |
| 1.8. "CMMS" or "Computerized Maintenance Management System" | means the computerized maintenance management system with online access available to TCTA for monitoring purposes only, used to schedule and record all Maintenance and Repairs performed on the Facility and the Equipment and shall include but not be limited to Asset Inventory and Management; |
| 1.9. "Commencement Date" | means the date on which the WTP is handed over required to OPERATOR to assume the day-to-day operation and maintenance of the Facility; |
| 1.10. "Compliance Criteria" | means all terms, conditions, instructions, concentration limits and maximum permissible values listed or specified by Governmental Authorities and the Treated Water Performance Criteria and as required under ANNEXURE C hereto; |

- 1.11. "Compliance Failure" means when the Treated Water exceeds the maximum permissible limits for any Compliance Criteria and shall be determined pursuant to criterion under ANNEXURE C, hereto;
- 1.12. "Condition Survey" means an inspection and review of the Assets;
- 1.13. "Consumables" means all exhaustible materials used in the day-to-day operation of the Facility and includes, but is not limited to, chemicals, lubricants, and fuel;
- 1.14. "Corrective Maintenance" means the repair and correction of deficiencies, failures and malfunctions of the Facility and the components therein to maximize the service life of the Facility and its components but does not include repair and correction of deficiencies, failures and malfunctions of the Facility that are a result of OPERATOR's inadequate performance or non-performance of the Preventative Maintenance to the Facility as required in this Agreement;
- 1.15. "Deficiency" or "Deficiencies" means those Assets which have deteriorated, are non-operational, or are unable to substantially perform their design function in respect of the Facility, or which are reasonably likely to fail and require replacement or which create an immediate material risk to human health and safety or the environment
- 1.16. "NNR" National Nuclear Regulator
- 1.17. "EA" means "Environmental Authorisation" issued for the WTP
- 1.18. "Emergency Situation" means an occurrence of an incident that results in an interruption of the treatment plant or the impairment of the quality of Treated Water;
- 1.19. "Equipment Renewal Program" means the replacement program which provides for the replacement of specified equipment and systems at the Facility for the purpose of maintaining a high level of serviceability, reliability and availability of the Facility;
- 1.20. "Facility/Facilities" means TCTA's WTP including the associated reservoirs, pumping stations and pipelines, all buildings and related infrastructure or other physical assets located thereon, as described in **ANNEXURE A** hereto;
- 1.21. "Governmental Authority" means a national, provincial or municipal, ministry, agency, department or body having jurisdiction over the Facilities, TCTA, OPERATOR, their agents, servants, and/or employees in respect of Applicable Laws. The term "Governmental Authority" shall not include TCTA unless otherwise specified herein;
- 1.22. "Mechanical and Electrical Equipment" means all mechanical, electrical and instrumentation equipment that forms part of the Facility;
- 1.23. "Minimum Water Quantity" means the minimum volume of water treated as required in **ANNEXURE A,B & C** hereto;
- 1.24. "OPERATOR" Means the entity appointed by TCTA to provide the operation and maintenance of the AMD Facility in terms of this agreement

- 1.25. "NW Act" means the National Water Act 36 of 1998;
- 1.26. "Movable Assets" means all pieces of mobile plant, equipment and furniture which are not physically attached to the Facility and which are required in the current day-to-day operations and maintenance of the Facility;
- 1.27. "Operational Environmental Management Program OEMPr" means the environmental management programme issued for the WTP;
- 1.28. "Operations and Maintenance" or "O&M" means the operations and maintenance services provided pursuant to this Agreement;
- 1.29. "Operating and Maintenance Costs" means all costs and expenses of managing, operating and maintaining the Facility incurred by OPERATOR pursuant to the provisions of this Agreement;
- 1.30. "Operational Change" means an adjustment in routine operating procedures, which does not require prior notification of any other Governmental Authority responsible for administration of Applicable Laws;
- 1.31. "Party" means TCTA or OPERATOR, as the case may be, and "Parties" shall have a corresponding meaning;
- 1.32. "Performance Deduction" means any penalty or performance deduction as set out in the Agreement and the Contract Data;
- 1.33. "Preventative Maintenance" means routine and repetitive maintenance of the Facility to maximize the service life of the Facility as recommended or required by the equipment suppliers or manufacturers, the design consultants or TCTA;
- 1.34. "Process Change" means an adjustment or improvement (including, without limitation, a Capital Improvement) to the major components of the Facility or an adjustment in routine operating procedures any of which requires prior approval from TCTA and/or any other Governmental Authority, and does not include an Operational Change;
- 1.35. "Raw Water" means the AMD water abstracted from the shaft;
- 1.36. "Repairs and Replacement" means all non-routine, non-repetitive activities repair or replacement of structures, machinery, equipment or rolling stock required for continuity of operations, safety, and operating performance that are necessary to prevent or correct a failure of any component of the Civil, Structural and Site-Related Assets and the Mechanical and Electrical Equipment and which is not included as part of Preventative Maintenance;
- 1.37. "Reports" means the Monthly Operations and Maintenance Reports, the Quarterly Contract Reports, the Quarterly Water Quality Reports, the Annual Asset Reports, and the Financial Reports;
- 1.38. SCADA" means the Supervisory Control and Data Acquisition software and hardware;

- 1.39. "Services" means the Operation and Maintenance of the Facility to be undertaken by OPERATOR;
- 1.40. "Spare Parts" means all replaceable parts and supplies required for the purpose of maintaining the functionality of plant and equipment at the Facility. Spare Parts are typically items that are subject to wear and replacement, are maintained in an inventory and are used in Routine Maintenance procedures;
- 1.41. "TCTA" means the Trans-Caledon Tunnel Authority, established by Notice No. 2631 published in Government Gazette No. 10545 dated 12 December 1986, as amended by Notice No. 277 published in Government Gazette No. 21017 dated 24 March 2000, a major public entity listed in Schedule 2 of the Public Finance Management Act 1, 1999 and a water management institution in terms of the NW Act, operating in the water sector *inter alia*, in the funding and implementing of bulk raw water infrastructure development projects, as directed by the Minister from time to time;
- 1.42. "Treated Water" means water that has passed through the treatment plant, prior to final discharge;
- 1.43. "Treated Water Performance Criteria" means the Treated Water criteria as set out in **ANNEXURE C** hereto;
- 1.44. "Uncontrollable Circumstance" means any act, event or condition which is beyond the reasonable control of or could not reasonably be anticipated by the Party relying thereon as justification for a delay in, non-compliance with, or non-performance of any obligation of such Party pursuant to this Agreement and shall include but not be limited to the following:
- an act of God, landslide, lightning, earthquake, hurricane, flood, tornado, fire, explosion, pandemics, acts of public enemy, act of terrorism, war, blockade, sabotage, insurrection, strike, riot, strikes or public disturbance;
- an order of any court, administrative or governmental agency of competent jurisdiction which has not been made as a result directly or indirectly of the actions or inaction of the Party against whom such an order is issued. This specific provision shall be construed strictly against the Party seeking to so rely to excuse non-performance or delay;
- loss or inability to obtain service from a utility other than as a result of the action or inaction of the Party;
- Abnormal Raw Water; or
- Vandalism which could not otherwise have been prevented by the proper and necessary security systems required under this Agreement;
- Change of Laws. This specific provision be construed strictly against the Party seeking to so rely to excuse non-performance or delay;

the suspension or termination of any licence relating to the Facility or the operation and maintenance thereof, or the imposition of a term, condition or requirement for the operation and maintenance of the Facility which is more stringent or burdensome than the terms, conditions or requirements in effect as of the Commencement Date, to the extent that such occurrence is not the result of wilful or negligent action, error or omission or a lack of reasonable diligence of OPERATOR or TCTA, whichever is asserting the occurrence, provided however that the contesting in good faith or the failure in good faith to contest any such occurrence shall not be construed as such a wilful or negligent action or lack of reasonable diligence;

loss or inability to obtain service from a utility other than as a result of the action or inaction of the Party;

Abnormal Raw Water, or

Vandalism which could not otherwise have been prevented by the proper and necessary security systems required under this Agreement.

provided, however, that a failure by a Party to perform its obligations under this Agreement arising from or related to such Party's insufficient cash flow or its economic or financial condition generally, or strikes involving the Operator's employees, shall not constitute an Uncontrollable Circumstance.

1.45. "WTP"

means the Water Treatment Plant and the buildings and all related infrastructure located therein, situated in the Eastern Basin.

2. INTERPRETATION

In this Agreement:

- 2.1. any reference to an enactment or government notice is to the relevant enactment or government notice as at the date of signature hereof, as amended or re-enacted from time to time;
- 2.2. a reference to natural persons shall include created entities (incorporated and unincorporated) and vice versa;
- 2.3. when any number of days is prescribed, 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 which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday;
- 2.4. where figures are referred to in numerals and in words, and should there be a conflict between the two, then the words shall prevail;
- 2.5. words importing any one gender shall include the other gender and the singular shall include the plural and vice versa;
- 2.6. if any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, then notwithstanding that it is contained in the Definitions clause, effect shall be given to it as if it is a substantive provision in the body of the Agreement;
- 2.7. expressions defined in the Definitions clause shall bear the same meanings in all annexures to this

Agreement which do not themselves contain their own definitions;

- 2.8. where any term is defined within the context of any particular clause, unless it is clear from the clause that the term so defined has limited application to that clause, it shall bear the meaning ascribed to it for all purposes under this Agreement, notwithstanding that such term has not been defined in the Definitions clause;
- 2.9. the headings have been inserted for convenience only and shall not be used for nor assist in nor affect its interpretation;
- 2.10. the rule of construction that an agreement shall be interpreted against the Party responsible for the drafting or the preparation thereof shall not apply; and
- 2.11. where any conflict arises between the provisions of this Agreement and the provisions of any annexure hereto, then the provisions of this Agreement will prevail.

3. INTRODUCTION

- 3.1. The Minister of Water and Sanitation issued a directive to TCTA on 6 April 2011 in terms of section 103(2) of the NW Act, to undertake certain emergency works in respect of the AMD project. TCTA is a state owned entity operating in the water sector responsible for the funding and implementation of bulk raw water infrastructure projects and the provision of advisory services, as directed by the Minister from time to time. In circumstances where the Department of Water and Sanitation wishes to implement bulk raw water infrastructure projects of an off-budget and/or emergency nature, TCTA is the preferred service provider of choice to fund and/or implement such projects on its behalf. The AMD project is of an emergency nature.
- 3.2. As part of its activities under the AMD project, TCTA entered into a construction agreement for the construction of the Water Treatment Plant in the Eastern Basin. Following construction thereof, TCTA entered into a contract with an agent to undertake the operations and maintenance of the Water Treatment Plant for an interim period.
- 3.3. TCTA entered into a contract with a service provider appointed through a competitive tender process to operate and maintain the Facility at Eastern Basin for a period of 30 months. The current contract will be coming to an end on the 31st October 2020 for Eastern Basin.
- 3.4. It is imperative for the current Facility to seamlessly continue to operate in order to avoid acid mine drainage breaching the Environmental Critical Level (ECL) and heavy metal containing water decanting onto the surface. Therefore, to avoid interruptions TCTA would like to conclude an agreement with a competent OPERATOR to operate and maintain the Facility for a period stipulated herein.
- 3.5. The Parties wish to enter into this Agreement to record and regulate the relationship between them in relation to the operations and maintenance of the Facility.

4. COMMENCEMENT AND DURATION

The Contract Agreement shall commence **01 January 2021** or the Commencement Date, whichever is the later and endure for a period of 5 (five) years. Should TCTA wish to extend this Agreement then it shall give the OPERATOR (three) months prior written notice of its intention to extend for a further period as may be agreed in writing between them, failing which this Agreement will terminate on expiry of the 5 (five) year period and be of no further force or effect.

5. APPOINTMENT, OBJECTIVES AND SCOPE OF AGREEMENT

- 5.1. TCTA hereby appoints and the OPERATOR accepts such appointment to undertake the Services on the terms and conditions set out in this Agreement.
- 5.2. The objective of the Services is:
- 5.2.1. to continue pumping AMD out of the Eastern basin mine void at an average daily pumping rate of 87 MI/day (or as per TCTA official instruction), to maintain the rate of lowering the water level whilst adhering to the discharge standards of the effluent into the Blesbokspruit and the sludge into the Grootvlei shaft 3 or any other sludge disposal site;
- 5.2.2. To ensure minimal deterioration of the WTP before its incorporation into the long-term AMD project through the implementation of an appropriate asset management system.
- 5.3. The OPERATOR shall perform all activities and services for the proper and effective management, operation and maintenance of the Facility on the terms and conditions set out in this Agreement in a cost effective and professional manner and in accordance with generally accepted principles and practices for water treatment and treatment of AMD.
- 5.4. Except as otherwise provided in this Agreement, the OPERATOR shall provide all personnel, materials, equipment, tools, services and supplies necessary to manage, operate and maintain the Facility, as described in ANNEXURE A, to the performance levels in the manner required by this Agreement, and in any event to a standard that meets industry standards, including but not limited to the Scope of Services as described in ANNEXURE B hereto.

6. OBLIGATIONS ON THE PART OF THE OPERATOR

Without limiting the generality of its obligations, the OPERATOR shall:

- 6.1 perform the Services in accordance with the scope of work with all reasonable care, diligence and skill in accordance with generally accepted professional techniques and standards;
- 6.2 ensure compliance with all South African legislation in executing its obligations in terms of this Agreement;
- 6.3 procure all equipment, ordering of all materials and reagents and supervision of its staff, necessary to undertake and complete its Services;
- 6.4 ensure that all procurement of goods and/or services is undertaken in a cost effective, competitive manner and in accordance with OPERATOR's policies applicable from time to time. The OPERATOR's procurement policies shall be submitted upon contract award for review and approval by TCTA prior to being adopted for use on the contract
- 6.5 be responsible for the appointment of all necessary sub-contractors as may be required to execute the scope of Services contemplated in this Agreement;
- 6.6 ensure that the work performed by each sub-contractor is undertaken and completed to the specifications and scope of work applicable to each of them;
- 6.7 hold site meetings and provide status reports at monthly or other agreed intervals together with TCTA to update it on progress of its Services, major activities and milestones completed or to be completed in that week and any other issues which need to be drawn to the attention of TCTA;
- 6.8 use all reasonable endeavours to ensure the completion of its Services on time, within budget and in accordance with the scope of Services contemplated in this Agreement;

7. OBLIGATIONS ON THE PART OF TCTA

TCTA undertakes to:

- 7.1 timeously provide the OPERATOR with all necessary information and data in TCTA's possession which may be required for the performance of the Services;
- 7.2 Support the OPERATOR with applications for any approvals, licences and permits as may be required from national, provincial and municipal authorities in respect of the Services;
- 7.3 provide all reasonable assistance as may be required to facilitate the proper completion of the Services by the OPERATOR;
- 7.4 carry out that work which is not specified in this document to be the responsibility of the OPERATOR;
- 7.5 ensure compliance by its appointed service providers and subordinates with the safety standards and procedures.

8. PRICE AND PAYMENT FOR THE SERVICES

- 8.1. In consideration for the services to be rendered by the OPERATOR, TCTA hereby agrees to pay the Operations Fee to the OPERATOR. The Operations Fee is set out in the schedule of Rates and Prices. The Operations Fee excludes VAT.
- 8.2. The operations fee includes all costs and expenses of managing, operating and maintaining the Facility, but excludes the costs of electricity, municipal rates, levies and provisional sum for chemicals and diesel which will be covered through advance payment, the cost of which will be borne and paid for by TCTA.
- 8.3. The OPERATOR will send TCTA a tax invoice for the amount of the Operations Fee at the end of each month for the duration of the Agreement. TCTA will make payment of the Operations Fee within 45 (forty-five) days after the date of each such tax invoice by electronic fund transfer into a bank account nominated in writing by the OPERATOR.
- 8.4. TCTA shall be entitled to set off and deduct any amounts due to it by the OPERATOR from the Operations Fee prior to remitting payment to the OPERATOR. If TCTA withholds any portion of the monthly payment of the Operations Fee to the OPERATOR, no interest shall accrue or be paid to OPERATOR for the period that portion of the monthly payment of the Operations Fee is withheld by it. TCTA shall not withhold any portion of the monthly payment of the Operations Fee which is not in dispute and shall promptly advise the OPERATOR of the basis for TCTA's withholding of any portion of the monthly payment of the Operations Fee.
- 8.5. The Operations Fee will be subject to adjustment as set out in 10 below.

9. ADVANCE PAYMENT AND ADVANCE PAYMENT GUARANTEE

- 9.1. TCTA shall make an advance payment as an interest-free loan to cover the cost of chemical procurement for 3 (three) months chemicals supply for operation of the WTP, when the OPERATOR submits a guarantee in accordance with this sub-clause. Unless and until TCTA receives this guarantee this clause shall not apply. The OPERATOR shall ensure that the guarantee is valid and enforceable until the advance payment has been repaid, but its amount may be progressively reduced by the amount repaid by the OPERATOR. If the terms of the guarantee specify its expiry date, and the advance payment has not been repaid by the 3rd month (or 90 days) prior to the expiry date, the OPERATOR shall extend the validity of the guarantee until the advance payment has been repaid.

- 9.2. The advance payment shall be repaid through 3 (three) equal deductions in the monthly payments over the last 3 (three) months of the Operating Period. If the advance payment has not been repaid prior to the Completion or Termination of the Agreement, the whole of the balance then outstanding shall immediately become due and payable by the OPERATOR to TCTA.

10. ADJUSTMENTS TO THE OPERATIONS FEE

- 10.1. The Parties acknowledge that the purpose of the adjustment to the Operations Fee is to reflect a material change to the actual Operating and Maintenance Costs.
- 10.2. The Operations Fee shall be reviewed by the Parties annually on the anniversary of the Commencement Date of this Agreement and on each anniversary of that date thereafter and will be adjusted by an amount equal to the percentage increase Consumer Price Index ("CPI Headline") (All Items) as published in Table A of P0141.1 by Statistics South Africa for the most recent 12 (twelve) month period for which those statistics would then be available

$((P1 - P0)/P0) * 100$ where:

P1 = CPI Headline Index for anniversary month in which escalation to be applied.

P0 = CPI Headline Index at Commencement Date or previous anniversary month whichever is applicable

- 10.3. In addition to the annual adjustment of the Operations Fees either TCTA or the OPERATOR, as the case may be, may require an adjustment to the Operations Fee if either Party can demonstrate that there has been an increase or decrease in the actual Operating and Maintenance Costs that has occurred as a result of only the following events:
- 10.3.1. an Uncontrollable Circumstance, a variation in Raw Water quality or quantity materially inconsistent with historical seasonal variations or TCTA Fault;
 - 10.3.2. Process or Operational Changes which have been approved by TCTA pursuant to this Agreement;
 - 10.3.3. Capital Improvements made or not made to the Facility;
 - 10.3.4. a change of laws;
 - 10.3.5. a request by TCTA for additional insurance coverage or higher policy limits;
- 10.4. Any adjustments to the Operations Fee shall be equal to the actual change to the Operating and Maintenance Costs as a result of any of the events described in 10.3 above.
- 10.5. The Parties acknowledge that Raw Water Quality may vary from time to time and agree that there shall be no adjustments to the Operations Fee for any change in Raw Water quality or quantity, materially consistent with historical variations.
- 10.6. If a Party requests an adjustment to the Operations Fee, the onus shall be on that Party to provide supporting evidence of its claim for an adjustment to the Operations Fee. The OPERATOR shall cooperate with TCTA in providing TCTA with such information on the Operating and Maintenance Costs which TCTA requires in support of the OPERATOR's claim for an adjustment to the Operations Fee.
- 10.7. The adjustment to the Operations Fee shall be made with retrospective effect to the date on which the OPERATOR experienced change to the Operating and Maintenance Costs occurred.

- 10.8. In the event that TCTA and OPERATOR cannot agree on the appropriate adjustment to the Operations Fee, then either Party may refer the matter to dispute resolution pursuant to Clause 24 (Dispute Resolution) below.

11. VARIABLE PERFORMANCE FEE

- 11.1. The OPERATOR shall be entitled to a Variable Performance Fee in accordance with the schedule of Rates and Prices, paid annually subject to any deductions as set out in this Agreement.

12. CAPITAL IMPROVEMENTS

- 12.1. TCTA shall be entitled to install or implement Capital Improvements to the Facility throughout the term of this Agreement.
- 12.2. TCTA shall be responsible for financing all Capital Improvements unless the Parties agree that the costs of any Capital Improvement shall be paid in part or in their entirety by the OPERATOR.

13. BOOKS, PAYROLLS, ACCOUNTS AND RECORDS

- 13.1. The OPERATOR shall maintain and keep sufficiently complete and accurate books, payrolls, accounts, and records which pertain to the Agreement in accordance with the applicable and accepted accounting procedures to permit their verification and audit and they shall have no claim for payment unless such books, payrolls, accounts, and records have been so maintained and kept.
- 13.2. TCTA may inspect, review or audit the books, payrolls, accounts, and records of the OPERATOR as they pertain to the Agreement at any time as deemed necessary by TCTA but not exceeding the preservation period set out below.
- 13.3. The OPERATOR shall preserve all original books, payrolls, accounts, and records relating to the performance of the Agreement or to claims arising from the performance of the Agreement, for a period of 30 (thirty) months after the completion of the term or 30 (thirty) months after the final settlement of all claims, made or threatened at the time of completion of this Agreement, whichever period is longer.

13.4. Transfer of Operations -Transition Plan

- 13.4.1. The OPERATOR shall prepare a Transition Plan setting out a detailed identification of the transition issues. The Transition plan shall include proposals by the OPERATOR to address transition issues including the details of each service to be provided and the cost of the service to be provided by the OPERATOR.

The Transition Plan shall include job shadowing to be provided by the OPERATOR on its own cost and expense for a period of 3 (three) months for up to 5 (five) persons prior to the expiration or termination of this Agreement.

- 13.4.2. The OPERATOR shall deploy key personnel (senior level) a month earlier for smooth transition and knowledge transfer. The cost for early mobilization of key personnel shall be included under section 1 of the BOQ.
- 13.4.3. In the event the OPERATOR fails to provide the plan identified in this Agreement in the form and substance acceptable to TCTA and in accordance with the requirements set out herein, or provides same but fails to govern itself according to such plans, TCTA shall have the right to withhold the Performance Deduction as set out in the Contract Data per month per plan from any amounts due to the OPERATOR.
- 13.4.4. The OPERATOR shall ensure that all contracts and commitments it has entered into in relation to the Facility expire upon the termination or cancellation of this Agreement. The Parties agree

that TCTA will not assume any of the OPERATOR's contracts and commitments upon the completion or termination of this Agreement, unless agreed to by TCTA, at the sole discretion of TCTA.

- 13.4.5. The OPERATOR shall ensure that the stockpiles are full on termination or cancellation of this agreement.

14. COMPLIANCE WITH APPLICABLE LAWS OR CHANGE OF LAWS

14.1. GENERAL

- 14.1.1. The Operator shall comply with Applicable Laws.
- 14.1.2. Should any procedures or standards set forth in this Agreement conflict with procedures or standards contained in any Applicable Laws, the more stringent procedures or standards shall apply.
- 14.1.3. The Operator shall not be in breach of its obligations hereunder if it is prevented from complying with Applicable Laws due to Uncontrollable Circumstances, the Employer Fault, the limits of the capacity of the Facility, Abnormal Raw Water quality or quantity inconsistent with historical seasonal variations or where the Operator has obtained the written consent of the Employer for non-compliance (provided however that such consent of the Employer shall only apply to the specific breach or non-compliance and shall not apply to subsequent breaches by the Operator), and in each case only to the extent the obligations of the Operator are affected by such circumstances as described herein.
- 14.1.4. If the Operator is determined by a court of competent jurisdiction, to be in noncompliance with Applicable Laws, then, except when such non-compliance is caused by Uncontrollable Circumstances, Abnormal Raw Water quality or quantity inconsistent with historical seasonal variations or the Employer Fault, the Employer may deduct the Performance Deduction as set out in the Contract Data from the Variable Performance Fee or Operations Fee, and such non-compliance shall be an Event of Default.
- 14.1.5. The Operator shall prepare and file on a timely basis with the appropriate authorities all applications for Permits and Licences and renewals of Permits and Licences which are required in connection with the management, operation and maintenance of the Facility.
- 14.1.6. The Operator shall ensure that at all times it maintains the appropriate Permits and Licences to fulfill its obligations pursuant to this Agreement. Such Permits and Licences shall include, but not be limited to, any requirement of a Government Authority imposed on the Operator as a precondition to carrying on business. To the extent that and in the event off a change of laws occurring after the Commencement Date of this Agreement that requires either new or revised permits or licenses in order for the Services performed by the Operator, then the Operator shall make the application for all such permits and licenses, and TCTA shall bear the actual costs of same.

14.2. PROCESS OR OPERATIONAL CHANGES TO ACHIEVE COMPLIANCE.

- 14.2.1. If at any time during the Term of this Agreement, Process Changes are required to comply with Applicable Laws or either Process Changes or Operational Changes are required to comply with a Change of Laws, then the Operator shall promptly provide the Employer with its recommendations for achieving compliance and an estimate of the impact on Operating and Maintenance Costs for achieving compliance with such Applicable Laws or a Change of Laws. The Employer shall evaluate the Operator's recommendations and shall, within a reasonable period of time, either approve the Operator's recommendations or determine appropriate and necessary Process or Operational Changes to be made and direct the Operator on the

appropriate approach to achieving compliance. The Operator shall not claim any Adjustment to the Operations Fee for the cost of preparation of its recommendations for achieving compliance.

- 14.2.2. Where either Process Changes or Operational Changes are required to achieve compliance with a Change of Laws or, where the Employer directs the Operator to carry out alternative Process Changes to achieve compliance with Applicable Laws, and any of the aforementioned activities causes an increase or decrease in the actual Operating and Maintenance Costs, either the Employer or the Operator may require an Adjustment to the Operations Fee in accordance with Conditions of Contract Clause 10 of this Agreement.
- 14.2.3. The Operator shall make any Operational Changes or Process Changes required in order to achieve compliance with Applicable Laws at its own expense unless such Operational Changes or Process Changes are required in connection with a Change of Laws.
- 14.2.4. If the Operator disputes the Employer's decision to disapprove Operator's recommendation pursuant to Conditions of Contract clause 10, or either the Operator or the Employer disputes a required Adjustment to the Operations Fee pursuant to Conditions of Contract clause 10, then the Operator or the Employer, as the case may be, may refer the matter in dispute to dispute resolution pursuant to Condition of Contract Clause 24 of this Agreement.

14.3. PROCESS OR OPERATIONAL CHANGES INITIATED BY THE OPERATOR.

- 14.3.1. Process Changes and Operational Changes may be made by the Operator during the course of this Agreement. No Process Change will be made without the prior written consent of the Employer. Operational Changes will be made as a matter of routine practice by the Operator and will not require prior approval by the Employer. However, the Operator shall inform the Employer of any material Operational Changes in its monthly reports to the Employer.
- 14.3.2. The Operator shall be responsible for all risks associated with any Process Change proposed and implemented by it, and/or any Operational Changes proposed and implemented by it as part of the operation and maintenance of the Facility, including, without limitation, the risk of complying with all Applicable Laws, but excluding all risks associated with Change of Laws or other Uncontrollable Circumstance.

14.4. OPERATING AND MANAGEMENT POLICIES AND PROCEDURES.

- 14.4.1. The Operator shall prepare operating and management policies and procedures with respect to the day-to-day operations of the Facility, including quality control and quality assurance procedures. The Operator shall submit the policies and procedures to the Employer for review and comments within 3 months after contract acceptance. The operating and management policies and procedures prepared by the Operator pursuant to this sub clause shall comply with the Employer policies, where applicable and shall become the property of the Employer.

15. BREACH

- 15.1. In the event of any breach of any of the terms or conditions of this Agreement by either Party hereto, including any failure to comply with any of the material terms and/or conditions of this Agreement, but excluding those material breaches specifically identified in 15.2 below, then the aggrieved Party may either claim specific performance or cancel the Agreement, provided that: time has been made of the essence by the aggrieved Party to the defaulting Party by the giving of written notice detailing the nature of the alleged breach by the defaulting Party and demanding that such breach be remedied within a period of 14 (fourteen) business days of date of such initial written notice to the defaulting Party;

if the defaulting Party fails to remedy such breach within the 14 (fourteen) day notice period contemplated above, then the aggrieved Party shall determine a date, being not later than 10 (ten) business days after expiry of the 14 (fourteen) day notice period referred to above, for purposes of a meeting to be held between the aggrieved Party and the defaulting Party and shall give written notice of the date and place of such meeting to be held at the domicilium citandi et executandi of the aggrieved Party.

The purpose of such meeting shall be for the Parties to meet in good faith and discuss ways and means to remedy such breach and/or to mitigate the extent of the loss or damage suffered and/or to be suffered by the aggrieved Party and/or to identify a suitable solution in the best interests of the Parties, without having to resort to cancellation; if within 10 (ten) business days of the holding of the meeting to be held, either the defaulting Party fails to remedy the breach or within such time as may be agreed during the said meeting or if no agreement is reached between the defaulting Party and the aggrieved Party during the meeting on the remedying of such breach, then the aggrieved Party shall give a final written notice to the defaulting Party, after expiry of such 10 (ten) day period or such other agreed period, demanding that the breach be remedied within a further period of 14 (fourteen) business days of date of such written notice, failing which the aggrieved Party shall be entitled at its election, to either:

- 15.1.1. claim specific performance from the defaulting Party, with or without a claim for damages limited as set out above; or
 - 15.1.2. cancel the Agreement forthwith by giving 60 (sixty) written notice to that effect to the defaulting Party.
- 15.2. The following events of default shall be regarded as material breaches of contract on the part of the OPERATOR and in the event of any such breach, TCTA shall be entitled to cancel the Agreement by giving written notice to that effect to the OPERATOR: the winding up or placing under liquidation (whether provisionally or finally), or the placing under judicial management, of the OPERATOR;
- 15.2.1. any attempt by the OPERATOR to compromise or enter into a scheme of compromise, composition or arrangement with any of its creditors;
 - 15.2.2. any strike or lockout of the employees of the OPERATOR which creates a situation which poses a potential for a real and serious threat to the health and public welfare of residents or which would seriously jeopardize the operational capacity or integrity of the Facility;
 - 15.2.3. if the OPERATOR operates or maintains, or fails to properly operate or maintain the Facilities in accordance with industry standards so as to create a situation which poses a potential for a threat to the health and public welfare of the residents, or which would jeopardize the operational capacity or integrity of the Facilities, except in the event of Uncontrollable Circumstance or Employer Fault;
 - 15.2.4. any change of Control of the OPERATOR in contravention of this Agreement or any realization by any creditor upon its shares as may be pledged;
 - 15.2.5. there is a failure to provide the insurance coverage specified in this Agreement in a form acceptable to the EMPLOYER
 - 15.2.6. or there is a lapse of the insurance coverage required to be maintained by OPERATOR to this Agreement, and failure to secure replacement coverage within 14 (fourteen) days of the insurance coverage expiration date;
 - 15.2.7. failure by the OPERATOR to comply with the Socio-economic Objectives;

- 15.2.8. failure by the OPERATOR to comply with the implementation and requirements of the OEMPr and EA;
- 15.2.9. failure by the OPERATOR to comply with the implementation and requirements of the sludge disposal directive from DWS.
- 15.2.10. failure by the OPERATOR to comply with the implementation and requirements of National Nuclear Regulator
- 15.2.11. a judgment is granted against the OPERATOR in respect of any claim in excess of R 20 000 000 (twenty million Rand) in value and no steps are taken to have such judgment rescinded within 21 (twenty one) days or such other period as may be agreed in writing with TCTA.

Any cancellation of this agreement shall be without prejudice to any right of the aggrieved party to recover, inter alia, any direct loss or damage suffered including without being limited to any costs or expenses arising from or consequent upon such breach.

16. CONSEQUENCES OF CANCELLATION DUE TO BREACH

- 16.1. In the event TCTA cancels this Agreement pursuant to this clause, the OPERATOR shall not be entitled to any compensation subsequent to receiving notice of termination from TCTA including, without limitation, any fee which would be payable to the OPERATOR. The OPERATOR shall also not be entitled to any demobilization costs incurred as a result of TCTA's termination of the Agreement.

Upon termination of this Agreement by TCTA, OPERATOR shall:

- 16.1.1. forfeit the Performance Security

16.2. Costs Payable by TCTA to OPERATOR upon Termination by the OPERATOR

- 16.2.1. In the event the OPERATOR terminates this Agreement, the OPERATOR shall be entitled to payment from TCTA of the sum of (a) all reasonable costs and expenses of the OPERATOR relating to demobilization by the OPERATOR from the Facilities including (without limitation) reasonable costs of termination of employees, sub-operators, contracts for the purchase of Consumables and movement of equipment of the OPERATOR located at the Facilities, (b) all capital investment of the OPERATOR approved by TCTA pursuant to this Agreement relating to the purchase by the OPERATOR of Capital Improvements which have not been fully paid for by TCTA.

16.3. Carryover Services

- 16.3.1. Upon the termination or cancellation of this Agreement and only at TCTA's request, the OPERATOR shall provide the services necessary to continue normal operations for a period of up to 90 (ninety) days after the termination date. This period shall commence only at TCTA's request and shall be only for the purpose of training and assisting new employees of TCTA or the subsequent operator of the Facilities in the management, operation and maintenance of the Facilities. In such event, TCTA agrees to pay to the OPERATOR a pro rata portion of the then current Operations Fee for such 90 (ninety) day period.

17. INTELLECTUAL PROPERTY

- 17.1. TCTA shall retain exclusive rights to all intellectual property, inventions and innovations developed by or for it in connection with its operations and maintenance of the Facilities including the Operations

and Maintenance Manuals, the CMMS, SCADA and all associated software where applicable. For the OPERATOR-owned inventions introduced into the Facilities during the term of this Agreement, the OPERATOR shall grant to TCTA a perpetual nonexclusive fully paid up licence, to continue to use such technology in connection with the operation, maintenance and management of the Facilities after the expiration or termination of this Agreement, without charge to TCTA. The licence shall be specific to TCTA and the Facilities and may be transferred or assigned by TCTA to any subsequent operator of the Facilities for use in connection with the operation, maintenance and management of the Facilities. This provision shall apply only to those inventions and innovations for which OPERATOR has the right to grant such a licence to TCTA.

- 17.2. The name of TCTA and all related marks, slogans and designs belongs to TCTA exclusively and shall not be used in any way by OPERATOR unless otherwise approved in writing by TCTA.
- 17.3. Within 30 (thirty) days after the Commencement Date, the OPERATOR shall remove all marks, slogans and designs related to the Previous Operator from any buildings at the Facilities, structures or vehicles to be used by the OPERATOR.

18. CONFIDENTIALITY

- 18.1. Each Party shall keep confidential and not disclose any trade secrets, confidential documentation, proprietary information, technical know-how and data, systems, methods, commercial, financial and technical information which may be disclosed to it by the other Party to this Agreement, to any other party, other than to persons employed by them and/or authorised by them and who are required to have such information for purposes of fulfilling their respective obligations under this Agreement.
- 18.2. Each Party hereby acknowledges that the confidential information and/or documentation is of substantial value and each Party undertakes not to disclose any confidential information to any other party, except for the purposes contemplated under this Agreement.
- 18.3. The confidentiality obligations will not apply to information which: is public knowledge, or becomes public knowledge at any time through no fault of the Party receiving such confidential information; or
 - 18.3.1. is disclosed to any of the Parties by another party with the lawful right to make such disclosure and which did not obtain such information directly or indirectly from the disclosing Party; or
 - 18.3.2. was known to the receiving Party prior to the date of disclosure by the disclosing Party as it is able to prove through documentary material in its possession; or
 - 18.3.3. is required to be disclosed in terms of an order of court.
 - 18.3.4. The Parties record that the confidentiality obligations set out herein shall remain in force indefinitely notwithstanding the termination or cancellation of this Agreement.
 - 18.3.5. The OPERATOR acknowledges that all sampling and laboratory test results and other similar information collected or received by it during or following the term hereof concerning the day to day operations of the Facilities will be and remain the property of TCTA and may be confidential and any such information shall not be released or disclosed to any person,, without the prior written consent of TCTA, which consent shall not be unreasonably withheld. the OPERATOR shall have the right to retain copies of all such sampling and laboratory test results and other similar information.

19. INSURANCE

19.1. Insurance Coverage to be obtained by the OPERATOR

The OPERATOR shall obtain and maintain throughout the term of this agreement and be responsible for payment of the deductible, insurance with insurers that are acceptable to TCTA covering the following events and in the following amounts:

19.1.1. Public Liability Insurance

Occurrence-basis comprehensive general liability insurance cover against legal liability for accidental death of or injury to third party persons and accidental loss of or damage to third party property arising out of or in connection with the OPERATOR's performance of the Agreement, for an amount not less than one hundred million Rand (R100,000,000) covering the directors, officers, employees, agents and other persons for whom the OPERATOR is responsible throughout the entire period of this Agreement. Such policy shall include non-owned automobile liability, personal injury, broad form property damage, contractual liability, owners' and the OPERATORS' protective, contingent employers' liability, cross liability and severability of interest clauses.

19.1.2. Operator's All Risks Insurance

Standard all risk property insurance covering the property of the OPERATOR, including Movable Assets, in an amount not less than the full replacement cost value; such policy shall include a waiver of subrogation in favour of TCTA;

19.1.3. Motor Vehicle Insurance

In addition to any compulsory insurance required in terms of legislation and without limiting the OPERATOR's obligations and responsibilities, the OPERATOR shall insure against liabilities in respect of all motor vehicles and items of mobile equipment whether owned, leased, hired, borrowed or operated by the OPERATOR in connection with its operation of the Facilities with a coverage limit of not less than five million Rand (R5,000,000) for any one occurrence; the OPERATOR shall not do, omit to do, or permit any acts or omissions on or in the Facilities that may void coverage under the insurance policies.

19.2. Conditions of Insurance

- 19.2.1. The OPERATOR shall cause TCTA to be included as an additional insured on the policies of insurance described in 19.1 maintained by the OPERATOR pursuant to this agreement and each such policy shall contain a cross-liability clause and shall protect TCTA against all claims for all damage to any property of TCTA or any other public or private property resulting from or arising out of any failure, neglect or omission including negligence.
- 19.2.2. The OPERATOR shall provide TCTA with certificates, in a form prescribed by TCTA, confirming that OPERATOR has obtained insurance coverage as described in this agreement 30 (thirty) days before the commencement date and confirmation of the renewal of such policies within 10 (ten) days of their renewal date.
- 19.2.3. The OPERATOR or OPERATORS's insurance company shall not suspend, void, cancel, restrict or reduce insurance coverage or limits except after giving thirty (30) days, prior written notice by registered mail to TCTA. Any deductibles or self-insured retention greater than that specified must be declared to TCTA for acceptance or rejection by TCTA. Any such deductible or self-insured retention shall be the sole and immediate responsibility of OPERATOR in the event of a claim.

- 19.2.4. The policy limits and policy types described above shall be reviewed annually by TCTA and the OPERATOR, having regard to OPERATOR'S claims history and loss statistics in the prior contract year. TCTA and the OPERATOR reserve the right to request higher limits or additional types of insurance as they may reasonably require. TCTA shall pay the cost of any such higher limits or additional types of insurance required by TCTA.
- 19.2.5. The insurance as required by this agreement shall be kept in place by OPERATOR for a period of 12 (twelve) months following the termination or cancellation of this agreement, unless a longer period is stipulated.
- 19.2.6. The OPERATOR shall promptly notify TCTA of any loss or claim against the policies maintained by the OPERATOR pursuant to this agreement. If claims reduce the aggregate coverage amount available from those limits described in this clause 19, or as subsequently amended by agreement between TCTA and the OPERATOR, then TCTA may require that the OPERATOR acquire additional insurance coverage to ensure that the aggregate limits are maintained at the levels described above. The cost of acquiring such additional insurance shall form part of the operating and maintenance costs.
- 19.2.7. The OPERATOR shall advise TCTA of the cost of the insurance described above. Upon receipt of this information TCTA may, in its sole discretion, require the OPERATOR to obtain such insurance or TCTA may obtain such insurance at its own cost.

20. PERFORMANCE SECURITY

The OPERATOR shall at its own expense throughout the term of this Agreement, provide, maintain and pay for a Performance Bond, in a form acceptable to TCTA, as security for the performance by the OPERATOR of its obligations pursuant to this Agreement, to be delivered to TCTA prior to the Commencement Date. Notwithstanding that any amendments to this Agreement following the date hereof shall not be covered by the Performance Bond until expressly so indicated by its issuer, the OPERATOR agrees that all such amendments made pursuant to the terms of this Agreement shall be supported by a form of security reasonably satisfactory to TCTA unless this requirement is waived by TCTA.

21. REPRESENTATIONS AND WARRANTIES

21.1. Representations and warranties of OPERATOR

The OPERATOR hereby represents and warrants, on a continuous basis, to TCTA and acknowledges that TCTA is entering into this Agreement in reliance on such representations and warranties:

- 21.1.1. The OPERATOR is a company, duly incorporated under the Companies Act (Act 71 of 2008);
- 21.1.2. No act or proceeding has been taken by or against the OPERATOR in connection with the dissolution, liquidation, winding up, bankruptcy or reorganization of the OPERATOR;
- 21.1.3. The OPERATOR has the corporate power, authority and capacity to enter into this Agreement and all other agreements and instruments to be executed by it as contemplated by this Agreement and to carry out its obligations under this Agreement and such other agreements and instruments;
- 21.1.4. The execution and delivery of this Agreement and such other agreements and instruments and the completion of the transactions contemplated by this Agreement and such other agreement and instruments have been duly authorized by all necessary corporate action on the part of the OPERATOR and its shareholders, as required;

21.1.5. This Agreement constitutes a valid and binding obligation of OPERATOR enforceable against the OPERATOR in accordance with its terms. OPERATOR is not an insolvent person within the meaning of the Insolvency Act (Act 24 of 1936), as amended;

21.1.6. The execution, delivery or performance of this Agreement by OPERATOR and the fulfilment of its obligations herein do not and will not conflict with or result in a breach of:

21.1.6.1. any Applicable Laws affecting the OPERATOR;

21.1.6.2. any of the terms or conditions of the constituting documents of the OPERATOR;

21.1.6.3. any agreement, document or instrument to which the OPERATOR is a party or by which the OPERATOR is bound or to which any property of the OPERATOR is subject; and

21.1.6.4. do not and will not constitute or result in a violation, breach or default under any of the foregoing.

21.2. There is no action, suit, proceeding, claim, application, complaint or investigation in any court or before any arbitrator or before or by any regulatory body or governmental or non-governmental authority pending or threatened by or against OPERATOR which would materially affect its ability to enter into or perform its obligations pursuant to this agreement; and, there is no factual or legal basis which could give rise to any such action, suit, proceeding, claim, application, complaint or investigation.

21.3. The statements, representations, warranties (express and/or implied) in OPERATOR'S proposal are and remain true as of the date of the execution of this agreement and shall survive the execution of this agreement.

21.4. Representations and warranties of TCTA

TCTA hereby represents, warrants, on a continuous basis, to OPERATOR and acknowledge that the OPERATOR is entering into this Agreement in reliance on such representations and warranties:

21.4.1. The execution and delivery of this Agreement has been authorized by TCTA and such authorization has not been rescinded or otherwise modified;

21.4.2. This Agreement has been authorized, executed and delivered by TCTA and constitutes a legal, valid, and binding obligation of TCTA, enforceable against it in accordance with its terms;

21.4.3. To the knowledge of TCTA there is no action, suit, or proceeding pending or threatened against TCTA or the Previous Operator which would materially affect TCTA's ability to enter into or perform obligations pursuant to this Agreement or which would or could materially affect the OPERATOR;

21.4.4. With respect to the Consumables purchased from TCTA pursuant to this Agreement, TCTA has the authority to convey such assets to the OPERATOR. Such assets are or will be at the date of closing of the purchase and sale thereof, free and clear of any and all charges and encumbrances whatsoever.

22. INDEMNITIES

22.1. Indemnities by THE OPERATOR

22.1.1. The OPERATOR shall indemnify, hold, defend and save TCTA, its directors, officers, agents and employees harmless from all costs, expenses, damages and claims of third parties for personal injury or property damage arising from the extent of negligent performance or non-performance or wilful misconduct by the OPERATOR of its obligations under this agreement

or which arise as a result of the negligent acts or omissions or wilful misconduct of the OPERATOR in connection with the performance or non-performance of its obligations under this agreement or in connection with the OPERATOR'S use or occupancy of the facilities pursuant to this agreement, including, without limitation, claims for personal injury and damage to or loss of use or loss of any personal or real property caused by or arising out of the negligent act or omission or wilful misconduct of the OPERATOR.

- 22.1.2. Without limiting the generality of the foregoing, the parties acknowledge and agree that Part of the mechanical and electrical equipment located at the facilities includes equipment required to be installed and maintained pursuant to applicable laws relating to health and safety. The OPERATOR shall indemnify and save TCTA harmless from any and all claims and losses which TCTA can demonstrate that it has suffered or incurred as a result of any injury arising from the use of such health and safety equipment, except to the extent such claims or losses result from insufficient health and safety equipment located at the facilities at the commencement date in non-compliance with applicable laws, and failure by TCTA to repair or correct such non-compliance in accordance with this agreement.
- 22.1.3. The OPERATOR, its agents and all workers and persons employed by or under its control, including sub-operators, shall use all reasonable care to ensure that no person or property is injured and that no rights are infringed in the carrying out of OPERATOR's duties and obligations under this agreement.
- 22.1.4. The OPERATOR shall be solely responsible for all damages by whomsoever claimable in Respect of any injury to persons, including death, or to land, buildings, structures or property of whatever description, and in respect of any infringement of any right or privilege whatever occasioned in the carrying out of the OPERATOR's duties or obligations under this agreement, or any part thereof, any neglect, misfeasance or nonfeasance on the OPERATOR's part or on the part of any of its agents, workers or persons employed by the OPERATOR or under its control, including sub-operators, either carrying out the OPERATOR's duties and obligations under this agreement or present at the facilities and shall bear the full costs thereof and shall at its own expense make such temporary provisions to ensure the avoidance of any such damage, injury, or infringement and to prevent the interruption of or danger or menace to the operation of the facilities.
- 22.1.5. The OPERATOR shall indemnify and hold TCTA harmless from and against all claims, demands, loss, costs, damages, actions, suits or other proceedings by whomsoever made, brought, occasioned by or attributed to any such damage, injury or infringement referenced above.
- 22.1.6. The OPERATOR further agrees to indemnify and save TCTA, its agents, servants and employees, harmless from all legal consequences including, without limitation, all legal costs and expenses incurred to defend any action brought by Governmental Authority in connection with noncompliance with Applicable Laws or a Change of Laws, as well as any fines or penalties imposed by a Governmental Authority except where the OPERATOR is entitled to indemnification by TCTA.

22.2. Indemnities by TCTA

- 22.2.1. TCTA shall indemnify and save the OPERATOR, its agents, employees and sub-operators, all directors and officers from all reasonable costs, expenses, damages and claims of third parties for personal injury or property damage arising from:
- 22.2.1.1. TCTA Fault, including the negligent acts or omissions or wilful misconduct of TCTA in connection with the performance or non-performance of its obligations under this Agreement;

- 22.2.1.2. any incorrectness in or breach of any representation or warranty of TCTA contained in this Agreement or in any other agreement, or instrument executed and delivered pursuant to this Agreement;
 - 22.2.1.3. a violation of Applicable Law by TCTA;
 - 22.2.1.4. failure of TCTA to make Process or Operational Changes or Capital Improvements to achieve compliance with Applicable Laws or to correct unsafe or hazardous situations as advised by the OPERATOR within forty-five (45) days following the Commencement Date;
 - 22.2.1.5. the presence at the Facilities of (i) subsurface structures, materials or conditions having historical, geological, archaeological, religious or similar significance, or (ii) any habitat of an endangered or protected species;
 - 22.2.1.6. the presence on the Commencement Date of hazardous waste or hazardous substances upon or beneath the Facilities in non-compliance with Applicable Laws;
 - 22.2.1.7. structural damage to or the collapse of the Facilities caused by geological conditions;
 - 22.2.1.8. and any other matters specifically provided in this Agreement. Notwithstanding the above, TCTA shall only be liable for its percentage of Fault or negligence.
- 22.2.2. TCTA further agrees to indemnify and save the OPERATOR, its agents, servants, and employees, harmless from all legal consequences including, without limitation, all legal costs and expenses incurred to defend any action brought by a Governmental Authority in connection with noncompliance with Applicable Laws or a Change of Laws, as well as any fines or penalties imposed by a Governmental Authority which the OPERATOR can demonstrate it has suffered or incurred arising from or in connection with its compliance with TCTA's direction as to the appropriate means of achieving compliance with Applicable Laws or a Change of Laws, subject to the OPERATOR confirming due care and diligence by the OPERATOR in following and implementing TCTA's direction and in its management, operation and maintenance of the Facilities.

23. LIMITATION OF LIABILITY

- 23.1. Neither Party shall be liable to the other Party under any circumstances whatsoever for any special, indirect and/or consequential loss or damage, of whatsoever nature and howsoever arising, whether arising in terms of this Agreement or in contract, delict or otherwise, suffered as a result of any Party's actions or omissions, whether foreseen or unforeseen, including for any indirect, extrinsic, special, penal, exemplary or consequential loss or damage of any nature whatsoever, including but not limited to a loss of profits, a loss of operational time, any loss of information or losses based on agreements with third parties, nothing at all excepted.
- 23.2. The liability of each Party to the other for any direct loss or damage suffered or incurred shall be limited to that set out in this Agreement.
- 23.3. In terms of the Occupation Health and Safety Act (Act 85 of 1993), the OPERATOR hereby agrees to indemnify and hold TCTA, its employees, agents and/or mandatories harmless, against any claims for loss, damage, injury or expenses of any nature sustained or incurred by it, its employees, agents, contractors, consultants and/or third parties, arising out of the provision of the services, save for liability resulting from any unlawful actions or omissions of TCTA.
- 23.4. Notwithstanding the provisions of this Agreement and the Schedule of performance deductions provided for, the OPERATOR's Limitation of Liability over the contract period:

23.4.1. in respect of all performance related matters, shall not exceed the Performance Security amount of 35 (thirty five) million Rand for all claims and deductions reasonably imposed by TCTA in accordance with the Schedule of Deductions on page 108 and 109 of the Conditions of Contract;

23.4.2. in respect of all the OPERATOR's contractual insurance liabilities contemplated under clause 19 of the Agreement and which arise from its wilful misconduct or negligence, shall not exceed the sum of 100 (one hundred) million Rand.

24. DISPUTE RESOLUTION

24.1. The Parties shall endeavour to resolve any dispute or difference arising out of this Agreement amicably through good faith negotiations to be held between them.

24.2. In the event that consensus is not reached amongst them within 14 (fourteen) days of their meeting, any Party may formally declare a dispute in writing setting out full details of the nature of the dispute, the good faith endeavours that have been made to resolve the dispute and shall provide copies thereof to the other Parties within 14 (fourteen) days of such meeting.

24.3. Should the dispute not be resolved as provided for above, then either Party shall have the right to refer the dispute to arbitration, subject to the following provisions:

24.3.1. the dispute shall be finally settled under the Rules of Arbitration of the Association of Arbitrators (Southern Africa);

24.3.2. the dispute shall be settled by three arbitrators appointed in accordance with these Rules;

24.3.3. the arbitration shall be held in a summary manner with a view to it being completed as soon as possible;

24.3.4. the arbitration shall be held in Centurion, Gauteng;

24.3.5. the arbitration shall be conducted in English;

24.3.6. the decision of the arbitrators shall be final and binding on the Parties and of immediate effect;

24.3.7. any Party shall be entitled to apply to the High Court of South Africa to make such decision an order of court;

24.3.8. the costs of the arbitration proceedings shall be borne by the Parties as determined by the arbitrators, provided that where the arbitrators' decision is silent as to costs, the Parties shall each bear their own costs; and

24.3.9. nothing contained in this clause shall preclude any Party from applying to any court of competent jurisdiction for a temporary interdict or other relief of an urgent nature, pending the award of the arbitrator.

24.4. Notwithstanding the termination or cancellation of the Agreement for whatsoever reason, this dispute resolution provision will survive such termination or cancellation.

24.5. Notwithstanding any dispute which is the subject of the dispute resolution processes set out in this clause, the OPERATOR shall continue to provide the Services pending the outcome of the dispute resolution procedures and TCTA shall continue to pay in respect of that portion of the Services which is not the subject matter of the dispute.

25. FORCE MAJEURE

- 25.1. In the event that performance of this Agreement in the reasonable opinion of either Party is made impossible by reason of an Uncontrollable Circumstance, and if an occurrence of an act, event or condition as an Uncontrollable Circumstance as grounds for not performing its obligations under this Agreement, then the Party relying on such act, event or condition shall; (i) provide prompt notice to the other Party of the occurrence of the act, event or condition as soon as reasonably practicable after the Party first knew of such occurrence and give an estimation of its expected duration and the probable impact on the performance of its obligations hereunder (ii) exercise all reasonable efforts to continue to perform its obligations hereunder; (iii) in accordance with this Agreement, as expeditiously as reasonably practicable, take action to correct or cure the act, event or condition preventing its performance; (iv) exercise all reasonable efforts to mitigate or limit damages to the other party; and (v) provide prompt notice to the other Party of the cessation of the act, event or condition giving rise to its inability to perform.
- 25.2. In the event that performance of the Agreement in the reasonable opinion of either Party continues to be made impossible by reason of an Uncontrollable Circumstance, then either Party shall notify the other in writing and TCTA shall either:
- 25.2.1. terminate the Agreement forthwith and make all payment for services performed through the date of termination and all reasonable costs incurred by the OPERATOR in demobilizing from the Facilities, shall not be invoked. Further; TCTA shall pay within sixty (60) days, all amounts owing to the OPERATOR including the OPERATOR's reasonable costs related to cancellation of contracts due to such termination and all capital investment of the OPERATOR approved by TCTA pursuant to this Agreement relating to the Purchase by the OPERATOR of Capital Improvements which have not been fully amortized; or
- 25.2.2. authorize the OPERATOR to continue the performance of the Agreement with such adjustments to the Operations Fee as may be required by the Uncontrollable Circumstances, as are agreed upon by both parties. In the event that the Parties cannot agree upon the aforementioned adjustments, it is agreed by the Parties that the Agreement shall be terminated and TCTA shall pay the OPERATOR for all services performed through the date of termination, all reasonable costs incurred by the OPERATOR in demobilizing from the Facilities, and all capital investment of the OPERATOR approved by TCTA pursuant to this Agreement relating to the purchase by the OPERATOR of capital Improvements which have not been fully amortized.
- 25.2.3. Except as expressly provided under the terms of this Agreement, neither Party shall be liable to the other for any loss, damage, delay, default nor failure to perform any obligation to the extent it results from an Uncontrollable Circumstance. The occurrence of an Uncontrollable Circumstance shall not excuse or delay the performance of a party's obligation to pay monies previously accrued and owing under this Agreement, or to perform any obligation hereunder not affected by the occurrence of the Uncontrollable Circumstance.

26. DOMICILIUM CITANDI ET EXECUTANDI

- 26.1. The Parties choose as their domicilium citandi et executandi for all purposes under this Agreement, whether in respect of court process, notices or other documents or communications of whatsoever nature, the following addresses:

TCTA
Ground Floor, Stinkhout Wing
Tuinhof Building
265 West Street
Centurion

Telefacsimile No: (012) 683-1300
Attention: The Chief Executive Officer

- 26.2. Any notice or communication required or permitted to be given in terms of this Agreement shall be valid and effective if reduced to writing and delivered to a Party at its domicilium address.
- 26.3. Any notice to a Party:
- 26.3.1. sent by pre-paid registered post in a correctly addressed envelope to it at its domicilium address shall be deemed to have been received on the 5th (fifth) business day after posting;
- 26.3.2. delivered by hand to a responsible person during ordinary business hours at its domicilium address shall be deemed to have been received on the day of delivery; or
- 26.3.3. sent by telefax to its chosen telefax numbers as stipulated above, during normal business hours, shall be deemed to have been received on the date of dispatch.
- 26.4. Notwithstanding anything to the contrary contained herein, a written notice or communication actually received by a Party shall be adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen domicilium citandi et executandi.

27. GENERAL

- 27.1. Any provision in this Agreement which is or may become illegal, invalid or unenforceable in any jurisdiction affected by this Agreement shall be ineffective to the extent of such illegality or invalidity and shall be severed from this Agreement without affecting the remaining provisions of this Agreement.
- 27.2. The Parties shall preserve all documents and accounting records for a period of 3 (three) years after this Agreement has expired or terminated. Each Party shall allow the other access to such documents and records at reasonable times and subject to prior written request and shall allow the other Party to have such documents and records audited by a third party nominated and paid for by the Party requesting the audit.
- 27.3. The Parties undertake at all times to do all such things, perform all such actions and take all such steps and to procure the doing of all such things, the performance of all such actions and taking of all such steps as may be open to them and necessary or incidental to the putting into effect or maintenance of the terms, conditions and import of this Agreement.
- 27.4. Where it is specified in this Agreement that certain matters are to be agreed between the Parties, any failure to reach agreement in respect of such matter will not affect the validity and enforceability of the remaining provisions of this Agreement.
- 27.5. This Agreement constitutes the whole agreement between the Parties as to the subject matter hereof and no terms, conditions, undertakings, representations or warranties between the Parties other than those set out herein, or expressly recorded in writing, will be binding on the Parties.
- 27.6. No latitude, extension of time or other indulgence which may be given or allowed by either Party to any other Party in respect of the performance of any obligation hereunder or the enforcement of any right arising from this Agreement and no single or partial exercise of any right by any Party shall under any circumstances be construed to be an implied consent by such Party or operate as a waiver or a novation of, or otherwise affect any of that Party's rights in terms of or arising out of this Agreement or prevent any such Party from enforcing, at any time and without notice, strict and punctual compliance with each and every provision contained herein.
- 27.7. No addition to or variation, consensual cancellation or novation of this Agreement and no waiver of any right arising from this Agreement shall be of any force or effect unless reduced to writing and signed by both Parties.

- 27.8. This Agreement shall be governed by and construed in accordance with the laws of the Republic of South Africa.
- 27.9. This Agreement shall be binding on any successor in title of TCTA and any successor in title of the OPERATOR.
- 27.10. Each Party shall be liable for its own costs in respect of the preparation, drafting and settling of this Agreement.

This Agreement and the annexures hereto may be executed in several counterparts, each of which shall constitute one and the same document.

SECTION 3
SCOPE OF SERVICES

ANNEXURE A
DESCRIPTION OF THE EASTERN BASIN WTP FACILITY

1. GENERAL TREATMENT OBJECTIVES AND TECHNICAL INFORMATION OF THE EASTERN BASIN AMD PLANT FOR BACKGROUND PURPOSES

1.1 BACKGROUND

Mine water started accumulating in the old mine workings as underground operations ceased and withdrew from the basins. The mine water is characterised by acidity, high metal content and high salinity. If the mine water accumulation is allowed to continue, then the Acid Mine Drainage (AMD) will eventually fill the basins and start impacting on shallow groundwater bodies and surface water resources.

As part of the short-term solution, a new water treatment plant was designed and built to treat excess mine water to a standard suitable for interim discharge to the environment. The treatment process incorporates neutralisation and metals removal with limited desalination.

The Eastern Basin plant is situated at Springs, Grootvlei TSF, Van Niekerk Road. S26°14'59.4" E028°29'13.3"

The indicative AMD water quality from this basin is as per the following table:

Table 1.1: AMD Water Qualities

WATER QUALITY PARAMETER	UNITS	EASTERN BASIN 95 TH PERCENTILE	Current Eastern Basin AMD water quality
TDS	mg/l	7,700	-
Conductivity	mS/m	730	300
Calcium (Ca)	mg/l	580	-
Magnesium (Mg)	mg/l	380	-
Sodium (Na)	mg/l	150	-
Sulphate (SO ₄)	mg/l	5,200	1700
Chloride (Cl)	mg/l	260	-
pH*	-	2.3	6.25
Alkalinity (CaCO ₃)	mg/l	0	-
Acidity (CaCO ₃)	mg/l	2,425	-
Iron (Fe)	mg/l	1,000	115
Aluminium (Al)	mg/l	50	<0.1
Manganese (Mn)	mg/l	60	15

* pH value is for 5th percentile

Table 1.2: Required Effluent Standards:

WATER QUALITY VARIABLE	UNITS	STANDARD
pH	-	7-9
Turbidity	NTU	<20
Iron	mg/l	<1
Manganese	mg/l	<10
Aluminium	mg/l	<1
Uranium	µg/l	<50
Sulphate	mg/l	<3,000
Electrical Conductivity	mS/m	≤450

1.2 BRIEF PROCESS DESCRIPTION OF THE EASTERN BASIN AMD PLANT

1.2.1 Formation of AMD and Pre-Neutralisation

Acid mine drainage (AMD) occurs when groundwater comes into contact with remnant coal and rock rich in sulphides. The acid water is formed as a result of bacterial oxidation when pyrites are exposed to oxygen and water after or during the mining process. The result is a highly acidic, sulphate-rich drainage (Fripp, 2000). The overall equation describing this process is as follows:



In brief, the major cause is the accelerated oxidation of iron pyrite (FeS_2) and other sulphuric minerals resulting from the exposure of these minerals to both oxygen and water, as a consequence of the mining and processing of metal ores and coals (Johnson, 2005).

The AMD can then travel either below or above ground, eventually making its way into nearby streams. The Witwatersrand AMD is characterised by a low pH with high dissolved metal concentration. Limestone is used to partially neutralise the metal acidity of the AMD up to a pH of 5.5-6.0 by the following equation:



The limestone is added as a fine powder to increase the rate of the reaction. In this pH range, mainly Fe (III) and Al (III) metal ions precipitate from the solution as $\text{Fe}(\text{OH})_3$ and $\text{Al}(\text{OH})_3$ – effectively removing a large portion of the dissolved AMD metal components from the solution. The dissolved iron in the AMD is typically in the Fe(II) oxidation state, which does not effectively precipitate below a pH of 7-8. Through aeration, however, Fe(II) is oxidised to Fe(III), which is then precipitated through limestone neutralisation. The pre-neutralisation reactors are thus aerated to start the ferrous iron oxidation process.

1.2.2 Neutralisation

Lime is used to neutralise the remaining metal acidity and precipitate metals from the AMD up to a pH of 9 and to provide a counter ion (Ca^{2+}) to react with sulphate and precipitate gypsum. In this range, most of the remaining dissolved metals are precipitated, while dissolved Mn is removed as $\text{Mn}(\text{OH})_2$. For large treatment systems, quicklime is used. This lime must first be hydrated (slaked) and is normally fed to the process as slurry. The hydrated lime then dissolves to increase pH. The two following equations illustrate these reactions:



The increased pH then provides hydroxide ions which combine with the dissolved metals to produce precipitates. The following equations show the precipitation reactions with Fe(II) and Fe(III):



Ferrous (Fe^{2+}) hydroxides are not as stable as ferric (Fe^{3+}) hydroxides when the sludge is exposed to acidic waters or natural precipitation. For this reason, aeration is often applied to oxidise the iron to the more stable form, as per the following equation:



1.2.3 Gypsum Crystallisation

On addition of lime, the calcium reacts with the sulphates to form solid gypsum which precipitates out according to the following reaction:



Although the reaction is slow, the gypsum crystallisation reactor is specifically included to allow additional reaction time. This will also protect the downstream clarifier/ thickener from gypsum scaling, as gypsum precipitation will take place preferentially on the sludge particles that are introduced through sludge recycling back into the neutralisation reactor. No other chemical dosing takes place at this reactor, as the reactor's purpose is solely to provide additional reaction time after the lime is added in the preceding neutralisation reactor.

1.2.4 Solids Separation

Once metal precipitation and gypsum crystal growth have taken place, the suspended solids are removed in a thickener, where the reactor liquor is introduced from the top, at the centre distributor well of the thickener. The solids are assumed to settle at a rate not higher than 1 m/h. The thickener is designed with a side wall depth of 4.5 m to ensure sufficient space for thickening.

A sludge blanket forms at the bottom of the thickener and a centra3 drive rake scrapes the settled solids to the centre sludge sump at the bottom of the thickener. The thickener underflow sludge is pumped back to the upstream reactor for conditioning with lime and is re-introduced at the neutralisation reactor to facilitate metal precipitation and crystal growth, while a portion is disposed of (wasted)

To further enhance sludge settling and produce a clear thickener supernatant, a polymer flocculant is introduced at the feed to the thickener. Flocculation causes destabilised colloidal particles to agglomerate and form rapid-settling flocks.

The thickener is designed to produce sludge consistencies of 7-14% (m/m) solids at a sludge recycle-to-AMD ratio of 50-100%, which will ensure that the wasted sludge volume is kept to a minimum, while still being practical to pump for disposal.

1.2.5 Sludge Conditioning

Recycled sludge is conditioned with lime and re-introduced at the neutralisation reactor to facilitate metal precipitation and crystal growth. Lime is an effective conditioner of recycle sludge as it facilitates the formation of precipitated sludge with better settling properties. For sludge conditioning, 40-80% of the total required lime dosage is introduced in the sludge conditioning tank, and 20-60% is introduced into the neutralisation reactor.

1.2.6 Sludge Handling

A portion of the sludge produced at the settler is wasted from the sludge sump. The wasted sludge has a solids content range of 7-14% (w/w) and is pumped away for disposal. Sludge disposal pipeline back to the disposal site.

The Operation and Maintenance Operator is responsible for:

- Maintaining the sludge disposal system between the AMD plant and the disposal site.
- Deciding on the quantum of sludge that must be disposed for proper operations as per O&M Manual.
- Pigging the sludge pipe to remove scale build-up.

1.3

DESCRIPTION OF EASTERN BASIN WTP

Overview

An overview of the mainstream treatment process for the Eastern Basin is shown in Figure 1, whilst Figure 2 shows a simplified block flow diagram of the water treatment plant (WTP).

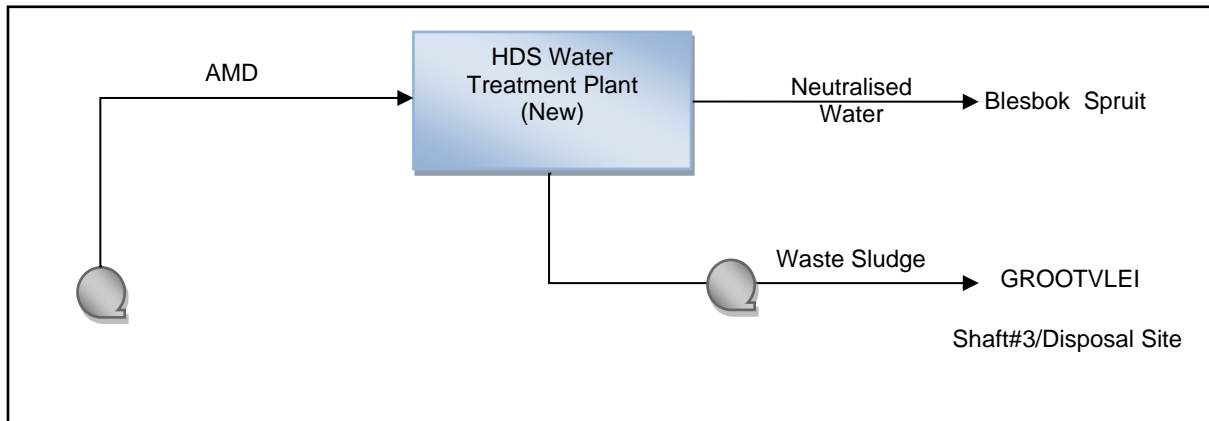


Figure 1.1: Overview of Mainstream Treatment Process for the Eastern Basin

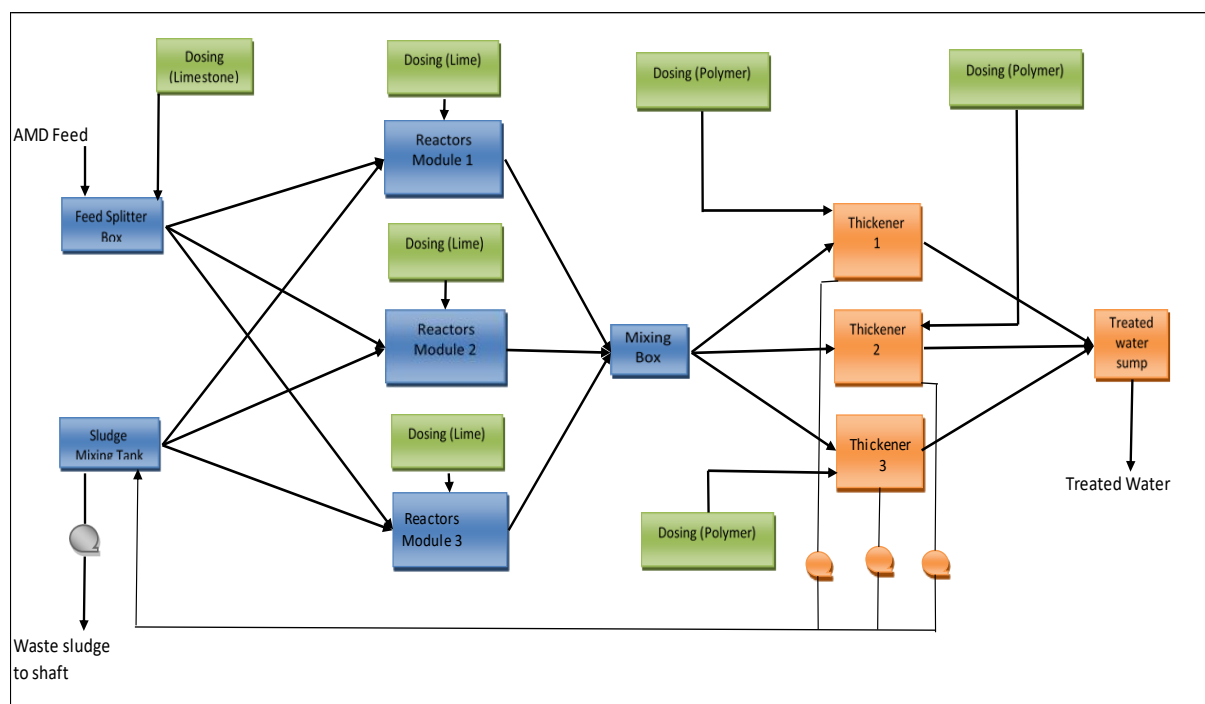


Figure 1.2: Simplified Block Flow Diagram of the Water Treatment Plant for the Eastern Basin

The main components of the mine water collection system include the following:

- Abstraction (feed) pumps at Grootvlei Shaft No3 .
- Transfer pipelines from Grootvlei shaft No 3 to the adjacent Eastern Basin AMD Water Treatment Plant.

The main components of the dosing system for the AMD Water Treatment Plant include the following process units:

- Limestone (CaCO_3) dosing system
- Unslaked Lime dosing system (Quicklime, CaO); however, hydrated lime is dosed
- Polymer (polyelectrolyte) dosing system

The main components of the Eastern Basin Water Treatment Plant include the following process units:

- Feed splitter box
- Three parallel reactor modules consisting of:
 - Sludge conditioning tank
 - Reactor, consisting of:
 - Pre-neutralisation tank
 - Neutralisation tank
 - Gypsum crystallisation tank
- Flocculent dosing mixing box
- Three parallel thickeners
- Sludge recycle pumps
- Sludge mixing tank
- The main components of the treated water discharge and waste disposal systems include the following process units:
 - Treated water sump
 - Utility water pump station
 - Treated water transfer pipeline from the Eastern Basin Water Treatment Plant to Blesbokspuit.
 - Waste sludge pumps, pumping out of the sludge mixing tank.
 - Waste transfer pipeline from the Eastern Basin Water Treatment Plant to the shaft.

Table 1.3: AMD Summary of Treatment Facility and Capacities

DESCRIPTION		CAPACITY
Acid Mine Drainage (AMD) water	Average	87 MI/d
Treatment plant capacity:	Max	110 MI/d
AMD abstraction pumps design	Average	87 MI/d per 3 pumps
flow rate:	Max	110 MI/d per 3 pumps
Reactors (wet capacity):		
Pre-Neutralization		3 x 1170 m ³
Neutralization		3 x 2200 m ³
Gypsum Crystallization		3 x 3385 m ³
Sludge Conditioning		3 x 1070 m ³
Total		23 475 m³
Thickeners		3 x 43 m diameter
Treated Water Disposal Tank		1730 m ³
Sludge disposal Pump flow rate		1338 m ³ /day
Limestone Dosing Plant Capacity:	Average	58.8 Ton/day
	Max	62.2 Ton/day
Lime Dosing Plant Capacity:	Average	35.7 Ton/day
	Max	79 Ton/day
Polymer Dosing Plant Capacity:	Average	0.6 Ton/day
	Max	0.72 Ton/day m

ANNEXURE B
DESCRIPTION OF SERVICES

ANNEXURE B: Description of Services.**1. GENERAL**

- 1.1 The Operator shall perform all activities and services for the proper and effective management, operation and maintenance of the Facilities in a cost effective and professional manner as set forth in this Agreement and in accordance with generally accepted principles and practices for water treatment and treatment of AMD, the Employer policies applicable to the Facilities, and all Applicable Laws.
- 1.2 Except as otherwise provided in this Agreement, the Operator shall provide or obtain all personnel, materials, equipment, tools, services and supplies necessary to manage, operate and maintain the Facilities and performance levels in the manner required by this Agreement, and in any event to a standard that meets industry standards, including but not limited to the Scope of Services as described in Schedule A of this Agreement.

2. TESTING AND SAMPLING PROCEDURES

- 2.1 The Operator shall, conduct all testing and analyses required by this Agreement as described in Annexure D and Applicable Laws. Routine testing can be carried out in the on-site laboratory; however a specified number of testing shall be carried out by a SANAS accredited laboratory. The Operator shall provide the Employer with evidence of such accreditation.
- 2.2 The Operator shall ensure that all sampling and testing programs required to be conducted by the Operator pursuant to this Agreement shall be conducted in accordance with the applicable testing requirements.
- 2.3 Any testing to be conducted by the Employer, in addition to the testing required to be conducted pursuant to the terms of this Agreement shall be the sole responsibility and shall be conducted at the sole expense of the Employer. The Employer shall conduct all sampling and testing in accordance with the same requirements indicated above. The Operator shall provide all further sampling necessary to allow the Employer to conduct the additional testing at no further cost to the Employer.

3. VERIFICATION OF THE OPERATOR'S TESTING PROCEDURES.

- 3.1 The Employer shall be permitted to, on an annual basis, at its own expense, conduct a review of the Operator's laboratory and testing procedures and confirm the test results produced by the Operator's laboratory. If the Employer's review demonstrates that the results produced by the Operator's laboratory are materially inaccurate, the Employer shall be entitled to require an Adjustment to the Operations Fee pursuant to Conditions of Contract Clause 10 of this Agreement for those costs of its review referable to the inaccuracy of the laboratory's results. The Operator shall, upon receipt of notice from the Employer of material inaccuracy of laboratory results, correct the quality problem at its laboratory immediately, at the Operator's cost.
- 3.2 In addition to sampling and testing by the Operator, the Employer may at any time elect to take independent samples or obtain split samples from the Operator and to perform tests and analyses in order to assess the Operators sampling and testing procedures and to assess the Operator's compliance. The Operator shall cooperate fully with any such effort by the Employer and will provide samples and test results promptly at no further cost to the Employer.

4. COMMUNICATIONS BETWEEN THE EMPLOYER AND THE OPERATOR.

Managers

- 4.1 The Employer shall designate one person, the Employer's Manager, to act as their primary liaison and coordinator. The Operator shall at all times employ a person designated as the Operator's Manager, who shall, among his or her other duties, serve as the Operator's liaison with the Employer and who shall be the Operator representative primarily responsible for dealing with the Employer. The Operator shall submit the name of its designated Operator's Manager for the Facilities to the Employer for approval, which approval shall not be unreasonably withheld. The Employer reserve the right to veto any of the Operator's designated Operator's Managers submitted for approval at the sole discretion of the Employer. The Operator shall, where practicable provide the Employer with at least sixty (60) days prior written notice of any change in the Operator's Manager.
- 4.2 The Employer and the Operator shall also appoint designees to the Employer Manager's position and the Operator Manager's position to act on behalf of the respective Manager in the respective Manager's absence. The Employer shall also review and approve the Operators designee for the Operator's Manager, which approval shall not be unreasonably withheld. The Operator shall provide the Employer with at least sixty (60) days prior written notice of any change in the Operator's Manager's designee.
- 4.3 The Employer reserve to themselves the right to request in writing, upon reasonable notice to the Operator, that the Operator replace the Operator's Manager or designee, or Manager of the Facility, and the Operator shall, subject to Applicable Laws, make best efforts to comply with such a request from the Employer. The Employer or the Operator may refer any dispute with respect to this sub clause to dispute resolution pursuant to Conditions of Contract clause 24.
- 4.4 The Employer's Manager has the authority to ensure that the provisions of this Agreement are faithfully adhered to. The authority of the Employer's Manager shall be limited to providing direction, approval or consent in respect of any matter falling within the provisions of this Agreement, and shall be binding upon the Employer. The Employer's Manager shall not have the authority to provide direction, approval or consent or enter into any agreement for any matter that falls outside of the provisions of this Agreement and any such direction, approval, consent provided or agreement entered into shall not be binding upon the Employer.
- 4.5 The Employer may appoint an Operations Agent to manage the Operator on the Employer's behalf. The Operations Agent will act in place of the Employer's Manager. The Operations Agent shall have the same rights and privileges as provided in this agreement to the Employer.

5. REPORTS

The Operator shall prepare and submit all performance, environmental and monitoring reports required by this Agreement and the Applicable Laws and shall file such reports with the Employer's Manager. All reports shall be provided to the Employer in electronic format and in hard copy.

Compliance Report

The Operator shall on a daily basis capture the following information, compile a report and submit it to the Employer:

- i. AMD (Electric conductivity, pH, Turbidity, Acidity, TSS, sulphate, aluminium, iron, manganese)
- ii. Treated water (Electric conductivity, pH, Turbidity, TSS, sulphate, aluminium, iron, manganese)
- iii. Volume of AMD pumped
- iv. Water level in the shaft
- v. All treatment trains' TSS (pre-neutralisation, sludge conditioning, neutralisation, reactor overflow, parabolic channel, sludge mixing box, thickener overflow).

Operations and Maintenance Reports.

Monthly report

The Operator shall compile, maintain and provide to the Employer, within ten (10) Business Days of the end of each calendar month in each Contract Year and no later than seven days prior to each monthly meeting with the Employer, a comprehensive Monthly Operations and Maintenance Report. Quarterly Contract Report.

These reports shall be in a form developed jointly by the Managers, and shall include, but not be limited to, the following information as it applies to the Facility for the preceding month:

- i. Daily rainfall (mm);
- ii. Daily volume of potable water (m³);
- iii. No. of poly bags in stock (no.);
- iv. Daily No. of poly bags used for dosing (tons);
- v. Daily Content level in the five lime silos (m);
- vi. Daily Lime delivered (kg, weighbridge);
- vii. Daily Lime dosed (tons);
- viii. Daily Content level in the three limestone silos (m);
- ix. Daily Limestone delivered (kg, weighbridge);
- x. Daily Limestone dosed (tons);
- xi. Raw Water flow including average daily flow, maximum daily flow, and total monthly flow;
- xii. Treated Water flow including average daily flow, maximum daily flow, and total monthly flow;
- xiii. Raw Water average turbidity, pH, colour, temperature, concentration of iron, sulphate and manganese
- xiv. Treated Water maximum and average turbidity;
- xv. Treated Water minimum, maximum and average pH;
- xvi. Treated Water average concentration of iron, sulphate and manganese;
- xvii. Status of any action plans required to correct Compliance Failures;
- xviii. Significant events or failures including any and all events of noncompliance with Applicable Laws or this Agreement;
- xix. Any actions required from the Employer;
- xx. Details of the safety programme and any incidents resulting from an unsafe work practice or accidental mishap;
- xxi. Equipment operability;
- xxii. Laboratory analysis relating to Facilities operation;
- xxiii. Electricity, potable water, fuel and chemicals usage;
- xxiv. Staffing utilization, including staffing levels indicating terminations and new appointments;
- xxv. List of complaints received, action plans and remedies; and where complaints received were determined not to be valid an explanation for such determination;
- xxvi. Description and status of Facilities operations;
- xxvii. Employee training which has been carried out by the Operator;
- xxviii. A detailed and comprehensive report of all maintenance work performed;
- xxix. A summary of the following:
 - xxx. A summary of the work orders scheduled for the period;
 - xxxi. A summary of the unscheduled work orders required during the period;
 - xxxii. A summary of the completed work orders for the period;
 - xxxiii. A summary of the incomplete work orders for the period.
- xxxiv. Condition monitoring assessment reports (Vibration Analysis, Piping Wall Thickness Tests, Thermography, Thickener Torque trends)

- xxxv. Mass balance of the entire facility indicating input streams and output streams.
- xxxvi. Such other information as the Employer deems fit to ensure that it has sufficient information to assess the management and operation of the Facilities.
- xxxvii. Environmental performance against the OEMPr and EA inclusive of water quality monitoring requirements of the DWS directive and NNR.

Quarterly Contract report

The Operator shall compile, maintain and provide to the Employer, within thirty (30) days after the end of each 3 month period (quarterly or four times per Contract Year) a comprehensive Quarterly Contract Report. The Quarterly Contract Report should not be a mere consolidation of the Monthly Report and shall outline and discuss the following:

- i. Deliverables under this Agreement;
- ii. Financial position;
- iii. Adjustments to Operations Fees;
- iv. Proposed adjustments to Operations Fees;
- v. Amendment to the scope of the services to be provided by the Operator;
- vi. Changes to business continuity plans;
- vii. Regulatory and contractual compliance issues;
- viii. Occupational, health, social and safety issues;
- ix. Any other issues of mutual concern related to this Agreement.

Comprehensive Quarterly Water Quality Report

The Operator shall compile, maintain and provide to the Employer, within thirty (30) days after the end of each 3 month period (quarterly or four times per Contract Year), a comprehensive Quarterly Water Quality Report. The Quarterly Water Quality Report shall summarise all the water quality information on both raw and treated water quality.

Annual Asset Report.

The Operator shall provide the Employer with a detailed Annual Asset Report summarizing the condition of the Civil, Structural and Site-Related Assets, using the Initial Condition Survey as a guide, within sixty (60) days after the end of each Contract Year.

The Annual Asset Report shall be in a format to be agreed upon by the Employer and shall include, but not be limited to, the following information:

- i. A general overview of the operations of the Facility in the previous Contract Year including any major achievements of the Operator, the reliability of the Facility and the performance of the Facility. Such overview shall be no longer than twenty (20) pages and shall be in a form which is comprehensible to the lay person;
- ii. A summary of the information provided in the Monthly Operations and Maintenance Report with annual averages or totals where applicable for the previous Contract Year. This information shall be presented in tabular and graphical form with a brief written narrative to highlight key points in each section;
- iii. The results of the detailed Assets condition surveys undertaken by the Operator during the Contract Year, with a comparison of the condition of the Assets to the condition of the Assets as described in the Initial Condition Survey;
- iv. An analysis of electricity consumption figures for the Facility, broken down by component, including fixed charges, consumption charges, peak charges trends;

- v. An analysis of annual chemical costs and consumption figures, for the WTP, including dosage rates; and
- vi. Recommendations for capital programs to be undertaken by the Employer, including business cases for such programs.
- vii. A list of assets (movable and immovable) with their initial costs, year acquired and current status in a spreadsheet format.

Financial Reports

For each quarter of each Contract Year, the Operator shall provide the Employer with a verifiable summary of the Operator's costs for the preceding quarter, in a form and containing the content as mutually agreed upon by the Parties acting reasonably with respect to its management, operation, and maintenance of the Facility within thirty (30) days of the end of each quarter of the Contract Year. These verifiable summaries shall be provided to the Employer together with the Quarterly Contract Reports.

At the end of each Contract Year, the Operator shall provide the Employer with a verifiable summary of the Operator's costs for that Contract Year, in a form and containing the content as mutually agreed upon by the Parties acting reasonably, related to the management, operation and maintenance of the WTP and all other Facility within ninety (90) days at the end of each Contract Year.

Deficient or Late Compliance Reports

Except when caused by an Uncontrollable Circumstance, if the Operator fails to submit a Compliance Report or submits a deficient Compliance Report due to negligence or non-performance of the Operator's obligations, the Employer may deduct the Performance Deduction as set out in the Contract Data from the Variable Performance Fee or Operations Fee and, such a failure by the Operator, shall be an Event of Default.

Deficient or Late Reports

Except when caused by an Uncontrollable Circumstance, if, during any one Contract Year, the Operator fails to deliver one (1) or more Reports other than a Compliance Report within the prescribed time period, or delivers one or more Reports that, in the opinion of the Employer, are materially deficient or have omitted material information, the Employer may withhold the Performance Deduction as set out in the Contract Data per month of the monthly payment of the Variable Performance Fee or Operations Fee payable by the Employer and the Employer shall not pay the amount withheld unless and until the Operator delivers the Report, or corrects the deficiencies identified by the Employer, as the case may be.

Except when caused by an Uncontrollable Circumstance, if, at any time during the Term, the Operator fails to deliver three (3) or more Reports within the prescribed time period, or delivers three (3) or more Reports that, in the opinion of the Employer, are materially deficient or have omitted material information, the Employer may deduct from the Variable Performance Fee or Operations Fee the Performance Deduction as set out in the Contract Data

The Parties agree that a failure to file a report other than a Compliance Report due to late receipt of sampling, testing or analytical results from a third party where the Operator can reasonably demonstrate to the Employer's Manager that the third party was in default of its contractual obligations to deliver sampling or test results in a timely fashion, and that the Operator used its Best Efforts to obtain such results in a timely fashion, shall not be considered an occurrence.

The Employer shall notify the Operator in writing within thirty (30) days after receipt of a Report of any deficiencies in such Report. If written notice is not provided within thirty (30) days after receipt of a Report, such Report shall be considered acceptable and the Employer shall not withhold any amount in respect of such Report.

6. INSPECTIONS AND REVIEW OF RECORDS

The Operator shall permit the Employer and its authorized representatives, during the Term of the Agreement and without unreasonable disruption to the Operator, to examine and electronically monitor and retrieve any and all operating and maintenance records and Reports of the Operator, and make copies of and take extracts from such records and Reports as may be reasonably necessary to ensure compliance by the Operator with the terms of this Agreement and review any of the records and Reports.

6.1 DEALINGS WITH GOVERNMENTAL AUTHORITIES

Communications with Governmental Authorities.

- 6.1.1 The Employer shall be the primary liaison with the Governmental Authorities and will invite the Operator to attend or participate in such meetings relevant to the Operator's management, operation and maintenance of the Facility or the Operator's obligations pursuant to this Agreement. Note that the Employer by definition is excluded from being a Governmental Authority.
- 6.1.2 The Operator shall not communicate directly with any Governmental Authorities, with the exception of times when the Operator is under a legal obligation to report directly to the Governmental Authorities or where the Operator has obtained the prior written approval of the Employer's Manager. The Operator shall report forthwith to the Employer regarding any such discussions.

6.2 CONTINGENCY AND EMERGENCY PLANNING

- 6.2.1 The Operator shall review and update all current contingency and emergency response plans. The Operator shall ensure that any such plan meets all Applicable Laws and are consistent with the standard and policies of the Employer. The contingency and emergency response plans shall be submitted to the Employer for the Employer's approval thirty (30) days prior to the Commencement Date. Failure to submit such plan in compliance with this sub-clause shall be an Event of Default.
- 6.2.2 In the event of an Emergency Situation, the Operator must respond within thirty (30) minutes and ensure appropriate staff is available at the Facility within sixty (60) minutes from the earlier of the occurrence of the Emergency Situation or the reasonable time within which a prudent operator should have known about the Emergency Situation. The Employer may deduct the Performance Deduction as set out in the Contract Data from the Variable Performance Fee or Operations Fee for each event of non-compliance with the performance requirements of this sub-clause. Further, in the event of non-compliance by the Operator with the performance requirements of this sub-clause, the Employer may, upon giving verbal notice to the Operator's Manager, take such action as is reasonably necessary to respond to the Emergency Situation, and the Operator shall pay the reasonable cost of the Employer's response to the Emergency Situation plus a mark-up of five percent (5%).

6.3 SCADA SYSTEMS

- 6.3.1 The Operator shall continue to operate and maintain the Supervisory Control and Data Acquisition (the "SCADA") systems associated with the Facility and shall be responsible for all operations and maintenance, training, service level standards, and the operation and

maintenance of enhancements to the SCADA systems, including back-up systems also as required in Schedule B. For greater certainty, the Employer shall retain the responsibility for SCADA programming, and the Operator shall only make changes after having consulted with and receiving approval from the Employer.

6.4 OCCUPATIONAL HEALTH & SAFETY

This Agreement will be governed by the requirements of the Occupation Health and Safety Act (Act 85 of 1993) and all applicable regulations and the Operator shall comply with all applicable health and safety laws and regulations.

Safety Audits and Non-Compliance.

6.4.1.1 The Employer may, at its sole discretion and expense, conduct safety audits of the Facilities on a semi-annual basis which may include inspections of physical conditions and reviews of the Operator's compliance with all applicable safety legislation and regulations.

6.4.1.2 If, as a result of the Employer's safety audit or otherwise, the Employer determines that one of the following deficiencies ("Safety Deficiencies") has occurred:

6.4.1.2.1 non-compliance with Applicable Laws relating to health and safety; or

6.4.1.2.2 the creation by the Operator of a health or safety hazard to a worker or the environment which is contrary to Applicable Laws or contrary to the procedures established under this Agreement,

then the Operator shall correct the Safety Deficiency to the satisfaction of the Employer within the time frame determined by the Employer acting reasonably but in any event within three (3) months of the identification of the Safety Deficiency.

6.4.1.3 If the Operator fails to correct the Safety Deficiency to the satisfaction of the Employer within the time frame determined by the Employer such failure shall be considered an Event of Default, and, the Employer may, in their discretion, withhold from the Variable Performance Fee or Operations Fee payable to the Operator the Performance Deduction as set out in the Contract Data for each month in which the Operator failed to correct the Safety Deficiency within the prescribed time frame, unless the Operator is using Best Efforts to correct such Safety Deficiency. A period of three (3) months or longer, shall not constitute Best Efforts as that phrase is used in this sub-clause. The withholding of payment of the Variable Performance Fee or Operations Fee as described herein is in addition to the rights and remedies of the Employer.

6.5 TECHNICAL SUPPORT

The Operator shall provide all necessary technical support to ensure the performance of the Operator's obligations under this Agreement and the proper management, Operation and Maintenance of the Facility.

6.6 ACCOUNTING

The Operator shall maintain up-to-date financial records of activities related to the Facility prepared in accordance with the accepted accounting standards.

6.7 OPERATIONS AND MAINTENANCE MANUALS

- 6.7.1 The Employer shall provide to the Operator at the Commencement Date, the available Operations and Maintenance Manuals for the Facility.
- 6.7.2 The Operator shall within three (3) months of the Commencement Date prepare revised and updated Operations and Maintenance Manuals as appropriate to reflect changes to Operations and Maintenance procedures for the Operating Period. The revised and updated Operations and Maintenance Manuals shall be to the reasonable satisfaction of the Employer, and shall become the property of the Employer.
- 6.7.3 The Operator shall within three (3) months of the Commencement Date verify all current Facility drawings and keep same on file in a drawing room. These documents shall be updated at least annually. The Operator will be responsible for any costs of updating the drawings in electronic format. The Operator's obligation to maintain drawings and figures does not include the providing of engineering services and/or professional certifications.
- 6.7.4 Any operational changes made by the Operator must result in the corresponding changes and updates being made to the Operations and Maintenance Manuals and such changes and updates to the Operations and Maintenance Manuals must be made within sixty (60) days from the implementation of the operational change. The Employer may withhold from the Variable Performance Fee or Operations Fee payable to the Operator the Performance Deduction as set out in the Contract Data for each month the relevant changes and updates are delayed, and may deduct an additional Performance Deduction as set out in the Contract Data from the Variable Performance Fee or Operations Fee after three (3) months delay by the Operator in completing the updates and changes.
- 6.7.5 The Operator shall, one month prior to the completion of termination of the Agreement, prepare and submit an updated Operations and Maintenance Manual to the Employer. The Employer may withhold the final Operations Fee payment until such updated Operations and Maintenance Manual has been submitted to the satisfaction of the Employer.

6.8 SECURITY

The Operator shall be responsible to secure the Facility against unauthorized access and theft or damage, including if necessary, the use of physical surveillance. For greater certainty, the Operator shall acknowledge that the Employer has implemented a system of closed-circuit television cameras at the Facility. The Operator shall ensure that this system is maintained at all times. The Operator shall take into account the record of security incidents available as well as other records available indicating the historic security issues in the area.

In order to ensure records of active personnel onsite, a biometric clocking system shall be used at the expense of the Operator, and TCTA reserves the right to request random audit on the system. Each employee assigned to site shall use the clocking system for record keeping. In the event where an individual is found to spend less time onsite without reasons aligned to work, then penalties shall be imposed by deducting hourly rate for the respective individual. TCTA also reserves the right to instruct the operator to replace the staff member with an equally competent individual within a period of 60 days.

6.9 USE OF SUB-OPERATORS

Upon receipt of written notice from the Employer at any time during the Term, the Operator shall not, employ or hire the services of a specified sub-operator to assist the Operator in the performance of its obligations under this Agreement without the prior written consent of the Employer, and such consent shall not be unreasonably withheld.

The Employer may, instruct the Operator to employ or hire the services of a specified sub-operator for certain portions of the operations and maintenance of the Facility.

6.10 ENVIRONMENT

The Operator shall implement and comply with the relevant elements of requirements of the Operational Environmental Management Programme ("OEMPr") and the Environmental Authorisation (EA), DWS Directive and NNR. The cost of implementation and compliance shall be included under schedule B.

The Operator will schedule regular environmental audits as per the requirements of the EA. and the findings will be communicated to the Employer. The OPERATOR shall attend promptly to any non-compliance from the OEMPr and the EA. Any non-compliance that is not resolved within 7 days of being identified or communicated, the Operator shall have an action plan with specific time frames agreed with the client for implementation. Failing to meet the agreed time frame will result in a reduction to the Variable Performance Fee or Operations Fee of the Performance Deduction as set out in the Contract Data per non-compliance. The Operator shall in any case provide a written report to the Employer on the resolution of any findings or non-compliances within 14 days, failing which a further Performance Deduction as set out in the Contract Data shall be applied. The client reserves the right to conduct reviews, compliance and investigations.

SCHEDULE A: SUMMARY OF OPERATOR'S TASKS

1. GENERAL

- 1.1 The Operator shall staff and operate the Facility, as described in **ANNEXURE A**, on a continuous twenty-four (24) hours per day, seven (7) days per week basis throughout the entire Term of the Contract.

1.2 KEY PERFORMANCE TARGETS

1.2.1 Quantity of Treated Water

The Operator shall as a daily minimum pump and treat an average of 80% of the instructed monthly volume, initially **108 ML per day (Eastern Basin)** of raw AMD measured as an average for the month. Any periods when the plant could not be operated due to Uncontrollable Circumstances, such as power outages, will be excluded from the calculation. If this requirement is not met for any particular month the Operator shall submit a report within 5 working days from the end of the month to the Employer to give an account of the situation and indicate the mitigation measures being taken to recover the rise in AMD level in the shaft. In the event where the water level has reached the required buffer zone below ECL, the focus would be to maintain the level and minimise operating costs rather than treating an average pumping capacity of 80%.

1.2.2 Quality of Treated Water

The Operator shall ensure that treated water meets with the minimum criteria set out in **ANNEXURE B** at all times, except for Uncontrollable Circumstances and Abnormal Raw Water quality.

1.2.3 Level of Water in Shaft

The initial overall objective of pumping and treating raw AMD is to lower and maintain the water level in the shaft at the instructed level.

1.2.4 Key Performance Indicators

Key performance indicators shall be agreed annually between the delegated Project Manager (Employer) and the Operator. The measures should be aligned to reflect the intent of the contract objectives. 2020 will be used to collect the baseline data for measurements, the KPI trends measurements will be part of the monthly reporting summary report statistics.

The sub elements included under the main classifications are agreed between the parties annually.

Plant Operation Performance (40 %)

Water quality lab. Measurements are based on, DWA directive.

Plant Maintenance Performance (40 %)

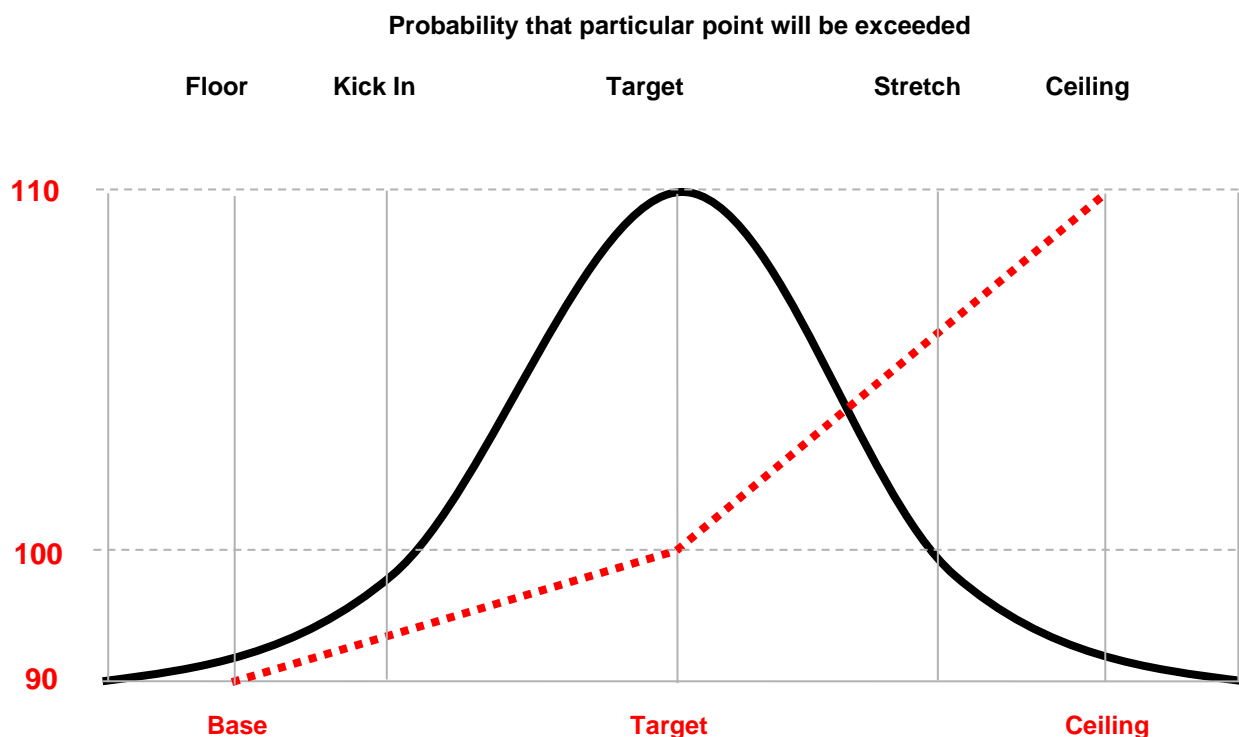
Technical measurements are based on, process plant work management, data from computerized maintenance management system.

Cost Performance (10 %)

The cost measurement

Environmental, Social and Safety Performance (10 %)

The targets should be set in line with the normal distribution curve shown below and taking cognizance of the probabilities of exceeding the targets.



- 1.3 The Operator shall provide or obtain all personnel, materials, equipment, tools, services and supplies necessary to manage, operate and maintain the Facility and performance levels in the manner required by the Agreement, and to a standard that meets industry standards, including but not limited to:

- 1.3.1 Operation in accordance with the parameters set out in **ANNEXURE C**

- 1.3.2 Protection and maintenance of the facility in accordance with the and in accordance with the Computerised Maintenance Management System, as set out in **ANNEXURE D**;
- 1.3.3 Perform all laboratory sampling, testing and analyses, quality control and quality assurance at the frequency and performance level as defined in **ANNEXURE E**;
- 1.3.4 Delivery of regular and detailed reports to the Employer, in accordance with the schedule set out in **ANNEXURE F**;
- 1.3.5 Undertake all environmental compliance and management activities in accordance with **APPENDICES G AND H**;
- 1.3.6 Maintenance of chemical stocks;
- 1.3.7 Maintenance of all radio and software licenses, including administration software, the PLC and HMI (SCADA) software, GSM contracts, maintenance management and inventory systems, and administration systems;
- 1.3.8 Human resources management;
- 1.3.9 Training;
- 1.3.10 Purchasing;
- 1.3.11 Regulatory compliance and reporting;
- 1.3.12 Cleaning and maintenance of the areas within the WTP bound, as well as public areas, road to the entrance to the WTP including grass cutting and removal of unwanted plant growth along WTP fence lines and along the powerlines servitudes;
- 1.3.13 Maintenance of pipelines including regular pigging;
- 1.3.14 Maintenance and regular calibration of flow meters and all instruments;
- 1.3.15 Maintenance of all sludge disposal lines and boreholes or approved sludge dumping sites.
- 1.3.16 Removal of slaker waste
- 1.3.17 Dust suppression and maintenance (i.e. fixing potholes, cutting encroaching trees) of access road leading to site entrance;
- 1.3.18 Removal of sewage ;
- 1.3.19 Inspection and maintenance of lifting devices;
- 1.3.20 Inspection, maintenance and regular testing of the WTP auxiliary power generator;
- 1.3.21 Security of the Facility and provision of access control roving guards and additional security guards for regular;
- 1.3.22 All administrative and management personnel and services including plant management, human resources, training, accounting and legal services, payroll, purchasing, technical support, communication and information systems;
- 1.3.23 Contingency and emergency response plans acceptable to the Employer and a workplace safety program that meets or exceeds national standards;

- 1.3.24 Cleansing and remediation of spillages resulting from incorrect operation of the WTP by the Operator in accordance with the terms of this Agreement, the costs of which will be for the account of the Operator;
- 1.3.25 Supplying of diesel fuel for standby power generation purchasing, transporting and receiving of all materials and supplies for the operation of the Facility including but not limited to, chemicals, laboratory accessories and consumables, office supplies, building and grounds maintenance supplies, replacement parts, equipment, maintenance supplies and spare parts which are required in the day-to-day management, operation and maintenance of the plant;
- 1.3.26 All necessary insurance required by this Agreement; waste handling, transportation and disposal of all waste materials including chemicals, grit screenings, oil, grease, and excess sludge to licensed waste disposal facility on a cost reimbursable basis.
- 1.3.27 All required permits, approvals and licences;
- 1.3.28 Waste handling, transportation and disposal of all chemicals, grit, screenings, scum, oil, and other wastes and residues in licensed solid waste disposal facility, including residue transportation and disposal.
- 1.3.29 Regularly update information on the Integrated Regulatory Information System (IRIS) for DWS monitoring and maintaining facility classification grade.
- 1.3.30 Within 3 months after the commencement of the contract, the OPERATOR shall Conduct HAZOP and Safety Integrity Layer (SIL) verification study required for the Emergency Shutdown (ESD)/cause and affects and process operations review to identify hazards and operability issues and advise TCTA on mitigation provisions. Costs for conducting the study shall be on the Operator's account. The Operator shall ensure that all critical and high-risk items are implemented and signed off by TCTA. In addition, the operator shall ensure that the HAZOP/SIL review is conducted by an experienced 3rd party facilitator, the CV of the facilitator shall be submitted to TCTA for review and approval.

2. CONTINGENCY AND EMERGENCY PLANNING

- 2.1 The Operator shall review and update all current contingency and emergency response plans. The Operator shall ensure that any such plan meets all Applicable Laws and are consistent with the standard and policies of the Employer. The contingency and emergency response plans shall be submitted to the Employer for the Employer's approval thirty (30) days prior to the Commencement Date. Failure to submit such plan in compliance with this sub-clause shall be an Event of Default.
- 2.2 In the event of an Emergency Situation, the Operator must respond within thirty (30) minutes and ensure appropriate staff is available at the Facility within sixty (60) minutes from the earlier of the occurrence of the Emergency Situation or the reasonable time within which a prudent operator should have known about the Emergency Situation. The Employer may deduct the Performance Deduction as set out in the Contract Data from the Variable Performance Fee or Operations Fee for each event of non-compliance with the performance requirements of this sub clause. Further, in the event of non-compliance by the Operator with the performance requirements of this sub clause, the Employer may, upon giving verbal notice to the Operator's Manager, take such action as is reasonably necessary to respond to the Emergency Situation, and the Operator shall pay the reasonable cost of the Employer's response to the Emergency Situation plus a mark-up of five percent (5%).

3. MINIMUM CHEMICALS STOCKS

The chemicals dosed during normal operation of the Plant are, lime, limestone and polyelectrolyte. It is the responsibility of the Operator to ensure that there is sufficient inventory to operate the Plant for **10 days**, should there be an unexpected interruption in the delivery of chemicals by suppliers.

3.1 PROCUREMENT OF LIME & LIMESTONE

The material supplied is to be in accordance with the specification given in **ANNEXURE H**. It is the responsibility of the Operator to ensure that the product is of acceptable quality. The Operator is also responsible to order material, arrange delivery to site, weighing of delivery vehicles and overseeing the offloading into the correct silo.

The Operator shall at all times have one dedicated and two standby lime suppliers. The Operator shall obtain quotations for the supply, delivery and off-loading of lime and limestone from 3 different suppliers and present these to the Employer with recommendations. The supply contracts will be for a period of 12 months with prices fixed for this period. The Employer will select the most favourable offer for the dedicated supplier and advise the Operator of the selection who will then appoint the selected supplier and the standby suppliers. 21 days before the end of each supply contract term the Operator shall obtain new quotations from three suppliers and submit these with recommendations to the Employer for approval.

3.2 PROCUREMENT OF POLYELECTROLYTE (12 MONTHS)

Polyelectrolyte is primarily dosed to achieve an acceptable turbidity measurement of the treated water within the treated water sump. Within 5 days after the Operation Commencement date, the Operator shall consult with the Employer to agree on an acceptable NTU value for the discharged treated water (<20 recommended) based on economic considerations. Within 30 days after the commencement date of the Contract the Operator shall arrange a sludge settling workshop and thereafter every 12 months, to which reliable polyelectrolyte suppliers in the chemicals industry as well as an Employer's representative are invited with the purpose of presenting results and recommendations for the most effective and economical product to be used. After each workshop the Operator shall compile and submit to the Employer a report which must as a minimum include the best performer in terms of NTU results and economy. In addition, the Operator shall submit quotations (R/ton) from suppliers to the Employer for approval.

The Employer will select the most favourable offer for the dedicated supplier and advise the Operator of the selection. 21 days before the end of each supply contract term the Operator shall obtain new quotations from three suppliers and submit these with recommendations to the Employer for approval. The Operator shall fix the cost for the supply of polyelectrolyte with his supplier for a term of 12 months.

The Operator shall at all times have one dedicated and two standby poly suppliers.

4. COMMUNICATION BETWEEN THE EMPLOYER AND THE OPERATOR

Managers

- 4.1 The Employer shall designate one person, the Employer's Manager, to act as their primary liaison and coordinator. The Employer may appoint an Operations Agent who will act in place of the Employer's Manager. The Operations Agent shall have the same rights and privileges as provided in this agreement to the Employer.
- 4.2 The Operator shall at all times employ a person designated as the Operator's Manager, who shall, among his or her other duties, serve as the Operator's liaison with the Employer and who shall be the Operator representative primarily responsible for dealing with the Employer. The Operator shall submit the name of its designated Operator's Manager for the Facility to the Employer for approval, which

approval shall not be unreasonably withheld. The Employer reserve the right to veto any of the Operator's designated Operator's Managers submitted for approval at the sole discretion of the Employer. The Operator shall, where practicable provide the Employer with at least sixty (60) days prior written notice of any change in the Operator's Manager.

- 4.3 The Employer and the Operator shall also appoint designees to the Employer Manager's position and the Operator Manager's position to act on behalf of the respective Manager in the respective Manager's absence. The Employer shall also review and approve the Operators designee for the Operator's Manager, which approval shall not be unreasonably withheld. The Operator shall provide the Employer with at least sixty (60) days prior written notice of any change in the Operator's Manager's designee.
- 4.4 The Employer reserve to themselves the right to request in writing, upon reasonable notice to the Operator, that the Operator replace the Operator's Manager or designee, or Manager of the Facility, and the Operator shall, subject to Applicable Laws, make best efforts to comply with such a request from the Employer. The Employer or the Operator may refer any dispute with respect to this sub-clause to dispute resolution pursuant to Conditions of Contract clause 24.
- 4.5 The Employer's Manager has the authority to ensure that the provisions of this Agreement are faithfully adhered to. The authority of the Employer's Manager shall be limited to providing direction, approval or consent in respect of any matter falling within the provisions of this Agreement, and shall be binding upon the Employer. The Employer's Manager shall not have the authority to provide direction, approval or consent or enter into any agreement for any matter that falls outside of the provisions of this Agreement and any such direction, approval, consent provided or agreement entered into shall not be binding upon the Employer.

5. MEETINGS

- 5.1 The Managers, or their designees, shall meet and communicate on a regular basis. In particular, the Operator's Manager shall, as timely as reasonably possible, inform the Employer's Manager of all emergencies and the occurrence of all Uncontrollable Circumstances relating to the operation of the Facility which an independent Operator would be expected to report to an owner under customary and prudent business practices. The Operator, through the Operator's Manager, shall advise the Employer of any and all conditions, events, issues, suggestions, recommendations, and the like relating to the operation and maintenance of the Facilities and which relate to this Agreement, or which materially affect the safe, professional, and cost efficient operation and maintenance of the Facilities.
- 5.2 The Operator, through the Operator's Manager, shall advise the Employer of any and all conditions, events, issues, suggestions, recommendations, and the like relating to the operation and maintenance of the Facilities and which relate to this Agreement, or which materially affect the safe, professional, and cost efficient operation and maintenance of the Facility.
- 5.3 The Managers or their delegates shall meet not less than once per month, to discuss and review the management, operation and maintenance of the Facility, including the Monthly Operations and Maintenance Report. The Employer, in their discretion, may alter the frequency of the meetings to reflect whether or not there is a need to meet. The date and time of the meetings shall be scheduled as agreed upon from time to time by the Managers.
- 5.4 The Managers or their respective delegates shall meet, at least quarterly, to discuss and review the Quarterly Contract Report, any significant events during the previous quarter, or issues of mutual concern.

Communications with Governmental Authorities.

- 5.5 The Employer shall be the primary liaison with the Governmental Authorities and will invite the Operator to attend or participate in such meetings relevant to the Operator's management, operation

and maintenance of the Facility or the Operator's obligations pursuant to this Agreement. Note that the Employer by definition is excluded from being a Governmental Authority.

- 5.6 The Operator shall not communicate directly with any Governmental Authorities, with the exception of times when the Operator is under a legal obligation to report directly to the Governmental Authorities or where the Operator has obtained the prior written approval of the Employer's Manager. The Operator shall report forthwith to the Employer regarding any such discussions.

6. SECURITY

On-site Security

The Operator is fully responsible for the provision of adequate security measure to control access to the site of the plant and to safeguard the Facility against theft and vandalism.

The Operator shall take into account the record of security incidents available as well as other records available indicating the historic security issues in the area.

The Facility is not currently equipped with a closed-circuit television system.

7. USE OF SUBCONTRACTORS

- 7.1 The Operator shall not, employ or hire the services of a sub-contractor to assist the Operator in the performance of its obligations under this Agreement without the prior written consent of the Employer, and such consent shall not be unreasonably withheld.
- 7.2 The Employer may, instruct the Operator to employ or hire the services of a specified sub-Contractor for certain portions of the operations and maintenance of the Facility. The current specified sub-contractors are as follows

7.3 AMD Pumps

The Operator is prohibited from performing any work to the AMD pumps, including the PLC, and its ancillaries (pipes, flow control valves, air valves, quenching system, instrumentation, electrical supply and variable speed control). Any maintenance and/or modifications required to these systems are to be carried out by Andritz or Rockwell respectively. The Operator shall however be responsible for the following preventative maintenance tasks related to the AMD pump station:

- To check and top-up the VFD cooling systems with coolant and filters
- To turn the shaft of the spare motor as prescribed by the pump manufacturer.
- To clean the pump quench system water filters

7.4 Shaft inspections

Annual video inspections of the mine shaft are to be carried out to a depth of 250 m. The inspection is to be carried by Mine Rescue Services – South Africa (MRS) or any suitable company with similar expertise. The company must have the necessary equipment and expertise to do the inspection and draft a report on the state of the shaft walls and conveyance. MRS (or equally suitable company) must be qualified to carry out the removal of any obstacles from the shaft as governed by the Mines Health and Safety Act. An approval from TCTA is required in the event where the Operator would prefer to use an alternative company instead of MRS.

7.5 PLC and SCADA

The Operator shall continue to operate and maintain the Supervisory Control and Data Acquisition (the "SCADA") systems associated with the Facility and shall be responsible for all operations and maintenance, training, service level standards, and the operation and maintenance of enhancements

to the SCADA systems, including back-up. For greater certainty, the Employer shall retain the responsibility for SCADA programming, and the Operator shall only make changes after having consulted with and receiving approval from the Employer. The plant PLC code and SCADA system was developed by STARO GROUP (Sasolburg). Any modifications required to these systems shall be carried out by this company.

8. INNOVATION AND IMPROVEMENT

8.1 Chemicals Usage

The Operator shall submit to the Employer a base study indicating the tons of lime, limestone and polyelectrolyte that were dosed on a daily basis to achieve the treated water discharge specification 60 days after the Commencement Date together with an Optimization Plan containing proposals and recommendations for efficiency improvements and proposed savings sharing.

After the Employer's approval of the Optimization Plan, the Operator will immediately implement the plan on the first day of the calendar month following the approval date. The Operator shall as soon as adequate information is available but not later than 60 days thereafter submit a report to the Employer on the results of the efficiency improvements, including net reduction in the tons of chemicals and per unit of treated water. The Operator is to monitor the optimisation measures on a monthly basis and provide recommendations for possible further improvements in the monthly report.

Environmental Obligations

8.2 Environment

The OPERATOR shall appoint a competent service provider to perform surface and ground water monitoring as per the EA requirements.

The Operator shall implement and comply with the requirements of the Operational Environmental Management Programme ("OEMPr") and the cost of such implementation and compliance shall be included under schedule B.

The Operator shall appoint a competent service provider to perform water monitoring as per the DWS directive requirements. The Operator shall attain approval from the Client prior to appointing the service provider.

The Operator will schedule regular independent environmental audits and the findings will be communicated to the Employer. The Operator shall attend promptly to any non-compliance with the OEMPr and EA. Any non-compliance that is not resolved within 7 days of being identified or communicated, the Operator shall have an action plan with specific time frames agreed with the client for implementation. Failing to meet the agreed time frame will result in a reduction to the Variable Performance Fee or Operations Fee of the Performance Deduction as set out in the Contract Data per non-compliance. The Operator shall in any case provide a written report to the Employer on the resolution of any findings or non-compliances within 14 days, failing which a further Performance Deduction as set out in the Contract Data shall be applied.

The Operator shall submit a monthly environmental report inclusive of the monitoring results with conclusions and recommendations.

8.3 Occupational Health & Safety.

This Agreement will be governed by the requirements of the Occupation Health and Safety Act (Act 85 of 1993) and all applicable regulations and the Operator shall comply with all applicable health and safety laws and regulations.

8.4 Safety Audits and Non-Compliance.

The Employer may, at its sole discretion and expense, conduct safety audits of the Facility on a semi-annual basis which may include inspections of physical conditions and reviews of the Operator's compliance with all applicable safety legislation and regulations.

If, as a result of the Employer's safety audit or otherwise, the Employer determines that one of the following deficiencies ("Safety Deficiencies") has occurred:

- non-compliance with Applicable Laws relating to health and safety; or
- the creation by the Operator of a health or safety hazard to a worker or the environment which is contrary to Applicable Laws or contrary to the procedures established under this Agreement, then the Operator shall correct the Safety Deficiency to the satisfaction of the Employer within the time frame determined by the Employer acting reasonably but in any event within three (3) months of the identification of the Safety Deficiency.

If the Operator fails to correct the Safety Deficiency to the satisfaction of the Employer within the time frame determined by the Employer such failure shall be considered an Event of Default, and, the Employer may, in their discretion, withhold from the Variable Performance Fee or Operations Fee payable to the Operator the Performance Deduction as set out in the Contract Data for each month in which the Operator failed to correct the Safety Deficiency within the prescribed time frame, unless the Operator is using Best Efforts to correct such Safety Deficiency. A period of three (3) months or longer, shall not constitute Best Efforts as that phrase is used in this sub clause. The withholding of payment of the Variable Performance Fee or Operations Fee as described herein is in addition to the rights and remedies of the Employer.

8.5 Training of staff and Development

Prior to the end of the Contract Term, the Operator shall be responsible for training the new designated operational staff. The training period shall be for **30 days** and initiated by the Employer.

The overall objectives of the Operator's Training Programme shall be to:

- Deliver thorough training to achieve a high standard of awareness, knowledge and understanding of the plant and plant systems.
- Provide an effective contribution to the overall training and development of the personnel.

Provide coaching and assessment of the personnel during the training period.

Achieve a complete hand-over to the new staff to enable the new Operator to takeover the site

The Operator shall ensure adequate training in all aspects of its codes of practice and safety rules. The Training Programme shall be agreed with the Employer at a time determined by the Employer. The Operator shall develop and submit a comprehensive training programme for approval by the Employer. The training programme shall include all aspects necessary to enable the Employer to effectively operate and maintain the system.

Note: TCTA has trained 11 (eleven) junior operators from the project area and Tenderers shall include these students as part of development by offering practical training for a year at the cost of the Operator. The student shall be considered as first preference for employment opportunities.

ANNEXURE C

OPERATIONAL ENVIRONMENTAL MANAGEMENT PROGRAMME (OEMPr)

ANNEXURE D:
PROTECTION OF ASSETS AND MAINTENANCE OF FACILITIES

1. GENERAL

- 1.1 The Operator shall use a Computerised Maintenance Management System (CMMS) in accordance with ISO 55000
- 1.2 TCTA shall make available to the OPERATOR all records and documents in the possession of TCTA in respect of the management, operation and maintenance of the Facility which the OPERATOR may request prior to the Commencement Date.
- 1.3 The Operator shall then undertake an initial condition survey:
 - 1.3.1 The initial condition survey shall include civil works, structures, site-related assets, mechanical equipment, electrical equipment, pipelines, power supply lines, furniture, spares and laboratory equipment. The survey must capture the condition of any particular item including recommendations by the Operator to improve the condition. The Employer will communicate whether the recommendations should be implemented. A representative of the Employer must be invited to partake and signoff on each survey;
 - 1.3.2 TCTA may choose, at its expense, to correct and repair such deficiencies and may undertake any of the correction or repairs within a time frame to be developed by TCTA; provided, however, TCTA, at its expense, within a reasonable time frame, correct and repair the deficiencies to the extent necessary in order for (i) the Facility to comply with Applicable Laws or (ii) the Assets to which the deficiency relates to be in good working order. The Operator shall cooperate with TCTA in the scheduling and implementation of all such repairs, and there will be no adjustment to the Operations Fee for any such accommodation unless such accommodation would materially adversely affect the Operator's ability to perform its obligations under this Agreement.
 - 1.3.3 The lack of or poor quality of any background information or documentation for the Facility shall not prevent the Operator from completing the initial condition survey
- 1.4 After completion of the initial condition survey and within forty-five (45) days, of the Commencement Date, the OPERATOR shall maintain and operate CMMS incorporating an Equipment Renewal Programme. TCTA and the OPERATOR shall agree on the CMMS (as there is a cost associated with maintaining the CMMS) and the OPERATOR shall operate the Facility in accordance with the CMMS. Penalties may be applied if the OPERATOR does not operate the asset according to the CMMS.
- 1.5 When non-scheduled maintenance or repair takes place, a root cause analysis, as set out in Section 3, will be undertaken to determine:
 - 1.5.1 If the non-scheduled maintenance or repair occurred due to lack of adherence to the CMMS or manufacturers operating instructions. Any such maintenance or repair shall be to the OPERATORS cost
 - 1.5.2 If non-scheduled maintenance or repair occurred otherwise, it shall be to TCTA's cost and it will be determined if the CMMS needs to be amended or it was unforeseen.
 - 1.5.3 Where the Operator disagrees with or disputes the Employer's determination of an Incident of **non**-scheduled maintenance or repair, or whether the Operator's expenditures for an Incident of non-scheduled maintenance or repair have been reasonably incurred, then the Operator may refer the matter to dispute resolution pursuant to Conditions of Contract Clause 24 of this Agreement.
- 1.6 Upon the completion or termination of this Agreement, the OPERATOR shall return the Facility to TCTA in accordance with the predicted state in the CMMS. TCTA shall complete an end of agreement

audit to verify the condition and the making good of any deficiencies, due to lack of adherence to the CMMS, or manufacturers operating instructions, will be to the cost of the OPERATOR

2. COMPUTERISED MAINTENANCE MANAGEMENT SYSTEM (CMMS)

- 2.1. The objective of the CMMS is to cover the operation and maintenance of the assets and will be developed from the service and monitoring requirements as contained in the existing Operations and Maintenance Manuals. The incorporation of the other 3 components of the asset management plans as set out in ISO 55000 will not be required of the Operator that is creation, utilisation and decommissioning.
- 2.2. The CMMS will become the Operations and Maintenance Manual for the Facility.
 - 2.2.1 The Operator is required to have licences for the CMMS, approved by the Employer, for the Operator's use. The Operator shall implement and install the CMMS software and shall be responsible for all costs associated with using and maintaining the CMMS
 - 2.2.2 The Operator shall maintain and update the CMMS including data entry, troubleshooting, backup and all necessary software upgrades for the duration of this Agreement.
 - 2.2.3 The Employer shall be permitted, at its own expense, to have complete and full access to the CMMS maintained by the Operator at a location or locations specified by the Employer's Manager. The Employer shall also be able to access the system from TCTA head office for monitoring and verification purposes.
 - 2.2.4 The CMMS, including any database(s) and data referred to herein and all associated licences, copyrights and other intellectual property rights shall remain the property of the TCTA.
 - 2.2.5 The CMMS must be maintained for the duration of the Agreement.
- 2.3. The CMMS must address specific work tasks for developing asset management practices, inventorying of assets and implementation of a fully integrated, secure and accessible information system. The CMMS shall include, but not be limited to the following:
 - 2.3.1 Classification of assets into appropriate groups and shall be mechanical and electrical equipment shall be bar coded. The Facility shall be divided into two general categories of assets namely: (a) Civil, Structural and Site-Related Assets; and (b) Mechanical and Electrical Equipment and each category of assets shall be subject to its own regime of asset protection and Routine Maintenance;
 - 2.3.2 Detailed and specific operation and maintenance procedures for each of the portions of the Facility, including overall asset appearance, corrosion prevention and asset protection procedures. Together with each maintenance procedure will be included a budget to cover the cost of materials, parts and any labour required in addition to the normal staffing requirements.
 - 2.3.3 Adherence to equipment warranties, guarantees and recording of any latent defect covered under the prior Facilities construction contract or subsequent replacements. TCTA and the OPERATOR shall cooperate in enforcing all warranties and warranty rights with respect to the Civil, Structural and Site-Related Assets and all maintenance contracts with respect to the Mechanical and Electrical Equipment installed in the Facility prior to the Commencement Date and during the Term of this Agreement and generally in all claims to be made against third parties including any latent defects covered under the construction contract for the prior construction of the Facility.

- 2.3.4 Cleaning of the Facility, the standards of which shall be agreed between the Employer and Operator.
- 2.3.5 Calibration of instrumentation in accordance with the supplier's requirements. The equipment and instrumentation used within the site laboratory shall be subjected to an internal quality control system to ensure accurate results are obtained and used to manage the operation of the WTP. The Operator shall conduct, at a minimum, annual testing and calibration of all flow measuring, sampling equipment and instrumentation using a qualified, independent firm and shall prepare a report outlining the status of all flow measuring, sampling equipment and instrumentation to be included in the Annual Operating Report. The Operator shall implement any remedial action required to ensure the proper calibration of this equipment
- 2.3.6 Specialized testing that shall include, but not be limited to, vibration testing and analysis, wear particle analysis or oil analysis, infrared thermography, ultrasonic testing, laser alignment systems, performance monitoring, non-destructive testing, image scoping systems, ultrasonic thickness gauges, structural failure detection, videography and air quality monitoring.
- 2.3.7 An Equipment Renewal Program shall provide a rolling 3-year forecast of assets which are expected to reach the end of their useful life or warrant early replacement due to their criticality in maintaining a high state of reliability of the Facility. The Equipment Renewal Program shall:
- list major Assets including equipment and systems recommended to be replaced;
 - provide the schedule during the Term for replacement of those Assets;
 - provide the rationale for the replacement of those Assets, including priority and criticality of the replacement;
- 2.3.8 Include the anticipated cost of replacement of those Assets.
- 2.3.9 Processes for regular condition assessments that can easily be used to update the CMMS;
- 2.3.10 Waste disposal procedures. Should there be any financial benefit in selling used oil, the proceeds will be shared on an equal basis between the Operator and Employer; and
- 2.3.11 Reporting on a monthly, quarterly and Annual basis in a format to be agreed with TCTA during the development of the CMMS
- 2.4. All data in connection with the construction, installation, and/or implementation of new assets must be entered within one (1) month of installation.
- 2.5. The Operator shall ensure that the backlog, for all tasks identified in the CMMS, does not exceed one (1) month for the Term of this Agreement.

3. NON-SCHEDULED REPAIRS

- 3.1. The Operator shall perform all non-scheduled repairs to the Facility, including in the event of an emergency situation, in order to maintain the facility in good working order.
- 3.2. For the purpose of this Agreement, an incident of non-scheduled repairs shall mean:
- 3.1.1 a random failure of a single asset. Such item will be any asset which is manufactured and sold as a self-contained functional unit. Items would include, but not be limited to, a pump, a motor, a valve, an actuator, or a measurement probe; or

- 3.1.2 a failure of single, or multiple, assets, the failure of which can be shown to be caused by a specific event which is outside the control of the Operator and is outside the normal operating conditions for the particular item or items of Mechanical and Electrical Equipment.
- 3.3. For each incident of non-scheduled maintenance or repair the OPERATOR shall prepare a root cause analysis to determine:
 - 3.3.1 Whether operation and maintenance of the affected asset has been carried out in accordance with the CMMS.
 - 3.3.2 the asset has been operated within the manufacturer's limitations (if applicable);
 - 3.3.3 the non-scheduled maintenance or repair is clearly documented, outlining the work required, the parts to be purchased, the sub-contracted services (if necessary), , the reason for occurrence, and cost; and
 - 3.3.4 the Employer may elect to have the Operator perform the work on terms to be agreed upon by the Parties or have an outside Operator perform the work or competitively bid the work.

4. MOVEABLE ASSETS AND SPARE PARTS

- 4.1. On the Commencement Date OPERATOR shall complete an inventory of all existing Movable Assets and Spare Parts owned by TCTA and available at the Facility as of the Commencement Date (the "TCTA's Inventory").
- 4.2. As part of the development of the CMMS the OPERATOR shall advise TCTA as to the adequacy and suitability of spares provided and shall make recommendations as to any necessary improvements.
- 4.3. The OPERATOR shall be responsible for securing and providing all additional or replacement Movable Assets, in addition to TCTA's Movable Assets, OPERATOR deems necessary to operate and maintain the Facility pursuant to the terms of this Agreement.
- 4.4. OPERATOR shall maintain all Movable Assets in accordance with the manufacturer's recommendations and shall include the maintenance of all Movable Assets in the CMMS.
- 4.5. At the termination or cancellation of this Agreement, OPERATOR shall return to TCTA the agreed inventory of Spare Parts, in good working condition to the satisfaction of TCTA and in quantities at least equal to the Spare Parts provided to OPERATOR by TCTA on the Commencement Date (the "Spare Parts Inventory").

5. EMPLOYER AUDITS AND TESTING

- 5.1. The Employer reserves the right to perform audits on the Operator's implementation of the approved PM plan and Root Cause Analyses on any equipment failures. The Employer will communicate all findings to the Operator. Where a finding is made that the Operator has failed to carry out PM, the Operator shall be liable for 80% of the value of the replacement or repair cost for the particular equipment related to the findings of the Employer, which amount will be deducted from the Variable Performance Fee or Operations Fee.

- 5.2. From time to time, the Employer may wish to undertake specialized testing including, but not limited to vibration, thermographic and electrical analysis, instrumentation maintenance and oil and grease sampling to confirm the level of Preventative Maintenance performed by the Operator. The Operator shall provide the Employer with access to the Mechanical and Electrical Equipment to undertake such activities. The Operator shall cover the Employer's specialized testing costs if it is determined that the Equipment has not been maintained as per the Equipment Manufacturers Specifications or that Routine Maintenance has not been performed to the satisfaction of the Employer, acting reasonably.
- 5.3. The Operator shall appoint a third-party auditor to carry-out O&M audits yearly. The terms of reference for the auditor shall be agreed with the Employer prior to the appointment of the service provider. The audit report shall be issued to the Employer, and all the remedial actions shall be implemented by the Operator.

6. DEDUCTIONS

- 6.1. Except when caused by an Uncontrollable Circumstance, if, at any time during the Term, the Operator fails to update and implement the CMMS, including the rolling Equipment Renewal Program within prescribed time period, or are in the opinion of the Employer materially deficient, the Employer may deduct from the Variable Performance Fee or Operations Fee the Performance Deduction as set out in the Contract Data. Such failure will also constitute an Event of Default.
- 6.2. The Employer may, in its discretion, withhold the Performance Deduction as set out in the Contract Data from the monthly payment of the Operations Fee or Variable Performance Fee if the Operator does not achieve the performance levels stated in Schedule D. The Employer shall withhold the payment for the month in which the performance was below the required level and the payment shall only be paid to the Operator in the month when the required performance standard has been achieved, following the month in which payment was withheld.

ANNEXURE E

SAMPLING AND TESTING REQUIREMENTS

Sampling will be done in accordance with SANS 5667 for raw water (AMD), treated water and sludge samples. The parameters will be tested in accordance with the test methods specified in SANS 241. Where a test is required that is not covered by SANS 241, then applicable SANS or ANSI test method shall be used.

The following parameters will be sampled at the frequency indicated:

Minimum Operational and Compliance Testing:

The following laboratory tests must be conducted as indicated.

Position/ Locality on Plant	Test	Unit	Test Method	Test Frequency	
				AMD Site Lab	External Accredited Lab.
AMD Feed Water					
AMD feed water pipeline 1,2&3	Temperature	°C	On-site lab equipment	Daily	
	Electrical Conductivity (EC)	mS/m	On-site lab equipment	Daily	
	Total Dissolved Solids (TDS)	Mg/L	As per Standard Methods	Daily	
	pH	pH	On-site lab equipment	Daily	
	Turbidity	NTU	On-site lab equipment	Daily	
	Acidity (CaCO ₃)	mg/L	On-site lab equipment	Daily	
	Sulphate	mg/L	On-site lab equipment	Daily	
	Aluminium	mg/L	On-site lab equipment	Daily	
	Iron	mg/L	On-site lab equipment	Daily	
	Manganese	mg/L	On-site lab equipment	Daily	
Reactors					
Pre-Neutralisation Tank 1,2&3	pH	pH	On-site lab equipment	Daily	
	Dissolved Oxygen	mg/L	On-site lab equipment.	Weekly	
Sludge Conditioning Tank 1,2&3	pH	pH	On-site lab equipment	Daily	
	Total Suspended Solids	mg/L	As per Standard Methods	Weekly	
	Sludge settlement test	mL/1000mL	Measure volume of sludge settled in a 1000ml measuring cylinder after 30 min.	weekly	
	pH	pH	On-site lab equipment	Daily	
Neutralisation Tanks 1,2&3	Dissolved Oxygen	mg/L	On-site lab equipment	Weekly	
	Sludge settlement test		Measure volume of sludge settled in a 1000ml measuring cylinder after 30 min.	weekly	
	Sulphate	mg/L	On-site lab equipment	weekly	
Gypsum Crystallisation (at overflow weir at exit of tank)	Sludge settlement test	mL/1000mL	Measure volume of sludge settled in a 1000ml measuring cylinder after 30 min.	weekly	
Thickener	Sludge density of recycled sludge	mg/L	Specific weight of recycled sludge	Daily	
	Sludge settlement test	mL/1000mL	Measure volume of sludge settled in a 1000ml measuring cylinder after 30 min.	Weekly	
	Total suspended solids test (TSS) of recycled sludge	mg/L	As per Standard Methods	Daily	
	Total suspended solids (TSS) at parabolic	mg/L	As per Standard Methods	Daily	

Position/ Locality on Plant	Test	Unit	Test Method	Test Frequency	
				AMD Site Lab	External Accredited Lab.
	channel after poly dosing				
	Total Dissolved solids (TDS) at both thickeners overflow.	mg/L	As per Standard Methods	Daily	
Treated water Tank	pH	pH	On-site lab equipment	Daily	Two Weekly
	Electrical Conductivity (EC)	mS/m	On-site lab equipment	Daily	Two Weekly
	Total Dissolved Solids (TDS)	mg/L	As per Standard Methods	Daily	Two Weekly
	Turbidity	NTU		Daily	Two Weekly
	Total Suspended solids (TSS)	mg/L	As per Standard Methods	Daily	Two Weekly
	Total Dissolved Solids (TDS)	mg/L	As per Standard Methods	Daily	Two Weekly
	Sulphate	mg/L	On-site lab equipment	Daily	Two Weekly
	Aluminium	mg/L	On-site lab equipment	Daily	Two Weekly
	Iron	mg/L	On-site lab equipment	Daily	Two Weekly
	Manganese	mg/L	On-site lab equipment	Daily	Two Weekly

Notes

1. Laboratory equipment must be used, calibrated and maintained as per manufacturer's instructions.
2. Wet laboratory tests must be conducted according to the Standard Methods for Laboratory tests
3. Dissolved Oxygen tests must be conducted at point of sampling as per manufacturer's instructions.

Sampling

1. Samples for comparative tests between the AMD Site lab and the External accredited lab must split in two, and analysed at both labs.
2. Samples to be tested at External lab must be preserved and tested as soon as possible.
3. Sampling and date of actual analysis must be reported.

General requirements

1. The lab must make provision for additional tests that may be required by TCTA or his representative from time to time.
2. Lab equipment and instruments must be properly maintained and calibrated frequently as required by supplier of equipment or instrument.
3. All consumables and indicators must be kept in stock to perform the required test and must be ordered timeously to ensure a continuous test program.
4. Laboratory staff must be well trained have the necessary experience to conduct the tests described above.

ANNEXURE F
OPERATING AND PROCESS CONTROL PARAMETERS

The following operating and process control parameters must be maintained to ensure correct operation of the plant with precipitation of dissolved metals and adequate reduction of sulphates through gypsum crystallisation. The Operating Parameters will be instructed on a monthly basis by Employer's Manager, after consultation with the Plant Manager and any changes made will be recorded on a daily Operating Parameters statement.

Note: The TCTA Operations Manager must be notified when the following changes are made or events occur:

1. The AMD pumping flow rate is changed
2. The plant is put on "Recycle mode"
3. Any major electrical or mechanical breakdowns, accidents or spillages occur.

ANNEXURE G

SURFACE AND GROUNDWATER MONITORING (Minimum Operational and Compliance Testing)

ANNEXURE H
CHEMICAL SPECIFICATION

ANNEXURE I
INVENTORY OF LABORATORY EQUIPMENT

ANNEXURE J
MINIMUM STAFFING REQUIREMENTS

THE OPERATION AND MAINTENANCE OF THE AMD TREATMENT PLANT AT EASTERN BASIN PERSONNEL TO OPERATE THE PLANT

MINIMUM STAFFING REQUIREMENTS

The Eastern Basin AMD treatment plant is classified as Class A under the “DWS Water Services Act 1997. Regulations Relating to Compulsory National Standards for Process Controllers and Water Services Works” dated 23 October 2005.

The Operator shall ensure that Eastern Basin AMD treatment plant has the following resources as a Minimum Staffing requirement:

CLASS OF WORKS:			
DESIGNATION	NO	Level*	FUNCTION
Responsible Manager (Note 1)	1	S	Responsible for the overall management of the contract and will be the liaison between Employer and Operator.
Operations Manager (Note 1)	1	S	Responsible for overall operation of the Facility
Site Supervisor	1	S	Provide assistance to Operations Manager
Maintenance Manager (GMR 2.1, Note 1)	1	S	Responsible for overall maintenance of the Facility Generated power is greater than 3 000 kW and therefore required by Law
Process Engineer (BSc. or B Eng.)	1	S	Responsible for the quality of the discharged treated water
Process Technician	1	M	Provide assistance to Process Engineer
Administrator/HR	1	M	Responsible for admin and HR matters
HSE Officer (Qualified)	1	M	Responsible for all Health, Safety and Environmental related matters on site
Process Controllers	4	S	Shift workers providing assistance to Process Engineer
Process Controllers	4	J	Shift workers providing assistance to Snr Process Controllers
Process Controllers/Shift Attendants	4	M	Shift workers providing assistance to Snr Process Controllers
Laboratory Analyst (Snr)	1	M	Responsible for the operation of Laboratory and Testing
Laboratory Analyst (Jr)	2	J	Provide assistance to Snr Laboratory Analyst
Laboratory Assistant	1	J	Provide assistance to both Laboratory Analysts
Mechanical Fitters (or suitably experienced)	2	M	Responsible of mechanical work
Mechanical assistant	2	J	Provide assistance to mechanical fitters
Electrician with control and MV switching (Red seal level)	2	M	Responsible for electrical work
Electrical assistants	2	J	Provide assistance to the Electrician
Instrument Technician	1	M	Responsible for all instrumentation work on site
General Workers	6	J	Responsible for general work onsite
TOTAL	39		

***S = Senior, M = Middle and J = Junior**

Note 1: GMR 2.1 is a requirement and any of the site-based management personnel (i.e. Responsible Manager, Operations Manager or Maintenance Manager) shall show proof of accreditation.

APPENDICIES

APPENDIX 1

TCTA STANDARD CONDITIONS OF TENDER

APPENDIX 2: ACKNOWLEDGEMENT OF THE RFT**Acknowledgement**

We.....(name of Tenderer), through our duly authorised representative, acknowledge that we have read, understand and accept the contents of the tender document in its entirety, and our submission constitutes a response thereto.

Name of Authorised Representative

Signature

Date

APPENDIX 3: STANDARD BIDDING DOCUMENTS

APPENDIX 4: SUPPLY CHAIN MANAGEMENT DOCUMENTS

APPENDIX 6: FUNCTIONAL EVALUATION FORMS

COMPANY EXPERIENCE

The experience of the company or each of the members in the joint venture, specialist suppliers and subcontractors must be stated below.
List projects/name of plants (completing all columns in table) operated and maintained in South Africa and abroad.

FORM 1 A: TREATMENT PLANTS BETWEEN 5ML/DAY AND 20 ML/DAY

Treatment Plants between 5 ML/day and 20 ML/day						
	Name of Plant	Client Authority	Size (ML/day)	Type of Plant (HDS/ Activated Sludge/WTP)	Duly authorised contact person	Contact number
1						
2						
3						

FORM 1 B: TREATMENT PLANTS > 20 ML/DAY

Treatment Plants > 20 ML/day						
	Name of Plant	Client Authority	Size (ML/day)	Type of Plant (HDS/ Activated Sludge/WTP)	Duly authorised contact person	Contact number
1						
2						
3						

FORM 2: PERSONNEL EXPERIENCE

	Position	Name	ID/Passport No.	Min. Qualification (Tick Appropriate Box)		Years of Experience				Total Years of Experience
						Name of Plant	Type (HDS/WTP/ Act. Sludge)	Start Date	End Date	
1	Responsible Manager			B. Eng./BSc in Engineering (or equivalent)	YES	1.				
						2.				
						3.				
				B. Eng./BSc in Engineering (or equivalent)	NO	4.				
						5.				
						6.				
						7.				
2	Operations Manager			B. Eng./BSc in Chemical Engineering (or equivalent)	YES	1.				
						2.				
						3.				
				B. Eng./BSc in Chemical Engineering (or equivalent)	NO	4.				
						5.				
						6.				
						7.				
3	Class 5 Operator (Site Supervisor)			National Certificate for Water and Waste Water Treatment Process Operations	YES	1.				
						2.				
						3.				
				National Certificate for Water and Waste Water Treatment Process Operations	NO	4.				
						5.				

	Position	Name	ID/Passport No.	Min. Qualification (Tick Appropriate Box)		Years of Experience				Total Years of Experience
						Name of Plant	Type (HDS/WTP/ Act. Sludge)	Start Date	End Date	
						6.				
4	Maintenance Manager			Degree or Diploma & Trade Test	YES	1.				
						2.				
						3.				
					NO	4.				
						5.				
						6.				
						7.				
5	Process Engineer			B. Eng./BSc in Chemical Engineering	YES	1.				
						2.				
						3.				
					NO	4.				
						5.				
						6.				
6	Process Technician			Trade Test	YES	1.				
						2.				
						3.				
					NO	4.				
						5.				
						6.				

	Position	Name	ID/Passport No.	Min. Qualification (Tick Appropriate Box)	Years of Experience				Total Years of Experience
					Name of Plant	Type (HDS/WTP/ Act. Sludge)	Start Date	End Date	
7	GMR 2.1 Appointment			-	N/A				N/A

Notes:

- 1) The individual's qualification certificates shall be submitted showing that they meet the minimum requirements
- 2) The GMR appointment can be any of the nominated individual's
- 3) No roles will be shared, and points will be allocated for each individual.

APPENDIX 6: JOINT AND SEVERAL LIABILITY

JOINT AND SEVERAL LIABILITY

The parties to the Joint Venture hereby certify by the signatures of their representatives below that they accept joint and several responsibility for the Services that forms the subject of Agreement.

_____ DATE _____

Representative's Name

Firm's Name

_____ DATE _____

Representative's Name

Firm's Name

_____ DATE _____

Representative's Name

Firm's Name

_____ DATE _____

Representative's Name

Firm's Name

APPENDIX 7: SCHEDULE OF RATES & PRICES AND STAFFING REQUIREMENTS

THE OPERATION AND MAINTENANCE OF THE AMD TREATMENT PLANT AT EASTERN BASIN SCHEDULE OF PRICES AND RATES

PRICING INSTRUCTIONS

1. GENERAL

The Schedule of Rates and Prices forms part of the Agreement and must be read and priced in conjunction with all the other documents comprising the Agreement, which includes Volume 1 Request for Information, the Conditions of Tender, and the Conditions of Contract and Scope of Services with its Schedules.

2. DESCRIPTION OF ITEMS IN THE SCHEDULE

The short descriptions of the items in the Schedule of Rates and Prices are for identification purposes only and when pricing must be read together with the relevant Clauses of the Conditions of Contract and Scope of Services with its Schedules that set out all ancillary or associated work and activities that are to be included in the rates for the operations specified.

3. PRICING OF THE SCHEDULE OF RATES AND PRICES

The prices and rates to be inserted by the Tenderer in the Schedule of Rates and Prices shall be the full inclusive prices to be paid by the Employer for the work described under the several items, and shall include full compensation for all costs and expenses that may be required in and for the execution of the operation described as well as all overheads, profits, incidentals and the cost of all general risks, liabilities and obligations set forth or implied in the Agreement.

A full breakdown of all rates and prices is required to be included with the tender.

Each item shall be priced and extended to the "Total" column by the Tenderer, with the exception of the items for which only rates are required, or items which already have Prime Cost or Provisional Sums affixed thereto. If the Contractor omits to price any items in the Schedule of Rates and Prices, then these items will be considered to have a nil rate or price.

All items for which terminology such as "inclusive" or "not applicable" have been added by the Tenderer will be regarded as having a nil rate which shall be valid irrespective of any change in quantities during the execution of the Contract.

The Tenderer shall fill in rates for all items where the words "rate only" appear in the "Total" column. All rates and amounts quoted in the Schedule of Rates and Prices shall be in Rands and cents and shall include all levies and taxes (other than VAT). VAT will be added in the summary of the Schedule of Rates and Prices.

4. PROVISIONAL SUMS

Where Provisional sums are provided for items in the Schedule of Rates and Prices the Employer reserves the right, to adjust the stated amounts upwards or downwards according to the actual value of work done under the item.

The Tenderer shall not under any circumstances whatsoever delete or amend any of the sums inserted in the "Amount" column of the Schedule of Rates and Prices and in the Summary of the Schedule of Rates and Prices unless ordered or authorized in writing by the Employer before closure of tenders. Unauthorized changes made by the Tenderer to provisional items in the Schedule of Rates and Prices, or to the stated provisional percentages and sums in the Summary of the Schedule of Rates and Prices, will not be tolerated.

5. CORRECTION OF ENTRIES

Incorrect entries shall not be erased or obliterated with correction fluid but must be crossed out neatly. The correct figures must be entered above or adjacent to the deleted entry, and the alteration must be initialled by the Tenderer.

6. ARITHMETICAL ERRORS

Arithmetical errors found in the Schedule of Rates and Prices as a result of faulty multiplication or addition, will be corrected by the Employer at the tender evaluation stage.

ITEM NO	REF	DESCRIPTION	UNIT	QTY	RATE	AMOUNT
		<u>OPERATIONS AND MAINTENANCE</u>				
		<u>OPERATIONS FEE</u>				
1		OPERATOR'S ESTABLISHMENT AND DE-ESTABLISHMENT				
1.1		<u>Establishment:</u>	Sum	1		
		Establishment of any new Facility required for operation of plant.				
1.2		<u>De-establishment:</u>	Sum	1		
		The Sum shall cover the cost of removal of the establishment in 1.1 above.				
1.3		5 senior staff members required for one month training prior to taking over site.	Sum	1		
1.4		Cost of maintaining the Operator's establishment.	Months	60		
2		OPERATIONS				
2.1	Agreement in its entirety	Day-to day (7 days a week 24 hours per day) operation of WTP and costs of meeting all contractual obligations not priced separately elsewhere in this Schedule, including but not limited to human resources, management, communications and reports, baseline survey, asset inventory, documents, laboratory operation, contingency and emergency plans, training, purchasing, administration, accounting legal services, payroll, technical support, transport, insurances, utilities, waste management, sewage waste, slaker waste, dust suppression and access road maintenance, grass maintenance on site and along pipelines and powerline servitudes, major and minor cleaning operations, spills cleaning, certification of lifting equipment, Operation and maintaining of CMMS, updating of O&M manuals.	Months	60		
		<i>Note: i) The rate for Item 2.1 is fixed for a period of one year. The rate for subsequent years will be adjusted in accordance with Sub-clause 8.18</i>				
		<i>ii) Special attention is drawn to the requirements of Clause 19 for insurances.</i> <i>iii) A full breakdown of operational fee to be submitted.</i>				
TOTAL CARRIED FORWARD						

ITEM NO	REF	DESCRIPTION	UNIT	QTY	RATE	AMOUNT
TOTAL BROUGHT FORWARD						
3		VARIABLE PERFORMANCE FEE				
3.1	Clause 7.1	Variable performance fee (percentage of item 2.1 of the Operations Fee)	%	5		
		<i>Note: This fee is paid annually in three equal portions. The annual amount is reduced by any deductions for non-compliance by the Operator with requirements of the Agreement as specified.</i>				
4		SAMPLING AND LABORATORY TESTING				
4.4.1	Schedule B	Sampling equipment and consumables	Months	60		
4.4.2	Schedule B	Testing including reagents and consumables	Months	60		
4.4.3	Schedule B	Daily sampling of sludge within the sludge mixing box and testing by an external lab to determine the TSS of the sample	Months	60		
4.4.4	Schedule B	Hourly monitoring and tests	Months	60		
4.4.5		Additional laboratory equipment or replacement of existing laboratory equipment	Prov Sum	1		100 000.00
		<u>SANAS Accredited External Laboratory</u>				
4.4.7	Schedule B	Costs of external laboratory tests	Prov Sum			500 000.00
4.4.8		Operator's % mark-up on invoices submitted for provisional sums at 4. above	%			
5		SAFETY, HEALTH AND ENVIRONMENTAL MANAGEMENT				
5.1	Sub-clause 3.11	Compliance with the OHS Act including provision of PPE and submission of and implementation of all required procedures and plans.	Months	60		
5.2		Identification of hazardous materials or products and provide appropriate MSD sheets and install necessary signage	Sum	1		
5.3	Schedule B	Environmental Compliance: Ground and surface water monitoring and compliance with all the OEMPr, NNR, DWS Directive and EA requirements	Months	60		
5.4	Schedule B	Cost of implementing Audits outcome/OEMPr/NNR/DWS Directive/EA amendments and DEFF requirements	Prov Sum	1		250 000.00
TOTAL CARRIED FORWARD						

ITEM NO	REF	DESCRIPTION	UNIT	QTY	RATE	AMOUNT
TOTAL BROUGHT FORWARD						
6		SECURITY				
6.1	Sub-clause 3.15	Secure the Facility at all time against unauthorized access including the prevention of theft or damage to the Facility	Months	60		
6.2		Improvements to the existing Facility identified by the operator and approved by the Employer	Prov Sum			300 000.00
6.3		Operator's % mark-up on invoices submitted for provisional sums at 6. above	%			
7	Sub-clause 3.16	SUB - OPERATORS				
		<u>SCADA</u>				
		<i>(Staro Process Control)</i>				
7.1	Sub-clause 3.10	Support for SCADA system	Prov Sum			300 000.00
		<u>AMD Abstraction Pump Station</u>				
		<i>Andritz Pumps / Carl Hamm</i>				
7.2	Schedule B	Routine maintenance in accordance with the requirements of the O&M Manual	Prov Sum			20 000 000.00
		<u>Shaft Inspections</u>				
		<i>(Mines Rescue Services or Equally competent service provider)</i>				
7.3		Annual inspections of the shaft	Prov Sum			200 000.00
		<u>Generators</u>				
7.4	Schedule B	Routine maintenance in accordance with the requirements of the O&M Manual	Prov Sum			1 000 000.00
7.5		Operator's % mark-up on invoices submitted for provisional sums at 7. above (subcontractors and contractors invoices)	%			
TOTAL CARRIED FORWARD						

ITEM NO	REF	DESCRIPTION	UNIT	QTY	RATE	AMOUNT
TOTAL BROUGHT FORWARD						
8		PROTECTION OF ASSETS AND MAINTENANCE OF FACILITIES				
8.1	Clause 5.10	Provision for maintaining Computerized Maintenance Management System (CMMS) including all costs for licences, software upgrade hardware upgrade, data capture, and to apply and utilise the system's full capabilities during the Contract Term. (Refer to Annexure E Section 3 for more details)	Sum	1		
		Baseline Surveys - Corrections				
8.2	Clause 5.3 (1)	Corrections or repairs resulting from baseline condition survey (civil, structural and site-related assets, mechanical and electrical equipment)	Prov Sum	1		2 000 000.00
8.3	Clause 5.3 (1)	Corrections or repairs resulting from initial inventory/condition survey (laboratory equipment and instrumentation)	Prov Sum	1		300 000.00
		Routine Maintenance				
		<u>Preventative Maintenance</u>				
8.4	Clause 5	Preventative maintenance (civil, structural and site-related assets, mechanical and electrical equipment)	Prov Sum	1		10 000 000.00
8.5	Clause 5	Preventative maintenance (laboratory equipment and instrumentation)	Prov Sum	1		1 500 000.00
		<u>Corrective Maintenance (Repairs)</u>				
8.6	Clause 5	Corrective maintenance (civil, structural and site-related assets, mechanical and electrical equipment)	Prov Sum	1		20 000 000.00
8.7	Clause 5	Corrective maintenance (laboratory equipment and instrumentation)	Prov Sum	1		1 500 000.00
		Requests by Employer				
8.8	Sub-clause 5.8	Replacement of mechanical and electrical equipment	Prov Sum			30 000 000.00
8.9		Operator's % mark-up on invoices submitted for provisional sums at 8. above for replacements (labour, hired plant, consumables, specialized testing, etc.)	%			
TOTAL CARRIED FORWARD						

ITEM NO	REF	DESCRIPTION	UNIT	QTY	RATE	AMOUNT
TOTAL BROUGHT FORWARD						
9		Provisional Sums for Chemicals and Diesel				
		<i>Note: There is no Operator's mark-up on chemical and diesel supplies as these are covered by the advance payment provided by the Employer.</i>				
9.1	Schedule B	Chemicals				
		<u>Unslaked Lime</u>				
		<i>Estimated maximum monthly requirement (6000 tons)</i>				
9.1.1		Supply, deliver to site and offload	Prov Sum			350 000 000.00
		<u>Limestone</u>				
		-				
		<i>Estimated maximum monthly requirement (4000 tons)</i>				
9.1.2		Supply, deliver to site and offload	Prov Sum			100 000 000.00
		<u>Polyelectrolyte</u>				
		<i>Estimated maximum monthly requirement (10 tons)</i>				
9.1.3		Supply, deliver to site and offload	Prov Sum			30 000 000.00
9.2	Schedule B	Diesel for generator				
9.2.1		Supply of diesel fuel for standby power generation as per O&M Manual	Prov Sum			750 000.00
TOTAL CARRIED FORWARD TO SUMMARY						

SUMMARY

BILL	DESCRIPTION	AMOUNT
1	PRELIMINARIES	
2	OPERATIONS AND MANAGEMENT	
	SUBTOTAL	
	ADD _____ % ALLOWANCE FOR ESCALATION (CPA)	
	SUBTOTAL INCLUDING ESCALATION	
	ADD VAT	
	TOTAL CARRIED TO FORM OF OFFER	

**THE OPERATION AND MAINTENANCE OF THE AMD TREATMENT PLANT AT EASTERN BASIN
PERSONNEL TO OPERATE THE PLANT**

1. STAFFING REQUIREMENTS (To be included in Envelope B)

The EASTERN BASIN AMD treatment plant is classified as Class A under the “DWS Water Services Act 1997. Regulations Relating to Compulsory National Standards for Process Controllers and Water Services Works” dated 23 October 2005.

Staffing requirements for EASTERN BASIN AMD treatment plant shall be as follows:

CLASS OF WORKS: SCHEDULE 2 (A)						
DESIGNATION	NO	Level*	FUNCTION	Monthly Rate		Billing rate
				Salary (1)	Mark-up (2)	1+2
Responsible Manager (Note 1)		S	Responsible for the overall management of the contract and will be the liaison between Employer and Operator.			
Operations Manager (Note 1)		S	Responsible for overall operation of the Facility			
Site Supervisor		S	Provide assistance to Operations Manager			
Maintenance Manager (GMR 2.1, Note 1)		S	Responsible for overall maintenance of the Facility Generated power is greater than 3 000 kW and therefore required by Law			
Process Engineer (BSc. or B Eng.)		S	Responsible for the quality of the discharged treated water			
Process Technician		M	Provide assistance to Process Engineer			
Administrator/HR		M	Responsible for admin and HR matters			
HSE Officer (Qualified)		M	Responsible for all Health, Safety and Environmental related matters on site			
Process Controllers		S	Shift workers providing assistance to Process Engineer			
Process Controllers		J	Shift workers providing assistance to Snr Process Controllers			
Process Controllers/Shift Attendants		M	Shift workers providing assistance to Snr Process Controllers			
Laboratory Analyst (Snr)		M	Responsible for the operation of Laboratory and Testing			
Laboratory Analyst (Jr)		J	Provide assistance to Snr Laboratory Analyst			
Laboratory Assistant		J	Provide assistance to both Laboratory Analysts			
Mechanical Fitters (or suitably experienced)		M	Responsible of mechanical work			
Mechanical assistant		J	Provide assistance to mechanical fitters			

CLASS OF WORKS: SCHEDULE 2 (A)						
DESIGNATION	NO	Level*	FUNCTION	Monthly Rate		Billing rate
				Salary (1)	Mark-up (2)	1+2
Electrician with control and MV switching (Red seal level)		M	Responsible for electrical work			
Electrical assistants		J	Provide assistance to the Electrician			
Instrument Technician		M	Responsible for all instrumentation work on site			
General Workers		J	Responsible for general work onsite			
TOTAL	-	-	-			

*S = Senior, M = Middle and J = Junior

Notes:

1. GMR 2.1 is a requirement and any of the site-based management personnel (i.e. Responsible Manager, Operations Manager or Maintenance Manager) shall show proof of accreditation.
2. Refer to the Annexure J for minimum staffing requirements.
3. TCTA has trained 11 (eleven) junior operators from the project area and Tenderers shall include these students as part of development by offering practical training for a year at the cost of the Operator. The student shall be considered as first preference for employment opportunities.

2. ADDITIONAL STAFF (To be included in Envelope B)

Based on the Operator's experience in the operation of similar sized plants the Operator can list additional staff that is required to effectively operate the Plant.

Additional Staff	Monthly Rate		Billing Rate
	Salary (1)	Mark-up (2)	1+2
General Workers			
General workers Gradeno. off....			
General workers Gradeno. off....			
General workers Gradeno. off....			
General workers Gradeno. off....			
Additional Resources			
To be listed by the Operator			
(1.)			
(2.)			
(3.)			
(4.)			
(5.)			

APPENDIX 8: FORM OF OFFER
(TO BE INCLUDED IN ENVELOPE B)

FORM OF OFFER
(To be included in Envelope B)

CONTRACT NO: TCTA-08-032 THE OPERATION AND MAINTENANCE OF THE AMD TREATMENT PLANT AT EASTERN BASIN

TO: The Chief Executive
TCTA
Tuinhof Building
265 West Street
CENTURION
0046

Sir

1. We have examined Volume 1: Request For Information Document, Conditions of Tender, Form of Offer, Conditions of Contract, Scope of Services, Agreement and Schedules thereto, Specifications, Pricing Data, Schedule of Rates and Prices, other Schedules and Addenda for the provision of the abovementioned Services. We offer to carry out the Services in conformity with this Tender, which includes all of these documents, for the sum of

R..... (in figures)

(.....)

.....) (in words) (carried forward from the Tender Sum on the Summary Page in the Schedule of Rates and Prices) or such other sum as may be determined in accordance with the Conditions of Contract.

2. We agree to abide by this Tender for the period of 120 days from the date of the submission of Tender and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
3. If this offer is accepted, we will provide the specified Performance Security and commence with delivery of the Services as soon as is reasonably practicable after receipt by us of the Letter of Acceptance, at a date to be agreed between the Parties.
4. In the event of this Tender being withdrawn by us or in the event of our failing to take up the Contract or to provide an approved Performance Security as required in terms of the Conditions of Contract.
5. Unless and until a formal Agreement is prepared and executed this Tender together with the Employer's written acceptance thereof, shall constitute a binding contract between us and the Employer, and each of the constituent members of our joint venture shall be jointly and severally bound to the Employer for the performance of the Contract and designate (full name) to act as leader with authority to bind us all. The composition or the constitution of the joint venture shall not be altered without the prior consent of the Employer.
6. We agree that the Laws of the Republic of South Africa shall govern the Contract and we choose Domicilium citandi et executandi in South Africa at (full address).....
7. We understand that the Employer is not bound to accept the lowest or any tender received, and that any expense incurred by us in tendering will not be defrayed.

Dated thisday of 20

Name

in the capacity of

Duly authorised to sign tenders for and on behalf of

Signature :

Address :

:

:

Telephone Number :

Telefax Number :

Witness 1 :

Witness 2 :

Address :

Address :

:

:

:

:

Designation :

Designation :

.....

APPENDIX 9: CONTRACT DATA

DATA PROVIDED BY THE EMPLOYER

	Sub-Clause	
Employer's name and address		Chief Executive Officer Trans Caledon Tunnel Authority (TCTA) 265 West Street Tuinhof Building Stinkhout Wing, Ground Floor CENTURION, 0157
Operator's name and address	
Electronic transmission systems		E-mail in PDF Format
Governing Law		Republic of South Africa
Ruling language		English
Time for right of access to the WTP		On the Commencement Date
Term		5 years
Amount of Performance Security		R 35 000 000 (Thirty five million Rands)
Validity of Performance Security		5 years
Limit of Liability		Aggregate of insurance recoverable and Performance Security
Percentage for adjustment of Provisional Sums		CPI on each anniversary of the Commencement Date
Contract Price Adjustment		CPI on each anniversary of the Commencement Date
Advance payment		R 15 000 000 on submission of an acceptable guarantee for financing of chemicals for operation.
Currency of Payment		South African Rand

Signature: _____

On behalf of: _____

Date: _____

SCHEDULE OF DEDUCTIONS PER BASIN						
Operator's Obligation		Subclause	Performance Deduction ZAR	From	Reimbursable on performance	Event of Default
Compliance with Applicable Laws		3.4 (1) (d)	R50 000 per Compliance Failure	Variable Performance Fee or Operations Fee		Yes
Deficient or Late Compliance Reports	Compliance Report	3.7 (6) (a)	R50 000 per non compliance	Variable Performance Fee or Operations Fee		Yes
Any Report late or deficient in any Contract Year	Any Report	3.7 (7) (a)	R20 000 per non compliance	Withhold payment of Performance Deduction from Variable Performance Fee of Operations Fee until Report submitted	Yes	Yes if more than 5 times in any Contract Year combined
3 or more Reports late or deficient in any prescribed period	Any Report	3.7 (7) (b)	R50 000 per non compliance	Variable Performance Fee or Operations Fee		
Failure by the Operator to respond within 30 minutes in the event of an Emergency Situation		3.9 (b)	R50 000 per failure	From Variable Performance Fee or Operations Fee for each non-compliance		
Failure by the Operator to correct a Safety Deficiency to the satisfaction of the Employer and within the time frame determined by the Employer		3.11 (2) (c)	R50 000 per month	From Variable Performance Fee or Operations Fee for each month which the Operator fails to correct the safety deficiency within the prescribed time frame		
Updates to Operations and Maintenance Manuals within 60 days from the implementation of the operational change		3.14 (d)	R50 000 per month	From Variable Performance Fee or Operations Fee for each month delayed		
Updates to Operations and Maintenance Manuals within 3 months from the implementation of the operational change		3.14 (d)	R50 000 per month	Additional Performance deduction From Variable Performance Fee or Operations Fee		
Implement and comply with OEMPr and resolve any non-compliance within 7 days of the non-compliance being identified or communicated		3.19	R50 000 per non compliance	Variable Performance Fee or Operations Fee		
Provide written report on any OEMPr findings on non-compliances within 14 days of the non-compliance being identified or communicated		3.19	R50 000 per non compliance	Further reduction from Variable Performance Fee or Operations Fee		
Failure to correct a Compliance Failure immediately		4.4 (f)	R50 000 per non compliance	Variable Performance Fee or Operations Fee		Yes
		4.4 (f)	R50 000 per non compliance	Withhold from monthly Variable		

SCHEDULE OF DEDUCTIONS PER BASIN						
Operator's Obligation		Subclause	Performance Deduction ZAR	From	Reimbursable on performance	Event of Default
				Performance Fee or Operations Fee for each month for a period up to 1 year.		
Cumulative Monthly Treated Water Performance Failure		4.5 (c)	R100 000 per Performance Failure	Variable Performance Fee or Operations Fee		Yes for 3 consecutive failures of one parameter
Preventative Maintenance Backlog		5.5 (f)	R20 000 per month	Withhold from Operations Fee or Variable Performance Fee	Yes once performance is achieved	
CMMS performance levels not achieved		5.9 (f)	R50 000 per month	Withhold from Operations Fee or Variable Performance Fee	Yes once performance is achieved	
Failure to deliver and implement the Asset Management System, including the rolling Equipment Renewal Program within prescribed time period		5.10(f)	R100 000 per Performance Failure	Variable Performance Fee or Operations Fee		Yes
Failure to prepare and abide to plans		8.6	R20 000 per month	Variable Performance Fee or Operations Fee		

APPENDIX 10: POST AGREEMENT DOCUMENTS

POST AGREEMENT FORMS

CONTRACT NO TCTA-08-032

THE OPERATION & MAINTENANCE OF THE EASTERN BASIN ACID MINE DRAINAGE TREATMENT PLANT

AGREEMENT IN TERMS OF SECTION 37(2) OF THE OCCUPATIONAL HEALTH AND SAFETY ACT No 85 OF 1993

THIS AGREEMENT is made between **TRANS-CALEDON TUNNEL AUTHORITY (TCTA)**

(hereinafter called the EMPLOYER) of the one part, herein represented by:

in his capacity as: . ;

AND:

(hereinafter called the OPERATOR) of the other part, herein represented by

in his capacity as:

duly authorised to sign on behalf of the Operator.

WHEREAS the OPERATOR is the Mandatory of the EMPLOYER in consequence of an agreement between the OPERATOR and the EMPLOYER in respect of

THE OPERATION AND MAINTENANCE OF THE AMD TREATMENT PLANT AT EASTERN BASIN

for the construction, completion and maintenance of the works;

AND WHEREAS the EMPLOYER and the OPERATOR have agreed to enter into an agreement in terms of the provisions of Section 37(2) of the Occupational Health and Safety Act No 85 of 1993, as amended by OHSA Amendment Act No 181/1993 (hereinafter referred to as the ACT);

NOW THEREFORE the parties agree as follows:

1. The OPERATOR undertakes to acquaint the appropriate officials and employees of the OPERATOR with all relevant provisions of the ACT and the regulations promulgated in terms thereof.
2. The OPERATOR undertakes to fully comply with all relevant duties, obligations and prohibitions imposed in terms of the ACT and Regulations: Provided that should the EMPLOYER have prescribed certain arrangements and procedures that same shall be observed and adhered to by the OPERATOR, his officials and employees. The OPERATOR shall bear the onus of acquainting himself/herself/itself with such arrangements and procedures.
3. The OPERATOR hereby accepts sole liability for such due compliance with the relevant duties, obligations, prohibitions, arrangements and procedures, if any, imposed by the ACT and Regulations, and the OPERATOR expressly absolves the EMPLOYER and the Employer's CONSULTING ENGINEERS from being obliged to comply with any of the aforesaid duties, obligations, prohibitions, arrangements and procedures in respect of the work included in the contract.
4. The OPERATOR agrees that any duly authorised officials of the EMPLOYER shall be entitled, although not obliged, to take such steps as may be necessary to ensure that the OPERATOR has complied with his undertakings as more fully set out in paragraphs 1 and 2 above, which steps may include, but shall not be limited to, the right to inspect any appropriate site or premises occupied by the OPERATOR, or to take such steps it may deem necessary to remedy the default of the OPERATOR at the cost of the OPERATOR.

5. The OPERATOR shall be obliged to report forthwith to the EMPLOYER any investigation, complaint or criminal charge which may arise as a consequence of the provisions of the ACT and Regulations, pursuant to work performed in terms of this agreement, and shall, on written demand, provide full details in writing of such investigation, complaint or criminal charge.

Thus signed at _____ for and on behalf of the **OPERATOR**

on this the day of 20.....

SIGNATURE:

NAME AND SURNAME:

CAPACITY:

WITNESSES:...1.

2.

Thus signed at _____ for and on behalf of the **EMPLOYER**

on this the day of 20.....

SIGNATURE:

NAME AND SURNAME:

CAPACITY:

WITNESSES: 1.

2.

TCTA**ACID MINE DRAINAGE WORKS ON THE WITWATERSRAND GOLD FIELDS (AMD) PROJECT****CONTRACT NO TCTA-08-032****FORM OF CONTRACT AGREEMENT AND SCHEDULE OF DEVIATIONS**

THIS AGREEMENT made on the day of 20 between

TRANS-CALEDON TUNNEL AUTHORITY

of 265 West Street, Tuinhof Building, Centurion, 0046

(hereinafter called "the Employer") of the one part and

.....

of

(hereinafter called "the Operator") of the other part.

WHEREAS the Employer desires that certain Works known as:

CONTRACT NO TCTA08-032: THE OPERATION AND MAINTENANCE OF THE AMD TREATMENT PLANT AT EASTERN BASIN should be executed by the Operator, and has accepted a tender by the Operator for the execution and completion of these works and the remedying of any defects therein.

The Employer and the Operator agree as follows:

1. In this Agreement words and expressions shall have the same meaning(s) as are respectively assigned to them in the Conditions of Contract hereinafter referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement:

The Letter of Acceptance, dated

The Agreement, dated

- (c) The Addenda nos.
- (d) The Conditions of Contract and Scope of Services
- (e) The Priced Schedule of Rates and Prices
- (f) The Contract Data
- (g) Schedules other than the Schedule of Rates and Prices, and
- (h) Any other documents forming part of the Contract.

2. In consideration of the payments to be made by the Employer to the Operator as hereinafter mentioned, the Operator hereby covenants with the Employer to execute and complete the Works and the remedying of defects therein, in conformity in all respects with the provisions of the Contract.

3. The Employer hereby covenants to pay to the Operator in consideration of the execution and completion of the Works and remedying the defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed the day and year first before written.

SIGNED ON THIS DAY OF20.....

AT
PLACE

SIGNATURE

SIGNATURE

NAME

NAME

for and on behalf of the Employer in the presence
of

for and on behalf of the Operator in the presence of

Witness:

Witness:

Name:

Name:

Address:

Address:

Date:

Date:

SCHEDULE OF DEVIATIONS

1. **Subject:**
 Details:
2. **Subject:**
 Details:
3. **Subject:**
 Details:
4. **Subject:**
 Details:
5. **Subject:**
 Details:
6. **Subject:**
 Details:
7. **Subject:**
 Details:

By the duly authorised representatives signing this Agreement, the Employer and the Tenderer agree to and accept the foregoing Schedule of Deviations as the only deviations from and amendments to the documents listed in the Tender Data and addenda thereto as listed in the Tender Schedules, as well as any confirmation, clarification or change to the terms of the offer agreed by the Tenderer and the Employer during this process of offer and acceptance.

It is expressly agreed that no other matter whether in writing, oral communication or implied during the period between the issue of the tender documents and the receipt by the Operator of a completed signed copy of this Agreement shall have any meaning or effect in the contract between the parties arising from this Agreement.

CONTRACT NO TCTA-08-032**THE OPERATION & MAINTENANCE OF THE EASTERN BASIN ACID MINE DRAINAGE TREATMENT PLANT****3. PERFORMANCE SECURITY****TCTA****ACID MINE DRAINAGE WORKS ON THE WITWATERSRAND GOLD FIELDS (AMD) PROJECT****CONTRACT NO TCTA-08-032****THE OPERATION AND MAINTENANCE OF THE AMD TREATMENT PLANT AT EASTERN BASIN****PERFORMANCE SECURITY DEMAND GUARANTEE**

To be provided to:

The Chief Executive
TCTA
Tuinhof Building
265 West Avenue
CENTURION
0157

PERFORMANCE SECURITY No.

WHEREAS the TCTA has awarded Contract No. **TCTA-08-032: THE OPERATION AND MAINTENANCE OF THE AMD TREATMENT PLANT AT EASTERN BASIN**

to

.....

.....

(hereinafter called "the Operator")

and whereas under the Contract the sum of

R..... (in figures)

R.....

..... (in words)

(The "Guaranteed Amount(s)") has to be secured in respect of the performance of the Contract by the Operator.

We, the undersigned

..... and
(Name 1) (Name 2)

acting herein in our respective capacities as

..... and
 (Position 1) (Position 2)

Of
 (Institution)
 (hereinafter called "the Bank")

and being duly authorised to sign and incur obligations in the name of the Bank under and in terms of a Resolution of the Board of Directors of the Bank, a notarised certified copy of which is annexed hereto, hereby irrevocably and unconditionally guarantee and undertake on behalf of the Bank that:

1. The Bank will :
 - 1.1 pay to TCTA within 28 days from receipt of TCTA's first written demand and without proof of any breach of contract by the Operator other than the certificate specified in Clause 1.2 below, amounts not exceeding the Guaranteed Amount(s).
 - 1.2 make such payment to TCTA upon receipt by the Bank of a certificate signed by TCTA certifying that the Operator, in the opinion of TCTA, as at the date of issue of such certificate is in breach of its contractual obligations to TCTA under the Contract.
 - 1.3 make payment in the currency of the Contract of the Guaranteed Amount up to the maximum amount stipulated in the demand.
 - 1.4 make such payment to TCTA at an address within the Republic of South Africa designated by TCTA for this purpose.
2. The demand for payment together with this guarantee shall constitute prima facie proof of the Bank's indebtedness hereunder for the purposes of any proceedings including but not limited to provisional sentence proceedings instituted against the Bank in any court of law having jurisdiction.
3. Neither the failure of TCTA to enforce strict or substantial compliance by the Operator with his obligations nor any act, conduct, or omission by TCTA will discharge the Bank from liability under this guarantee.
4. The guarantee shall:
 - 4.1 remain in full force and effect from the date hereof, and shall expire upon the issue by the Engineer of the Performance Certificate in terms of the Contract.
 - 4.2 exist independently of the Contract or any amendment, variation or novation thereof.
 - 4.3 are returned to the Operator on expiration according to Clause 4.1 above.
 - 4.4 not be ceded or assigned by TCTA, or otherwise dealt with in any manner whatsoever which has or may have the effect of transferring or encumbering or alienating TCTA's rights hereunder.
 - 4.5 be deemed to have been made in the Republic of South Africa and to be governed and construed by and in accordance with the laws of the Republic of South Africa to the jurisdiction of whose Court the Bank irrevocably submits itself. The submission to such jurisdiction shall not (and shall not be construed so as to) limit the right of the Employer to take proceedings against the Bank in any other court of competent jurisdiction nor shall the taking of proceedings in any one or more jurisdictions against the Bank preclude the taking of proceedings against the Bank in any other jurisdiction whether concurrently or not.

SIGNED ON THIS.....DAY OF.....2015

AT

(Place)

..... and.....
(Signature 1) (Signature 2)

AS WITNESSES:

1.

2.

Attachment: Resolution of Board of Directors (Certified Copy)

CONTRACT NO TCTA-08-032**THE OPERATION & MAINTENANCE OF THE EASTERN BASIN ACID MINE DRAINAGE TREATMENT PLANT****4. ADVANCE PAYMENT SECURITY**

TCTA
ACID MINE DRAINAGE WORKS ON THE WITWATERSRAND GOLD FIELDS (AMD) PROJECT
CONTRACT NO TCTA-08-032
THE OPERATION AND MAINTENANCE OF THE AMD TREATMENT PLANT AT EASTERN BASIN
ADVANCE PAYMENT SECURITY

To be provided to

The Chief Executive
TCTA
Tuinhof Building
265 West Avenue
CENTURION
0157

whereas TCTA

has awarded Contract No. **TCTA-08-032: THE OPERATION AND MAINTENANCE OF THE AMD TREATMENT PLANT AT EASTERN BASIN**
to (hereinafter called "the Contract")

to
(hereinafter called "the Operator")

and whereas under the Contract the sum of
is payable in advance against a bank guarantee.

We, the undersigned

..... and
(Name 1) (Name 2)

acting herein as

..... and
(Position 1) (Position 2)

of

(hereinafter called "the Bank")

and being duly authorised to sign and incur obligations in the name of the Bank under and in terms of a Resolution of the Board of Directors of the Bank, a certified copy of which is annexed hereto, hereby irrevocably and unconditionally guarantee and undertake on behalf of the Bank that :

1. The Bank will
- 1.1 pay without delay to the TCTA on its first written demand and without proof of any breach of contract by the Operator other than the certificate specified in 1.2 below, amounts not exceeding in total :

R(

(figures) (words) (RAND)

(hereinafter called "the Guaranteed Amounts")

- 1.2 make such payment(s) to the TCTA upon receipt by the Bank of a certificate signed by TCTA certifying that the Operator, in his opinion, as at the date of issue of such certificate is in breach of its contractual obligations to the TCTA under the Contract;
- 1.3 make such payment(s) to the TCTA at an address designated by the TCTA for this purpose.
2. The demand for payment together with this guarantee shall constitute prima facie proof of the Bank's indebtedness hereunder for the purposes of any proceedings including but not limited to provisional sentence proceedings instituted against the Bank in any court of law having jurisdiction.
3. Neither the failure of the TCTA to enforce strict or substantial compliance by the Operator with the obligations nor any act, conduct, or omission by the TCTA prejudicial to the interests of the Bank will discharge the Bank from liability under this Guarantee.
4. The Guarantee shall:
- 4.1 remain in full force and effect from the date hereof until the issue of a certificate signed by the Engineer appointed in terms of the Contract to the effect that the Operator has duly and fully discharged the obligations as provided for in the Contract in respect of repayment to the TCTA of the Guaranteed Amounts;
- 4.2 exist independently of the Contract or any amendment, variation or notation hereof;
- 4.3 not be ceded or assigned by the TCTA, or otherwise dealt with in any manner whatsoever which has or may have the effect of transferring or encumbering or alienating the TCTA's rights hereunder;
- 4.4 be governed by the Law of the Republic of South Africa.

SIGNED ON THIS DAY OF20

AT PLACE

SIGNATURE 1..... SIGNATURE 2.....

AS WITNESSES:

1..... 2.....

TCTA STANDARD CONDITIONS OF TENDER

August 2018

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1. INTRODUCTION

- 1.1 The objective of this Request for Tender is to set out the criteria to be followed by all tenderers when submitting their tender proposals in order to ensure uniformity of tender rules and an impartial evaluation by TCTA.

2 COMPLETION AND SUBMISSION OF TENDER PROPOSALS

- 2.1 All Tenderers are required to:
 - 2.1.1 Comply fully with all requirements set out in this Request for Tender when submitting their tender proposals to TCTA;
 - 2.1.2 Submit a valid original Tax Compliance Pin issued by the South African Revenue Service together with their tender proposals
 - 2.1.3 Complete all annexure and provide all information as may be required by TCTA.
- 2.2 Should a Tenderer fail to submit and / or complete any of the non-mandatory and returnable documents and / or schedules, the TCTA will call upon the Tenderer to complete and submit such documents and / or schedules. In the event that a Tenderer fails to submit any of the requested documents and / or schedules duly completed within 7 (seven) calendar days of being called upon to do so, then the TCTA shall disqualify the Tenderer.

3 COSTS OF TENDERING

- 3.1 Tenderers shall bear their own costs, disbursements and expenses associated with the preparation and submission of the tender proposals, including submission of any additional information requested by TCTA or attending the compulsory briefing session.
- 3.2 TCTA shall not under any circumstances be liable nor assume liability to any tenderer for costs, disbursements and/or expenses incurred by tenderers regardless of the outcome of the tender process or by virtue of cancellation and/or postponement of the tender process. Where applicable a non-refundable fee for documents may be charged.

4 PUBLICATION OF TENDER INVITATION

- 4.1 With certain exceptions, invitations to bid are only published in the National Treasury's e-Tender Portal and TCTA's website. The National Treasury e-Tender Portal may be accessed electronically from www.etenders.gov.za.

5 COMPULSORY BRIEFING SESSION

- 5.1 TCTA may, in its discretion, require the tenderers to attend a compulsory briefing session and/or a site visit, and may issue additional tender documents stipulating additional requirements to tenderers present at the briefing session or the site visit, to clarify and/or amplify its requirements.
- 5.2 Any failure by the tenderers to attend such compulsory briefing session and/or a site visit will result in the relevant tender proposal/s being automatically disqualified.

6 CLARIFICATION OF TENDER REQUIREMENTS

- 6.1 All questions or queries regarding the Request for Tender must be directed to the Receiving Officer at email address stated in the Special Condition of Tender, stating the relevant tender number in the subject field, at least five business days before the stipulated closing date and time of the Request for Tender. No e-mails, faxes and/or telephone calls should be directed to any other employees of TCTA as this may render your tender unacceptable/disqualified.
- 6.2 TCTA shall not be liable nor assume liability for any failure to respond to any questions and/or queries raised by potential tenderers.

7 AMENDMENT TO PROPOSAL REQUIREMENTS

- 7.1 TCTA reserves the right, in its sole and absolute discretion, to amend any terms and conditions of the Request for Tender and/or to stipulate additional requirements, provided that such amended terms and conditions and/or additional requirements are placed on TCTA's website at least 3 (three) business days prior to the stipulated closing date and time.

Any amended terms and conditions and/or stipulation of additional requirements by TCTA shall be deemed to form part of this Request for Tender.

- 7.2 TCTA shall not be liable, nor assume liability of any nature what so ever, for the failure of a tenderer to receive information if sent to the e-mail, fax or postal address supplied.
- 7.3 TCTA reserves the right to stipulate additional tender requirements as it deems appropriate in its sole and absolute discretion.
- 7.4 TCTA shall not be liable nor assume liability to any potential tenderer/s for any failure by such tenderer/s to receive any request for additional information.
- 7.5 In the event that TCTA amends its tender requirements or requests additional information, any Tenderer shall be entitled to withdraw its tender proposal submitted by it prior to the stipulated closing date and time and re-submit a replacement tender proposal by not later than the stipulated closing date and time.

8 MODIFICATION, ALTERATION OR SUBSTITUTION AND/OR WITHDRAWAL OF A TENDER PROPOSAL

- 8.1 Any tenderer shall be entitled to withdraw or modify its tender proposal at any time prior to the stipulated closing date and time.
- 8.2 Any amendment or alteration to the tender documents must be received before the closing date and time of the tender as stipulated in the Special Conditions of Tender. The words "Amendment to tender" and the description of the tender must be clearly reflected on the envelope containing the documents or courier packaging as referred to in Condition 9.2.
- 8.3 No modification, alteration or substitution of tender proposals will be permitted after the stipulated closing date and time.

- 8.4 TCTA reserves the right to request tenders for clarification needed to evaluate their tenders, however, such request for clarification shall not allow or entitle tenderers to change the substance or price of their tenders after tender opening. Any request for clarification and the tenderer's responses will be made in writing.

9 SUBMISSION OF TENDER PROPOSALS

- 9.1 TCTA shall only accept tender proposals which are received at the tender submission address on or before the stipulated closing date and time. TCTA shall not accept nor be obliged to accept tender proposals submitted after the stipulated closing date and time, notwithstanding that such late submission is as a result of circumstances beyond the tenderer's control.
- 9.2 In the event that a courier is employed to deliver the tender document, the tender description must be clearly reflected on the outer packaging of the courier packaging.
- 9.3 Tenders sent to a different address will be disqualified/not accepted and will be returned to the sender.
- 9.4 Tender proposal/s received after the stipulated closing date and time will be disqualified.

10 VALIDITY PERIOD

- 10.1 All tender proposals must remain valid from the stipulated closing date and time of the Request for Tender for the period stated in the Special Conditions of Tender. Each tender proposal will constitute an irrevocable offer which remains open for acceptance by TCTA during the validity period.

11 TENDER OPENING AND CONFIDENTIALITY

- 11.1 All tender proposals received by TCTA will remain in TCTA's possession. Save as may be required by law or by any court of competent jurisdiction or similar body having appropriate jurisdiction, no information contained in or relating to any tender proposals will be disclosed to any other parties.

12 EVALUATION OF TENDER PROPOSALS

- 12.1 TCTA applies a preferential procurement system in accordance with the Preferential Procurement Policy Framework Act 5 of 2000, as amended from time to time, and Broad Based Black Economic Empowerment Act, 2013, as amended from time to time, with the intent to promote the participation of Black Owned Enterprises (BOE), South African enterprises through the provision of these professional services, employment and training of black people.
- 12.2 All parties wishing to submit tender proposals to TCTA must submit their B-BBEE certificates (QSE and Generic scorecards) that have been issued by verification agencies or professionals who are accredited by South African National Accreditation Systems ("SANAS").
- 12.3 Exempted Micro-Enterprises (EMEs), i.e. entities with R10 million or less in annual turnover

and Qualifying Small Enterprises (QSEs) that are at least 51% black owned, i.e. entities with annual turnover between R10 million and R50 million, wishing to submit tender proposals to TCTA must submit a Sworn Affidavit.

12.4 TCTA will not accept B-BBEE certificate issued to EMEs and 51% to 100% black owned QSEs as they are invalid.

12.5 TCTA will accept B-BBEE certificate issued to EMEs issued by the Companies and Intellectual Property Commission (CIPC).

13 AWARD OF CONTRACT TO TENDERS NOT SCORING THE HIGHEST POINTS

12.1 A contract may be awarded to a tenderer that did not score the highest points only in accordance with section 2 (1) (f) of the Preferential Procurement Policy Act 5 of 2000, as amended from time to time.

14 RIGHT NOT TO AWARD CONTRACT

14.1 TCTA reserves the right, at its sole discretion, not to award to any of the tenderers or to cancel a tender in line with regulation 13 of the Preferential Procurement Regulations, 2017:

14.1.1 Due to changed circumstances; there is no longer a need for the goods or the services specified in the invitation;

14.1.2 Funds are no longer available to cover the total envisaged expenditure;

14.1.3 No acceptable tender is received; or

14.1.4 There is material irregularities in the tender process.

15 TERMS AND CONDITIONS OF CONTRACT

15.1 Upon an award of a tender by TCTA, a contract will be deemed to have been concluded between TCTA and the successful tenderer, which contract will include the following documents:

15.1.1 The contents of this Request for Tender, including all annexures hereto and any additional requirements as may have been stipulated by TCTA;

15.1.2 The relevant tender proposals;

15.1.3 The letter of acceptance to the successful tenderer/s;

15.1.4 Any correspondence between TCTA and the relevant tenderer/s including all additional documents submitted by the relevant tenderer/s and accepted by TCTA for clarification purposes;

15.1.5 The terms and conditions of any agreement/s proposed to be entered into by TCTA with the successful tenderer/s.

- 15.2 In the event that TCTA and the relevant tenderer are unable to reach consensus on the terms and/or conditions of any agreement proposed to be concluded by TCTA as referred to in Condition 15.1.5 above, then TCTA reserves the right to cancel the award of the tender, without liability of any nature, and to conclude an agreement with any other tenderer as may be necessary to meet TCTA's requirements.

16 NOTIFICATION OF UNSUCCESSFUL TENDERERS

- 16.1 In the event that no correspondence or communication is received from TCTA within the validity period, the relevant tender proposals submitted will be deemed to be unsuccessful.

17 PROHIBITION OF BRIBERY, FRAUDULENT AND CORRUPT PRACTICES

- 17.1 No tenderers shall directly or indirectly commit, or attempt to commit, for the benefit of the tenderer or any other person, any of the following:
- 17.1.1 Influencing, or attempting to influence, any TCTA's employees or agents in respect of the award of a tender or the outcome of the tender process in relation to any contract for the provision of goods or services; and/or
- 17.1.2 Offering, or giving gratification to, and/or inducing, or attempting to induce, as defined in the Prevention and Combating of Corrupt Activities Act No. 12 of 2004, as amended from time to time, any of TCTA's employees or agents, in favour of or for the benefit of the tenderer and/or any other party; and/or
- 17.1.3 Bribing, or attempting to bribe, any TCTA's employees or agents in order to influence the outcome of a tender process in favour of or for the benefit of the tenderer and/or any other party.
- 17.2 TCTA shall be entitled to disqualify any tenderer/s if it has reason to believe that any conduct relating to that set out in Condition 17.1 above has occurred.

18 FRONTING

- 18.1 The TCTA supports the spirit of Broad Based Economic Empowerment and recognizes that real empowerment can only be achieved through individuals and businesses conducting themselves in accordance with the Constitution and in an honest, fair, equitable, transparent and legally compliant manner. Against this background TCTA condemns any form of fronting.
- 18.2 TCTA, in ensuring that tenderers conduct themselves in an honest manner will, as part of the bid evaluation process, TCTA may conduct or initiate the necessary probity investigation to determine the accuracy of the representation made in the bid document. Should any of the fronting indicators as contained in the Guidelines on Complex Structures and Transactions and Fronting, issued by the Department of Trade and Industry be established during such enquiry / investigation, the onus will be on the tenderer to prove that fronting does not exist.

Failure to do so within a period of 14 days from the date of notification may invalidate the tender/contract and may also result in the restriction of the tenderer, by National Treasury, to conduct business with the public sector for a period not exceeding ten years, in addition to any other remedies the National Treasury may have against the bidder concerned.

19 JOINT VENTURE

19.1 TCTA encourages the formation of a joint venture as a condition for the award of a contract, in order to promote the participation of Black Owned Enterprises. In this case, the TCTA has both a moral obligation and a vested interest in ensuring that both the Black Owned Enterprises and its established joint venture partner are treated reasonably and equitably in terms of a sound, written agreement.

19.2 The members of a joint venture formed in response to transformation policies should share in at least the following aspects of the joint venture's activities in a meaningful and equitable manner:

- Control
- Management
- Operations

19.3 The joint venture agreement

- Must clearly and comprehensively set out the contributions to be made by each member towards the activities of the joint venture in securing and executing the contract and should allocate monetary values to such contributions.
- Must record the percentage participation by each member.
- Must provide for meaningful input by all members to the policy making and management activities of the joint venture;
- Must provide for the establishment of a management body for the joint venture;
- Must provide measures to limit, as far as possible, losses to the joint venture by the default of a member;
- Must promote consensus between the members whilst ensuring that the activities of the joint venture will not be unduly hindered by failure to achieve it;
- Must provide for rapid, affordable and easy interim dispute resolution and for effective final dispute resolution, if required; and
- Must be sufficiently flexible to allow for joint ventures which differ in nature, objectives, inputs by members, management systems, etc.

19.4 Right to review the joint venture agreement

TCTA reserves the right to review the joint venture agreement between the parties to ensure that the minimum conditions set out in 18.2 above are adhered to and that the Black Owned Enterprise partner is not disadvantaged by conditions of the resultant agreement.

19.5 Amendment of the joint venture agreement

The composition or the constitution of the joint venture shall not be altered without the prior consent of the Employer.

PART A **INVITATION TO BID**

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)									
BID NUMBER:		CLOSING DATE:			CLOSING TIME:				
DESCRIPTION									
THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).									
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)									
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 <input type="checkbox"/> No			B-BBEE STATUS LEVEL SWORN AFFIDAVIT		<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
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.	

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

This document must be signed and submitted together with your bid

THE NATIONAL INDUSTRIAL PARTICIPATION PROGRAMME

INTRODUCTION

The National Industrial Participation (NIP) Programme, which is applicable to all government procurement contracts that have an imported content, became effective on the 1 September 1996. The NIP policy and guidelines were fully endorsed by Cabinet on 30 April 1997. In terms of the Cabinet decision, all state and parastatal purchases / lease contracts (for goods, works and services) entered into after this date, are subject to the NIP requirements.

NIP is obligatory and therefore must be complied with.

The Industrial Participation Secretariat (IPS) of the Department of Trade and Industry (DTI) is charged with the responsibility of administering the programme.

1. PILLARS OF THE PROGRAMME

- 1.1 The NIP obligation is benchmarked on the imported content of the contract. Any contract having an imported content equal to or exceeding US\$ 10 million or other currency equivalent to US\$ 10 million will have a NIP obligation. This threshold of US\$ 10 million can be reached as follows:
 - a) Any single contract with imported content exceeding US\$10 million.
or
 - b) Multiple contracts for the same goods, works or services each with imported content exceeding US\$3 million awarded to one seller over a 2 year period which in total exceeds US\$10 million.
or
 - c) A contract with a renewable option clause, where should the option be exercised the total value of the imported content will exceed US\$10 million.
or
 - d) Multiple suppliers of the same goods, works or services under the same contract, where the value of the imported content of each allocation is equal to or exceeds US\$ 3 million worth of goods, works or services to the same government institution, which in total over a two (2) year period exceeds US\$10 million.
- 1.2 The NIP obligation applicable to suppliers in respect of sub-paragraphs 1.1 (a) to 1.1(c) above will amount to 30 % of the imported content whilst suppliers in respect of paragraph 1.1 (d) shall incur 30% of the total NIP obligation on a pro-rata basis.
- 1.3 To satisfy the NIP obligation, the DTI would negotiate and conclude agreements such as investments, joint ventures, sub-contracting, licensee production, export promotion, sourcing arrangements and research and development (R&D) with partners or suppliers.

- 1.4 A period of seven years has been identified as the time frame within which to discharge the obligation.

2 REQUIREMENTS OF THE DEPARTMENT OF TRADE AND INDUSTRY

- 2.1 In order to ensure effective implementation of the programme, successful bidders (contractors) are required to, immediately after the award of a contract that is in excess of R10 million (ten million Rands), submit details of such a contract to the DTI for reporting purposes.
- 2.2 The purpose for reporting details of contracts in excess of the amount of R10 million (ten million Rands) is to cater for multiple contracts for the same goods, works or services; renewable contracts and multiple suppliers for the same goods, works or services under the same contract as provided for in paragraphs 1.1.(b) to 1.1.(d) above.

3 BID SUBMISSION AND CONTRACT REPORTING REQUIREMENTS OF BIDDERS AND SUCCESSFUL BIDDERS (CONTRACTORS)

- 3.1 Bidders are required to sign and submit this Standard Bidding Document (SBD 5) together with the bid on the closing date and time.
- 3.2 In order to accommodate multiple contracts for the same goods, works or services; renewable contracts and multiple suppliers for the same goods, works or services under the same contract as indicated in sub-paragraphs 1.1(b) to 1.1 (d) above and to enable the DTI in determining the NIP obligation, successful bidders (contractors) are required, immediately after being officially notified about any successful bid with a value in excess of R10 million (ten million Rands), to contact and furnish the DTI with the following information:
- Bid / contract number.
 - Description of the goods, works or services.
 - Date on which the contract was accepted.
 - Name, address and contact details of the government institution.
 - Value of the contract.
 - Imported content of the contract, if possible.
- 3.3 The information required in paragraph 3.2 above must be sent to the Department of Trade and Industry, Private Bag X 84, Pretoria, 0001 for the attention of Mr Elias Malapane within five (5) working days after award of the contract. Mr Malapane may be contacted on telephone (012) 394 1401, facsimile (012) 394 2401 or e-mail at Elias@thedti.gov.za for further details about the programme.

4 PROCESS TO SATISFY THE NIPOBLIGATION

- 4.1 Once the successful bidder (contractor) has made contact with and furnished the DTI with the information required, the following steps will be followed:
- a) the contractor and the DTI will determine the NIP obligation;
 - b) the contractor and the DTI will sign the NIP obligation agree

- c) the contractor will submit a performance guarantee to the DTI;
- d) the contractor will submit a business concept for consideration and approval by the DTI;
- e) upon approval of the business concept by the DTI, the contractor will submit detailed business plans outlining the business concepts;
- f) the contractor will implement the business plans; and
- g) the contractor will submit bi-annual progress reports on approved plans to the DTI.

4.2 The NIP obligation agreement is between the DTI and the successful bidder (contractor) and, therefore, does not involve the purchasing institution.

Bid number	Closing date:
Name of bidder	
Postal address	
.....	
Signature	Name (in print)
Date	

DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state*, 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 and/or take an oath declaring his/her interest, 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, shareholder etc):
 - 2.4 Company Registration Number:
 - 2.5 Tax Reference Number:
 - 2.6 VAT Registration Number:

* "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.

2.7 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 / shareholder/ member:
Name of state institution to which the person is connected:
Position occupied in the state institution:

Any other particulars:
.....
.....
.....

2.8 Did you or your spouse, or any of the company's directors / 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 the bidder and any person employed by the state who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

2.10.1 If so, furnish particulars.

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

2.11 Do you or any of the directors /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:

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

DECLARATION

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

CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2.1 TO 2.11.1 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY 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

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

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 exceed R50 000 000 (all applicable taxes included) and therefore the 90/10 preference point system shall be applicable; or

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	90
B-BBEE STATUS LEVEL OF CONTRIBUTOR	10
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 90/10 PREFERENCE POINT SYSTEMS

A maximum of 90 points is allocated for price on the following basis:
90/10

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

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)
1	10
2	9
3	8
4	5
5	4
6	3

7	2
8	1
Non-compliant contributor	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 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 least 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

.....
.....

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

- 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?</p> <p>(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	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.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	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?	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

.....

CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 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

6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation)
 - (c) methods, factors or formulas used to calculate prices;
 - (d) the intention or decision to submit or not to submit, a bid;
 - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
 - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

³ Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

SBD 9

10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

Js914w 2

ANNEXURE A: COVENANT OF INTEGRITY AFFIDAVIT

I, the undersigned: _____

(Full Names)

do hereby make oath and state as follows:

1. I am:

1.1. an adult male/female aged _____;

1.2. presently employed as/carrying on business as _____
situated at _____.

2. The facts stated herein are both true and correct and within my personal knowledge and belief unless otherwise stated.

3. I hereby confirm that:

3.1. I am duly authorised to depose to this affidavit;

3.2. neither myself nor anyone acting on behalf of the tenderer is, or will be, engaged in any Prohibited Practice as defined in 4 below in connection in respect of any tendering process or in the provision of services and/or goods;

3.3. I will immediately inform Trans Caledon Tunnel Authority ("TCTA") of any instance of any such Prohibited Practice which comes to my attention and/or the attention of the tenderer and/or its employees or agents concerning the following;

3.3.1. if any of the tenderer's directors, employees or agents has been convicted in any court for any offence involving a Prohibited Practice in connection with any tendering process and/or the provision of goods or services during the 5 (five) years immediately preceding the date of this affidavit; and/or

3.3.2. if any of the tenderer's directors, employees or agents is dismissed or resigns from the tenderer's employment on grounds of being implicated in any Prohibited Practice.

- 3.4. I will provide TCTA with full details of such conviction, dismissal or resignation and the measures taken to ensure that neither the tenderer nor any of its directors, employees or agents commits any Prohibited Practice in future.
- 3.5. in the event that the tenderer is awarded any business by TCTA, the tenderer grants TCTA or its employees and/or agents the right of inspection of its records. The tenderer shall preserve such records in accordance with applicable law but in any case for at least 3 (three) years after conclusion of each transaction contemplated under the Request for Tender.
4. I acknowledge that for all purposes under this affidavit, the following terms and/or expressions below shall bear the meanings set out hereunder:
- 4.1. "Corrupt Practice" means the offering, giving or promising of any improper advantage to influence the action of a Public Official, or the threatening of injury to his person, employment, property, rights or reputation, in connection with any procurement process or in the execution of any contract in order that any person may obtain or retain business improperly or obtain any other improper advantage in the conduct of business;
- 4.2. "Fraudulent Practice" means a dishonest statement or act of concealment which is intended to, or tends to, improperly influence the procurement process or the execution of a contract to the detriment or potential detriment of TCTA, or is designed to establish tender prices at non-competitive levels and/or to deprive TCTA of the benefits of fair and open competition, and includes collusive practices (whether before or after tender submission) among tenderers or between a tenderer and a consultant or any employees or agents of TCTA;
- 4.3. "Public Official" means any person holding a legislative, administrative, managerial, political or judicial post in any country, or exercising any public function in any country or a director or employee of a public authority or of a legal person controlled by a public authority of any country, or a director or official of a public international organisation; and
- 4.4. "Prohibited Practice" means an act that is either a Corrupt Practice or a Fraudulent Practice.

DEPONENT

Thus done and signed at _____ on this the _____ day of _____,

the Deponent having acknowledged that:

1. he/she knows and understands the contents of this declaration;
2. he/she has no objection to taking the prescribed oath; and
3. he/she considers the prescribed oath to be binding on his/her conscience.

Commissioner of Oaths Stamp	_____
	COMMISSIONER OF OATHS

	FULL NAMES

	CAPACITY

	BUSINESS ADDRESS

ANNEXURE B: BRIBERY AND CORRUPTION DECLARATION

1. The tenderer is required to provide the following information applicable in the last 5 (five) years in relation to each of its members and/or partners which shall include the directors, employees or agents of each member and/or partner where the conduct of such person rendered the tenderer directly and vicariously responsible ("members") whether individually or as part of any other entity:

		YES	NO
1.1	Have any of its members been charged with any act of bribery and/or corruption?		
1.2	Have any of its members been convicted of any act of bribery and/or corruption?		
1.3	Have any of its members been implicated in or alleged to have been involved in any corrupt practices, collusion, bribery or related practices?		
1.4	Is there any reason to believe that a charge will be laid against a member arising from an act of bribery and/or corruption?		

2. Should any of the above questions be answered in the affirmative, full details must be furnished:

2.1	the date of the charge and the nature thereof:
2.2	the current status of the charge:
2.3	the date of conviction (if any):
2.4	the court in which the charges are being/where prosecuted:
2.5	the details of the members convicted, the facts giving rise thereto, the charges preferred against the member and the details of any judgement by the relevant court:

2.6	full details of any contract which was or is alleged to have been affected by the act of bribery and/or corruption:
2.7	any sentence imposed on the member:
2.8	full and precise details of any members implicated in any corrupt practice, collusion, bribery or related practices:
2.9	if it is believed that a member will be charged, full details of the offence and the facts giving rise to it are required:

Thus done and signed at _____ on this the _____ day of _____,

Full Names:

ANNEXURE C: ENTERPRISE INFORMATION AFFIDAVIT

I, the undersigned: _____

(Full Names)

do hereby make oath and state as follows:

1. I am:

1.1 an adult male/female aged _____;

1.2 presently employed as/carrying on business as _____

situated at _____.

2. The facts stated herein are both true and correct and within my personal knowledge and belief unless otherwise stated.

3. I hereby:

3.1. confirm that I am duly authorised to depose to this affidavit;

3.2. confirm that all information attached to this Enterprise Information Affidavit as Annexure 5.1 has been submitted completely, accurately and truthfully and no material information relevant to the possible award of business by TCTA has been omitted; and

3.3. authorise TCTA to take all steps necessary to verify the information submitted by me as may be necessary and I undertake to pay all costs, losses or damages of TCTA as may be incurred by it should it be discovered that misrepresentations have been made by me in the submission of such information to TCTA.

DEPONENT

Thus done and signed at _____ on this the _____ day of _____
the Deponent having acknowledged that:

1. he/she knows and understands the contents of this declaration;
2. he/she has no objection to taking the prescribed oath; and
3. he/she considers the prescribed oath to be binding on his/her conscience.

Commissioner of Oaths Stamp	<p>_____ COMMISSIONER OF OATHS</p> <p>_____ FULL NAMES</p> <p>_____ CAPACITY</p> <p>_____ BUSINESS ADDRESS</p>
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ANNEXURE D: ENTERPRISE INFORMATION

A. GENERAL INFORMATION

A1.	Name of Enterprise:	
A2.	Postal Address:	
	Code:	
A3.	Physical Address:	
	Code:	
A4.	Telephone No.:	
A5.	Mobile No. :	
A6.	Fax No.:	
A7.	E-mail :	
A8.	Contact Person:	

B. ENTERPRISE INFORMATION

B1.	Type of Enterprise [Tick one box]	Supporting documents required:
	Sole Proprietor <input type="checkbox"/>	None <input type="checkbox"/>
	Partnership <input type="checkbox"/>	Partnership Agreement <input type="checkbox"/>
	Close Corporation <input type="checkbox"/>	CK1 – Founding Statement <input type="checkbox"/>
	Private Company <input type="checkbox"/>	CM1 – Certificate of Incorporation <input type="checkbox"/>
		Shareholders Agreement <input type="checkbox"/>
	Public Company <input type="checkbox"/>	CM1 – Certificate of Incorporation <input type="checkbox"/>
		Share sale Agreement <input type="checkbox"/>
	Trust <input type="checkbox"/>	Trust Deed <input type="checkbox"/>
	Foreign Entity / Multi-nationals <input type="checkbox"/>	CM1 – Certificate of Incorporation <input type="checkbox"/>
	State Owned Enterprises <input type="checkbox"/>	Relevant legislation of PFMA Classification <input type="checkbox"/>
	Joint Venture(s) <input type="checkbox"/>	JV Agreement <input type="checkbox"/>
	NGO <input type="checkbox"/>	Section 21 <input type="checkbox"/>

Other :	Please specify:	
	<i>In the case of a Joint Venture, all parties involved need to complete a <u>separate Enterprise Information Affidavit</u> and a copy of the Joint Venture agreement must be submitted. The identity of the JV entity must be given.</i>	
B2.	Enterprise registration number:	
B3.	Enterprise VAT registration number:	
B4.	Enterprise Income Tax reference number:	
B5.	Tax Compliance Status Pin	
B6.	Enterprise Skills Development number:	
B7.	Enterprise UIF number:	
B8.	Enterprise RSC number:	
B9.	Describe principle business activities:	
B10.	Enterprise classification:	
	Agent	<input type="checkbox"/>
	Merchant	<input type="checkbox"/>
	Manufacturer	<input type="checkbox"/>
	Supplier	<input type="checkbox"/>
	Professional Service Provider	<input type="checkbox"/>
	Other service provider, e.g. transporter, etc.	<input type="checkbox"/>
Please elaborate on "other"		

B11. Indicate, by ticking the appropriate box below, in which sector of the economy your business is predominantly carried out:

"Exempted Micro Enterprise - EME" means an entity with a turnover of R 10 million or less.

"Qualifying Small Enterprise - QSE" means an entity that qualifies for measurement under the Qualifying Small Enterprise scorecard with a turnover of R 10 million or more but less than R 50 million.

Column 1	Column 2	Column 3		Column 4		Column 5	
Sector or subsector in accordance with the Standard Industrial Classification	Size or Class	The total full-time equivalent of paid employees		Total Turnover		Total gross asset value (fixed property excluded)	
Agriculture	Large	> 100	<input type="checkbox"/>	> R5.00m	<input type="checkbox"/>	> R5.00m	<input type="checkbox"/>
	Medium	100	<input type="checkbox"/>	R5.00m	<input type="checkbox"/>	R5.00m	<input type="checkbox"/>
	Small	50	<input type="checkbox"/>	R2.00m	<input type="checkbox"/>	R3.00m	<input type="checkbox"/>
	Very Small	10	<input type="checkbox"/>	R0.40m	<input type="checkbox"/>	R0.50m	<input type="checkbox"/>
	Exempted Micro	5	<input type="checkbox"/>	R0.30m	<input type="checkbox"/>	R0.20m	<input type="checkbox"/>
Mining and Quarrying	Large	> 200	<input type="checkbox"/>	> R39.00m	<input type="checkbox"/>	> R23.00m	<input type="checkbox"/>
	Medium	200	<input type="checkbox"/>	R30.00m	<input type="checkbox"/>	R23.00m	<input type="checkbox"/>
	Small	50	<input type="checkbox"/>	R 7.5.00m	<input type="checkbox"/>	R 6.00m	<input type="checkbox"/>
	Very Small	20	<input type="checkbox"/>	R 3.00m	<input type="checkbox"/>	R 2.00m	<input type="checkbox"/>
	Exempted Micro	5	<input type="checkbox"/>	R 0.30m	<input type="checkbox"/>	R 0.10m	<input type="checkbox"/>
Manufacturing	Large	> 200	<input type="checkbox"/>	> R51.00m	<input type="checkbox"/>	> R19.00m	<input type="checkbox"/>
	Medium	200	<input type="checkbox"/>	R40.00m	<input type="checkbox"/>	R19.00m	<input type="checkbox"/>
	Small	50	<input type="checkbox"/>	R 10.00m	<input type="checkbox"/>	R 5.00m	<input type="checkbox"/>
	Very Small	20	<input type="checkbox"/>	R 4.00m	<input type="checkbox"/>	R 2.00m	<input type="checkbox"/>
	Exempted Micro	5	<input type="checkbox"/>	R 0.30m	<input type="checkbox"/>	R 0.10m	<input type="checkbox"/>
Electricity, Gas and Water	Large	> 200	<input type="checkbox"/>	> R51.00m	<input type="checkbox"/>	> R19.00m	<input type="checkbox"/>
	Medium	200	<input type="checkbox"/>	R40.00m	<input type="checkbox"/>	R19.00m	<input type="checkbox"/>
	Small	50	<input type="checkbox"/>	R10.00m	<input type="checkbox"/>	R 5.00m	<input type="checkbox"/>
	Very Small	20	<input type="checkbox"/>	R 4.00m	<input type="checkbox"/>	R 1.90m	<input type="checkbox"/>
	Exempted Micro	5	<input type="checkbox"/>	R 0.30m	<input type="checkbox"/>	R 0.10m	<input type="checkbox"/>
Construction	Large	> 200	<input type="checkbox"/>	> R26.00m	<input type="checkbox"/>	> R 5.00m	<input type="checkbox"/>
	Medium	200	<input type="checkbox"/>	R20.00m	<input type="checkbox"/>	R 5.00m	<input type="checkbox"/>
	Small	50	<input type="checkbox"/>	R 5.00m	<input type="checkbox"/>	R 1.00m	<input type="checkbox"/>
	Very Small	20	<input type="checkbox"/>	R 2.00m	<input type="checkbox"/>	R 0.50m	<input type="checkbox"/>
	Exempted Micro	5	<input type="checkbox"/>	R 0.30m	<input type="checkbox"/>	R 0.10m	<input type="checkbox"/>
Retail and Motor Trade	Large	> 200	<input type="checkbox"/>	> R39.00m	<input type="checkbox"/>	> R 6.00m	<input type="checkbox"/>
	Medium	100	<input type="checkbox"/>	R30.00m	<input type="checkbox"/>	R 6.00m	<input type="checkbox"/>

and Repair Services	Small	50	<input type="checkbox"/>	R15.00m	<input type="checkbox"/>	R 3.00m	<input type="checkbox"/>
	Very Small	20	<input type="checkbox"/>	R 3.00m	<input type="checkbox"/>	R 0.60m	<input type="checkbox"/>
	Exempted Micro	5	<input type="checkbox"/>	R 0.30m	<input type="checkbox"/>	R 0.10m	<input type="checkbox"/>
Wholesale Trade, Commercial Agents and Allied Services	Large	> 200	<input type="checkbox"/>	> R64.00m	<input type="checkbox"/>	> R10.00m	<input type="checkbox"/>
	Medium	100	<input type="checkbox"/>	R50.00m	<input type="checkbox"/>	R10.00m	<input type="checkbox"/>
	Small	50	<input type="checkbox"/>	R25.00m	<input type="checkbox"/>	R 5.00m	<input type="checkbox"/>
	Very Small	20	<input type="checkbox"/>	R 5.00m	<input type="checkbox"/>	R 0.60m	<input type="checkbox"/>
	Exempted Micro	5	<input type="checkbox"/>	R 0.30m	<input type="checkbox"/>	R 0.10m	<input type="checkbox"/>
Catering, Accommodation and Other Trade	Large	> 200	<input type="checkbox"/>	> R13.00m	<input type="checkbox"/>	> R 3.00m	<input type="checkbox"/>
	Medium	100	<input type="checkbox"/>	R10.00m	<input type="checkbox"/>	R 3.00m	<input type="checkbox"/>
	Small	50	<input type="checkbox"/>	R 5.00m	<input type="checkbox"/>	R 1.00m	<input type="checkbox"/>
	Very Small	20	<input type="checkbox"/>	R 1.10m	<input type="checkbox"/>	R 1.90m	<input type="checkbox"/>
	Exempted Micro	5	<input type="checkbox"/>	R 0.30m	<input type="checkbox"/>	R 0.10m	<input type="checkbox"/>

Column 1	Column 2	Column 3		Column 4		Column 5	
Sector or subsector in accordance with the Standard Industrial Classification	Size or Class	The total full-time equivalent of paid employees		Total Turnover		Total gross asset value (fixed property excluded)	
Transport, Storage and Communications	Large	> 200	<input type="checkbox"/>	> R26.00m	<input type="checkbox"/>	> R 6.00m	<input type="checkbox"/>
	Medium	100	<input type="checkbox"/>	R20.00m	<input type="checkbox"/>	R 6.00m	<input type="checkbox"/>
	Small	50	<input type="checkbox"/>	R10.00m	<input type="checkbox"/>	R 3.00m	<input type="checkbox"/>
	Very Small	10	<input type="checkbox"/>	R 2.00m	<input type="checkbox"/>	R 0.60m	<input type="checkbox"/>
	Exempted Micro	5	<input type="checkbox"/>	R 0.30m	<input type="checkbox"/>	R 0.10m	<input type="checkbox"/>
Finance and Business Services	Large	> 200	<input type="checkbox"/>	> R26.00m	<input type="checkbox"/>	> R 5.00m	<input type="checkbox"/>
	Medium	100	<input type="checkbox"/>	R20.00m	<input type="checkbox"/>	R 5.00m	<input type="checkbox"/>
	Small	50	<input type="checkbox"/>	R10.00m	<input type="checkbox"/>	R 3.00m	<input type="checkbox"/>
	Very Small	10	<input type="checkbox"/>	R 2.00m	<input type="checkbox"/>	R 0.50m	<input type="checkbox"/>
	Exempted Micro	5	<input type="checkbox"/>	R 0.30m	<input type="checkbox"/>	R 0.10m	<input type="checkbox"/>
Community, Social and Personal Services	Large	> 200	<input type="checkbox"/>	> R13.00m	<input type="checkbox"/>	> R 6.00m	<input type="checkbox"/>
	Medium	100	<input type="checkbox"/>	R10.00m	<input type="checkbox"/>	R 6.00m	<input type="checkbox"/>
	Small	50	<input type="checkbox"/>	R 5.00m	<input type="checkbox"/>	R 3.00m	<input type="checkbox"/>

	Very Small	10	<input type="checkbox"/>	R 1.00m	<input type="checkbox"/>	R 0.60m	<input type="checkbox"/>
	Exempted Micro	5	<input type="checkbox"/>	R 0.30m	<input type="checkbox"/>	R 0.10m	<input type="checkbox"/>

B12. Total number of years the enterprise has been in business: _____

B13. Was your enterprise known by another name previously? Yes ☐ No ☐

B13.1. If yes, what was the previous name? _____

B14. List three of the largest projects contracted for by your enterprise below:

Project Name	Client	Value in ZAR	Completion Date	Contact Person & Contact Number

B15. List three of the smallest projects contracted for by your enterprise below:

Project Name	Client	Value in ZAR	Completion Date	Contact Person & Contact Number

B16. Previous relationship with TCTA:

B16.1 Did your enterprise render any goods / services to TCTA previously? Yes ☐ No ☐

B16.1 If yes, please insert details below:

Contract Number and Name	Description / Goods / Services	Contract Supply Value	Contact Person / Tel No.

B17. Current relationship with TCTA:

Is your enterprise engaged in any contract/s at present for TCTA?

Yes ☐ No ☐

C. OWNERSHIP

C1. Are you a South African owned enterprise?

Yes ☐ No ☐

C2. List below all shareholders of the enterprise:

Name	Position Occupied	ID Number	Citizenship (*)	Race	Ownership Effective	Gender	Disabled Yes / No	% Owned

Please note: Public Companies must provide a list of the majority shareholders in a similar format as above

* Please state your current citizenship

** If South African citizenship status was recently awarded, please provide the date thereof.

C.2.1 **"Black People"**: - as defined in the Broad Based Black Economic Empowerment Act 53 of 2003 as amended – i.e. it is a generic term which means Africans, Coloureds and Indians:-

- ✓ Who are citizens of the Republic of South Africa by birth or decent; or
- ✓ Who became citizens of the Republic of South Africa by naturalisation –
 - ❖ Before 27 April 1994;
 - ❖ On or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date.

C2.2 **"Employee with a Disability"** has the meaning defined in the code of Good Practice on Key Aspects of Disability in the Workplace issued under section 5 of the Employment Equity Act; align with the Employment Equity Act.

C2.2.1 From the previous table, please state if each % owned shareholding enjoys voting rights;

Yes ☐ No ☐

C2.2.2 If yes, please complete the below table.

Name	Shareholding	Economic Interest	Voting Rights
Total percentage Black Ownership		%	

C2.3 **"Economic Interest"** means a participant's claim against the enterprise representing a return on ownership of the enterprise.

C2.4 **"Exercisable Voting Right"** means a voting right of a participant that is not subject to any limitation.

C2.5 **"Voting Right"** means a voting right attached to an instrument owned by or held on behalf of a participant that may be exercised at a meeting of the shareholders of an enterprise

C2.6 **"Participant"** means a natural person who is:

- a) entitled to an Economic interest in a measured enterprise
- b) enjoying an Exercisable Voting right in a measured enterprise

C3. From the previous section, please indicate by selecting the most appropriate description of the supplier / vendor ownership structure.

C3.1 **Black majority owned enterprises** means an enterprise having a shareholding in which black participants enjoy an entitlement to an economic interest that is 50% and more Yes ☐ No ☐

C3.2 **Black majority controlled enterprises** means an enterprise having a shareholding in which black participants are entitled to Exercisable Voting Rights in excess of 50% of the total entitlement to Exercisable Voting Rights in that enterprise Yes ☐ No ☐

C3.3 **Empowering supplier** - an empowering supplier within the context of BBBEE is a BBBEE compliant entity which is a good citizen South Yes ☐ No ☐

African Entity, comply with all regulatory requirements of the country and should meet at least three if it is a large enterprise or one if it is a QSE of the following criteria:

- a) At least 25 % of cost of sales excluding labour cost and depreciation must be procured from local producers or local suppliers in SA, for service industry labour cost are included but capped to 15 %.
- b) Job creation – 50% of jobs created are for Black people provided that the number of Black employees since the immediate prior verified B-BBEE Measurement is maintained.
- c) At least 25% transformation of raw material/beneficiation which include local manufacturing, production and/or assembly, and/or packaging.
- d) Skills transfer – at least spend 12 days per annum of productivity deployed in assisting Black EMEs and QSEs beneficiaries to increase their operation or financial capacity.

- C3.4 **Black influenced enterprises** means enterprises that are between 5% and 25% owned by black people and with participation in control by black people Yes ☐ No ☐
- C3.5 **Black woman-owned enterprise** is one with at least 30,1% representation of women within the black equity and management portion Yes ☐ ☐
- C3.6 Not one of the above Yes ☐ No ☐

D. STAFF STRUCTURE OF ORGANISATION:

D1. Executive Management / Board of Directors:

State number of executive / board members in your organization by completing the table below:

Classification	African		Coloured		Indian		White		Total	
	M	F	M	F	M	F	M	F	M	F
1. Executive										
2. Non-executive										

3. Other Top Management										
4. Senior Top Management										
Total										

- a. **“Executive Member of the Board”** means those members of the Board who fall within the definition of “Executive Director” specified in the King Report
- b. **“Independent Non-executive Board Members”** means those members of the Board who fall within the definition of “Independent Director” specified in the King Report
- c. **“Other Top Management”** means Employees of a Measured Entity who are appointed by or upon authority of the Board to undertake the day to day management of the Measured Entity and who are actively involved in the development and / or implementation of the Measured Entity’s strategy insofar as it is related to their area of responsibility
- d. **“Senior Top Management”** means Employees of a Measured Entity who are appointed by or upon authority of the Board to undertake the day to day management of the Measured Entity and who have individual responsibility for the overall management and for the financial management of that Measured Entity and who are actively involved in the development and / or implementation of the Measured Entity’s strategy
- e. **“King Report”** means the King Report on corporate Governance for South Africa 2002 authored by the King Committee on Corporate Governance of the Institute of Directors in Southern Africa.

D2. Employment Equity Structure of the Enterprise:

State the number of staff (employees) in your organization by completing the table below. Employee bears the same definition as stipulated in the Employment Equity Act No. 55 of 1998 being;

“Employee” means any person other than an independent contractor who:

- works for another person or for the State and who receives, or is entitled to receive, any remuneration; and
- in any manner assists in carrying out or conducting the business of an employer

Classification	African		Coloured		Indian		White		Total	
	M	F	M	F	M	F	M	F	M	F
1. Top										
2. Senior										
3. Middle										
4. Professional										
5. Technicians										
6. Clerks										
7. Other										
Total										

D3. Training and Skills Development

Please State Skills Development expenditure as a percentage
(%) of total payroll.

	%
--	---

E. ENTERPRISE AND SUPPLIER DEVELOPMENT (ESD)

E1 Does your company have an ESD policy?

Yes

☐

No

☐

E2 What was the enterprise's total procurement spend in the last 12 months?

R

E3 Please state both the rand value and percentage of your spend

In the last 12 months with:

E3.1 Enterprise development (BOE)	R	%
E3.2 Supplier Development (BOE)	R	%
E3.3 Preferential procurement (BOE)	R	%
Total	R	

F. SOCIAL RESPONSIBILITY:

F1.	Please state the percentage (%) of local content of your proposal in relation to the bid price		%
F2	Does the company spend any amount of its budget on the promotion of export- orientated production to create jobs?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
F3	Does the company spend any amount of its budget on the creation of new jobs or the intensification of labour absorption?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
F4	Does the company spend any amount of its budget on the promotion of enterprises located in a specific province for work to be done or services to be rendered in that province?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
F5	Does the company spend any amount of its budget on the promotion of enterprises located in a specific region for work to be done or services to be rendered in that region?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
F6	Does the company spend any amount of its budget on the promotion of enterprises located in a specific municipal area for work to be done or services to be rendered in that municipal area?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
F7	Does the company spend any amount of its budget on the promotion of enterprises located in rural areas?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
F8	Does the company spend any amount of its budget on the upliftment of communities through, but not limited to, housing, transport,	Yes <input type="checkbox"/>	No <input type="checkbox"/>

schooling, infrastructure, donations and charity organizations?

☐☐

G. BANKING DETAILS:

Bank:	
Account Holder:	
Type of account:	
Branch:	
Branch Code:	
Account Number:	

Supporting documents required. For a cheque account, a cancelled cheque and for any other type of account a letter from the bank confirming the account details.	
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