
BLOEM WATER

**REQUEST FOR PROPOSAL (RFP): APPOINTMENT FOR THE TECHNICAL AUDIT OF
BLOEM WATER INFRASTRUCTURE**

CONTRACT NO.: BW254/TIA/19

BOOK 1

VOLUME 4: THE CONTRACT

**PART C1
AGREEMENT AND CONTRACT DATA**

**SECTION C1.2
(CONTRACT DATA)**

**SECTION C1.3
(STANDARD PROFESSIONAL SERVICES CONTRACT)**

Consultant

Witness 1

Witness 2

Employer

Witness 1

Witness 2

BLOEM WATER

**REQUEST FOR PROPOSAL (RFP): APPOINTMENT FOR THE TECHNICAL AUDIT OF
BLOEM WATER INFRASTRUCTURE**

CONTRACT NO.: BW254/TIA/19

PART C1 : AGREEMENTS AND CONTRACT DATA

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Consultant

Witness 1

Witness 2

Employer

Witness 1

Witness 2

BLOEM WATER

**REQUEST FOR PROPOSAL (RFP): APPOINTMENT FOR THE TECHNICAL
 AUDIT OF BLOEM WATER INFRASTRUCTURE**

CONTRACT NO.: BW254/TIA/19

TENDER SUMMARY PAGE

TENDERER				
	(Name of Tenderer)			
TELEPHONE	FAX			
TOTAL PRICE (Incl. VAT)				
	(in words)			
	(in words)			
	(in figures)			
COMPLETION PERIOD				
	(weeks)			
PREFERENCES CLAIMED FOR:				
LOCAL ENTERPRISE:	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>

Note: This page is used for tender opening purposes only. Where there is a discrepancy between this page and the Form of Offer and Acceptance, then the latter will be taken as the valid offer.

BLOEM WATER

**REQUEST FOR PROPOSAL (RFP): APPOINTMENT FOR THE TECHNICAL AUDIT OF
BLOEM WATER INFRASTRUCTURE**

CONTRACT NO.: BW254/TIA/19

BOOK 2

VOLUME 3: FINANCIAL PROPOSAL

**PART C1
AGREEMENT AND CONTRACT DATA**

**SECTION C1.1
(FORM OF OFFER AND ACCEPTANCE)**

Consultant

Witness 1

Witness 2

Employer

Witness 1

Witness 2

C1.1- 1

BLOEM WATER

**REQUEST FOR PROPOSAL (RFP): APPOINTMENT FOR THE TECHNICAL AUDIT OF
BLOEM WATER INFRASTRUCTURE**

CONTRACT NO.: BW254/TIA/19

PART C1 : AGREEMENTS AND CONTRACT DATA

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Consultant

Witness 1

Witness 2

Employer

Witness 1

Witness 2

C1.1- 2

C1.1 Form of Offer and Acceptance

Offer

The Employer, identified in the Acceptance signature block, has solicited offers to enter into a contract for the outline the appointment of consulting engineers for:

Contract no. BW:

CONDITIONS ASSESSMENT AND OPTIMIZATION AUDIT

The Tenderer, identified in the Offer signature block, has examined the documents listed in the Tender Data and addenda thereto as listed in the Tender Schedules, and by submitting this Offer has accepted the Conditions of Tender.

By the representative of the Tenderer, deemed to be duly authorised, signing this part of this Form of Offer and Acceptance the Tenderer offers to perform all of the obligations and liabilities of the Consultant under the Contract including compliance with all its terms and conditions according to their true intent and meaning for an amount to be determined in accordance with the Conditions of Contract identified in the Contract Data.

THE OFFERED TOTAL OF THE PRICES INCLUSIVE OF VAT IS:

(in words)Rand;

R.....(in figures)

This Offer may be accepted by the Employer by signing the Acceptance part of this Form of Offer and Acceptance and returning one copy of this document including the Schedule of Deviations (if any) to the Tenderer before the end of the period of validity stated in the Tender Data, or other period as agreed, whereupon the Tenderer becomes the party named as the consultant in the Conditions of Contract identified in the Contract Data.

Signature(s)

Name(s)

Capacity

**For the
tenderer:**

Name &
signature of
witness

*(Insert name and address of
organisation)*

Date

Consultant

Witness 1

Witness 2

Employer

Witness 1

Witness 2

Acceptance

By signing this part of this Form of Offer and Acceptance, the Employer identified below accepts the Tenderer's Offer. In consideration thereof, the Employer shall pay the Consultant the amount due in accordance with the Conditions of Contract identified in the Contract Data. Acceptance of the Tenderer's Offer shall form an agreement between the Employer and the Tenderer upon the terms and conditions contained in this Agreement and in the Contract that is the subject of this Agreement.

Deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Returnable Schedules as well as any changes to the terms of the Offer agreed by the Tenderer and the Employer during this process of offer and acceptance, are contained in the Schedule of Deviations attached to and forming part of this Form of Offer and Acceptance. No amendments to or deviations from said documents are valid unless contained in this Schedule.

The Tenderer shall within two weeks of receiving a completed copy of this Agreement, including the Schedule of Deviations (if any), contact the Employer's agent (whose details are given in the Contract Data) to arrange the delivery of any securities, bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the Conditions of Contract identified in the Contract Data. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this Agreement.

Notwithstanding anything contained herein, this Agreement comes into effect on the date when the Tenderer receives one fully completed original copy of this document, including the Schedule of Deviations (if any). Unless the Tenderer (now **Consultant**) within five working days of the date of such receipt notifies the Employer in writing of any reason why he cannot accept the contents of this Agreement, this Agreement shall constitute a binding contract between the Parties.

Signatures

Name(s)

Capacity

**for the
Employer**

Bloem Water, 2 Mzuzu Street, Pellissier, 9322

Name &
signature of
witness

Date

Schedule of Deviations

Consultant

Witness 1

Witness 2

Employer

Witness 1

Witness 2

Notes:

1. The extent of deviations from the tender documents issued by the Employer prior to the tender closing date is limited to those permitted in terms of the Conditions of Tender,
2. A Tenderer's covering letter shall not be included in the final contract document. Should any matter in such, letter, which constitutes a deviation as aforesaid become the subject of agreements reached during the process of, offer and acceptance, the outcome of such an agreement shall be recorded here,
3. Any other matter arising from the process of offer and acceptance either as a confirmation, clarification or change to the tender documents and which it is agreed by the Parties becomes an obligation of the contract shall also be recorded here,
4. Any change or addition to the tender documents arising from the above agreements and recorded here, shall also be incorporated into the final draft of the Contract,

1 Subject
Details
.....

2 Subject
Details
.....

3 Subject
Details
.....

4 Subject
Details
.....

5 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 returnable 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 Tenderer of a completed signed copy of this Agreement shall have any meaning or effect in the contract between the parties arising from this Agreement.

CONFIRMATION OF RECEIPT

Consultant	Witness 1	Witness 2	Employer	Witness 1	Witness 2

The Tenderer, (now Consultant), identified in the Offer part of this Agreement hereby confirms receipt from the Employer, identified in the Acceptance part of this Agreement, of one fully completed original copy of this Agreement, including the Schedule of Deviations (if any) today:

the _____ (day) of _____(month) 20__ (year) at _____
_____ (place)

For the Consultant:

Signature

Name

Capacity

Signature and name of witness

Signature

Name

Consultant

Witness 1

Witness 2

Employer

Witness 1

Witness 2

C1.2 CONTRACT DATA

CONTRACT SPECIFIC DATA

Part 1: Data provided by the Employer

STANDARD PROFESSIONAL SERVICES CONTRACT

The Standard Conditions of Contract are the **Standard Professional Services Contract (July 2009) (Edition 3 of CIDB document 1014)**, as published by the Construction Industry Development Board.

The Standard Conditions of Contract make several references to the Contract Data for specific data, which together with the Terms of Reference attached to this Tender and the standard contract collectively describe the risks, liabilities and obligations of the contracting parties and the procedures for the administration of the Contract. The Contract Data shall have precedence in the interpretation of any ambiguity or inconsistency between it and the Standard Conditions of Contract.

The Standard Conditions of Contract shall be read in conjunction with the variations, amendments and additions set out in the Contract Specific Data below. Each item of data given below is cross-referenced to the clause in the Standard Conditions of Contract to which it mainly applies.

The documents forming the Contract are to be taken as mutually explanatory of one another. For the purpose of interpretation, the priority of the documents shall be in accordance with the following sequence:

- a) The Form of Offer and Acceptance.
- b) Amplifications of the Standard Conditions of Contract within the Contract Data.
- c) Additional special conditions or amendments to the Standard Conditions of Contract within the Contract Data.
- d) The Standard Conditions of Contract.
- e) Terms of Reference.
- f) The Specifications, Schedules and other documents forming part of the Contract (in that order) contained in the Scope of Work and the Site Information.

If any ambiguity or discrepancy is found in the documents, the Employer shall issue any necessary clarification or instruction.

Contractor

Witness 1

Witness 2

Employer

Witness 1

Witness 2

CLAUSE NUMBER	HEADING
1.1	The definition of Employer: The Employer is: Bloem Water
1.1.2	The project is for the Request for Proposal (RFP): Appointment for the Technical Audit of Bloem Water Infrastructure
3.1	The governing law is Law of South Africa
3.3	The language of contract and for all written communication is English
3.9.3	The time-based fees used to determine changes to the Contract Price are as stated in the Pricing Data.
3.12	The Consultant must achieve and complete all works and services as per this Agreement, the scope of works and all Annexures hereto in line with the project implementation plan otherwise the Consultant shall be liable to pay penalties to the Client. The amount of penalties to be paid by the Consultant for each day that he is late shall be 2.5% of the cost per milestone. The number of days the Consultant is late is the difference between the due completion date and the actual completion date. This number of days multiplied by the penalty per day gives the total amount for which the Consultant is liable. Even where penalties are applied against the Consultant, he has a duty to finish the Works and to carry out all its other duties under this Agreement.
3.15.1	The programme shall be submitted within 14 days of receipt of the Acceptance of the tender Offer (the Start Date).
3.16	The time-based fees shall not be adjusted for inflation.
4.2.1	The Employer is under no obligation to accept any bid, for whatever reasons it may consider appropriate, and reserves the right not to proceed with the appointment of any firm that responded to the invitation to tender. If a decision is made not to proceed with this appointment, official notification will be given to all bidders who attended the compulsory briefing session.
5.4.1	The Service Provider is required to take out and maintain, for the full duration of the performance of this contract, the following insurance cover: 1. Professional Indemnity Insurance providing cover in an amount of not less than R10 000 000 in respect of each and every claim during the period of insurance. 2. Public Liability Insurance with a limit of indemnity of not less than R20 000 000 for any single claim, the number of claims to be unlimited during the contract period.
5.5	The Service Provider is required to obtain the Employer's prior approval in writing before taking any of the following actions: 1. Replacing any of the key personnel listed at the time of tender.
7.2	Replace all reference to the "Personnel Schedule" in Clause 7.2 with the "Allocation of Resources Schedule".
8.1	The Service Provider is to commence the performance of the Services within 14 days after the date that the Contract becomes effective.

Contractor

Witness 1

Witness 2

Employer

Witness 1

Witness 2

8.2	The Completion Period of Contract for the Service Provider complete all Deliverables in accordance with the Scope of Work is 25 Weeks .
8.4.3	The period of suspension under Clause 8.5 is not to exceed 6 months.
9.1	Copyright of documents prepared for the project shall be vested with the Employer .
11.1	A Service Provider may not subcontract any work which he has the skill and competency to perform, unless he has the Employer's prior approval in writing.
12.1.2	Interim settlement of disputes is to be by mediation .
12.2.1	In the event that the parties fail to agree on a mediator, the mediator is nominated by the President of the South African Institution of Civil Engineering.
12.2.4	Final settlement is by litigation
14.2	Notwithstanding the above, should the Service Provider's tax clearance certificate expire during the contract period, the Employer shall be entitled to withhold payment without incurring any liability for interest, until a valid tax clearance certificate is submitted to the Employer.
14.5	<p>Section 20(1) of the Value Added Tax Act of 1991 (Act 89 of 1991) requires that a supplier (person supplying goods or services) who is registered as a VAT vendor issue to the recipient a tax invoice within 21 days of the date of a supply whether requested or not.</p> <p>The Service Provider shall provide a tax invoice (VAT invoice) which shall be included with each account delivered to the Employer in terms of Clause 14. Failure by the Servicer Provider to provide a tax invoice (VAT invoice) timeously may delay payment by the Employer and no interest shall accrue.</p> <p>The Project Leader shall ensure that the Employer will be invoiced as required and that invoices will be supported by all the necessary documentation that is required by the Employer. It is important that a progress report is submitted that covers the invoice period. This progress report is in addition to the one that has to be prepared for PSC meetings that covers the period between two successive PSC meetings.</p>
14.6	The Professional Service Provider is entitled to an administration fee of 10% for handling.
14.7	The Employer shall impose a retention amount equal to 10% of the approved contract amount until the final reports are submitted and approved by the Employer. The retention clause comes into effect near the end of the Audit, if the final reports are still outstanding. The retention is reduced to 5% if the draft final reports have been submitted and accepted by the Employer.
14.8	The Financial Proposal, and hence invoices submitted for payment, must be set up in such a way that it will be possible for payments to be linked to deliverables. The Employer needs to be in a position to track the contract progress by checking deliverables achieved and hours worked. Payments will be made after the Employer has received satisfactory proof of deliverables.

Contractor

Witness 1

Witness 2

Employer

Witness 1

Witness 2

	The invoice format needs to be agreed with the Employer at the commencement of the contract. It should also be noted that only one invoice per month can be submitted to the Employer, but an invoice does not need to be submitted for each month.
15	The interest rate will be the prime interest rate of the Employer's Bank at the time the amount is due.

Contractor

Witness 1

Witness 2

Employer

Witness 1

Witness 2

Part 2: Data provided by the Service Provider

The **Service Provider** is:

Postal Address:

.....

Physical Address:

.....

Telephone: Facsimile:

E-mail Address:

The **authorised and designated representative** of the Service Provider is:

Name:

The address for receipt of communication is:

Address:

.....

Contact number:

Facsimile:

SIGNATURE OF TENDERER: **DATE:**

Contractor

Witness 1

Witness 2

Employer

Witness 1

Witness 2

C1.3 Standard Professional Services Contract

The Standard Professional Services Contract has been prepared for use by Employers when they engage firms or individuals (Service Providers) for the performance of knowledge-based expertise provided on the basis of trust.

This document is intended to be used with the procurement documents prepared in accordance with the provisions of SANS 10403: Formatting and Compilation of Construction Procurement Documents.

[Signature Box]

Consultant

[Signature Box]

Witness 1

[Signature Box]

Witness 2

[Signature Box]

Employer

[Signature Box]

Witness 1

[Signature Box]

Witness 2

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Consultant

Witness 1

Witness 2

Employer

Witness 1

Witness 2

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Consultant

Witness 1

Witness 2

Employer

Witness 1

Witness 2

THE STANDARD PROFESSIONAL SERVICES CONTRACT

1. DEFINITIONS

In the Contract, the following words and expressions shall have the meanings indicated, except where the context otherwise requires. Defined terms and words are signified in the text of the Contract by the use of capital initial letters.

Contract

The Contract signed by the Parties and of which these General Conditions of Contract form part.

Contract Data

Specific data, which together with these General Conditions of Contract, collectively describe the risks, liabilities and obligations of the contracting Parties and the procedures for the administration of the Contract.

Contract Price

The price to be paid for the performance of the Services in accordance with the Pricing Data.

Day

A calendar day.

Defect

A part of the Services, as performed, which does not comply with the requirements of the Contract.

Deliverable

Any measurable, tangible, verifiable outcome, result or item that must be produced or completed;

Employer

The contracting party named in the Contract who employs the Service Provider.

Force Majeure

An event which is beyond the reasonable control of a Party and which makes a Party's performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.

Key Persons

Persons who are named as such in the Contract Data who will be engaged in the performance of the Services.

Others

Persons or organizations who are not the Employer, the Service Provider or any employee, Subcontractor, or supplier of the Service Provider.

Parties

The Employer and the Service Provider.

Consultant

Witness 1

Witness 2

Employer

Witness 1

Witness 2

Period of Performance

The period within which the Services are to be performed and completed, commencing from the Start Date.

Personnel

Persons hired by the Service Provider as employees and assigned to the performance of the Services or any part thereof.

Personnel Schedule

A schedule naming all Personnel and Key Persons.

Pricing Data

Data that establishes the criteria and assumptions that were taken into account when developing the Contract Price and the record of the components that make up the Contract Price.

Project

The project named in the Contract Data for which the Services are to be provided.

Scope of Work

The document which defines the Employer's objectives and requirements and specifies the Services which must, or may, be provided under the Contract.

Service Provider

The contracting party named in the Contract Data who is employed by the Employer to perform the Services described in the Contract, and legal successors to the Service Provider and legally permitted assignees.

Services

The work to be performed by the Service Provider pursuant to the Contract as described in the Scope of Work.

Start date

The date on which the Services are to commence, as stated in the Contract Data

Subcontractor

A person or body corporate who enters into a subcontract with the Service Provider to perform part of the Services.

2. INTERPRETATION

2.1 Unless inconsistent with the context, an expression which denotes:

- a) any gender includes the other genders;
- b) a natural person includes a juristic person and vice versa;
- c) the singular includes the plural and vice versa.

2.2 If there is any conflict between the provisions of these General Conditions of Contract and the Contract Data, the provisions of the Contract Data shall prevail.

2.3 The clause headings shall not limit, alter or affect the meaning of the Contract.

Consultant

Witness 1

Witness 2

Employer

Witness 1

Witness 2

3. GENERAL

3.1 Governing law

Law governing the Contract shall be the law of the Republic of South Africa.

3.2 Change in legislation

If after the commencement of the Contract, the cost or duration of the Services is altered as a result of changes in, or additions to, any statute, regulation or bye-law, or the requirements of any authority having jurisdiction over any matter in respect of the Project, then the Contract

Price and time for completion shall be adjusted in order to reflect the impact of those changes, provided that, within 14 Days of first having become aware of the change, the Service Provider furnished the Employer with detailed justification for the adjustment to the Contract Price or Period of Performance (or both).

3.3 Language

3.3.1 The language of the Contract and of all communications between the Parties shall be English.

3.3.2 All reports, recommendations and reports prepared by the Service Provider under the Contract shall be in English.

3.4 Notices

3.4.1 Any notice, request, consent, approvals or other communication made between the Parties pursuant to the Contract shall be in writing and forwarded to the address specified in the Contract Data. Such communication shall be deemed to have been made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or one week after having been sent by registered post, or unless otherwise indicated in the Contract Data, when sent by e-mail or facsimile to such Party

3.4.2 A Party may change its address for receipt of communications by giving the other Party 30 Days advance notice of such change.

3.5 Location

The Services shall be performed at such locations as are specified in the Contract Data, and where the location of a particular task is not so specified, at such locations as the Employer may approve.

3.6 Publicity and publication

Unless otherwise stated in the Contract Data, the Service Provider shall not release public or media statements or publish material related to the Services or Project within two (2) years of completion of the Services without the written approval of the Employer, which approval by the Employer shall not be

Consultant

Witness 1

Witness 2

Employer

Witness 1

Witness 2

unreasonably withheld.

3.7 Confidentiality

Both parties shall keep all sensitive information obtained by them in the context of the Contract confidential and shall not divulge it without the written approval of the other Party.

3.8 Variations

3.8.1 The Employer may, without changing the objectives or fundamental scope of the Contract, order variations to the Services in writing or may request the Service Provider to submit proposals, including the time and cost implications, for variations to the Services.

3.8.2 The reasonable cost of preparation and submission of such proposals and the incorporation into the Contract of any variations to the Services ordered by the Employer, including any change in the Contract Price, shall be agreed between the Service Provider and the Employer.

3.8.3 Where a variation is necessitated by default or breach of Contract by the Service Provider, any additional cost attributable to such variation shall be borne by the Service Provider.

3.9 Changes to the Contract Price or Period of Performance

3.9.1 The Service Provider is entitled to apply to the Employer for a change in Contract Price or the Period of Performance in the event that:

- a) a change in legislation takes place in accordance with the provisions of Clause 3.2;
- b) a variation to the Services is made in accordance with the provisions of Clause 3.8;
- c) the Employer or Others do not perform an action, provide access to people, places or things or perform work in accordance with the programme (see Clause 3.15);
- d) the contract is suspended in accordance with the provisions of Clause 8.5;
- e) the contract is restarted following a suspension;

OR

- f) an event occurs which neither Party could prevent and which prevents the Service Provider from completing the Services or a part thereof

3.9.2 The Service Provider shall submit proposals to change the Contract Price or the Period for Completion (or both) to the Employer within 6 weeks of becoming aware of an event described in 3.9.1 occurring, failing which, the Service Provider shall not be entitled to a change in the Contract Price or Period of Performance.

3.9.3 The Employer shall assess the changes to the Contract Price on the effect of the event on the Services based on time-based fees.

3.9.4 The Employer shall assess the changes to the Period of Performance on the basis of the time that planned completion as shown on the latest approved

Consultant

Witness 1

Witness 2

Employer

Witness 1

Witness 2

programme is delayed.

3.10 Sole agreement

The Contract constitutes the sole agreement between the Parties for the performance of the Services and any representation not contained therein shall not be of any force or effect. No amendments will be of any force or effect unless reduced to writing and signed by both Parties.

3.11 Indemnification

The Service Provider shall, at his own expense, indemnify, protect and defend the Employer, its agents and employees, from and against all actions, claims, losses and damage arising from any negligent act or omission by the Service Provider in the performance of the Services, including any violation of legal provisions, or rights of others, in respect of patents, trademarks and other forms of intellectual property such as copyrights.

3.12 Penalty

3.12.1 If due to his negligence, or for reasons within his control, the Service Provider does not perform the Services within the Period of Performance, the Employer shall without prejudice to his other remedies under the Contract or in law, be entitled to levy a penalty for every Day or part thereof, which shall elapse between the end of the period specified for performance, or an extended Period of Performance, and the actual date of completion, at the rate and up to the maximum amount stated in the Contract Data.

3.12.2 If the Employer has become entitled to the maximum penalty amount referred to in 3.12.1, he may after giving notice to the Service Provider:

- a) terminate the Contract
- b) complete the Services at the Service Provider's cost.

3.13 Equipment and materials furnished by the Employer

3.13.1 Equipment and materials made available to the Service Provider by the Employer, or purchased by the Service Provider with funds provided by the Employer for the performance of the Services shall be the property of the Employer and shall be marked accordingly. Upon termination or expiration of the Contract, the Service Provider shall make available to the Employer an inventory of such equipment and materials and shall dispose of them in accordance with the Employer's instructions.

3.13.2 The Service Provider shall, at his own expense, insure the equipment and materials referred to in 3.13.1 for their full replacement value.

3.14 Illegal and impossible requirements

The Service Provider shall notify the Employer immediately, on becoming aware that the Contract requires him to undertake anything which is illegal or impossible.

Consultant

Witness 1

Witness 2

Employer

Witness 1

Witness 2

3.15 Programme

3.15.1 The Service Provider shall, within the time period set out in the Contract Data and whenever a programme is amended or revised, submit for the Employer's approval a programme for the performance of the Services which shall, inter alia, include:

- a) the order and timing of operations by the Service Provider and any actions, access to people, places and things and work required of the Employer and Others;
- b) the dates by which the Service Provider plans to complete work needed to allow the Employer and Others to undertake work required of them;
- c) provisions for float;
- d) the planned completion of the Services or part thereof in relation to a Period of Performance; and
- e) other information as required in terms of the Scope of Work or Contract Data.

3.15.2 The Employer may, during the course of the Contract, request the Service Provider to amend the programme. Where this is not practicable, the Service Provider shall advise the Employer accordingly and advise him of alternative measures, if any, which might be taken.

3.15.3 A programme shall be deemed to be approved if the Employer fails to approve such programme or give reasons for not approving a programme within three weeks of receipt of a request by the Service Provider to approve a programme.

3.15.3 The Service Provider shall update the programme:

- a) unless otherwise stated in the Contract Data, every three months to reflect actual progress to date;
- b) whenever a change in Period of Performance or Contract Price is applied for; and
- c) whenever a change in the Period of Performance is changed by the Employer and submit such revised programme to the Employer for approval.

3.16 Price adjustment to time-based fees for inflation

3.16.1 Time-based fees which are stated in the Pricing Data as a unique rate and are not calculated by multiplying the total annual cost of employment contained, shall unless otherwise stated in the Contract Data, be adjusted in terms of on each anniversary of the Starting Date.

3.16.2 The adjustment to the time-based fees shall be equal to:

$$(CPI_N - CPI_S) / CPI_S$$

where CPI_S = the indices specified in the Contract Data during the month in which the start date falls

CPI_N = the latest indices specified in Contract Data during the month in which the anniversary of the Start Date falls

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4. EMPLOYER'S OBLIGATIONS

4.1 Information

- 4.1.1 The Employer shall timeously provide to the Service Provider, free of cost, all available information and data in the Employer's possession which may be required for the performance of the Services.
- 4.1.2 The Employer shall provide the Service Provider with reasonable assistance required in obtaining other relevant information that the latter may require in order to perform the Services.

4.2 Decisions

The Employer shall, within a reasonable time, give his decision on any matter properly referred to him in writing by the Service Provider so as not to delay the performance of Services.

4.3 Assistance

4.3.1 The Employer shall co-operate with the Service Provider and shall not interfere with or obstruct the proper performance of the Services. The Employer shall as soon as practicable:

- a) Authorize the Service Provider to act as his agent insofar as may be necessary for the performance of the Services;
- b) Provide all relevant data, information, reports, correspondence and the like, which become available;
- c) Procure the Service Provider's ready access to premises, or sites, necessary for the performance of the Services;
- d) Assist in the obtaining of all approvals, licenses and permits from state, regional and municipal authorities having jurisdiction over the Project, unless otherwise stated in the Contract Data;

4.3.2 Unless otherwise communicated, the authorized and designated person named in the Contract Data has complete authority in giving instructions and receiving communications on the Employer's behalf and interpreting and defining the Employer's policies and requirements in regard to the Services.

4.4 Services of Others

The Employer shall, at his own cost, engage such Others as may be required for the execution of work not included in the Services, but which is necessary for the completion of the Project.

4.5 Notification of material change or defect

The Employer shall immediately advise the Service Provider on becoming aware of:

- a) any matter other than a change in legislation which will materially change, or has changed the Services; or
- b) a material defect or deficiency in the Services.

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4.6 Issue of instructions

Where the Service Provider is required to administer the work or services of Others, or any contract or agreement, on behalf of the Employer, then the Employer shall issue instructions related to such work, services, contract or agreement only through the Service Provider.

4.7 Payment of Service Provider

The Employer shall pay the Service Provider the Contract Price in accordance with the provisions of the Contract.

5. SERVICE PROVIDER'S OBLIGATIONS

5.1 General

5.1.1 The Service Provider shall 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.

5.1.2 If the Service Provider is a joint venture or consortium of two or more persons, the Service Provider shall designate one person to act as leader with authority to bind the joint venture or consortium. Neither the composition nor the constitution of the joint venture or consortium shall be altered without the prior consent in writing of the Employer, which shall not be unreasonably withheld.

5.2 Exercise of authority

The Service Provider shall have no authority to relieve Others appointed by the Employer to undertake work or services on the Project of any of their duties, obligations, or responsibilities under their respective agreements or contracts, unless expressly authorized by the Employer in response to an application by the Service Provider in writing to do so.

5.3 Designated representative

Unless otherwise communicated, the authorized and designated person named in the Contract Data has complete authority to receive instructions from and give information to the Employer on behalf of the Service Provider.

5.4 Insurances to be taken out by the Service Provider

5.4.1 The Service Provider shall as a minimum and at his own cost take out and maintain in force all such insurances as are stipulated in the Contract Data.

5.4.2 The Service Provider shall, at the Employer's request, provide evidence to the Employer showing that the insurance required in terms of Clause 5.4.1 has been taken out and maintained in force.

5.5 Service Provider's actions requiring Employer's prior approval

The Service Provider shall obtain the Employer's prior approval in writing before taking, inter alia, any of the following actions:

a) appointing Subcontractors for the performance of any part of

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- the Services,
- b) appointing Key Persons not listed by name in the Contract Data.
- c) any other action that may be specified in the Contract Data.

5.6 Co-operation with Others

If the Service Provider is required to perform the Services in co-operation with Others he may make recommendations to the Employer in respect of the appointment of such Others. The Service Provider shall, however, only be responsible for his own performance and the performance of Subcontractors unless otherwise provided for.

5.7 Notice of change by Service Provider

On becoming aware of any matter which will materially change or has changed the Services, the Service Provider shall within 14 Days thereof give notice to the Employer.

6. CONFLICTS OF INTEREST

6.1 Service Provider not to benefit from commissions, discounts, etc.

The remuneration of the Service Provider under the Contract shall constitute the Service Provider's sole remuneration in connection with the Contract, or the Services, and the Service Provider shall not accept for his own benefit any trade commission, discount, or similar payment in connection with activities pursuant to the Contract, or in the discharge of his obligations under the Contract, and shall use his best efforts to ensure that the Personnel, any Subcontractors, and agents of either of them shall, similarly, not receive any additional remuneration.

6.2 Royalties and the like

The Service Provider shall not have the benefit, whether directly or indirectly, of any royalty or of any gratuity or commission in respect of any patented or protected article or process used in or for the purposes of the Contract, or Project, unless so agreed by the Employer in writing.

6.3 Independence

The Service Provider shall refrain from entering into any relationship which could be perceived as compromising his independence of judgement, or that of Subcontractors or Personnel.

7. SERVICE PROVIDER'S PERSONNEL

7.1 General

7.1.1 The Service Provider shall employ and provide all qualified and experienced Personnel required to perform the Services.

7.1.2 Where required in terms of the Contract, the Service Provider shall provide Key Persons as listed in the Contract Data to perform specific duties. If at any time, a particular Key Person cannot be made available, the Service Provider may engage a replacement who is equally or better qualified to

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perform the stated duty, subject to the Employer's approval, which approval shall not be unreasonably withheld.

- 7.1.3 Where the fees for the Services are time-based, the fee payable for a person provided as a replacement to a named Key Person shall not exceed that which would have been payable to the person replaced.
- 7.1.4 The Service Provider shall bear all additional costs arising out of or incidental to replacement of Personnel, except where such replacement is otherwise provided for in the Contract.
- 7.1.5 The Service Provider shall take all measures necessary and shall provide all materials and equipment necessary to enable Personnel to perform their duties in an efficient manner.

7.2 Provision of Personnel in terms of a Personnel Schedule

- 7.2.1 The Service Provider shall, where required in terms of the Contract Data, provide appropriate Personnel for such time periods as required in terms of the Contract and enter all data pertaining to Personnel including titles, job descriptions, qualifications and estimated periods of engagement on the performance of the Services in the Personnel Schedule.
- 7.2.2 Where the Service Provider proposes to utilize a person not named in the Personnel Schedule, he shall submit the name, relevant qualifications and experience of the proposed replacement person to the Employer for approval. Should the Employer not object in writing within 10 Days of receipt of such notification, the replacement shall be deemed to have been approved by the Employer.
- 7.2.3 The Services shall be performed by the Personnel listed in the Personnel Schedule for the periods of time indicated therein. The Service Provider may, subject to the approval of the Employer, make such adjustments to the data provided in terms of Clause 7.2.1 above as may be appropriate to ensure the efficient performance of the Services, provided that the adjustments will not cause payments to exceed any limit placed on the Contract Price.
- 7.2.4 The Service Provider shall, if required in terms of Clause 7.2.1:
 - a) forward to the Employer for approval, within 15 Days of the award of the Contract, the Personnel Schedule and a timetable for the placement of Personnel.
 - b) inform the Employer of the date of commencement and departure of each member of Personnel during the course of the Project.
 - c) submit to the Employer for his approval a timely request for any proposed change to Personnel, or timetables.

8. COMMENCEMENT, COMPLETION, MODIFICATION, SUSPENSION AND TERMINATION

8.1 Commencement of Services

The Service Provider shall commence the performance of the Services within the period stated in the Contract Data.

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8.2 Completion

- 8.2.1 Unless terminated in terms of the Contract, or otherwise specified in the Contract Data, the Contract shall be concluded when the Service Provider has completed all Deliverables in accordance with the Scope of Work.
- 8.2.2 The Service Provider may request an extension to the Period of Performance if he is or will be delayed in completing the Contract by any of the following causes:
- a) additional Services ordered by the Employer;
 - b) failure of the Employer to fulfil his obligations under the Contract;
 - c) any delay in the performance of the Services which is not due to the Service Provider's default;
 - d) Force Majeure; or
 - e) suspension.
- 8.2.3 The Service Provider shall within 14 Days of becoming aware that a delay may occur or has occurred, notify the Employer of his intention to make a request for the extension of the Period of Performance to which he considers himself entitled and shall within 30 days after the delay ceases deliver to the Employer full and detailed particulars of the request.
- 8.2.4 The Employer shall, within 30 Days of receipt of a detailed request, grant such extension to the Period of Performance as may be justified, either prospectively or retrospectively, or inform the Service Provider that he is not entitled to an extension. Should the Service Provider find the decision of the Employer to be unacceptable he shall, nevertheless, abide by such decision in the performance of the Services and the matter shall be dealt with as a dispute in terms of Clause 12.

8.3 Force Majeure

- 8.3.1 The failure of a Party to fulfil any of its obligations under the Contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures in order to meet the terms and conditions of this Contract, and has informed the other Party as soon as possible about the occurrence of such an event.
- 8.3.2 In the event that the performance of the Services has to be suspended on the grounds of Force Majeure, the Period of Performance shall be extended by the extent of the delay plus a reasonable period for the resumption of work.
- 8.3.3 During the period of his inability to perform the Services as a result of an event of Force Majeure, the Service Provider shall be entitled to any payment due in terms of the Contract and shall be reimbursed for additional costs reasonably and necessarily incurred by him in suspending, delaying and re-activating the performance of the Services.

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8.4 Termination

8.4.1 The Employer may terminate the Contract:

- (a) where the Services are no longer required;
- (b) where the funding for the Services is no longer available;
- (c) if the Service Provider does not remedy a failure in the performance of his obligations under the Contract within thirty (30) Days after having been notified thereof, or within any further period as the Employer may have subsequently approved in writing;
- (d) if the Service Provider becomes insolvent or liquidated; or
- (e) if, as the result of Force Majeure, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) Days;

8.4.2 The Employer shall give the Service Provider not less than thirty (30) Days written notice of any termination made in terms of 8.4.1 (a) or (b).

8.4.3 The Service Provider may terminate the Contract, by giving not less than thirty (30) Days written notice to the Employer after the occurrence of any of the following events:

- (a) if the Employer fails to pay any monies due to the Service Provider in terms of the Contract and not subject to dispute pursuant to Clause 12 within forty-five (45) Days after receiving written notice from the Service Provider that such payment is overdue; or
- (b) if, as the result of Force Majeure, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) Days; or
- (c) when the Services have been suspended under Clause 8.5 and the period of suspension exceeds the period stated in the Contract Data, or it is clear to the Service Provider that it will be impossible or impractical to resume the suspended Services before the period of suspension has exceeded the period stated in the Contract Data; or
- (d) if the Employer is in material breach of a term of the Contract and fails to rectify such breach within 30 Days of the receipt of written notice requiring him to do so.

8.4.4 Upon termination of this Contract pursuant to Clauses 8.4.1 or 8.4.3, the Employer shall remunerate the Service Provider in terms of the Contract for Services satisfactorily performed prior to the effective date of termination and reimburse the Service Provider any reasonable cost incident to the prompt and orderly termination of the Contract, except in the case of termination pursuant to events (c) and (d) of Clause 8.4.1.

8.4.5 Should the Service Provider, being an individual or the last surviving principal of a partnership or body corporate, die or be prevented by illness or any other circumstances beyond his control from performing the obligations implied by the Contract, the Contract shall be terminated without prejudice to the accrued rights of either Party against the other.

8.5 Suspension

8.5.1 The Employer may temporarily suspend all or part of the Services by notice to the Service Provider who shall immediately make arrangements to stop the

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performance of the Services and minimize further expenditure.

8.5.2 When Services are suspended, the Service Provider shall be entitled to pro-rata payment for the Services carried out and reimbursement of all reasonable cost incident to the prompt and orderly suspension of the Contract.

8.6 Rights and liabilities of the Parties

Completion, suspension or termination of the Contract shall not prejudice or affect the accrued rights or liabilities of the Parties.

9. OWNERSHIP OF DOCUMENTS AND COPYRIGHT

9.1 Copyright of all documents prepared by the Service Provider in accordance with the relevant provisions of the copyright Act (Act 98 of 1978) relating to Project shall be vested in the party named in the Contract Data. Where copyright is vested in the Service Provider, the Employer shall be entitled to use the documents or copy them only for the purposes for which they are intended in regard to the Project and need not obtain the Service Provider's permission to copy for such use. Where copyright is vested in the Employer, the Service Provider shall not be liable in any way for the use of any of the information other than as originally intended for the Project and the Employer hereby indemnifies the Service Provider against any claim which may be made against him by any party arising from the use of such documentation for other purposes.

9.2 The ownership of data and factual information collected by the Service Provider and paid for by the Employer shall, after payment by the Employer, lie with the Employer.

9.3 The Employer shall have no right to use any documents prepared by the Service Provider whilst the payment of any fees and expenses due to the Service Provider in terms of the Contract is overdue.

10. SUCCESSION AND ASSIGNMENT

10.1 Except as defined in Clause 8.4.4 above, each Party binds itself and its partners, successors, executors, administrators, assigns and legal representatives to the other Party and to the other partners, successors, executors, administrators, assigns and legal representatives of the other Party in respect of all obligations and liabilities of the Contract.

10.2 An assignment shall be valid only if it is a written agreement by which the Service Provider transfers his rights and obligations under the Contract, or part thereof, to others.

10.3 The Service Provider shall not, without the prior written consent of the Employer, assign the Contract or any part thereof, or any benefit or interest thereunder, except in the following cases:

- a) by a charge in favour of the Service Provider's bankers of any monies due or to become due under the Contract; or
- b) by assignment to the Service Provider's insurers of the Service Provider's right to discharge the Service Provider's loss or liability.

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- 10.4 The approval of an assignment by the Employer shall not relieve the Service Provider of his obligations for the part of the Contract already performed or the part not assigned.
- 10.5 If the Service Provider has assigned his Contract or part thereof without authorization, the Employer may forthwith terminate the Contract and the third party will have no claim against the Employer resulting from such termination.

11. SUBCONTRACTING

- 11.1 A Service Provider may not subcontract any work which he has the skill and competency to perform, unless otherwise permitted in the Contract Data.
- 11.2 A subcontract, where permitted in terms of the Contract Data, shall be valid only if it is a written agreement by which the Service Provider entrusts performance of a part of the Services to Others.
- 11.3 The Service Provider shall not subcontract to nor engage a Subcontractor to perform any part of the Services without the prior written authorization of the Employer. The services to be sub-contracted and the identity of the Subcontractor shall be notified to the Employer. The Employer shall, within 14 Days of receipt of the notification and a full motivation why such services are to be subcontracted, notify the Service Provider of his decision, stating reasons, should he withhold such authorization. If the Service Provider enters into a subcontract with a Subcontractor without prior approval, the Employer may forthwith terminate the Contract.
- 11.4 The Employer shall have no contractual relationships with Subcontractors. However, if a Subcontractor is found by the Employer to be incompetent, the Employer may request the Service Provider either to provide a Subcontractor with qualifications and experience acceptable to the Employer as a replacement, or to resume the performance of the relevant part of the Services himself.
- 11.5 The Service Provider shall advise the Employer without delay of the variation or termination of any subcontract for performance of all or part of the Services.
- 11.6 The Service Provider shall be responsible for the acts, defaults and negligence of Subcontractors and their agents or employees in the performance of the Services, as if they were the acts, defaults or negligence of the Service Provider, his agents or employees. Approval by the Employer of the subcontracting of any part of the Contract or of the engagement by the Service Provider of Subcontractors to perform any part of the Services shall not relieve the Service Provider of any of his obligations under the Contract.

12. RESOLUTION OF DISPUTES

12.1 Settlement

12.1.1 The Parties shall negotiate in good faith with a view to settling any dispute or claim arising out of or relating to the Contract and may not initiate any further proceedings until either Party has, by written notice to the other, declared that such negotiations have failed.

12.1.2 Any dispute or claim arising out of or relating to the Contract which cannot be

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settled between the Parties shall in the first instance be referred by the Parties to either mediation or adjudication as provided for in the Contract Data.

12.2 Mediation

- 12.2.1 If the Contract Data does not provide for dispute resolution by adjudication, not earlier than 14 Days after having advised the other Party, in terms of Clause 12.1, that negotiations in regard to a dispute have failed, an aggrieved Party may require that the dispute be referred, without legal representation, to mediation by a single mediator. The mediator shall be selected by agreement between the Parties, or, failing such agreement, by the person named for this purpose in the Contract Data. The costs of the mediation shall be borne equally by the Parties.
- 12.2.2 The mediator shall convene a hearing of the Parties and may hold separate discussions with any Party and shall assist the Parties in reaching a mutually acceptable settlement of their differences through means of reconciliation, interpretation, clarification, suggestion and advice. The Parties shall record such agreement in writing and thereafter they shall be bound by such agreement.
- 12.2.3 The mediator is authorized to end the mediation process whenever in his opinion further efforts at mediation would not contribute to a resolution of the dispute between the Parties.
- 12.2.4 If either Party is dissatisfied with the opinion expressed by the mediator or should the mediation fail, then such Party may require that the dispute be referred to arbitration or litigation in a competent civil court, as provided for in the Contract Data.

12.3 Adjudication

- 12.3.1 If the Contract Data does not provide for dispute resolution by mediation, an aggrieved Party may refer the dispute to adjudication. Adjudication shall be in accordance with the latest edition of the separately published CIDB Adjudication Procedures.
- 12.3.2 The adjudicator shall be appointed in terms of the Adjudicator’s Agreement bound in the Construction Industry Development Board’s Adjudication Procedure.
- 12.3.3 The Adjudicator shall be any person agreed to by the parties or, failing such agreement, shall be nominated by the person named in the Contract Data. The Adjudicator shall be appointed in accordance with the Adjudicator’s Agreement contained in the CIDB Adjudication Procedure.
- 12.3.4 If a Party is dissatisfied with the decision of the Adjudicator, the Party may give the other Party notice of dissatisfaction within 28 Days of the receipt of that decision and refer the dispute to arbitration or litigation in a competent civil court as provided for in the Contract Data. If no notice of dissatisfaction is given within the specified time, the decision shall be final and binding on the Parties.

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12.4 Arbitration

12.4.1 Arbitration, where provided for in the Contract Data, shall be by a single arbitrator in accordance with the provisions of the Arbitration Act of 1965 as amended and shall be conducted in accordance with such procedure as may be agreed between the Parties or, failing such agreement, in accordance with the Rules for the Conduct of Arbitrations published by the Association of Arbitrators current at the date the arbitrator is appointed.

12.4.2 The arbitrator shall be mutually agreed upon or, failing agreement, to be nominated by the person named in the Contract Data.

13. LIABILITY

13.1 Liability of the Service Provider

13.1.1 The Service Provider shall be liable to the Employer arising out of or in connection with the Contract if a breach of Clause 5.1 is established against him.

13.1.2 The Service Provider shall correct a Defect on becoming aware of it. If the Service Provider does not correct a Defect within a reasonable time stated in a notification and the Defect arose from a failure of the Service Provider to comply with his obligation to provide the Services, the Service Provider shall pay to the Employer the amount which the latter assesses as being the cost of having such Defect corrected by Others.

13.1.3 All persons in a joint venture or consortium shall be jointly and severally liable to the Employer in terms of this Contract and shall carry individually the minimum levels of insurance stated in the Contract Data, if any.

13.2 Liability of the Employer

The Employer shall be liable to the Service Provider arising out of or in connection with the Contract if a breach of an obligation of his in terms of the Contract is established. The Service Provider shall have no separate delictual right of action against the Employer.

13.3 Compensation

If it is established that either Party is liable to the other, compensation shall be payable only on the following terms:

(a) Compensation shall be limited to the amount of reasonably foreseeable loss and damage suffered as a result of the breach.

(b) In any event, the amount of compensation will be limited to the amount specified In Clause 13.5.

13.4 Duration of Liability

Notwithstanding the terms of the Prescription Act No. 68 of 1969 (as amended) or any other applicable statute of limitation neither the Employer nor the

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Service Provider shall be held liable for any loss or damage resulting from any occurrence unless a claim is formally made within the period stated in the Contract Data or, where no such period is stated, within a period of three years from the date of termination or completion of the Contract.

13.5 Limit of Compensation

13.5.1 Unless otherwise indicated in the Contract Data, the maximum amount of compensation payable by either Party to the other in respect of liability under the Contract is limited to:

- a) the sum insured in terms of 5.4 in respect of insurable events; and
- b) the sum stated in the Contract Data or, where no such amount is stated, to an amount equal to twice the amount of fees payable to the Service Provider under the Contract, excluding reimbursement and expenses for items other than salaries of Personnel, in respect of non-insurable events.

13.5.2 Each Party agrees to waive all claims against the other insofar as the aggregate of compensation which might otherwise be payable exceeds the aforesaid maximum amount payable.

13.5.3 If either Party makes a claim for compensation against the other Party and this is not established, the claimant shall reimburse the other for his reasonable costs incurred as a result of the claim or if proceedings are initiated in terms of Clause 12 for such costs as may be awarded.

13.6 Indemnity by the Employer

Unless otherwise indicated in the Contract Data, the Employer shall indemnify the Service Provider against all claims by third parties which arise out of or in connection with the performance of the Services save to the extent that such claims do not in the aggregate exceed the limit of compensation in Clause 13.5, if applicable, or are covered by the insurances arranged under the terms of Clause 5.4.

13.7 Exceptions

13.7.1 Clauses 13.5 and 13.6 shall not apply to claims arising from deliberate misconduct.

13.7.2 The Service Provider shall have no liability whatsoever for actions, claims, losses or damages occasioned by:

- a) the Employer omitting to act on any recommendation, or overriding any act, decision or recommendation, of the Service Provider, or requiring the Service Provider to implement a decision or recommendation with which the Service Provider disagrees or on which he expresses a serious reservation; or
- b) the improper execution of the Service Provider's instructions by agents, employees or independent contractors of the Employer.

14. REMUNERATION AND REIMBURSEMENT OF SERVICE PROVIDER

The Employer shall remunerate and reimburse the Service Provider for the performance of the Services as set out in the Pricing Data. If not otherwise

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- stated in the Pricing Data, the following shall apply:
- 14.1 The Service Provider shall be entitled to render interim monthly accounts for fees and reimbursements throughout the duration of the Contract. Interim amounts of lump sum fees due shall be based on progress.
 - 14.2 Amounts due to the Service Provider shall be paid by the Employer within thirty (30) Days of receipt by him of the relevant invoices. If the Service Provider does not receive payment by the due date, he shall be entitled to charge interest on the unpaid amount, which is payable by the Employer, at the prime interest rate charged by his bank and certified by such bank, plus 2% per annum, and calculated from the due date of payment.
 - 14.3 If any item or part of an item in an invoice submitted by the Service Provider is disputed by the Employer, the latter shall, before the due date of payment, give notice thereof with reasons to the Service Provider, but shall not delay payment of the balance of the invoice. Clause 14.2 shall apply to disputed amounts which are finally determined to be payable to the Service Provider.
 - 14.4 In respect of Services charged for on a time-basis and all other reimbursable expenses the Service Provider shall maintain records in support of such charges and expenses for a period of twenty four months after the completion or termination of the Contract. Within this period the Employer may, on not less than 14 Days' notice, require that a reputable and independent firm of accountants, nominated by him at his expense, audit any claims made by the Service Provider for time charges and expenses by attending during normal working hours at the office where the records are maintained.

15 AMOUNTS DUE TO THE EMPLOYER

Amounts due to the Employer shall be paid by the Service Provider within thirty (30) Days of receipt by him of the relevant invoices. If the Employer does not receive payment by the due date, he shall be entitled to charge interest on the unpaid amount, which is payable by the Service Provider, at the rate stated in the Contract Data, calculated from the due date for payment.

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BLOEM WATER

**REQUEST FOR PROPOSAL (RFP): APPOINTMENT FOR THE TECHNICAL AUDIT OF
BLOEM WATER INFRASTRUCTURE**

CONTRACT NO.: BW254/TIA/19

BOOK 2

VOLUME 3: FINANCIAL PROPOSAL

**PART C2
PRICING DATA**

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BLOEM WATER

REQUEST FOR PROPOSAL (RFP): APPOINTMENT FOR THE TECHNICAL AUDIT OF BLOEM WATER INFRASTRUCTURE

CONTRACT NO.: BW254/TIA/19

PART C2 : PRICING DATA

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C2.1- 2

C2.1 PRICING INSTRUCTIONS

Pricing Assumptions mean the criteria as set out below, read together with all Parts of this contract document, which it will be assumed in the contract that the tenderer has taken into account when developing his prices.

1. The short descriptions given in the Activity Schedule below are brief descriptions used to identify the activities for which prices are required. Detailed descriptions of the activities to be priced are provided in the Scope of Work, with reference to the Guideline Scope of Services and Tariff of Fees for Persons Registered in terms of the Engineering Profession Act, 2000 (Board Notice 138 of 2015), where applicable.
2. While it is entirely at the tenderer's discretion as regards pricing the Activity Schedule below, the Guideline Scope of Services and Tariff of Fees for Persons Registered in terms of the Engineering Profession Act, 2000 (Board Notice 138 of 2015) is a useful document that will give tenderers some idea of industry norms against which they may compare their rates, sums, and/or prices as applicable.
3. For the purpose of the Activity Schedule, the following words shall have the meanings hereby assigned to them:

Unit:	The unit of measurement for each item of work.
Quantity:	The number of units of work for each item.
Rate:	The agreed payment per unit of measurement.
Amount:	The product of the quantity and the agreed rate for an item.
Sum:	An agreed lump sum payment amount for an item, the extent of Which is described in the Scope of Work, but the quantity of work which is not measured in any units.

4. The Tenderer is expected to provide the information on how much time each key expert is allocated to the main tasks of the assignment. The overall composition of the team and time input of each key expert will be taken into consideration during evaluation of the bids.
5. The rates, sums, and prices in the Activity Schedule are to be fully inclusive prices for the work described under the several items. Such prices and rates are to cover all costs and expenses that may be required in and for the execution of the audit described in accordance with the provisions of the Scope of Work, and shall cover the cost of all general risks, liabilities, and obligations set forth or implied in the Contract Data, as well as overhead charges and profit.
6. The Financial Proposal, and hence invoices submitted for payment, must be set up in such a way that it will be possible for payments to be linked to deliverables. The employer needs to be in a position to track the contract progress by checking deliverables achieved and hours worked. Payments will be made after Bloem Water has received satisfactory proof of deliverables.
7. Tenderers will note that it is the intention to manage this Audit on the basis of deliverables and not on the number of hours worked. The man-hours, which also need to be provided, must therefore be linked to suitable deliverables that can be achieved on a regular basis to facilitate the required cash flow.
8. Tendered time-base fees (where the unit of measurement is time based) shall be adjusted in terms of clause 3.16 of the Standard Professional Services Contract. Tenderers are to note that notwithstanding the fact that services are to be provided over a 16 months period. There will be no adjustment in the rates, sums and/or prices tendered during the term of the contract.

Consultant

Witness 1

Witness 2

Employer

Witness 1

Witness 2

9. Tenderers are to also note that if the successful tenderer is given any extension with respect to their appointment term, tendered time-base fees shall be adjusted, for extension with respect to their appointment term, in terms of Clause 3.16 of the Standard Professional Services Contract and shall **not** revert to an applicable time-based ECSA rate.
10. The categories of persons (A, B, C, D) in respect of time-based fee rates shall be as defined in Clause 4.4(2) of the Guideline Scope of Service and Tariff of Fees for Persons Registered in terms of the Engineering Profession Act, 2000 (Board Notice 138 of 2015).
11. Tenderers are to note that only those recoverable expenses listed in the Activity Schedule will be reimbursed to the Service Provider. No reimbursement of costs for subsistence, typing, printing/copying (other than reports and/or tender documents), communications or computer hardware and/or software will be made and these costs will be deemed to be included in rates, sums and prices for normal and additional services rendered.
12. Items for printing/copying shall be for specified contract documents, reports, manuals and drawings, excluding general correspondence, minor reports, progress reports, etc. which shall be deemed to be included in the professional fees. Payment will only be made for copies of reports and drawings submitted to the Employer or issued, as specified or requested by the Employer, and all drafts shall be for the Service Provider's account.
13. The per kilometre rate for the reimbursement of travel expenses shall be limited to the ad-hoc duty transportation allowance for the Employer's own staff as adjusted from time to time. This rate is as per the Automobile Association (AA) approved rates.
14. Tenderers are to note that the planning for this contract is based on a 16 months budget subject to change. While the Employer has every intent to complete the full scope of works, the Employer reserves the right to reduce or increase the scope of works according to the dictates of the budget, or to terminate this contract, without adjustment to the agreed rates, sums or price and without payment of any penalty or surcharge in this regard. The Service Provider shall however be entitled to pro-rata payment for all services carried out in terms of any adjustment to the Scope of Works or, in the case of termination, remuneration and/or reimbursement as described in Clause 8.4.4 of the Standard Professional Services Contract.
15. Where the Scope of Services is silent on particular issues, bidders must clearly state which issues can be expected to arise during the Audit and which additional tasks may be necessary. These assumptions / additional tasks must then be scheduled and budgeted for in a separate section of the Financial Proposal, which is clearly indicated as additional tasks.
16. A variation order for an increase of the original contract amount shall only be considered in exceptional circumstances, such as additional work that was not reasonably foreseen and cannot be accommodated in the Audit Budget by a re-allocation of funds. It is therefore expected that the PSP shall make provision in the Financial Proposal for all costs and expenses to undertake and complete the tasks described in the Scope of Services.
17. It is Bloem Water practice to impose a retention amount equal to 10% of the approved contract amount until the Final reports are submitted and approved by Bloem Water. The retention clause comes into effect near the end of the Study, if the Final reports are still outstanding. The retention is reduced to 5% if the Draft Final reports have been submitted and accepted by the Employer.

Consultant

Witness 1

Witness 2

Employer

Witness 1

Witness 2

18. The Financial Proposal shall include an estimate of man-hours, broken down to each task and audit team member. Within each task a break down is required for personnel of the main consultant and each sub-consultant comprising the following information:
 - Name of each person
 - Number of hours for each person
 - Hourly rate (excluding VAT) for each person
 - Anticipated cost escalation over audit period
 - Total cost for the Task
 - Total VAT
 - Total cost of Task including VAT
19. All rates and sums of money quoted in the Bill of Quantities shall be in Rands and whole cents. Fractions of a cent shall be discarded
20. All prices and rates entered in the Bill of Quantities must be **excluding Value Added Tax (VAT)**. VAT will be added last on the summary page of the Bill of Quantities
21. Should excessively high unit prices be tendered, such prices may be of sufficient importance to warrant rejection of a tender by the Employer.

CORRECTION OF ENTRIES MADE BY TENDERER

Any entry made by the Tenderer in the Bill of Quantities, forms, etc, which the Tenderer desires to change, shall not be erased or painted out. A line shall be drawn through the incorrect entry and the correct entry shall be written above in black ink and the full signature of the Tenderer shall be placed next to the correction.

Consultant

Witness 1

Witness 2

Employer

Witness 1

Witness 2

BLOEM WATER
REQUEST FOR PROPOSAL (RFP): APPOINTMENT FOR THE TECHNICAL AUDIT OF
BLOEM WATER INFRASTRUCTURE

CONTRACT NO.: BW254/TIA/19

SECTION C2.2 SCHEDULE OF QUANTITIES

Consultant

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Witness 2

Employer

Witness 1

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C2.2- 1



Bill No 2

Task No.	Team member	Company name	Position	HDI	Audit position/activity	Time schedule	Hourly rate (Excl. VAT)	Total cost (Excl. VAT)
2.				Yes/no		Man hours	Rand/hour	Rand
AUDIT REPORT ORANGE RIVER REGION								
Subtotal for professional fees								
Disbursements:								
- Travel								
- Accommodation								
- Subsistence								
- Printing								
Subtotal for disbursements								
TOTAL COST TASK 2								
SUBTOTAL THIS PAGE (carry forward to the Summary)								

Consultant

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Employer

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BLOEM WATER

REQUEST FOR PROPOSAL (RFP): APPOINTMENT FOR THE TECHNICAL AUDIT OF BLOEM WATER INFRASTRUCTURE

CONTRACT NO.: BW254/TIA/19

SECTION C 2.3 SUMMARY OF ACTIVITY SCHEDULE

- Subtotal Cost Bill 1: Caledon River Region R _____
- Subtotal Cost Bill 2: Modder River Region R _____
- Subtotal Cost Bill 3: Orange River Region R _____
- Subtotal Cost Task4: Environmental Impact Assessment R _____

(a) Sub Total..... R _____

(Total of Schedule of Quantities)

Value Added Tax
[Add: Vat at the rate of 15% of (a)]..... R _____

TOTAL TENDER PRICE CARRIED FORWARD TO C1.1 FORM OF OFFER AND ACCEPTANCE R _____

Note: The tender will be considered non-responsive if the tenderer's rates exceed the rates for consultants as stipulated by the Board Notice 190 of 2010 in Government Gazette 33892.

SIGNATURE OF THE TENDERER: DATE:

Consultant

Witness 1

Witness 2

Employer

Witness 1

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SECTION C 2.4 BANKING DETAILS

The tender is requested to complete the following as well as include an original Bank rating certificate in section T2.1:

Bank Name:

Account Holder's Name:

Account number:

Branch Code:

Contact Number:

Contact person:

Signature of Tenderer: Date:.....

Consultant

Witness 1

Witness 2

Employer

Witness 1

Witness 2

BLOEM WATER

**REQUEST FOR PROPOSAL (RFP): APPOINTMENT FOR THE TECHNICAL
AUDIT OF BLOEM WATER INFRASTRUCTURE**

CONTRACT NO.: BW254/TIA/19

BOOK 1

VOLUME 4: THE CONTRACT

PART C3

SCOPE OF WORKS

Part C4

SITE INFORMATION

Consultant

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Witness 2

Employer

Witness 1

Witness 2

BLOEM WATER

**REQUEST FOR PROPOSAL (RFP): APPOINTMENT FOR THE TECHNICAL
AUDIT OF BLOEM WATER INFRASTRUCTURE**

CONTRACT NO.: BW254/TIA/19

PART C3 : SCOPE OF WORK

C3.1 Scope of Work

CONTENTS	PAGE
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C3.1.2 DESCRIPTION OF THE SERVICES REQUIRED	C3.1-3
C3.1.3 USE OF REASONABLE SKILL AND CARE	C3.1-4
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C3.1.6 FORM OF COMMUNICATION	C3.1-5
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Consultant

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C3.1.1 EMPLOYER’S OBJECTIVE

Bloem Water is a key strategic organisation that provides water services that underpin and sustain all social and economic growth and development within its prescribed Service Area. Consequently, it is critically important to periodically evaluate the “Operational Capability” of the organisation to meet the current and planned future needs for reliable, sustainable and high quality water services.

The Employer’s objective of this tender is to appoint competent engineering consultants for the Conditions Assessment and Optimization Audit

The appointed consultant must be able:

- To ensure that the audit will deal effectively with all the equipment to assess the current condition of this assets, list the shortfalls, challenges, state of the assets and clear recommendations for refurbishment or Replacement,
- and assist to Prioritise the Refurbishment in order of Priority thus to ensure the life span of the assists in increased through scheduled maintenance Programme as planned
- To improve on the approach on what is considered a strategic asset, how to ensure consistent monitoring of the assets to avoid complete break down or failure of such critical equipment that will assist Bloem water in obtaining its strategic objectives
- To ensure adequate Plant reliability and Standby Capacity at All the various WTW – which will result in optimum Plant utilization and minimise the disruption for normal operations
- To ensure that the Plant Process are Optimised to reduce unnecessary Operational Cost

C3.1.2 DESCRIPTION OF THE SERVICES REQUIRED

A Professional Service Provider is required to provide the professional services necessary to implement the project, which, in terms of the Preferential Procurement Regulations (PPR 2017) and the Bloem Water Supply Chain Management Regulations, must be procured through a competitive bidding process.

The Professional Services required may be provided by a single firm with all the necessary competencies within the firm or a joint venture of Professional Service Providers. The Joint Venture shall comply with the competencies required irrespective of the nature of the Joint Venture and will be evaluated as a single entity.

The purpose of this document is therefore to invite tenders from Professional Service Providers of suitably qualified and experienced consulting firms to **conduct the Technical Audit of Bloem Water Infrastructure.**

[Signature Box]

Consultant

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Witness 1

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Witness 2

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Employer

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Witness 1

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Witness 2

The Professional Service Provider will be required to conduct the Technical Audit that consists of the following disciplines:

1. Mechanical
2. Electrical
3. Process Operations
4. Control & Instrumentation
5. Civil & Structures in the pump stations and WTW

Bloem Water has divided its operations into three regions, namely:

- Modder River Region (MRR);
- Caledon River Region (CRR); and
- Orange River Region (ORR).

On the Respective Bloem Water Treatment Works at the following Location:

1. Welbedacht Water Treatment Works
2. Rusfontein Water Treatment Works
3. Bethulie Water Treatment Works X2 (old and New WTW)
4. Xhariep Water Treatment Works
5. Tienfontien Raw Water Pump station
6. Novo Pump Station
7. Phillipollis Water Treatment Works
8. Jagersfontein WTW
9. Groothoek WTW
10. Welbedacht WWTW
11. ALL Booster Pump Stations & outside pump stations
12. ALL the Oxidation Ponds
13. Sludge Lagoons (ALL the Regions)

C3.1.2.1 Scope of Works

The Scope of Work is defined in the accompanying Terms of Reference (ToR) Document as outlined below:

Consultant

Witness 1

Witness 2

Employer

Witness 1

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- The audit will deal effectively with all the equipment to assess the current condition of this assets, list the shortfalls, challenges, state of the assets and clear recommendations for refurbishment or Replacement;
- And assist to Prioritise the Refurbishment in order of Priority thus to ensure the life span of the assists in increased through scheduled maintenance Programme as planned;
- To improve on the approach on what is considered a strategic asset, how to ensure consistent monitoring of the assets to avoid complete break down or failure of such critical equipment that will assist Bloem water in obtaining its strategic objectives;
- To ensure adequate Plant reliability and Standby Capacity at All the various WTW – which will result in optimum Plant utilization and minimise the disruption for normal operations;
- Ensure that the Plant Process are Optimised to reduce unnecessary Operational Cost.

C3.1.3 USE OF REASONABLE SKILL AND CARE

The Service Provider is therefore required to provide all aspects of the Service with all reasonable care, diligence and skill in accordance with generally accepted professional techniques and standards.

Safety of persons and property is of paramount importance, closely followed by the minimization of disruption and inconvenience to the traveling public and businesses below. If there is any conflict between the Specific Requirements and the Guideline Scope of Services document referred to above, the Specific Requirements shall take precedence.

C3.1.4 BRIEF

C3.1.4.1 Terms of Reference

Refer to the clause 3 Attached Terms of Reference.

Consultant

Witness 1

Witness 2

Employer

Witness 1

Witness 2

C3.1.4.2 Specific Requirements

Report stage

The Service Provider shall inspect the site(s) to familiarize him/herself with the nature of the site(s) and the conditions under which work (both the provision of professional services and by others) is going to have to be executed.

The report stage must include pertinent information relating to the Status Quo Assessment of Security of Supply and Key Infrastructure; provide solutions to the challenges in order to meet the current and planned future needs of the organization, estimated cost and time frames and development of a maintenance and operation program for all the region.

C3.1.5 DELIVERABLES

The following list is a guide to the technical Audit reports that will be produced.

The service provider shall conduct Technical Audit on the Following

1. Mechanical Equipment:

- 1.1 Pumps conditions -High Lift & Low Lift, Booster pump stations and outside pump stations
- 1.2 dosing chemical pumps,
- 1.3 Status of the valves - Reservoirs Control Valves, Sourer, Isolating and Air valves at the WTW
- 1.4 Sedimentation Primary Settler -condition of the Bridges & the gearbox

Consultant

Witness 1

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1.5 Sedimentation Secondary Settler -condition of Blowers, extraction fans and the valves

2. Electrical conditions: state of electrical equipment,

2.1 Pump stations HV Panels,

2.2 Pump Motors condition in High Lift Pump station (Clear Water), Low Lift Pump Station (Raw Water), Backwash Plant, Outside Booster Pump Stations

2.3 Dosing chemical pumps (Polyelectrolytes)

2.4 Sub-station Transformers condition – (Oil Tests)

2.5 In an event where cable re-routing is proposed, schematic should be provided.

2.6 MCC's Conditions

2.7 VSD's & Soft Starters

3. PLC and Telemetry:

3.1 Equipment in the Pump stations and Outstations

3.2 Water Treatment Plant (current condition and challenges).

3.3 Communication, monitoring and Automation in relation with (SCADA)

4. Instrumentation: field instruments (pressure switches, Temperature Probes, Flow Switches, conditions for the

following:

4.1 The Plant;

4.2 Outstations and Pump Station controls;

4.3 Protections on the pumps and motors, motor controls.

5. Process Units

Consultant

Witness 1

Witness 2

Employer

Witness 1

Witness 2

The Process Audit will also evaluate if the plant is capable of achieving specific targets and can include the following aspects:

- Performance assessment to evaluate the plant efficiency by comparison of raw and final water qualities. This should include evaluation of plant flows and performance of each unit process;
- A unit process evaluation which focuses on size, structural and mechanical integrity of each unit process including pipes/pipelines;
- A design assessment of each unit process such as pump efficiency, sufficiency of back-up
- capacity, storage of chemicals, backwash efficiency, etc., and
- Operational assessment to focus on monitoring efficiency and operators' competence and knowledge.

- 5.1 Filtration Process – Condition of the Sand media grading, Replacement, Condition of sluice Gates, Valves (air, wash valve, filter valves) conditions
- 5.2 Sedimentation Tanks – Round Dam Condition, Scrapper Bridge, scour valves, Gearbox, Stirrers, Turbo Circulators rotating Bridge (all mechanical and Electrical Equipment)
- 5.3 Secondary Sedimentation – Pulsators Vacuum Extractor Fans, The Baffle Plates, Overflow weirs, pipes (all mechanical and Electrical equipment)
- 5.4 Disinfection: Chlorine Rota meters, Vacuum Extractors, the manifold, the chlorine scales calibrations (refurbishment of the dosing system)
- 5.5 Dosing Pumps: Calibrations, connecting pipes, automation
- 5.7 Back wash Pumps Stations: All mechanical, electrical and equipment for the pumps and controls
- 5.8 Asses the capacity of Bulk Storage for Chemicals (Lime, Chlorine, Polyelectrolytes)

Consultant

Witness 1

Witness 2

Employer

Witness 1

Witness 2

C3.1.6 FORM OF COMMUNICATION

All requests for formal approval from the Employer, or any other body, shall be submitted in writing in hardcopy format. Interim payment claims shall be submitted in the same format, accompanied by an original tax invoice. Ad-hoc communication between the Employer and the Service Provider may be conducted per facsimile or in electronic format (e-mail).

All plans and contract documents submitted for approval shall be in hardcopy format.

C3.1.7 MANAGEMENT MEETINGS

Other than attendance at at-least monthly progress meetings once the contract is let, together with regular management meetings in respect of this project. The Service Provider shall convene management meetings on an ad-hoc basis as and when necessary, and when called upon to do so by the Employer. The Service Provider shall be represented at these meetings by the Team Leader or alternative.

C3.1.8 CLAIMS FOR PAYMENT

The Service Provider may submit interim claims for payment (invoices) as the work in terms of this contract progresses, but not more frequently than at monthly intervals. All interim claims must be accompanied by an original tax invoice. Payment will be effected within 30 days of the date on the tax invoice.

C3.1.9 EMPLOYER’S RIGHT TO RECOVER COSTS

The Employer reserves the right to recover, by way of a deduction from any amount due to the Service Provider, any additional cost which the Employer incurs arising out of non-performance/negligence of the Service Provider.

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Consultant

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Witness 1

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Witness 2

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Employer

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Witness 1

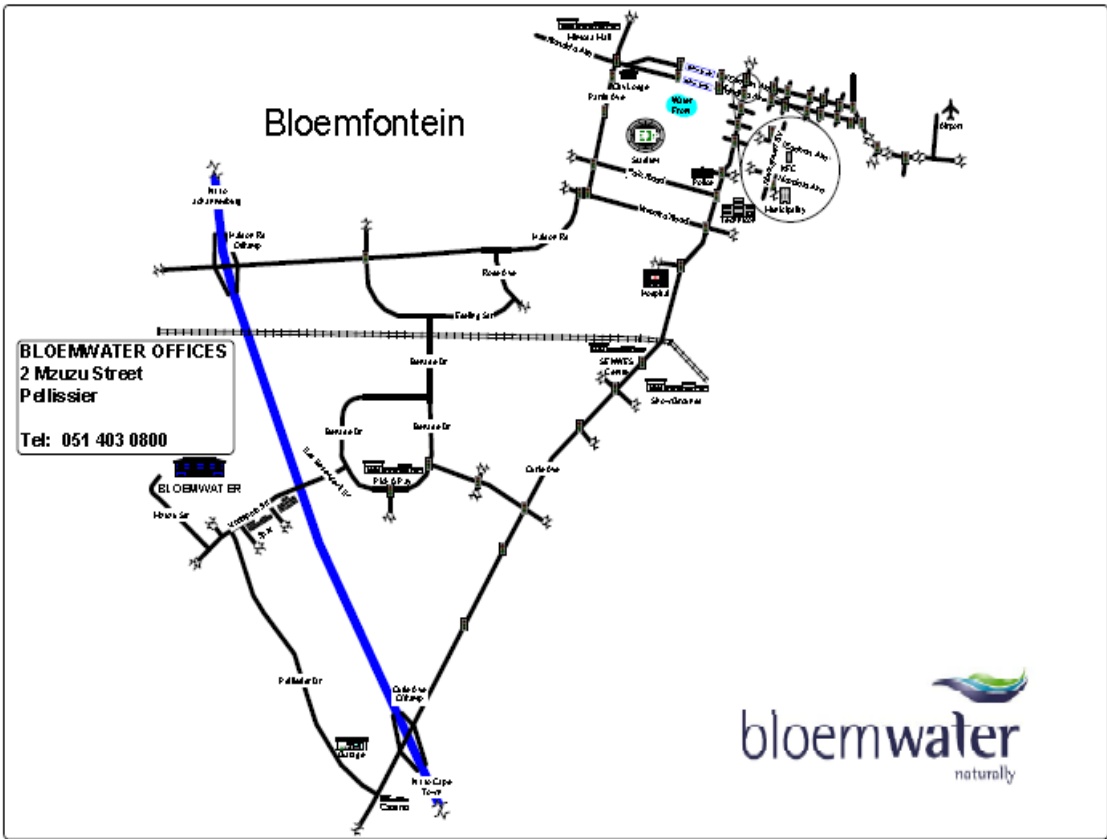
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Witness 2

Part C4: Site Information

Location and access to the site:

SITE LOCATION & DIRECTIONS



The Clarification Meeting will be held at Bloem Water Head Office, Entertainment Bloemfontein on **07 AUGUST 2019 at 11:00**

The office coordinates are - 29°08'42.2"S 26°09'23.5"E

Consultant

Witness 1

Witness 2

Employer

Witness 1

Witness 2