



DEPARTMENT OF WATER AFFAIRS AND FORESTRY

**Guideline and Model Contract
for a Water Services Authority
to enter into a Contract with a
Support Services Agent**

Draft 1
May 2001

8242A-17525

1 Introduction

- ◆ This document comprises two parts:
 - the first part consists of this guideline
 - the second part consists of a model contract for a water services authority (WSA) to contract a support services agent (SSA).
- ◆ The Water Services Act (No. 108 of 1997) states in Section 19(7) that the Minister of Water Affairs and Forestry may provide model contracts to be used as a guide for contracts between water services authorities and water services providers.
- ◆ The Department of Water Affairs and Forestry has prepared a model contract between a WSA and a community based organisation as a water services provider (CBO WSP). This contract provides for the WSA to provide support services to the CBO WSP.
- ◆ The WSA may choose to contract a support services agent (SSA) to provide support services to the CBO WSP on behalf of the WSA. This guideline addresses the contract between the WSA and a SSA.

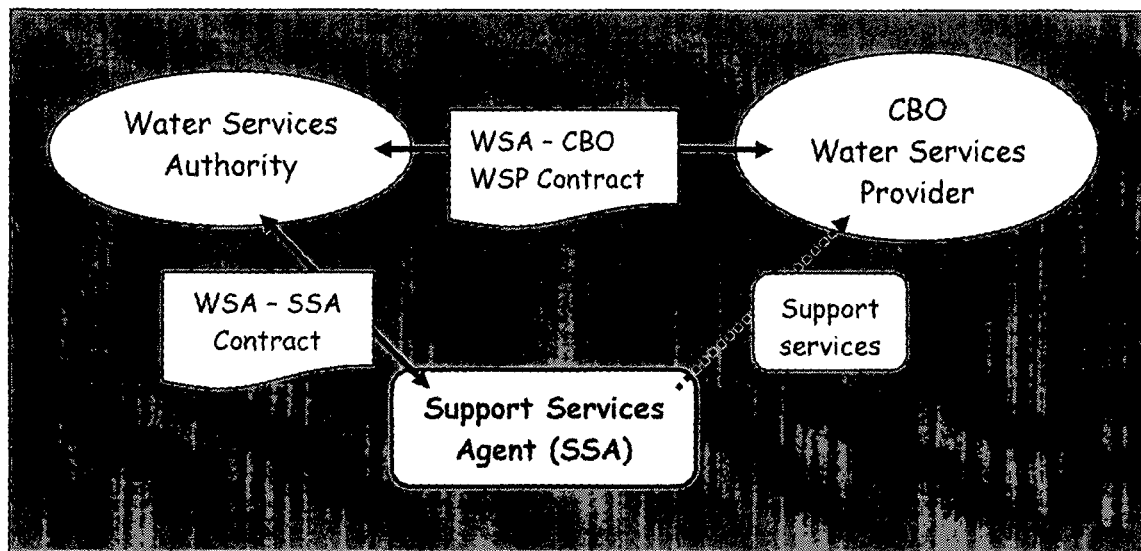


Figure 1: WSA contracts SSA to provide support services to a CBO WSP

2 What is meant by support services?

- ◆ 'Support services' refers to a variety of activities required to assist small water services providers, particularly CBO WSPs to effectively fulfil their water services provision responsibilities. The precise nature of support

required will vary from CBO WSP to CBO WSP, but typically it will include the following:

- major maintenance
 - operations mentoring
 - financial management support services
 - institutional and social development (ISD) mentoring
 - procurement of goods and services (including bulk purchasing)
 - health and hygiene promotion
 - pit emptying for VIP latrines
- ◆ The WSA may also require a support services agent to monitor CBO WSPs.

3 What is a Support Services Agent?

- ◆ A support services agent (SSA) is an entity that provides support services to a CBO WSP or other small water services providers. Since most small WSPs do not have the capacity to contract support services themselves, the WSA has a role in providing these services. The WSA can be the SSA itself, or it can contract another entity to fulfil this role.

Note

It is important to note that there is a difference between:

- a) a SSA that provides support to small WSPs/ CBO WSPs and,
- b) an agent/advisor that provides support to the WSA.

The WSA-SSA model contract specifically addresses support services to CBO WSPs.

If a WSA wishes to contract an agent to provide management or other support to the WSA, it needs to develop a management contract, which addresses the specific support the WSA requires.

4 Using the Model Contract

- ◆ The contract is a *model contract*, which should be amended by the parties to the contract to suit their specific needs and circumstances. Those clauses that are not appropriate should be deleted, and where necessary additional clauses should be included.
- ◆ In the model contract itself, notes appear which clarify drafting choices. These notes appear as *emboldened italics*. These are purely for guidance

and should not be incorporated into the contract. Furthermore, it is not intended that the parties will merely complete the contract by filling the gaps. The model contract should be used as a guide in independently drawing up a contract suitable for the purposes of the parties. As every situation depends on its own facts and circumstances only specific professional advice should be relied upon.

- ◆ It is important to ensure that the contract between the WSA and SSA is properly aligned to the WSA contracts with the CBO WSPs to whom the SSA is to provide support services.
- ◆ A table of contents of the WSA-SSA Model Contract can be found at the end of the model contract.
- ◆ An electronic copy of the model contract is available on the internet at the following address:

5 Disclaimer

- ◆ The publication of this model contract is not intended as a substitute for legal advice. It is designed to provide parties, including the WSA, the SSA, and the WSP with a framework for the negotiation and conclusion of a WSA - SSA contract. In all instances regard must be had to the provisions of the Act and DWAF's regulations for contracts between water services authorities and water services providers. The Government does not compel the parties to rely on the model contract, and Government is not liable for damages arising from reliance on this contract.

6 Assumptions upon which the SSA model contract is based

- ◆ The SSA model contract is based on the following assumptions:
 - a) The WSA requires support services for a number of CBO WSPs and contracts a single SSA to provide the necessary support to the identified CBO WSPs. However the contract can be amended to cater for support services to a single CBO WSP. In this case it is important to ensure that the contractual arrangements are financially viable.
 - b) Every CBO WSP, whether being newly established or whether already established, requires a period of training and capacity building prior to it becoming responsible for the provision of water services. The SSA provides the necessary training and capacity building to CBO WSPs. However if a period of training and capacity building is not required, Section B of the contract may be deleted.

- c) The SSA fulfils all or any combination of the following support services to CBO WSPs:
- major maintenance
 - operations mentoring
 - financial management support services
 - institutional and social development (ISD) mentoring
 - procurement of goods and services (including bulk purchasing)
 - health and hygiene promotion
 - pit emptying for VIP latrines
 - monitoring the CBO WSPs
- d) The SSA may fulfil all the support services itself or it may sub-contract another entity to fulfil one or more of the support services. The SSA remains responsible for the entire support services, even if it has sub-contracted another entity to perform part of the support services.
- e) The SSA is paid by the WSA. This payment constitutes the sole remuneration for the support services provided by the SSA to the CBO WSPs. The SSA does not receive any direct payment from the CBO WSPs or from households.
- f) The SSA develops a support services implementation plan and support services budget for each CBO WSP, based on CBO WSP's specific support requirements. This enables the WSA to determine the support services costs for each CBO WSP.
- g) The SSA prepares an annual 'comprehensive support services budget' which is the total budget for the support services to all the CBO WSPs.
- h) The SSA invoices the WSA on a monthly basis (based on time and cost) for the support services provided, against the approved budget.
- i) The WSA either uses income from the CBO WSP (if the CBO WSP has a surplus after covering its costs) and /or equitable share to pay the SSA. In cases where the majority of consumers qualify for free basic water, the WSA will need to use equitable share and / or other income sources to pay the SSA.

7 Training and Capacity Building Phase

- ◆ The model contract between the WSA and SSA provides for a Training and Capacity Building Phase, which is Section B of the contract. This phase is also included in the WSA-CBO WSP model contract.
- ◆ The training and capacity building phase could apply to the establishment of a new CBO or to an existing CBO that requires training and capacity building before it assumes responsibility for the provision of water services.

- ◆ The training and capacity building phase allows for the CBO WSPs, the SSA and the WSA to fulfil certain obligations prior to the date on which CBO WSPs become responsible for their water services provision functions. The role of the SSA during this phase includes:
 - providing training and capacity building to the CBO WSPs to ensure that they have the required capacity to fulfil their WSP functions; including the establishment of efficient administrative, financial and human resource systems, etc.
 - development of an asset register and operations manual for each CBO WSP (if required)
 - development of an annual support services implementation plan for each CBO WSP which details the type of support that the SSA will provide to each CBO WSP after completion of the training and capacity building phase.

8 Contractual Arrangements for the Training and Capacity Building Phase

- ◆ The contractual arrangements for training and capacity building to the CBO WSPs may vary depending upon whether the training and capacity building is:
 - a) part of the implementation of a capital project;
 - b) a separate process
 - ➔ If the training and capacity building of CBO WSPs is part of the implementation of capital projects, the Implementing Agent would be responsible for training and capacity building the CBO WSPs, development of assets registers and operations manuals, etc. The IA could be the WSA itself, or it could be another entity contracted by the WSA.
 - ➔ If the training and capacity building of CBO WSPs is a separate process, (i.e. where the infrastructure already exists but there is no CBO WSP, or where the existing CBO WSP requires training and capacity building prior to taking over the WSP functions), the WSA can appoint a SSA to provide the training and capacity building. In this case the training and capacity building is part of the SSA contract.

The diagram below illustrates different scenarios and possible contractual arrangements.

a) Training and capacity building of CBO WSPs as part of the implementation of a capital project/s

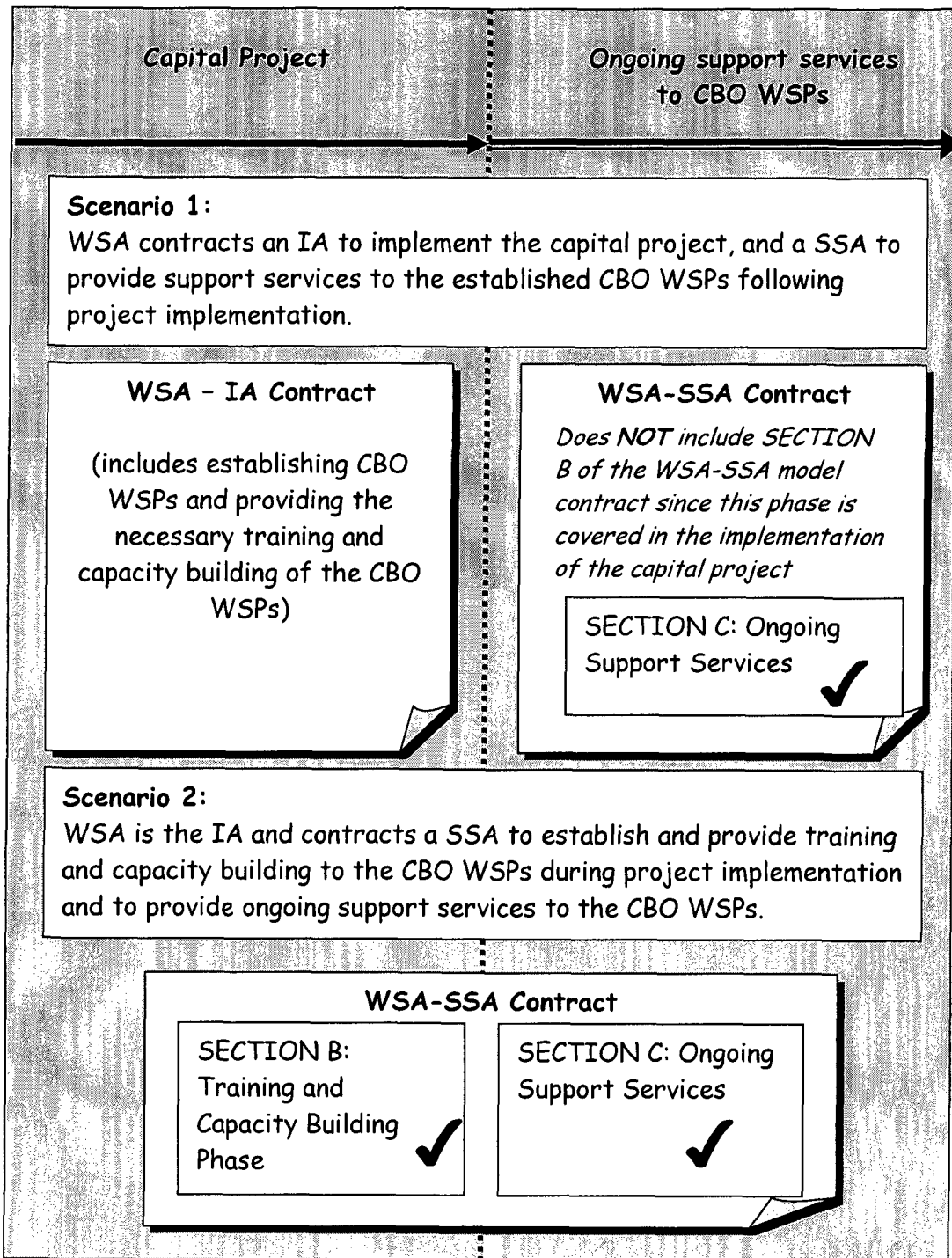


Figure 2: Contractual arrangements for training and capacity building of CBO WSPs as part of capital project implementation, plus ongoing support services

b) Training and capacity building of CBO WSPs as a separate process (i.e. not part of the implementation of a capital project)

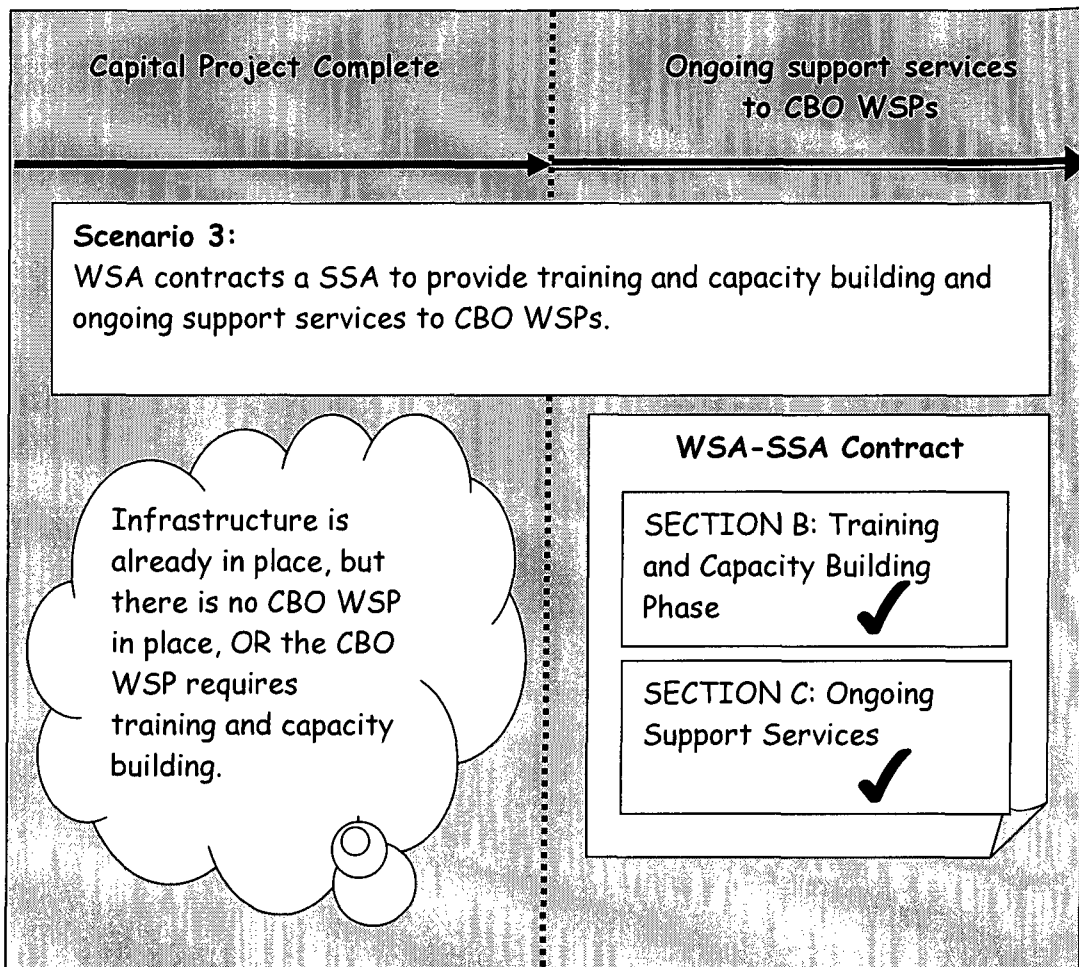


Figure 3: Contractual arrangements with a SSA for training and capacity building of CBO WSPs as well as ongoing support services.

9 Envisaged Processes within the WSA-SSA Contract

- ◆ The steps below illustrate the processes envisaged within the WSA-SSA contract where the contract includes a period of training and capacity building.

 WSA signs contracts with CBO WSPs and a single contract with the SSA.

Training and Capacity Building Phase

- ➔ SSA conducts CBO WSP capacity needs assessment for each CBO WSP.
- ➔ SSA prepares a training and capacity building programme and budget to address the CBO WSP capacity needs.

- Since some CBO WSPs may require a longer period of training and capacity building than others, the SSA must indicate the proposed training and capacity building period for each CBO WSP and the proposed 'effective date' when each CBO WSP becomes *responsible* for the WSP functions, i.e. when each CBO WSP officially becomes the WSP.
 - Where the programme of support is the same for a number of CBO WSPs, the SSA may group CBO WSPs into a single programme, however it is important that the SSA illustrates to the WSA how the costs are divided between the CBO WSPs.
- ➔ WSA approves training and capacity building programme and budget.
 - ➔ SSA provides training and capacity building to CBO WSPs. (and where required develops asset registers, operations manuals, etc.)
 - ➔ SSA prepares a maintenance management programme for each CBO WSP which illustrates the maintenance support that the SSA will provide to each CBO WSP.
 - ➔ SSA develops a support services implementation plan and support services budget for each CBO WSP for the first 12 months following the training and capacity building phase.
 - ➔ SSA prepares a comprehensive support services budget illustrating the total cost of providing support services to all the CBO WSPs.
 - ➔ WSA approves asset registers, operations manuals, maintenance management programmes, and the support services implementation plans and budgets for each CBO WSP, as well as the comprehensive support services budget.
 - ➔ SSA provides a period of mentorship to the CBO WSPs prior to the effective date.

Effective date: Commencement of Support Services

- ➔ SSA commences provision of support services to the CBO WSPs in accordance with the support services implementation plans and the contract.
- ➔ WSA monitors SSA performance and receives reports from the SSA.
- ➔ Prior to the next 12 month period, the SSA prepares a new/updated support services implementation plan and budget for each CBO WSP for the next 12 months.
- ➔ SSA submits annual report, annual financial statement and new support services implementation plans and budgets for approval.
- ➔ Ongoing support services to CBO WSPs.

SUPPORT SERVICES AGENT MODEL CONTRACT

BETWEEN

_____ *[insert name]*

being the water services authority (WSA)

AND

_____ *[insert name]*

being the consultant to fulfil the role of Support Services Agent (SSA)

FOR

Support Services to Community Based Water Services Providers within the WSA jurisdictional area

SECTION A: INTRODUCTION

1 DEFINITIONS

- 1.1 the following terms shall have the meanings as indicated below-
- 1.1.1 'Act' means the Water Services Act 108 of 1997;
 - 1.1.2 'CBO WSP' means the following community based organisations who have been contracted as water services providers in the WSA area of jurisdiction:**(state names of CBO WSPs to whom support services are to be provided)**;
 - 1.1.3 'commencement date' means the date of the last signature of this contract;
 - 1.1.4 'comprehensive support services budget' means a budget prepared by the SSA to provide support services to all the CBO WSPs identified in clause 1.1.2;
 - 1.1.5 'consumer' means any end user in the contract area to whom the water services provider must provide water services;
 - 1.1.6 'contract' means this contract and its annexures;
 - 1.1.7 'contract area' means the area in which the support services are to be provided to the CBO WSPs, being the geographical area of, which is more fully described in Annexure C: Contract Area;
 - 1.1.8 'contract duration' means the time period of the contract;
 - 1.1.9 'effective date' means the date on which the SSA becomes responsible for providing the support services to the CBO WSPs as set out in clauses 9 and 10;
 - 1.1.10 'financial year' means a 12 (twelve) month period commencing on(date) and ending on(date);
 - 1.1.11 'major maintenance' means **(define as appropriate)**
 - 1.1.12 'minor maintenance' means **(define as appropriate)**
 - 1.1.13 'parties' means the water services authority and the support services agent;
 - 1.1.14 'regulatory provisions' means the provisions of any legislation, regulation policy directive or notice issued by a competent authority in respect of the provision of water services or the activities of the WSA or the SSA;
 - 1.1.15 'support services' means those services as set out in clauses 9 and 10;
 - 1.1.16 'support services budget' means a budget to provide support services to a CBO WSP based on a twelve (12) month 'support services implementation plan';
 - 1.1.17 'support services implementation plan' means the plan prepared by the SSA to provide support services to a CBO WSP on an annual basis;
-

- 1.1.18 'standards of service' means the operational performance of the services as measured against the relevant compulsory national norms and standards as regulated in terms of section 9 of the Act, as well as any additional standards specifically provided for in the contract;
- 1.1.19 'training and capacity building budget' means the budget for services provided in the training and capacity building phase;
- 1.1.20 'training and capacity building phase' means the period between the 'commencement date' and the 'effective date';
- 1.1.21 'water services' means water supply services / water supply services and sanitation services (~~delete what is not applicable~~);
- 1.1.22 'water services budget' means the budget of the CBO WSP;
- 1.1.23 'water services revenue' means the revenue actually collected from the provision of water services;
- 1.1.24 'water services system' means all immovable and movable assets owned by the WSA within the contract area as at the effective date which are more fully described in Annexure D: Water Services Systems;

2 PREAMBLE

Whereas

- 2.1 The WSA has contracted (**state number of CBO WSPs**) CBO WSPs to provide water services within the WSA area of jurisdiction;
- 2.2 The WSA is required to provide support services to the CBO WSPs in order to ensure the effective, efficient, sustainable and affordable provision of water services to the consumers within the contract areas of the CBO WSPs;
- 2.3 The WSA requires the services of a consultant to provide support services to the CBO WSPs and has resolved to appoint the consultant as the SSA for the CBO WSPs, a copy of which resolution is attached as Annexure A: WSA Resolution;
- 2.4 The SSA has the necessary skills, expertise, capacity and access to the CBO WSPs and has resolved to accept the appointment to provide support services to the CBO WSPs for the period determined in this contract, a copy of which acceptance letter is attached as Annexure B: SSA Acceptance Letter;

Therefore the parties agree

3 COMMENCEMENT AND DURATION OF CONTRACT

- 3.1 The contract will commence on the (**insert date**) (commencement date).

- 3.2 The contract will continue for a period of(*insert number of months or years*) from the date of commencement of the contract until the(*insert date*) or a longer period as the parties may agree to in writing.

SECTION B: TRAINING AND CAPACITY BUILDING PHASE

4 TRANSITIONAL ARRANGEMENTS

- 4.1 The WSA and SSA acknowledge that -
- 4.1.1 the CBO WSPs require a period of training and capacity building prior to the CBO WSPs becoming responsible for the provision of water services;
 - 4.1.2 both the WSA and the SSA need to fulfil certain obligations during the training and capacity building phase as outlined in clauses 5 and 6 of this contract.
- 4.2 The WSA and the SSA undertake to ensure that the obligations outlined in clauses 5 and 6 are fulfilled by the effective date. If either party becomes aware of any circumstance or reason which may prevent either of them fulfilling their obligations in terms of clauses 5 and 6, the WSA and the SSA undertake to advise each other and shall use their best endeavours to resolve the issue. If it is reasonable in the circumstances, the WSA shall be entitled to waive the fulfillment of any obligation of the SSA set out in clause 5, and the SSA shall be entitled to waive the fulfillment of any obligation of the WSA set out in clause 6.
- 4.3 On the effective date, the WSA and the SSA shall meet to check that the obligations of the WSA and the SSA have been fulfilled and to certify in writing which obligations have been fulfilled and which obligations have been waived.

5 OBLIGATIONS OF THE SSA DURING THE TRAINING AND CAPACITY BUILDING PHASE

- 5.1 As of the commencement date, but prior to the effective date, the SSA shall –
- 5.1.1 Prepare a training and capacity building programme for the CBO WSPs with a training and capacity building budget to be attached as Annexure E: Training and Capacity Building Programme and Budget;
 - 5.1.2 Provide training and capacity building support to the CBO WSPs as detailed in **Annexure E** which support shall achieve the deliverables and key performance indicators as detailed in **Annexure E**;
 - 5.1.3 In consultation with the CBO WSPs make recommendations to the WSA concerning tariffs within the different CBO WSP contract areas;
 - 5.1.4 Prepare asset registers of the water services systems that will be operated by each of the CBO WSPs;
 - 5.1.5 Prepare an operations manual for each of the CBO WSPs;
 - 5.1.6 Develop a maintenance management programme for each CBO WSP water services system.

- 5.2 On the basis of the support services outlined in clause 9 develop and submit to the WSA for approval, a support services implementation plan and budget for a twelve month period for each CBO WSP which shall be attached as Annexure F: Support Services Implementation Plans, and inter alia, include:
- 5.2.1 the timing and actions required for each of the following support services: - ***(delete and add as applicable)***
- 5.2.1.1 major maintenance of the CBO WSP water services system;
 - 5.2.1.2 operations (technical) mentoring;
 - 5.2.1.3 financial management support services;
 - 5.2.1.4 institutional and social development (ISD) mentoring;
 - 5.2.1.5 procurement of goods and services;
 - 5.2.1.6 health and hygiene promotion;
 - 5.2.1.7 pit emptying for VIP latrines;
 - 5.2.1.8 monitoring the CBO WSP.
- 5.2.2 The personnel allocated to the different support services and the related fees based on the personal schedule, fees and tariffs in Annexure J: Personnel Schedule, Fees and Tariffs.
- 5.3 Prepare and submit to the WSA for approval, a comprehensive support services budget which is a roll-up of the individual CBO WSPs support services budgets, and which shall be attached to this contract as Annexure G: Comprehensive Support Services Budget.
- 5.4 The approved comprehensive support services budget will form the basis of determining the contract fee to be paid by the WSA to the SSA for the support services as of the effective date.

6 OBLIGATIONS OF THE WSA DURING THE TRAINING AND CAPACITY BUILDING PHASE

- 6.1 With effect from the commencement date the WSA shall ***(delete or amend as appropriate)*** –
- 6.1.1 Provide the SSA with all available information and data which may be required for the SSA to fulfil its obligations during the training and capacity building phase; including the following:
- 6.1.1.1 by-laws necessary for the effective implementation of the contract;
 - 6.1.1.2 credit control and debt collection policy that includes an indigent policy;
 - 6.1.1.3 list of identified and approved indigent consumers for each CBO WSP contract area;
 - 6.1.1.4 approved tariff rate/s for each CBO WSP contract area.
- 6.2 Provide assistance to the SSA in obtaining any other relevant information that may be required by the SSA to fulfil its obligations.
- 6.3 Review, comment to and approve the following documents prepared by the SSA:
- 6.3.1 training and capacity building programme and budget;
 - 6.3.2 asset registers of the CBO WSPs' water services systems;

- 6.3.3 operations manuals of the CBO WSPs;
- 6.3.4 maintenance management programme of each CBO WSP water services system;
- 6.3.5 support services implementation plan and budget for each CBO WSP;
- 6.3.6 comprehensive support services budget.

SECTION C: APPOINTMENT OF THE SSA

7 APPOINTMENT

- 7.1 The WSA appoints the SSA for the CBO WSPs, and the SSA agrees to accept such appointment to provide the support services as set out in this contract.
- 7.2 The SSA shall take all reasonable measures to provide the support services to the CBO WSPs and to adhere to the measures provided by the WSA in its water services development plan and bylaws.
- 7.3 The WSA delegates and assigns to the SSA all powers, rights, duties and obligations capable of being delegated and assigned in terms of law, subject to the provisions of this contract, necessary for the effective, efficient, sustainable and affordable provision of the support services.

8 SCOPE OF THE SUPPORT SERVICES

- 8.1 The rights, duties and obligations of the parties in terms of this contract are limited to the provision of support services to the CBO WSPs, which support services include the following as detailed in Section 9 and 10: ***(delete as applicable)***
 - 8.1.1 Major maintenance;
 - 8.1.2 Operations (technical) mentoring;
 - 8.1.3 Financial management support services;
 - 8.1.4 Institutional and social development (ISD) mentoring;
 - 8.1.5 Procurement of goods and services;
 - 8.1.6 Health and hygiene promotion;
 - 8.1.7 Pit emptying for VIP latrines; [*should this be included?*]
 - 8.1.8 Monitoring the CBO WSPs.
- 8.2 The geographical scope of this contract is limited to the contract areas of the CBO WSPs, a description of which is attached, marked **Annexure C**;
- 8.3 The procedure by which the number of CBO WSPs may be increased is through mutual agreement between the parties. In the event that the WSA wishes to extend the number of CBO WSPs to be supported by the SSA –
 - 8.3.1 the WSA shall be obliged to give the SSA reasonable notice thereof, giving details of the proposed additional CBO WSPs and the reason therefore and what services the SSA would be required to render;

- 8.3.2 the WSA and SSA will meet as soon as possible after the notice mentioned in clause 8.3.1 to negotiate the extension of the number of CBO WSPs, having regard to the following matters –
 - 8.3.2.1 the capacity of the SSA to provide support services to the additional CBO WSP/s;
 - 8.3.2.2 the financial and technical feasibility of the SSA to provide support services to the new CBO WSP/s.
- 8.3.3 If the SSA agrees to render support services to the new CBO WSP/s, the support services to the new CBO WSP/s will be undertaken exclusively by the SSA subject to the provisions of this contract, as amended.
- 8.3.4 If the incorporation of new CBO WSPs negatively impacts on the institutional, financial or technical feasibility of the contract or the SSA, the WSA shall find alternative options for the rendering of support services to the new CBO WSP/s.

SECTION D: RESPONSIBILITIES AND RIGHTS OF THE SSA

9 PROVISION OF SUPPORT SERVICES

- 9.1 The SSA shall, from the effective date, be responsible at its own cost, risk, benefit, profit and or loss, for the following support services to the CBO WSPs, which support services will comply with the WSA bylaws and policies –

Major maintenance of the CBO WSP water services systems

- 9.2 Major maintenance of the CBO WSPs' water services systems which are more fully described in **Annexure D**, including: -
 - 9.2.1 undertaking all the necessary renewals and or corrective maintenance of any pumps, valves, hydrant, connections and other constituents of the water services systems;
 - 9.2.2 developing and implementing a maintenance management programme for each CBO WSP comprising both preventative and remedial maintenance components for the enhancement and protection of the water services systems and development and maintenance of a maintenance register. Copies of these programmes must be submitted to the WSA and attached as Annexure H: Maintenance Management Programme.
- 9.3 The aim of the maintenance management program will be to –
 - 9.3.1 protect and safeguard the assets and investments of the WSA;
 - 9.3.2 keep the water services system in economic service for as long as possible;
 - 9.3.3 recognise and deal with deterioration of the water services system before it results in operational difficulties; and
 - 9.3.4 be continuously informed of the condition of the water services system and take decisive action before a critical stage is reached.

- 9.4 In the case of a disruption in the supply of services, which requires major maintenance, the response time of the SSA shall be as stipulated in Annexure I: Interruption in Service.

Operations (technical) mentoring

- 9.5 Operations mentoring support shall be provided by means of (**state number of visits**) visit/s per month to each of the CBO WSPs. The CBO WSPs may also contact the SSA for telephonic support, or visit the offices of the SSA when required. Operations mentoring support shall include the following support services –
- 9.6 Procedures for minor maintenance and repairs of equipment, pumps, valves, reservoirs, reticulation pipe lines (**delete or add as appropriate**);
- 9.7 Monitoring of all minor maintenance, repairs and replacement of parts undertaken by the CBO WSPs and ensuring corrective action where necessary;
- 9.8 Procedures for running a simple water balance and for leakage control and monitoring the implementation thereof;
- 9.9 Criteria and procedures for installing new connections in a situation where higher service levels are offered by the CBO WSP and monitoring implementation thereof;
- 9.10 Ensuring that the CBO WSPs conform with all relevant regulatory provisions in terms of operations and minor maintenance;
- 9.11 Operations advice and trouble shooting as and when required.

Financial management support services

- 9.12 Financial management support services to the CBO WSPs in respect of:
- 9.12.1 the preparation and checking of –
- 9.12.1.1 cash book and bank reconciliation statements;
 - 9.12.1.2 debtors' accounts;
 - 9.12.1.3 monthly statement of receipts and payments;
 - 9.12.1.4 annual financial statement;
- 9.12.2 preparation of the annual water services budget;
- 9.12.3 costing options support;
- 9.12.4 salary reviews;
- 9.12.5 tariff adjustment recommendations to the WSA.
- 9.13 Support services in terms of the overall operation of the prepaid metering system, including the following – (**Delete if not applicable**)
- 9.13.1 (**State the necessary support services required as applicable**)

Institutional and social development (ISD) mentoring

- 9.14 ISD mentoring support shall be provided by means of (**state number of visits**) visit/s per month to each of the CBO WSPs. The CBO WSPs may also contact the SSA for telephonic support, or visit the offices of the SSA when required. ISD mentoring support shall include the following support services –
- 9.15 Mentoring support to the effective and efficient functioning of the governing body (members) of the CBO WSPs.
- 9.16 Human resource mentoring support in terms of –
- 9.16.1 contracting and managing employees;
 - 9.16.2 employee performance appraisals;
 - 9.16.3 the relationship between the members of the CBO WSPs and employees;
 - 9.16.4 ensuring the effective management of human resource records;
 - 9.16.5 identifying training needs for the CBO WSP members and employees and providing training when required;
 - 9.16.6 up-dating conditions of employment when required.
- 9.17 Customer relations mentoring support in terms of –
- 9.17.1 recording and dealing with customer complaints;
 - 9.17.2 communication with customers;
- 9.18 Record keeping mentoring support in terms of ensuring that the CBO WSPs are able to maintain full, accurate and up to date records with respect to the following –
- 9.18.1 the physical condition of the water services system;
 - 9.18.2 household records;
 - 9.18.3 routine inspection and repair schedules and reports;
 - 9.18.4 activity reports detailing emergencies, incidents, shut-downs and reasons therefor;
 - 9.18.5 reports of customer complaints and action taken;
 - 9.18.6 staff and training records.
- 9.19 Reporting mentoring support to the CBO WSPs in the development of:
- 9.19.1 quarterly reports to the WSA, including: (**delete as appropriate**)
 - 9.19.1.1 monthly volume of water sold;
 - 9.19.1.2 activity report of shut-downs, repairs, preventative maintenance, interruptions in the service;
 - 9.19.1.3 record of all customer complaints and remedial actions taken;
 - 9.19.1.4 quarterly financial reports;
 - 9.19.2 annual reports to the WSA including:
 - 9.19.2.1 any minor maintenance or repairs undertaken;
 - 9.19.2.2 physical condition of the water services system (assets);

9.19.2.3 annual financial statement including recommendations for tariff adjustments.

- 9.20 Mentoring support in terms of assisting the CBO WSPs to provide any information requested by the WSA for the purposes of the WSA's water services development plan.
- 9.21 Planning mentoring support to the CBO WSPs in terms of operations, financial, and institutional planning.
- 9.22 Dispute resolution support between the CBO WSPs and consumers within the contract area or contractors of the CBO WSPs, when required.
- 9.23 Any other matter as may be agreed between the SSA and CBO WSPs in meetings with the CBO WSPs or in writing.

Procurement of goods and services

- 9.24 Assist with the procurement of goods (consumables and spare parts) and services as requested by the CBO WSPs, which procurement shall –
 - 9.24.1 be undertaken according to the WSA's procurement policy / CBO WSP's procurement policy as approved by the WSA during the Training and Capacity Building Phase (***delete as appropriate***).
 - 9.24.2 wherever possible utilise economies of scale (bulk purchasing) towards securing lower prices on behalf of the CBO WSPs.
- 9.25 Facilitate CBO WSP access to specialist services as may be reasonable in the circumstances.

Health and hygiene promotion

- 9.26 Provide health and hygiene promotion support services, (***indicate time-frames, and frequency***) including –
- 9.27 Identify local water and sanitation related health problems and work with the CBO WSPs and consumers to remedy them.
- 9.28 Creating demand for better sanitation in communities, through programmes which raise awareness about why sanitation is important.
- 9.29 Providing consumers with information about a range of sanitation options.
- 9.30 Promoting health awareness and safe hygiene practice including –
 - 9.30.1 safe disposal of human faeces
 - 9.30.2 protection and use of water sources
 - 9.30.3 home and environmental hygiene
 - 9.30.4 water and personal hygiene
 - 9.30.5 food hygiene
 - 9.30.6 education about how to maintain and care for toilets

- 9.31 Monitoring and evaluation to assess the impact of programmes, and suggest changes where necessary.

Pit emptying for VIP latrines

- 9.32 Preparation of a pit emptying schedule for each CBO WSP contract area, whereby pits are emptied at least once within a (**state period of time which shall not exceed 5 years**) year period.
- 9.33 Emptying of pits according to the pit emptying schedules.
- 9.34 The SSA shall receive payment of(**state amount in words and figures**) for each pit emptied, from the WSA for the operating and maintenance costs in the removal of pit contents, transportation to a disposal site, the treatment of the contents to achieve a sanitary condition and the final disposal of any solid residues, which amount is in accordance with the levy for pit emptying as outlined in the WSA bylaws.

10 MONITORING THE CBO WSPs

- 10.1 The SSA shall, on behalf of the WSA, be responsible for monitoring the CBO WSPs with respect to the following –
- 10.1.1 overall operation of the water services systems;
 - 10.1.2 collection of revenue by the CBO WSPs from consumers in accordance with the WSA's credit control policy;
 - 10.1.3 compliance of the CBO WSPs with the approved budgets;
 - 10.1.4 CBO WSP maintenance of water meters;
 - 10.1.5 impact the supply of services may have on the environment;
 - 10.1.6 customer relations between the CBO WSPs and consumers in the CBO WSPs' contract areas;
 - 10.1.7 educational and awareness programmes undertaken by the CBO WSPs for the communities within the contract areas.

11 SUPPORT SERVICES IMPLEMENTATION PLANS AND BUDGETS

- 11.1 The SSA shall, on an annual basis update and manage the support services implementation plan and budget for each CBO WSP for a period of 12 months, based on the support services outlined in clause 9, which shall be submitted to the WSA for approval and attached to this contract as **Annexure F**, and *inter alia* include:
- 11.1.1 *the timing and actions required for each of the following support services: - (delete as applicable)*
 - 11.1.1.1 major maintenance of the CBO WSP water services system
 - 11.1.1.2 Operations (technical) mentoring
 - 11.1.1.3 Financial management support services
 - 11.1.1.4 Institutional and social development (ISD) mentoring
 - 11.1.1.5 Procurement of goods and services
 - 11.1.1.6 Health and hygiene promotion

11.1.1.7 Pit emptying for VIP latrines

11.1.1.8 Monitoring the CBO WSP

11.1.2 the personnel allocated to the different support services and the related fees based on the Personal Schedule, Fees and Tariffs in **Annexure J**.

11.2 The WSA may, during the course of the contract, request the SSA to amend the support services implementation plans. Where this is not practicable, the SSA shall advise the WSA accordingly and advise the WSA of alternative measures, if any, which might be taken.

11.3 The SSA shall regularly update the support services implementation plans to reflect actual progress to date and expected future progress.

11.4 In the event of a material deviation from the approved support services implementation plans, the SSA shall submit revised support services implementation plans to the WSA for approval and shall make written proposals to the WSA in respect of the revised support services implementation plans and motivate amendments.

12 COMPREHENSIVE SUPPORT SERVICES BUDGET

12.1 The SSA shall, on an annual basis update and submit to the WSA for approval, a comprehensive support services budget which is a roll-up of the individual CBO WSPs support services budgets, and which shall be attached to this contract as **Annexure G**.

12.2 The approved comprehensive support services budget will form the basis of determining the contract fee to be paid by the WSA to the SSA for the support services.

13 REPORTING AND PLANS

Reporting

13.1 The SSA shall record and maintain a complete record of its contractual duties and obligations by the use of appropriate computer software and suitable hard copy storage. Records to be submitted to the WSA must include, *inter alia* -

13.2 the following quarterly (***state time period as appropriate***) reports –

13.2.1 progress against the support services implementation plan for each CBO WSP;

13.2.2 the technical condition of the water services system including a summary of maintenance carried out in the period;

13.2.3 response times to requests from the CBO;

13.2.4 monitoring report for each CBO WSP;

13.2.5 a summary of the health and safety situation;

13.2.6 any changes required in the support services budgets and the comprehensive support services budget;

13.3 the following annual reports –

- 13.3.1 support services provided to each CBO WSP against the support services implementation plans;
- 13.3.2 physical condition of the water services systems (updated asset register) and report on the implementation of the maintenance management programmes;
- 13.3.3 maintenance and inspection schedules;
- 13.3.4 monitoring report for each CBO WSP;
- 13.3.5 support services implementation plans and budgets for each CBO WSP for the following year;
- 13.3.6 comprehensive support services budget for the following year;
- 13.3.7 recommendations for tariff adjustments;
- 13.3.8 recommendations for capital expenditure requirements.

Financial reporting

- 13.4 The SSA shall submit to the WSA copies of the financial reports for support services provided to each CBO WSP for the financial year within 2 (two) months of year end, including:
- 13.4.1 statement of income and expenditure;
 - 13.4.2 any variations from the CBO WSP support services budgets with explanations thereof.

Water services development plan

- 13.5 The SSA shall provide the WSA with any information, which the WSA deems necessary concerning the supply of water services by the CBO WSPs, necessary for the preparation and adoption of the prescribed water services development plan.
- 13.6 The SSA shall provide information in respect of-
- 13.6.1 the quality, quantity and sustainability of the supply of water services, and/or the water source of the CBO WSPs having regard to prescribed minimum norms and standards set by the WSA and Regulatory Provisions.
 - 13.6.2 the nature, operation, sustainability, operational efficiency and economic viability of the supply of services and the water services systems of the CBO WSPs.
- 13.7 Subject to reasonable notification from the WSA, all records shall be made available to the WSA or its appointed agents during normal working hours with the object of verifying that they are being correctly maintained and to facilitate the regulatory and monitoring functions of the WSA in respect of the provision of water services.

14 MEETINGS WITH THE WSA

- 14.1 Representatives of the SSA shall meet with representatives of the WSA on a (***state whether monthly, bi-monthly, etc.***) basis, or as frequently as agreed between the parties, to –
- 14.1.1 verbally report on the support services provided to the CBO WSPs and on the monitoring of the CBO WSPs;
 - 14.1.2 address any additional support that the CBO WSPs may require from the SSA in respect of the provision of water services to their contract areas;
 - 14.1.3 address any other matters as may be relevant to the provision of support services to the CBO WSPs.

15 GENERAL CONDITIONS CONCERNING SSA OBLIGATIONS

Professional services

- 15.1 The SSA shall perform the support services in accordance with this contract and with all reasonable care, diligence, skill, efficiency and economy, in accordance with generally accepted professional techniques and standards, and shall observe sound management practices.
- 15.2 The SSA shall act in a fiduciary manner towards the WSA, and shall at all times support and safeguard the WSA's legitimate interests in dealing with the CBO WSPs, sub-consultants or others.
- 15.3 The SSA shall designate in writing a person to act as its representative and such person shall have complete authority to receive instructions from and give information to the WSA on behalf of the SSA.
- 15.4 Where the support services include the exercise of powers to certify, decide or otherwise exercise discretion in regard to a contract or agreement between the WSA and the CBO WSPs or others, the SSA shall act in respect of that contract or agreement as an independent professional.
- 15.5 Neither the SSA nor sub-consultant nor personnel shall engage, either directly or indirectly, in any business or professional activities within South Africa during the term of the contract which would conflict with their responsibilities in this contract.
- 15.6 The SSA shall refrain from entering into any relationship, which could compromise the SSA's independence or that of sub-consultants or personnel or this contract.

Joint venture or consortium

- 15.7 If the SSA is a joint venture or consortium of two or more persons, all such persons shall be jointly and severally bound to fulfil the terms of the contract, and the SSA shall at the request of the WSA designate one person to act as leader with authority to bind the joint venture or consortium. The composition or the constitution of the consortium shall not be altered without the prior consent in writing of the WSA.

Staff and equipment

- 15.8 The SSA shall employ and provide all qualified and experienced personnel required to perform the support services.
- 15.9 The SSA shall forward to the WSA for approval a Personnel Schedule, Fees and Tariffs which shall be attached to this contract as Annexure J: Personnel Schedule, Fees and Tariffs.
- 15.10 Where required in terms of the contract, the SSA shall provide persons as listed in the Personnel Schedule, Fees and Tariffs to perform specific duties. If at any time, a particular key person cannot be made available, the SSA may engage a replacement who is equally or better qualified to perform the stated duty, subject to the WSA's approval, which approval shall not be unreasonably withheld.
- 15.11 Where the SSA proposes to utilize a person not named in the Personnel Schedule, Fees and Tariffs as replacement, the SSA shall motivate and submit the name, relevant qualifications and experience of the proposed replacement person to the WSA in writing for approval. Should the WSA not object in writing within 30 days of receipt of such notification, the replacement shall be deemed to have been approved by the WSA.
- 15.12 The remuneration to be paid for a person provided as a replacement shall not exceed the remuneration which would have been payable to the person replaced.
- 15.13 Except in the case of a replacement resulting from death or where the WSA requests a replacement not provided for by the Contract, the SSA shall bear all additional costs arising out of or incidental to such replacement.
- 15.14 The SSA shall take all measures necessary and shall provide all materials and equipment necessary to enable personnel to perform their duties in an efficient manner.

Co-operation with others

- 15.15 If the SSA is required to perform the support services in co-operation with others it may make recommendations to the WSA in respect of the appointment of such others. The SSA shall, however, only be responsible for its own performance and the performance of sub-consultants.

Insurances to be taken out by the SSA

- 15.16 The SSA shall, at its own cost, take out and maintain in force such insurance policies in respect of its risks in performing the support services.

Notice of change by SSA

- 15.17 On becoming aware of any matter which will materially change or has changed the scope, cost or timing of the support services, the SSA shall give notice thereof to the WSA, save that the SSA is empowered to make minor changes or variations within the comprehensive support services budget, within such parameters as are defined by the WSA, provided that such changes are reported timeously to the WSA.

- 15.18 The SSA shall notify the WSA immediately, should the SSA become aware that the contract requires the SSA to undertake anything which is illegal or impossible.

SECTION E: RESPONSIBILITIES AND RIGHTS OF THE WSA

16 BY-LAWS AND POLICIES

- 16.1 The WSA undertakes to timeously, on request of the SSA or otherwise, promulgate all by-laws and adopt all policies necessary to enable the SSA to comply with its duties and obligations and exercise its rights in terms of this contract.

17 DECISIONS AND ASSISTANCE

- 17.1 The WSA shall within a reasonable time, give its decision on any matter properly referred to the WSA in writing by the SSA so as not to delay the performance of the SSA's support services.
- 17.2 The WSA shall cooperate with the SSA and shall not interfere with or obstruct the proper performance of the support services.
- 17.3 The WSA shall as soon as is practicable:
- 17.3.1 authorize the SSA to act as the WSA's agent insofar as may be necessary for the performance of the support services;
 - 17.3.2 assist in obtaining all approvals, licenses and permits from state, regional and municipal authorities having jurisdiction over the support services;
 - 17.3.3 designate in writing a person to act with complete authority in giving instructions and receiving communications on the WSA's behalf and interpreting and defining the WSA's policies and requirements with regard to the support services.

18 INFORMATION

- 18.1 The WSA shall timeously provide to the SSA, free of cost, all available information and data, which may be required for the performance of the support services.
- 18.2 The WSA shall provide the SSA with any assistance required in obtaining other relevant information that the latter may require in order to perform the support services.
- 18.3 The SSA shall be entitled to rely on the accuracy and completeness of all information furnished by or on behalf of the WSA.
- 18.4 The WSA shall collect information, which it deems necessary from the SSA concerning the support services to the CBO WSPs, necessary for the preparation and adoption of the prescribed water services development plan.

19 SERVICES OF OTHERS

- 19.1 The WSA shall not enter into an agreement or contract with others which describes any of the duties and responsibilities of the SSA in terms of this contract or which imposes obligations on the SSA, without first obtaining the SSA's written agreement.
- 19.2 Where the SSA is required to administer the work or services of others, or any contract or agreement on behalf of the WSA, the WSA shall issue instructions related to such work, services, contract or agreement only through the SSA.

20 NOTICE OF CHANGE

- 20.1 On becoming aware of any matter which will materially change, or has changed, the scope, cost or timing of the support services, or on becoming aware of any defect or deficiency in the support services, the WSA shall immediately advise the SSA thereof.

21 MONITORING AND MEETINGS WITH THE SSA

- 21.1 The WSA shall, subject to the provisions of the contract and applicable regulatory provisions -
 - 21.1.1 monitor the activities, performance and compliance of the SSA in accordance with this contract and take any action as is necessary to ensure performance where necessary;
 - 21.1.2 monitor the compliance of the SSA with the approved budgets.
- 21.2 If the WSA is of the opinion that the SSA is not complying or only partially complying with any provision of this contract, the WSA may proceed in accordance with the breach provisions or termination provisions of this contract, as is appropriate.
- 21.3 Representatives of the WSA shall meet with representatives of the SSA on a (**state whether monthly, bi-monthly, etc.**) basis, or as frequently as agreed between the parties, to –
 - 21.3.1 receive reports on the support services provided to the CBO WSPs and on the monitoring of the CBO WSPs;
 - 21.3.2 address any matters as may be relevant to the provision of support services to the CBO WSPs.

SECTION F: FINANCIAL PROVISIONS

22 REMUNERATION AND REIMBURSEMENT OF THE SSA

- 22.1 The WSA shall remunerate and reimburse the SSA for the performance of the support services as set out in Annexure K: Remuneration and Reimbursement for Support Services, and further specified in Annexure J: Personnel Schedule, Fees and Tariffs. If not otherwise indicated in **Annexure J** and **Annexure K**, the following shall apply:
- 22.2 The SSA 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 performance, acceptable to the WSA.

- 22.3 Amounts due to the SSA shall be paid by the WSA within thirty (30) days of receipt by the WSA of the relevant invoices. If the SSA does not receive payment by the due date, it shall be entitled to charge interest on the unpaid amount at the overdraft rate charged to the SSA by its bank plus 2% per annum, compounded monthly and calculated from the due date of payment.
- 22.4 If any item or part of an item in an invoice submitted by the SSA is disputed by the WSA, the latter shall, before the due date of payment, give notice thereof with reasons to the SSA, but shall not delay payment of the balance of the invoice. Clause 22.3 shall apply to disputed amounts which are finally determined to be payable to the SSA.
- 22.5 In respect of the support services charged for on a time basis and all other reimbursable expenses the SSA shall maintain records in support of such charges and expenses for a period of six months after the completion or termination of the Contract. Within this period the WSA may, on not less than 14 days notice, require that a reputable and independent firm of accountants, nominated by the WSA at its expense, audit any claims made by the SSA for time charges and expenses by attending during normal working hours at the office where the records are maintained.
- 22.6 The remuneration of the SSA under the contract shall constitute the SSA's sole remuneration in connection with the contract, or the support services, and the SSA shall not accept for its own benefit any trade commission, discount, or similar payment in connection with activities pursuant to the contract, or in the discharge of the SSA's obligations under the contract, and shall use its best efforts to ensure that the personnel, any sub-consultant, and agents of either of them shall, similarly, not receive any additional remuneration.
- 22.7 The SSA 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 support services, unless so agreed by the WSA in writing.

SECTION G: BREACH, TERMINATION AND VIS MAJOR

23 BREACH

23.1 If any party –

23.1.1 fails or omits to -

23.1.1.1 comply with any duty or obligation in terms of this contract that severely affects the ability of or makes it impossible for the other party to perform its powers, rights, duties or obligations in terms of this contract;

23.1.1.2 comply with any written decision reached between the parties during any mediation; or

23.1.2 remains in default after the expiry of 14 (fourteen) days from the date of delivery at the said party's domicilium address of a written notice requesting the party to remedy the default, the aggrieved party shall have the right to cancel this contract with immediate effect without prejudice to any other rights that the aggrieved party may have in law.

24 TERMINATION

- 24.1 This contract cannot be terminated without just or lawful cause;
- 24.2 This contract may be terminated in the event of the defaulting party failing to rectify the breach in terms of clause 23 within the notice period. If the breach or remedial action itself is in dispute, dispute resolution procedures must be instituted.
- 24.3 The WSA may terminate the contract by giving immediate notice thereof to the SSA if the SSA becomes insolvent or bankrupt.
- 24.4 The SSA may terminate the contract, by giving immediate written notice to the WSA if the WSA fails to pay any moneys due to the SSA in terms of the contract and not subject to dispute pursuant to clause 23 within forty-five (45) days after receiving written notice from the SSA that such payment is overdue.
- 24.5 Upon termination of this contract, the SSA shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the support services to a close in a prompt and orderly manner, and shall make every reasonable effort to keep expenditures for this purpose to a minimum.
- 24.6 Termination of the contract shall not prejudice or affect the accrued rights or liabilities of the parties.
- 24.7 On termination of this contract, without prejudice to any, either party may claim damages and or compensation, and the WSA will take over the support services.

25 VIS MAJOR

- 25.1 No party shall be liable for any failure to fulfil its duties and obligations in terms of this contract where such failure is caused by any event, occurrence, circumstance or condition beyond the reasonable control of such party, the occurrence of which could not have been reasonably foreseen on the effective date and which, despite the exercise of diligent efforts could not have been prevented, limited or minimized, that affects the powers, rights, duties or obligations of the parties under this contract.
- 25.2 The party affected by an event, occurrence, circumstance or condition referred to in clause 25.1 shall promptly notify the other party in writing of the event, occurrence, circumstance or condition and the estimated extent and or duration of such party's inability to perform its duties and obligations.
- 25.3 If, as a result of the event, occurrence, circumstance or condition referred to in clause 25.1, the performance of a party's duties and obligations is only partially affected, such party shall remain liable for the performance of those duties and obligations not affected by the event, occurrence, circumstance or condition.

SECTION H: DISPUTE RESOLUTION

26 SETTLEMENT OF DISPUTES

- 26.1 The provisions of this clause relate to any dispute that arises in respect of –
- 26.1.1 the interpretation of this contract;
 - 26.1.2 the implementation of this contract;
 - 26.1.3 any of the parties powers, rights, duties and obligations in terms of this contract;
 - 26.1.4 the termination or proposed termination of this contract, provided that the other party is notified in writing of such dispute within 2 (two) months of such termination or proposed termination; and
 - 26.1.5 any matter that in terms of this contract requires further agreement by the parties.
- 26.2 Any dispute arising out of this contract shall be dealt with in accordance with the procedures set out in Annexure L: Dispute Resolution to this contract.

SECTION I: GENERAL

27 WARRANTIES

- 27.1 The WSA warrants that –
- 27.1.1 it is an entity duly created pursuant to statute and has full legal right, and authority to enter into the contract and perform its obligation hereunder;
 - 27.1.2 the contract has been duly authorised and executed by and constitutes legal, valid and binding obligations of the WSA;
 - 27.1.3 the execution of the contract does not violate any legislation, judgement order, regulation, regulatory provision, right or obligation or rule of any Court or competent authority applicable in relation to the WSA, or the provision of the support services.
- 27.2 The SSA warrants that –
- 27.2.1 it is an entity duly created in terms of common law / pursuant to the **(state appropriate Act) Act (delete as appropriate)** and has full legal right, and authority to enter into this contract and perform its obligation hereunder;
 - 27.2.2 the contract has been duly authorised and executed by and constitutes legal, valid and binding obligations of the SSA;
 - 27.2.3 the execution of the contract does not violate any legislation, judgment order, regulation, regulatory provision, right or obligation or rule of any Court or competent authority applicable in relation to the SSA, or the provision of the support services.

28 SUB-CONTRACTING

- 28.1 The WSA or the SSA may sub-contract certain but not all of their powers, rights, duties and obligations in terms of this contract.

- 28.2 The appointment of any sub-contractor shall not release the contracting party of its duties or obligations in terms of this contract or in any way affect the contracting party's responsibility in respect of fulfilling such duties and obligations.
- 28.3 The contracting party shall keep records of all contracts entered into in connection with its powers, rights, duties or obligations in terms of this contract and shall on request provide information in respect thereof to the other party.
- 28.4 The WSA shall have no contractual relationships with sub-contractors of the SSA. However, if a sub-contractor is found by the WSA to be incompetent in discharging its duties, the WSA may request the SSA either to provide a sub-contractor with qualifications and experience acceptable to the WSA as a replacement, or to resume the performance of the support services itself.
- 28.5 The SSA shall be responsible for the acts, defaults and negligence of sub-contractors and their agents or employees, as if they were the acts, defaults or negligence of the SSA, the SSA's agents or employees.

29 GOOD FAITH

- 29.1 The parties shall in their dealings with each other display the utmost good faith, co-operate during the training and capacity building phase and the implementation of the contract, and undertake to do all such things, perform all necessary acts and procure the taking of all necessary steps and sign all such other documents that may be necessary or incidental or conducive to give effect to the intention and the terms and conditions of the contract.

30 NOTICES

- 30.1 Any notice, request, consent, or other communication made between the parties pursuant to this Contract shall be in writing and shall be deemed to have been made when delivered in person to an authorised representative of the party to whom the communication is addressed, or when sent by registered post, telex, telegram or facsimile to such party at the address specified in this Contract.
- 30.2 A party may change its address for receipt of communications by giving the other party 30 days advance notice of such changes.

31 PUBLICITY AND CONFIDENTIALITY

- 31.1 The SSA shall not release public or media statements or publish material related to the support services within two (2) years of completion of the support services without the written approval of the WSA, which approval by the SSA shall not be unreasonably withheld.
- 31.2 The WSA shall not make public or media statements relating to the support services performed by the SSA without the prior and full knowledge of the SSA.

- 31.3 Both parties shall keep all commercially 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.

32 VARIATIONS

- 32.1 The WSA may, without changing the scope of the contract, order variations to the support services in writing or may request the SSA to submit a proposal, including the time and cost implications, for variations to the support services.
- 32.2 The reasonable cost of preparation and submission of such proposals and the incorporation into the contract of any variations to the support services ordered by the WSA, including any change in the contract budget, shall be agreed between the SSA and the WSA, and recorded in writing.
- 3.8.3 Where a variation is necessitated by default or breach of contract by the SSA, an additional cost attributable to such variation shall be borne by the SSA.

33 FAILURE TO REACH AGREEMENT

- 33.1 Where it is specified in this contract that certain matters are to be agreed between the parties, failure to reach agreement in respect of such matter will not affect the validity and enforceability of the whole or any part of this contract.

34 EQUIPMENT AND MATERIALS FURNISHED BY THE WSA

- 34.1 Equipment and materials made available to the SSA by the WSA, or purchased by the SSA with funds provided by the WSA shall be the property of the WSA and shall be marked accordingly. Upon termination or expiration of the contract, the SSA shall make available to the WSA an inventory of such equipment and materials, and shall dispose of them in accordance with the WSA's instructions.

35 OWNERSHIP OF DOCUMENTS AND COPYRIGHT

Copyright of documents

- 35.1 All plans, drawings, specifications, design documents, reports, data, calculations, computer software (including executables, all source software and components) and other documents, prepared by the SSA in performing the support services, shall become and remain the property of the WSA, and the SSA shall, not later than upon termination or expiration of this Contract, deliver all such documents to the WSA together with a detailed inventory thereof. The SSA may retain a copy of such documents for record purposes but shall not use them for purposes unrelated to this Contract without the prior written approval of the WSA. Copyright of all such documents and computer software vests in the WSA.
- 35.2 The SSA shall not be liable in any way for the use of any of the information other than as originally intended for the support services and the WSA hereby indemnifies the SSA against any claim which may be made against the SSA by any party arising from the use of such documentation for other purposes.

Ownership of data

35.3 The ownership of data and factual information collected by the SSA and paid for by the WSA shall, after payment by the WSA, lie with the WSA.

Right of use of documents

35.4 The WSA shall have no right to use any documents prepared by the SSA whilst the payment of any fees and expenses due to the SSA in terms of the Contract is overdue.

36 DOMICILIUM CITANDI ET EXECUTANDI

36.1 The parties choose as their *domicilia citandi et executandi* for all purposes under this contract, whether in respect of court process, notices or documents or communications of whatsoever nature, the following addresses:

36.2 WSA:

Address:
Telephone number:
Fax number:

36.3 SSA:

Address:
Telephone number:
Fax number:

36.4 Any notice or communication required or permitted to be given in terms of this contract shall be valid and effective only if effected in writing, but it shall be competent to give notice by telefax.

37 WHOLE AGREEMENT, NO AMENDMENT

37.1 This contract together with its Annexures represents the whole agreement between the WSA and CBO WSP regarding the provision of water services to the contract area.

37.2 Any changes, amendments, relaxation and / or additions to this contract shall be in writing and duly signed by the official representatives of both parties.

38 COUNTERPARTS

SIGNED by the parties and witnessed on the following dates and at the following places respectively:

DATE PLACE WITNESSES SIGNATURE

For: WSA

1. _____

2. _____

DATE

PLACE

WITNESSES

SIGNATURE

For: SSA

1. _____

2. _____

ANNEXURE A: WSA RESOLUTION

ANNEXURE B: SSA ACCEPTANCE LETTER

ANNEXURE C: CONTRACT AREA

ANNEXURE D: WATER SERVICES SYSTEMS

[Describe the water services systems for each CBO WSP, including infrastructure, movable and immovable assets]

ANNEXURE E: TRAINING AND CAPACITY BUILDING PROGRAMME AND BUDGET

This annexure must detail training and capacity building plans for each of the CBO WSPs based on capacity building needs assessments. The plans must address the necessary training and capacity building to ensure that the CBO WSPs are able to fulfil the contractual requirements as outlined in the CBO WSP contracts with the WSA. The plans should also detail the support the SSA will provide to the CBO WSP with regards to the following:

- *Development of a consumer charter that:*
 - *fulfils the requirements for conditions for provision of water services as set out in Section 4 of the Act;*
 - *provides a system for dealing with consumers' complaints; and;*
 - *sets out a consumer's right to redress.*
- *the establishment of the necessary management and revenue systems for the provision of water services to consumers in the CBO WSPs' contract areas including:*
 - *water services budgets;*
 - *procurement policies for the procurement of goods and services;*
 - *the establishment all the necessary systems to provide revenue services;*
 - *the establishment of reporting systems;*
 - *the establishment of financial management systems.*
- *the appointment of the staff and establishment of HR systems*
- *training the CBO WSPs' staff members to ensure that they have the necessary skills to operate their water services system according to the operations manual, and to manage the provision of water services;*
- *mentoring support prior to the effective date.*

The plans must clearly indicate objectives to be achieved, deliverables, key performance indicators, activities and budget.

The plans must indicate the proposed effective date for each CBO WSP. [Some CBOs may require a longer period of training and capacity building than others.]

ANNEXURE F: SUPPORT SERVICES IMPLEMENTATION PLANS

ANNEXURE G: COMPREHENSIVE SUPPORT SERVICES BUDGET

ANNEXURE H: MAINTENANCE MANAGEMENT PROGRAMME

ANNEXURE I: INTERRUPTION IN SERVICE¹

1. The response times which are to be achieved by the CBO WSP in respect of any disruption of the water services shall be as follows:

Category 1

Disruptions causing life threatening situations and/or potential damage to properties and other facilities shall be attended to within hours (**state number of hours in figures and words – recommendation is not more than 2 hours**) of being notified or becoming aware of the fact and effect repair with due diligence employing all necessary reserves irrespective of cost.

Category 2

Disruptions causing significant water losses or discomfort to the public shall be attended to within hours (**state number of hours in figures and words – recommendation is not more than 4 hours**) of being notified or becoming aware of the fact and effect repair with due diligence including, if possible, providing alternative supply if the service cannot be resumed within 12 (twelve) hours of notification.

Category 3

Disruptions generating no damage or significant water losses shall be repaired withinhours (**state number of hours in figures and words – recommendation is not more than 24 hours**) of being notified or becoming aware of the fact.

2. In all cases the CBO WSP must, within hours (**state number of hours in figures and words – recommendation is not more than 24 hours**) of being notified or becoming aware of the fact, inform affected consumers of the measures adopted, or to be adopted, to resolve the disruption, including, where appropriate, alternative water services arrangements.
3. In accordance with regulation 3 of the Regulations in Terms of Sections 9(1) and 73(1)(j) of the Act, no consumer shall be without access to basic water services for a period of more than 24 (twenty four) hours and no area shall be without its normal water supply services for a period of more than 12 (twelve) hours without alternative arrangements being put in place by the CBO WSP.
4. In the event of planned water services cuts, 48 (forty eight) hours notice must be given to all affected consumers.

ANNEXURE J: PERSONNEL SCHEDULE, FEES AND TARIFFS

ANNEXURE K: REMUNERATION AND REIMBURSEMENT FOR SUPPORT SERVICES

¹Subject to the Regulations in Terms of Sections 9(1) and 73(1)(j) of the Act and other Regulatory Provisions, the procedure for dealing with interruptions in supply of water services are to be negotiated by the Parties. This Annexure provides an example of typical requirements.

ANNEXURE L: DISPUTE RESOLUTION

1 AMICABLE SETTLEMENT

- 1.1 If any dispute arises in terms of this contract, either party may give 14 (fourteen) days written notice to the other of such dispute, whereupon the parties shall meet promptly and in good faith attempt to reach an amicable settlement.
- 1.2 In the event that the parties do not resolve a dispute within 5 (five) days of having met, then either party may refer the dispute to a Mediation Committee by giving 14 (fourteen) days notice of such intention to the other party.

2. MEDIATION

- 2.1 The Mediation Committee shall be chaired by a mediator to be appointed by the parties.
- 2.2 In the event that the parties cannot agree on the appointment of a mediator within 7 (seven) days after notice to refer the dispute to mediation, then the Institute of Mediation Services of South Africa (IMSSA) shall be requested by the parties to identify and appoint the mediator.
- 2.3 The Mediation Committee shall consist of a maximum of 5 (five) members, constituted as follows –
 - the Chairperson;
 - (two) appointed by the WSA; and
 - (two) appointed by the SSA.
- 2.4 The party that initially issued the notice of intention to refer the matter to the Mediation Committee shall within 14 (fourteen) days after appointment of the mediator submit to the Mediation Committee and to the other party the following written documents –
 - its description of the dispute;
 - a statement of that party's position; and
 - copies of the relevant supporting documentary evidence.
- 2.5 Within 10 (ten) days of receipt of the aforesaid documents, the other party shall submit to the Mediation Committee and to the other party the following written documents –
 - its description of the dispute;
 - a statement of that party's decision; and
 - copies of the relevant supporting documentary evidence.
- 2.6 The Mediation Committee may call for such further documentary evidence and/or interview such person(s), as it deems necessary in order to formulate its recommendation.
- 2.7 The Mediation Committee shall reach a majority recommendation and give notice to the parties of its recommendation within 20 (twenty) days after receipt of the documents provided in clause 2.5.
- 2.8 Where a party is not satisfied with the recommendation of the Mediation Committee, such party shall issue a notice of its intention to terminate the contract in terms of the breach and termination clauses of this contract, and if appropriate, proceed with any legal action they may institute in terms of the law.
- 2.9 Where a party is not satisfied with the recommendation of the Mediation Committee, such party shall issue a notice of its intention to refer the matter to arbitration in accordance with clause 2.11

- 2.10 The costs of engaging members of the Mediation Committee shall be borne equally by the parties, and each party shall bear its own costs of preparing the materials, documents and making presentations to the Mediation Committee.
- 2.11 In the event that any party is not satisfied with the recommendation of the Mediation Committee, that party shall be entitled by 30 (thirty) days written notice to the other party to require that the dispute be settled by summary arbitration, as provided for in this contract.

3. ARBITRATION

- 3.1 The summary arbitration shall be held:
- 3.2 At the *domicilia citandi et executandi* of the WSA or such other venue as may be agreed by the parties;
- 3.3 in a summary manner, that is, on the basis that it shall not be necessary to observe or carry out either the usual formalities or procedures as prescribed by any relevant arbitration legislation or rules of evidence in South Africa;
- 3.4 as soon as is reasonably practicable in the circumstances and with a view to it being completed within 30 (thirty) days of the dispute being referred to the arbitrator.
- 3.5 The arbitrator shall be a person agreed between the parties within 14 (fourteen) days after the dispute is submitted to arbitration, failing that a person nominated by the Chairman for the time being of the Law Society of the South Africa, subject to the following provisions –
- 3.5.1 if the question in issue relates primarily to an accounting or financial matter, the arbitrator shall be a practising chartered accountant of not less than 5 (five) year standing as such;
- 3.5.2 if the question in issue relates primarily to a legal matter, the arbitrator shall be a practising Attorney of not less than 5 (five) years standing as such; or
- 3.5.3 if the question in issue relates primarily to *inter alia* engineering, construction, technical or other similar matter, the arbitrator shall be a practising engineer of not less than 5 (five) years standing as such.
- 3.6 Immediately after the arbitrator has been appointed, s/he may be called upon by any of the parties to fix a date for the arbitration proceedings to be held and to settle the procedure and manner in which the proceedings shall be held.
- 3.7 The arbitrator or his / her authorised representative shall be entitled to investigate or cause to be investigated any matter, fact or thing which he / she considers necessary or desirable in connection with the dispute including the fullest inspection of the subject matter of the dispute. The parties to the arbitration shall co-operate with the arbitrator in the supplying of all information requested.
- 3.8 The arbitrator shall in his / her sole discretion be entitled and obliged to:
- 3.8.1 decide the matters submitted to arbitration according to all relevant market factors and having regard to all relevant evidence and circumstances; and
- 3.8.2 make an award and/or orders relating to the subject matter of the dispute and the costs of the arbitration or relating to any other matter arising therefrom.
- 3.9 The parties irrevocably agree and undertake that any award, ruling or order or whatsoever made by the arbitrator –
- 3.9.1 shall be final and binding upon them; and
- 3.9.2 may at the option of either party be made an order of any division of the High Court of South Africa to which jurisdiction the parties are subject.

Table of Contents

SECTION A: INTRODUCTION	1
1 Definitions.....	1
2 Preamble.....	2
3 Commencement and duration of contract.....	2
SECTION B: TRAINING AND CAPACITY BUILDING PHASE	3
4 Transitional arrangements.....	3
5 Obligations of the SSA during the Training and Capacity Building Phase.....	3
6 Obligations of the WSA during the Training and Capacity Building Phase.....	4
SECTION C: APPOINTMENT OF THE SSA	5
7 Appointment.....	5
8 Scope of the support services.....	5
SECTION D: RESPONSIBILITIES AND RIGHTS OF THE SSA	6
9 Provision of support services.....	6
Major maintenance of the CBO WSP water services systems.....	6
Operations (technical) mentoring.....	7
Financial management support services.....	7
Institutional and social development (ISD) mentoring.....	7
Procurement of goods and services.....	9
Health and hygiene promotion.....	9
Pit emptying for VIP latrines.....	10
10 Monitoring the CBO WSPs.....	10
11 Support services implementation plans and budgets.....	10
12 Comprehensive support services budget.....	11
13 Reporting and plans.....	11
Reporting.....	11
Financial reporting.....	12
Water services development plan.....	12
14 Meetings with the WSA.....	12
15 General conditions concerning SSA obligations.....	13
Professional services.....	13
Joint venture or consortium.....	13
Staff and equipment.....	13
Co-operation with others.....	14
Insurances to be taken out by the SSA.....	14
Notice of change by SSA.....	14
SECTION E: RESPONSIBILITIES AND RIGHTS OF THE WSA	15
16 By-laws and policies.....	15
17 Decisions and assistance.....	15
18 Information.....	15
19 Services of Others.....	15
20 Notice of change.....	16

21	Monitoring and meetings with the SSA	16
	SECTION F: FINANCIAL PROVISIONS	16
22	Remuneration and reimbursement of the SSA.....	16
	SECTION G: BREACH, TERMINATION AND VIS MAJOR.....	17
23	Breach.....	17
24	Termination	18
25	Vis major	18
	SECTION H: DISPUTE RESOLUTION	18
26	Settlement of disputes	18
	SECTION I: GENERAL	19
27	Warranties	19
28	Sub-Contracting.....	19
29	Good faith.....	20
30	Notices	20
31	Publicity and confidentiality.....	20
32	Variations	21
33	Failure to reach agreement.....	21
34	Equipment and materials furnished by the WSA.....	21
35	Ownership of documents and copyright.....	21
	Copyright of documents	21
	Ownership of data	22
	Right of use of documents.....	22
36	Domicilium citandi et executandi.....	22
37	Whole Agreement, No Amendment	22
38	Counterparts.....	22
	Annexure A: WSA Resolution	24
	Annexure B: SSA Acceptance Letter	24
	Annexure C: Contract Area.....	24
	Annexure D: Water Services Systems	24
	Annexure E: Training and Capacity Building Programme and Budget	24
	Annexure F: Support Services Implementation Plans	24
	Annexure G: Comprehensive Support Services Budget.....	24
	Annexure H: Maintenance Management Programme	24
	Annexure I: Interruption in Service.....	25
	Annexure J: Personnel Schedule, Fees and Tariffs	25
	Annexure K: Remuneration and Reimbursement for Support Services.....	25
	Annexure L: Dispute Resolution.....	26