

of the parties infrastructure or materially delays or prevents the performance of any duties and obligations in terms of this contract, or interrupts services and continues for more than 90 (ninety) consecutive days after any notification thereof the affected party may initiate the termination of the contract in accordance with clause 43.

SECTION M: TERMINATION

42. REASONS FOR TERMINATION

The termination of this agreement may occur -

- 42.1 at the expiry of the contract term;
- 42.2 if the parties agree thereto in writing;
- 42.3 by reason of an unremedied material breach;
- 42.4 due to vis major; or
- 42.5 the WATER BOARD ceases to be a statutory organisation deemed to be established in terms of the Water Services Act, Act 108 of 1997 or the institutional structure of the WATER BOARD is changed subsequent to any institutional reform process undertaken by the Minister.

43. TERMINATION PROCESS

- 43.1 Termination shall be initiated by a notice from either party who has the right to deliver such notice in accordance with clauses 40 and 41, or 6 (six) months prior to the expiry of the contract term, or on the date agreed.
- 43.2 When termination is initiated in terms of clause 43.1 the WATER BOARD must within 2 (two) months of receiving a notice from the MUNICIPALITY notify the MUNICIPALITY and other municipal customers of the projected financial implications of termination for it and each municipal customer.
- 43.3 The MUNICIPALITY must on receipt of a notice from the WATER BOARD initiate the process set out in clause 44.

- 43.4 This notice referred to in clause 43.1 sets in motion a transitional phase. During the transitional phase the WATER BOARD shall continue to provide bulk water supply services in accordance with this contract until such time as the process referred to in clause 43.3 is completed and any outcome thereof has been reduced to writing as an amendment to this contract, which contract only terminates on the fulfilment of all obligations in terms of such an amendment.

SECTION N: PROCESS FOR ADDRESSING MATTERS IMPACTING ON MUNICIPAL CUSTOMERS

- 44.1 The provisions of this section apply to circumstances as set out in clauses 9.1.7 to 9.1.9, 24, 31, 33 and 43.
- 44.2 The MUNICIPALITY must on receipt of a notice referred to in clauses 9.1.8, 24.7, 31.4.2, 33.3 and 43.3 notify all municipal customers of its reasons for the actions or proposed actions that gave rise to the notice.
- 44.3 The MUNICIPALITY must take all reasonable actions to ensure that each municipal customer within 14 (fourteen) days of receipt of a notice from the MUNICIPALITY notify the MUNICIPALITY and WATER BOARD, if it accepts or disputes the actions or proposed actions of the MUNICIPALITY. The MUNICIPALITY must take all reasonable actions to ensure that where the actions or proposed actions are disputed reasons are provided. Where a municipal customer fails to inform the MUNICIPALITY and WATER BOARD of its acceptance or dispute within the specified period, the WATER BOARD may accept that the municipal customer disputes the actions or proposed actions.
- 44.4 Where not all the municipal customers accepted or disputed the actions or proposed actions the MUNICIPALITY must within 7 (seven) days after the expiry of the 14 (fourteen) day period referred to above, notify all municipal customers accordingly and provide each municipal customer with the decisions of the other municipal customers.
- 44.5 The MUNICIPALITY must take all reasonable actions to ensure that the municipal customers, within 14 (fourteen) days of receiving a notice in terms of clause 44.4, discuss the actions and proposed actions amongst each other, agree to accept or dispute the actions and proposed actions and notify the

WATER BOARD accordingly. Where the municipal customers fail to inform the WATER BOARD of its acceptance or dispute within the specified period, the WATER BOARD may accept that the municipal customers dispute the actions and proposed actions.

- 44.6 Where the municipal customers cannot agree amongst each other to accept or dispute the actions and proposed actions the MUNICIPALITY must, within 7 (seven) days of the expiry of the 14 (fourteen) day period, refer the matter to SALGA for mediation and must inform the WATER BOARD of such referral.
- 44.7 Where the matter was referred to SALGA for mediation, SALGA must request the other municipal customers to participate in the mediation.
- 44.8 Where the matter was referred to SALGA for mediation, SALGA must inform the WATER BOARD, within 14 (fourteen) days of the matter being referred to it, that all the municipal customers accept or dispute the actions and proposed actions. Where SALGA fails to inform the WATER BOARD of the municipal customers acceptance or dispute within 30 (thirty) days of initial notice by the WATER BOARD, the WATER BOARD may assume that the municipal customers disputes the actions and proposed actions.
- 44.9 Where all the municipal customers dispute or some of the municipalities dispute or accepts the action or proposed action the WATER BOARD may refer the matter to the Department for mediation, and the Department must, within 14 (fourteen) days of the matter being referred to it, take all reasonable measures to resolve the dispute.
- 44.10 Where the matter was referred to the Department for mediation, the Department must request all municipal customers to participate in the mediation.
- 44.11 Where the Department fails to resolve the dispute within a further 14 (fourteen) days the WATER BOARD or the MUNICIPALITY must refer the matter to:
- 44.11.1 if the matter is a financial dispute, the Minister of Finance in accordance with the Local Government: Municipal Finance Management Act No. 56 of 2004 for mediation; or

- 44.11.2 such entity as may be specified in any applicable intergovernmental relations legislation or legislation enacted to give effect to section 41(2) of the Constitution of the Republic of South Africa Act, Act 108 of 1996.
- 44.12 Where all the municipal customers accept the actions and proposed actions, the WATER BOARD must implement the action or facilitate the implementation thereof, provided that, where the action relates to the termination of this contract the action must be referred to the Department, with a proposal to –
- 44.12.1 either sell the water board infrastructure dedicated to the supply of bulk water supply services to the MUNICIPALITY and recover all operational expenditure associated with the infrastructure from the MUNICIPALITY; or
- 44.12.2 where the water board infrastructure used by the WATER BOARD to provide bulk water supply services to the MUNICIPALITY is partially dedicated to the supply of such services, to pay to the WATER BOARD any capital contribution outstanding in respect of the remaining contract period, where appropriate, as agreed to in terms of this contract by the approval of the charges and capital expenditure programme of the WATER BOARD in terms of clauses 25 and 26 and all operational expenditure associated with the infrastructure.
- 44.13 The Department must approve any sale of assets and capital contribution to be collected by the WATER BOARD on termination of this contract.

SECTION O: DISPUTE RESOLUTION

45. DISPUTE RESOLUTION

- 45.1 Should any difference or questions at any time arise between the parties as to the construction, meaning or effect of this contract or the rights or obligations of the parties hereunder, or should the parties fail to agree upon any matter (hereinafter referred to as "the dispute"), the parties shall resolve the dispute in

accordance with this section, unless an alternative process for resolving a specific type of dispute has been provided for elsewhere in this contract.

- 45.2 The parties irrevocably consent to comply with the provisions of this clause and neither party shall be entitled to withdraw from or claim at any such proceedings that it is not bound by these provisions or by any ruling or procedure laid down in terms of such provisions. The parties agree that they shall not commence any litigation procedures in respect of a dispute arising in terms of this contract save where an interdict is sought or urgent relief may be obtained from a court of competent jurisdiction on reasonable grounds.
- 45.3 No dispute arising from this contract shall entitle the other party to discontinue or suspend the execution of any of its powers, rights, duties or obligations in terms of this contract, pending the settlement of the dispute, unless specifically provided for elsewhere in this contract.

46. NEGOTIATION

The Municipal Manager of the MUNICIPALITY and the Chief Executive of the WATER BOARD shall deal with any dispute between the parties. The said representatives shall endeavour to settle the matter amicably through a process of negotiation. Failing the settlement of the dispute between the parties by negotiation within a period of 7 (seven) working days, any of the parties may submit the dispute to mediation. All statements or representations made during the negotiation process shall be made without prejudice.

47. MEDIATION

- 47.1 Each party shall submit a list with three names of knowledgeable persons, with expertise relating to the particular field in which the dispute arose, as potential mediators from which one mediator shall be selected by agreement between the parties. Should the parties fail to reach agreement on the choice of the mediator within 5 (five) working days from the day on which it has become apparent that the matter can not be settled through negotiation, any of the parties may request the Arbitration Foundation of South Africa to appoint a mediator.

47.2 The mediator shall in his sole discretion determine the form of representations ~~to be made, provided that~~ in making this determination, the mediator shall consult the disputing parties and may be guided by their common reasonable desire on the form in which the said representations are to be made. All representations by the parties shall be made without prejudice.

47.3 The mediator shall within a period of 10 (ten) working days after receipt of the representations of the parties endeavour to facilitate an agreement between them or determine a procedure or framework within which they can negotiate to resolve the dispute or difference. All representations by the parties shall be made without prejudice.

47.4 Any such negotiated agreement shall be in writing, signed by both parties and be binding on the parties. Failing agreement between the parties the dispute shall be resolved by the submission thereof to arbitration.

47.5 The parties agree to contribute equally to the cost of the mediator and each party shall bear any other costs separately regardless of the outcome of the mediation.

48. ARBITRATION

48.1 The arbitration proceedings shall be held at a convenient location as agreed to by the parties.

48.2 The only persons present at the arbitration shall be the legal representatives and a maximum of two other representatives of each of the parties to the dispute.

48.3 The proceedings shall be in terms of the Arbitration Act, Act 42 of 1965 (as amended) subject to the provisions of clause 48.5.

48.4 The arbitrator shall be, an independent person agreed to by the parties. Should the parties fail to agree on the arbitrator within 5 (five) working days after having submitted the matter to arbitration, an arbitrator shall be appointed at the request of any party to the dispute by the Arbitration Foundation of South Africa.

- 49.2 Each party undertakes to identify corrupt action and to take all reasonable steps to prevent either party, its employees, its sub-contractors ~~its agents or anybody~~ under its control from involvement in corrupt action.

50. CONFIDENTIALITY AND PUBLICITY

- 50.1 For the purposes of this clause, "confidential information" means any knowledge, information or know-how relating to a party's business, systems, customers, property, assets or affairs which has been or is disclosed, communicated, delivered or has come to the knowledge of the other party under or in connection with this contract.

- 50.2 Neither party may disclose any confidential information of the other party without the prior written approval of the other party or require, assist or permit any person to have access to, or use, disclose or reproduce any confidential information of the other party, other than confidential information –

50.2.1 reasonably required by an employee, contractor or consultant of a party to enable that party to exercise its rights or perform its obligations under this contract; or

50.2.2 a party is required by legislation to disclose; or

50.2.3 a party is required to disclose in dispute resolution or court proceedings.

- 50.3 If a party is required or compelled to disclose confidential information of the other party it must –

50.3.1 immediately give written notice of that fact to the other party; and

50.3.2 take reasonable measures to ensure that the confidentiality of the information is protected.

- 50.4 A party must not make any public statement relating to this contract unless –

50.4.1 the other party has previously agreed to the form and content of the statement; or

50.4.2 the statement is required to be made by legislation and the other party was consulted in respect of the public statement to be made.

50.5 This clause survives the termination of this contract.

51. ASSIGNMENT, TRANSFER, CESSION AND DELEGATION

No party shall be entitled to assign, transfer, cede or delegate any of its rights and obligations in terms of this contract without the prior written consent of the other party.

52. SUB-CONTRACTING

The parties may sub-contract its powers, rights, duties and obligations in terms of this contract. The appointment of any sub-contractor shall not release the parties of their duties or obligations in terms of this contract or in any way affect their responsibility in respect of fulfilling such duties and obligations.

53. NOTICES AND DOMICILIUM CITANDI ET EXECUTANDI

53.1 The parties choose as their *domicilia citandi et executandi* for all purposes under this contract, whether in respect of court process, notices or other documents or communications of whatsoever nature (including the exercise of any option), the following addresses –

53.1.1 the MUNICIPALITY:

Physical:

Postal:

Facsimile:

Contact person:

53.1.2 the WATER BOARD:

Physical:

Postal:

Facsimile:

Contact person:

53.2 Any submission, notice, communication or information required or permitted to be given and any obligation to submit to, notify or inform a party in terms of this contract shall, unless specifically provided for otherwise, be valid and effective only if in writing and shall be delivered by hand, transmitted by facsimile or sent by prepaid registered post.

53.3 A notice shall be deemed to have been received:

53.3.1 14 (fourteen) days after posting, if posted by registered post to the party's address in terms of clause 53.1;

53.3.2 on delivery, if delivered to a responsible person during normal business hours at the party's physical address in terms of clause 53.1;

53.3.3 on despatch, if sent to the Party's facsimile number and confirmed by registered letter posted no later than the next Business Day following the dispatch.

53.4 Notwithstanding anything to the contrary herein contained a written notice or communication actually received by a party shall be adequate written notice or communication to it notwithstanding that it was not sent to or delivered to its chosen *domicilium citandi et executandi*.

53.5 Either party may change its address for purposes of this clause to another address by notice in writing in terms of clause 53.2 to the other party, such address being effective on receipt by the addressee of such written notice. A notice shall be necessary in respect of a new or changed facsimile number.

54. WHOLE AGREEMENT, NO AMENDMENT

54.1 This contract including the annexures constitutes the whole contract between parties relating to the subject matter hereof and supersedes, all previous

contracts or arrangements, whether oral or written, between the parties. No representations, warranties or other terms ~~and conditions of whatever nature~~ not contained or recorded herein shall be binding on either party.

- 54.2 No amendment or consensual cancellation of this contract or any provision or term hereof or of any agreement, bill of exchange or other document issued or executed pursuant to or in terms of this contract and no settlement of any disputes arising under this contract and no extension of time, waiver or relaxation or suspension of or agreement not to enforce or to suspend or postpone the enforcement of any of the provisions or terms of this contract or of any agreement, bill of exchange or other document issued pursuant to or in terms of this contract shall be binding unless recorded in a written document signed by the parties. Any such extension, waiver or relaxation or suspension, which is so given or made, shall be strictly construed as relating strictly to the matter in respect whereof it was made or given.
- 54.3 No extension of time or waiver or relaxation of any of the provisions or terms of this contract, bill of exchange or other document issued or executed pursuant to or in terms of this contract, shall operate as an estoppel against any party in respect of its rights under this contract, nor shall it operate so as to preclude such party thereafter from exercising its rights strictly in accordance with this contract.
- 54.4 To the extent permissible by law, no party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein, whether it induced the contract or whether it was negligent or not.

55. FAILURE TO REACH AGREEMENT

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 and were the parties fail to reach an agreement either party may refer the matter for resolution in terms of section O of this contract.

56. LEGISLATIVE AND REGULATORY CHANGES

Any provisions of this contract which may become inconsistent with legislation due to amendments to that legislation shall be deemed, insofar as possible, to be amended accordingly, provided that, where such legislative amendments render any provisions illegal, invalid, unenforceable or ineffective, the parties shall renegotiate such provisions in good faith, having due regard to such amendments and to the principles contained herein. If any provision cannot be renegotiated it shall be treated *pro non scripto* and severed from the balance of this contract, without invalidating the remaining provisions of this contract or affecting the validity or enforceability of such provisions.

57. LIABILITY FOR EXPENSES

Each party must pay its own expenses incurred in negotiating and executing this contract.

58. RELATIONSHIP BETWEEN PARTIES

Nothing in this contract creates a relationship of partnership, principal and agent or trustee and beneficiary between the MUNICIPALITY and the WATER BOARD.

59. CONSENT TO JURISDICTION

The parties agree that any legal action or proceeding arising out of any proceedings in terms of arbitration or in respect of any interdict or urgent relief in terms thereof may be brought in the High Court of South Africa (Witwatersrand Local Division) (or any successor to that court) and irrevocably submit to the exclusive jurisdiction of such court. The parties irrevocably waive any objection they may now or hereafter have that such action or proceeding has been brought in an inconvenient forum.

60. PRESERVATION OF THE POWERS AND DUTIES OF THE MUNICIPALITY

Nothing in this contract shall curtail the statutory powers of the MUNICIPALITY in its capacity as the water services authority as provided for in the Water Services Act.

61. SUPREMACY OF THIS CONTRACT

In the event that any provision of any other agreement entered into between the MUNICIPALITY and the WATER BOARD, conflicts with the provisions of this contract, the provisions of this Contract shall prevail.

62. CONTRACT NOT BINDING ON SUCCESSORS-IN-TITLE

This contract shall not be binding on any successor in title of the MUNICIPALITY or any successor in title of the WATER BOARD.

63. MUTUAL COOPERATION AND GOOD FAITH

The parties shall in their dealings with each other display the utmost good faith, consult each other from time to time with regard to any assistance or advice which they may require in connection with fulfilling any of its obligations in terms of this 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.

64. COUNTERPARTS

This contract, together with its annexures, may be executed in several counterparts, each of which shall together constitute one and the same document.

65. GOVERNING LAW

This contract shall be governed by and construed and interpreted in accordance with the law of the Republic of South Africa, provided that in the event of a conflict between or inconsistency in the laws applicable in the various provinces of the Republic of South Africa, the law as interpreted and applied in the Gauteng Province shall prevail.

66. ANNEXURES

The following annexure form part of this contract -

- 66.1 Annexure A - Recordal of bulk water supply services provided on the
effective date;
- 66.2 Annexure B - Recordal of storage provided by WATER BOARD in
respect of which the MUNICIPALITY had made a capital
contribution
- 66.3 Annexure C - Contact Persons in Emergencies

IN WITNESS WHEREOF, the parties have executed this contract on this DAY
OF2003 AT

WITNESSES:

I. SALGA Representative -

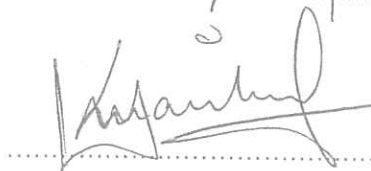
II. Other -


the MUNICIPALITY

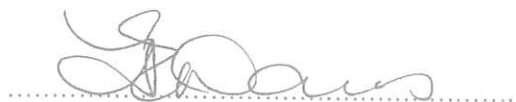
IN WITNESS WHEREOF, the parties have executed this contract on this 07th DAY
OF November 2003 AT Johannesburg

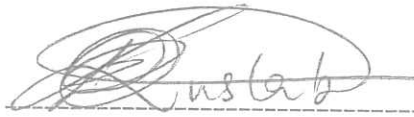
WITNESSES:

I.



II.





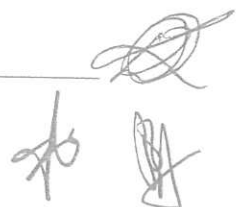
the WATER BOARD

Approved by Legal Department

Name : CAID BUX

Signature : Mary

Date : 01/10/05



WATER SUPPLY CONTRACT

made and entered into between

RAND WATER BOARD

and

MIDVAAL LOCAL MUNICIPALITY

RECORDAL

- 1.1 Rand Water has been providing Water Supply Services to its Customers in accordance with the Water Supply Conditions passed respectively in 1923, 1988 and 2000, and certain special conditions (if any).
- 1.2 As a result of the Municipal Demarcation Process, Rand Water embarked on a process of consultation with stakeholders culminating with the conclusion of the Water Supply Conditions in November 2000.
- 1.3 Having regard to the above, Rand Water wishes to formalise the existing relationship between itself and the Customer by concluding this Contract in addition to the Water Supply Conditions in order to regulate the existing and future relationship between the Parties.
- 1.4 The Parties accordingly wish to record their agreement in writing.

2 DEFINITIONS AND INTERPRETATION

- 2.1 The words defined in the Act or conditions shall have the same meaning in this Contract save where specifically provided for in this clause. In this Contract the following terms shall have the following meanings:
- 2.1.1 "the Act" means the Water Services Act 103 of 1997;
- 2.1.2 "the Board" means the board that fulfils the role of directors of Rand Water appointed by the Minister in terms of Section 35 of the Act;
- 2.1.3 "Business Day" means each day of the week excluding Saturday, Sunday and any Gazetted public holidays;
- 2.1.4 "the/this Contract" means this water supply contract together with any annexures hereto;
- 2.1.5 "the Customer" means the entity or individual contemplated in Annexure "A" hereto;
- 2.1.6 "Demarcation Act" means the Local Government Municipal Demarcation Act No 27 of 1998;
- 2.1.7 "Effective Date" means the date contemplated in clause 4 of Annexure "A" hereto, notwithstanding Signature Date;
- 2.1.8 "Letter(s)" means the letter(s) from Rand Water to the Customer attached hereto as Annexure "B", the content of which letter(s) in so far as it does not conflict with the provisions of this Contract, the Water Supply Conditions and the Act, shall be specifically incorporated herein;

- 2.1.9 "Municipal Demarcation Process" means the process whereby municipal boundaries were redefined in terms of the Demarcation Act which resulted in the disestablishment of previous Municipalities and the establishment of new Municipalities in accordance with the section 12 and section 14 of the Municipal Structures Act;
- 2.1.10 "Municipal Structures Act" means the Local Government Municipal Structures Act, No 117 of 1998;
- 2.1.11 "the Party/Parties" means Rand Water and the Customer, individually or collectively, as the context may require;
- 2.1.12 "Rand Water" means Rand Water Board, established in terms of section 84(2) of the Act;
- 2.1.13 "the Signature Date" means the date on which this Contract is last signed by a Party;
- 2.1.14 "Special Condition(s)" means any special condition(s) whether written or oral agreed upon by the Parties in respect of Water Supply Services, at any time after Signature Date of this Contract and which will be reduced to writing or repeated in writing, as the case may be and attached hereto as Annexure "C", which special condition(s) in so far as it does not conflict with the provisions of this Contract, the Water Supply Conditions and the Act, shall be specifically incorporated herein;
- 2.1.15 "Water Services Works" means reservoirs, pumphouses, pumping, installations, pipelines, meters, fittings and apparatus built, installed or used to provide Water Supply Services;
- 2.1.16 "Water Supply Conditions" means the Water Supply Conditions adopted by the Board in November 2000, annexed hereto as Annexure "D", as amended from time to time;
- 2.1.17 "Water Supply Services" means the abstraction, conveyance treatment purification and distribution of potable water, including water for domestic use, commercial use and industrial use and any related services.
- 2.2 All headings and titles in this Contract are inserted for convenience only and are to be ignored in the interpretation of this Contract.
- 2.3 Terms defined in this Contract have the same meaning in the schedules or annexures to this Contract, unless specifically indicated to the contrary in those schedules or annexures.
- 2.4 All references to annexures and schedules are references to annexures and schedules annexed to this Contract, notwithstanding the fact that they may be attached after the Signature Date.

- 2.5 Unless a contrary intention clearly appears, words signifying the singular include the plural and vice versa, any one gender includes the other genders and vice versa; and natural persons include juristic persons.
- 2.6 Any reference to any statute or statutory provision is a reference to that statute or statutory provision at the Signature Date of this Contract and as amended or re-enacted from time to time.
- 2.7 Where numerical figures are referred to in numerals and words, if there is any conflict between the two, the words shall prevail.
- 2.8 If any provision in this clause 1 is a substantive provision conferring rights or imposing obligations on the Parties, effect shall be given to it as if it were a substantive provision in the body of this Contract.
- 2.9 Where any number of days is prescribed in this Contract, that number shall be determined exclusively of the first and inclusively of the last day, unless the last day falls on a day which is not a Business Day, in which case the last day shall be the following Business Day.
- 2.10 The rule of construction that this Contract shall be interpreted against the Party responsible for the drafting or preparation of the Contract, shall not apply.

3 SERVICES AND OBLIGATIONS

- 3.1 Rand Water hereby agrees to provide Water Supply Services to the Customer and the Parties agree to comply with their respective obligations, as set out in:
- 3.1.1 this Contract;
- 3.1.2 the provisions of the Act;
- 3.1.3 the Water Supply Conditions, as applicable from time to time;
- 3.1.4 the Letter(s); and
- 3.1.5 the Special Condition(s).

[Note: Please check that the Contract does not conflict with the Letters and the Special Conditions. Please delete 3.1.4 and 3.1.5 if not applicable].

3.2 Water Supply Services:

- 3.2.1 shall be provided by Rand Water to the Customer through pipelines; and
- 3.2.2 shall be measured by volume by the meters listed in Schedule "E" hereto.

- 3.3 The Water Supply Conditions, the Letter(s) and the Special Condition(s) referred to above (copies of which are in possession of the Customer and/or Rand Water) shall be deemed to be included in and to form part of this Contract.

[Note: See comment in clause 3.1 above]

4 PAYMENT

4.1 All amounts due to Rand Water in respect of Water Supply Services rendered by Rand Water to the Customer, shall be paid in full by the Customer, in accordance with the Water Supply Conditions.

4.2 In the event that the Customer elects to make a bank deposit or electronic payments in respect of the payment contemplated in clause 4.1 above, payment should be made as follows:

Account Name:

Bank:

Account Number:

Branch Number:

[Note: Please insert account details]

5 CHARGES

5.1 Rand Water's charges relating to connections and meters are set out in annexure 3 to the Water Supply Conditions.

5.2 The Customer agrees and understands that these charges may change from time to time, and that any changes in this regard will be communicated by Rand Water in a written notice informing the Customer of the new charges.

5.3 The new charges are to be read with and form part of this Contract with effect from the effective date of such charges.

6 COMMENCEMENT

Notwithstanding the Signature Date, this Contract shall commence on the Effective Date.

[Note: The commencement date should be negotiated with every Customer and it should coincide with the Effective Date]

7 VIS MAJOR

7.1 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 upon signature hereof 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 including but not limited to:-

7.1.1 a landslide, lightning, earthquakes, tornado, floods or other Acts of God,

7.1.2 the acts of civil or military authority, the acts of a public enemy, war, blockade, sabotage, fire, explosion, bombing, insurrection, riot or civil disturbances; and

7.1.3 industrial action;

which

7.1.3.1 causes material or unavoidable physical damage or destruction to all or any of the Water Services Works;

7.1.3.2 materially delays or prevents the performance of any duties and obligations in terms of this Contract; or

7.1.3.3 interrupts the Water Supply Services.

7.2 The Party affected by an event, occurrence, circumstances or condition referred to in clause 7.1 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.

7.3 Upon the cessation of the event, occurrence, circumstance or condition referred to in clause 7.1, the Party affected thereby shall notify the other Party of such cessation.

7.4 If, as a result of the event, occurrence, circumstance or condition referred to in clause 7.1, 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.

7.5 If an event, occurrence, circumstance or condition referred to in clause 7.1 continues for more than 90 (ninety) or more consecutive days after any notification thereof, the affected Party may with immediate effect cancel this Contract.

8 TERMINATION

Subject to the provisions of section 4 of the Act, and as read with clause 13, this Contract may be terminated by either Party on 30 (thirty) days written notice to the other, provided that no such termination shall be competent unless it complies with the provisions of the Act.

9 DESSION, ASSIGNMENT AND SUB-CONTRACTING

The Customer shall not shall cede, assign or delegate its rights and/or obligations under this Contract without prior written consent of Rand Water, which consent shall not be unreasonably withheld.

10 SUPPORT

The Parties undertake at all times to do all such things, perform all such actions and take all such steps and to procure the doing of all such steps as may be open to them and necessary for or incidental to the implementation of the terms, conditions and/or import of this Contract.

11 WARRANTIES

11.1 The Customer warrants and represents that it is duly authorised to enter into and conclude this Contract.

11.2 The Customer hereby acknowledges that no warranties or representations whatsoever have been given or made, whether express or implied, by Rand Water to the Customer save as may be agreed upon by the Parties in writing.

12 CONFLICT

12.1 In the event of a conflict between this Contract, the Water Supply Conditions and the Act, the provisions of the Act will take precedence over this Contract and the Water Supply Conditions.

12.2 In the event of a conflict between the provisions of this Contract and the Water Supply Conditions, the Water Supply Conditions will take precedence over this Contract.

12.3 This Contract supercedes all previous agreements concluded between Rand Water and the Customer in respect of Water Supply Services.

13 BREACH

13.1 If any Party breaches a material term of this Contract (other than those which contain their own remedies or limit the remedies in the event of a breach thereof) and fails to remedy such breach within 20 (twenty) days of receipt of written notice to do so, the aggrieved Party may exercise its rights in terms of this clause 13.

13.2 Subject to the provisions of clause 13.1 above, the aggrieved Party shall be entitled, without notice, in addition to any other remedy available to it in law or under this Contract, including obtaining an interdict, to:

13.2.1 cancel this Contract; or

13.2.2 claim specific performance of any obligation whether or not the due date for performance has arrived,

13.3 in either event without prejudice to the aggrieved Party's rights to claim damages.

14 NOTICES

- 14.1 Any notice or other communication of whatsoever nature under this Contract (including but not limited to the exercise of any option) shall be delivered to the address of the intended recipient as set out below:

Rand Water

Physical Address: 522 Impala Road, Glenvista, 2058

Postal Address: P O Box 1127, Johannesburg, 2000

Fax:

e-Mail:

The Customer

Physical Address: COLNER JUNIUS & MITCHELL STREETS,
MEYERTON.

Postal Address: P.O. Box 9, MEYERTON 1960.

Fax: 016 360 7431.

e-Mail: eranev@lekoo.co.za.

- 14.2 Any notice or other communication under this Contract shall only be valid and effective if in writing. Typewritten fax and e-mail messages are permitted. Nothing in this clause shall affect the right of either Party to serve process in any manner permitted or required by law.
- 14.3 Either Party may by notice to the other Party change it's notice details set out in clause 14.1 above. The change shall become effective on the seventh Business Day from the deemed receipt of the notice by the other Party.
- 14.4 In the event that the Customer requires that the delivery of notices, or accounts, be effected by Rand Water, other than by way of posting to the postal address specified in clause 14.1 above, the Customer shall request Rand Water in writing to effect the necessary change of notice details in accordance with clause 14.3 above.
- 14.5 Any notice or other communication under this Contract shall, in the absence of actual earlier receipt, be deemed to have been received:
- 14.5.1 if delivered by hand to a responsible person during business hours to the designated physical address, on the date of delivery;
- 14.5.2 if sent by pre-paid registered post in a correctly addressed envelope to the designated postal address, on the fifth Business Day after the date of posting;

14.5.3 if sent by fax or e-mail to the designated fax number or e-mail address, on the 1st (first) Business Day following the date of despatch.

14.6 Notwithstanding anything to the contrary stated above, if a notice or communication is actually received by a Party, adequate notice or communication shall have been given, even though it was not delivered in a manner described above.

15 GENERAL

15.1 This Contract, together with its Annexures, constitutes the whole and only Contract between the Parties relating to the subject matter in question.

15.2 No amendment, variation, addition or consensual cancellation of this Contract or any provision or term thereof, including amendment of this clause 15.2, no extension of time, waiver or relaxation of any of the provisions or terms of this Contract, and no settlement of any disputes arising under this Contract, shall be binding unless recorded in writing and signed by the Parties.

15.3 No extension of time or waiver or relaxation of any of the provisions or terms of this Contract shall operate as an estoppel against any Party in respect of its rights in terms of this Contract, nor shall it operate so as to preclude such Party thereafter from exercising its rights strictly in accordance with this Contract. Any such extension, waiver or relaxation, which is not given or made, shall be construed as related strictly to the matter in respect whereof it was made or given.

16 COSTS

Any costs incurred by any of the Parties hereto relating to the negotiating and/or reviewing of this Contract, including but not limited to legal costs, shall be borne by each Party individually.

17 EXECUTION IN COUNTERPARTS

This Contract may be executed in any number of counterparts, each of which shall together constitute one and the same Contract.

18 GOVERNING LAW

This Contract shall in all respects be governed by and construed in accordance with the laws of the Republic of South Africa.

SIGNED and DATED on the _____ day of _____ 2002

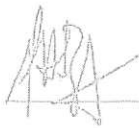
AS WITNESSES

1. _____
2. _____

for and on behalf of
RAND WATER BOARD
duly authorised thereto

SIGNED and DATED on the 28 day of MAY 2003, 2002

AS WITNESSES

1.  _____
2. _____


for and on behalf of
MIDVAAL LOCAL MUNICIPALITY
[Note: Insert the Customer's details]
duly authorised thereto

ANNEXURE -A"

THE CUSTOMER

1. Municipality *

"MIDVAAL" means Midvaal Local Municipality established in terms of section 12 read with section 14 of the Municipal Structures Act No 117 of 1998 as amended, as promulgated in Notice No 6765 in the Gauteng Provincial Government Gazette Extraordinary No 6569 dated 19/SEP 2000;

SERVICE LEVEL AGREEMENT

ENTERED INTO BETWEEN RAND WATER AND

Midvaal Local Municipality

SIGNED BY:



x mm

FOR:

MIDVAAL LOCAL MUNICIPALITY.

SIGNED BY:

FOR RAND WATER.

DATE OF FIRST REVIEW:



RAND WATER SERVICE LEVEL AGREEMENT FOR MUNICIPAL CUSTOMERS FOR THE PERIOD 01 JAN 03 TO 30 JUN 03

SERVICES	OUTPUTS	RW SERVICE STANDARDS	CUSTOMER COMMITMENTS	Evaluation: 1-5	SCORE
1. Water supply	1.1. Water quality	Comply with SABS0241: 2001 specifications for drinking water. 95% compliance to Class I	Customers to notify Rand Water in writing within 24 hrs of any reported quality problems or perceived quality problems.	Greater than 98% 96 - 98% 95% 92 - 94 % Less than 92%	5 4 3 2 1
	1.2. Continuous water supply	Offer 24hours a day supply, excluding planned interruptions, emergency interruptions and reduction in pressure due to non-payment.	Customers to inform Rand Water in writing of any work affecting the supply points 5 days prior to work being carried out. Honour due dates for account payments.	No interruption in 6 months. 1 non-compliance in 6 months. 2 non-compliances in 6 months 3 non-compliances in 6 months More than 3 non-compliance in 6 months.	5 4 3 2 1
	1.3. Interruption of supply	For planned interruptions, the District Superintendent will notify the customer telephonically and confirm in writing 21 days prior to all planned work being carried out. In addition to planned interruptions, Rand Water will endeavour to respond to emergencies within 2 hours of notification and will keep the customer informed on the progress on a 2 hourly basis until work is completed.	Customers to notify the end user within 24 hrs of the problem and arrange alternative supply during the period of shut down.	All planned interruptions were handled in time as per the Rand Water standards. 1 non-compliance in 6 months. 2 non-compliances in 6 months 3 non-compliances in 6 months More than 3 non-compliances in 6 months.	5 4 3 2 1

1 = poor
Satisfactory Partnerships

2 = Less than satisfactory

3 = Satisfactory

4 = More than satisfactory

5 = Excellent

SERVICES	OUTPUTS	RW SERVICE STANDARDS	CUSTOMER COMMENTS	Evaluation = 1-5	STANDARDS	SCORE	
3. Customer services	3.1. Account Delivery	Accounts will be delivered no later than the 8 th working day of every Month to a designated official.	• Customers notify Rand Water in writing of any change of address one month in advance.	All the accounts were delivered on time.		5	
			• Customer informs Account Executives in writing of the designated official for the delivery of accounts one month in advance.				
			• Customers inform Rand Water by the 10 th -day of each month if the delivery date is not kept, as per the Rand Water standards.				
			Customers do their own accuracy verification every month and inform Rand Water in writing of any errors within 2 days of accounts receipt.				
			Customers provide feedback to Rand Water if Call Centre is not accessible 24 hours a day, 7 days a week within 24 hrs of encountering a problem.				
	3.2. Account accuracy	Accounts will be 97% accurate		100%			5
				98 – 99%			4
				97% accurate			3
				96 –95%			2
				Less than 95%			1
	3.3. Call Centre (0860 10 10 60)	Accessible to customers 24 hours a day 7 days a week		No problems with the Call Centre accessibility in 6 months.			5
				1 problem in 6 months.			4
				2 problems in 6 months			3
				3 problems in 6 months			2
				More than 3 problems in 6 months.			1
3.4. Account Executives/ Regional Superintendent/ District Superintendent	Hold formal monthly meetings with Municipal customers, at a date agreed with customer.		Customer's honour scheduled meetings with Account Executives.			5	
			Twice in a Month			4	
			Monthly meetings			3	
			Quarterly meetings			2	
			Once every 6 Months			1	


 2003/05/06

MIDVAAL LOCAL MUNICIPALITY

MINUTES

MINUTES OF THE 27TH ORDINARY MEETING OF MIDVAAL LOCAL MUNICIPALITY HELD ON
THURSDAY 21ST AUGUST 2003 AT 18:00 IN THE COUNCIL CHAMBERS

C 17/08/2003

MC 30/08/2003

10.A.17 DIRECTORATE: CONSUMER SERVICES - WATER SUPPLY CONTRACT -
RAND WATER BOARD

COMPETENCY: COUNCIL

8/3/3

RESOLVED

That Midvaal enters into a Water Supply Contract and Service Level Agreement as per attached annexures "A" and "B".

Implementing
Directorate

Engineering
Services

MIDVAAL LOCAL MUNICIPALITY

CORPORATE SERVICES

IMPLEMENTATION OF SPECIAL COUNCIL RESOLUTION(S)

SUBJECT WATER SUPPLY CONTRACT - RAND WATER BOARD

ITEM NO. C17/08/2003

DATE OF MEETING 21/08/2003

FILE NO. 8/3/3

IMPLEMENTING DEPARTMENT CONSUMER SERVICES

THE ATTACHED CORRESPONDENCE REFERS. PLEASE INDICATE BELOW WHAT ACTION HAS BEEN TAKEN IN THE EXECUTION OF THE MATTER AND RETURN FORM BY 30/09/2003 TO ZK MAPHOSA (EXT 7415)

DATE SENT: DATE RETURNED: SIGNATURE:

EXECUTIVE SUMMARY OF ACTIONS TAKEN BY IMPLEMENTING DIRECTORATE

Implemented.

PENDING

FINALISED

✓

SIGNATURE

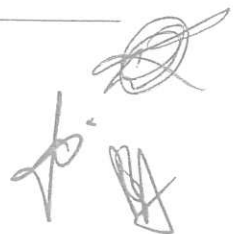


EXECUTIVE DIRECTOR

DATE

22/9/03

ANNEXURE B: RECORDAL OF STORAGE PROVIDED BY THE WATER BOARD IN RESPECT
OF WHICH THE MUNICIPALITY HAD MADE A CAPITAL CONTRIBUTION

Handwritten signatures and initials in the bottom right corner of the page.

ANNEXURE C: CONTACT PERSONS IN EMERGENCIES

Incident, event or occurrence relating to:	MUNICIPALITY	WATER BOARD
Interruptions in water supply	Networks Manager or, where not available, Operations Executive	Manager Bulk Water Services or, where not available, acting Manager Bulk Water Services
Water quality variances	Operations Support Manager or, where not available, Operations Executive	Operations Manager or, where not available, acting Operations Manager



RW & EMM BULK WATER SUPPLY CONTRACT - 2 SEPTEMBER 2004

ANNEXURE A: RECORDAL OF BULK WATER SUPPLY SERVICES PROVIDED ON THE EFFECTIVE DATE

CUSTOMER CODE

CUSTOMER NAME: Midvaal Local Municipality

METER	NAME	REF. NO.	SIZE MM	2001 Ml/d	2002 Ml/d	2003 Ml/d	2004 Ml/d	2006 Ml/d	2010 Ml/d	2015 Ml/d	2020 Ml/d	LEVEL OF CONT.
Kookfontein Sewerage Works		1616	25	0.0146	0.01533	0.01610	0.01690	0.01859	0.02231	0.02789	0.03625	
Reservoir Highbury		2279	300	8.7100	9.23260	9.78656	10.37375	11.61860	14.40706	18.72918	24.34794	
Vereeniging / Kopanong / EMSA		4060	100	0.2400	0.25200	0.26460	0.27783	0.30561	0.36674	0.45842	0.55010	
Klipriver Valley Inferential		2853	300	2.4700	2.61820	2.77529	2.94181	3.29483	4.08559	5.10698	6.63908	
Portion 5 Nootgedacht		2864	100	0.3900	0.40950	0.42998	0.45147	0.49662	0.59595	0.74493	1.11740	
Boven Road Garthdale		2940	100	0.6500	0.68250	0.71663	0.75248	0.82770	0.99324	1.24155	1.48986	
Walkerville		1441	400	21.4500	22.73700	24.10122	25.54729	28.61297	35.48008	46.12411	59.96134	
Panfontein		1871	50	0.0800	0.08400	0.08820	0.09261	0.10187	0.12225	0.15281	0.19865	
Midvaal Local Municipality		2561	100	1.1100	1.17660	1.24720	1.32203	1.48067	1.83603	2.29504	2.98355	
Midvaal Local Municipality		4164	200	0.9100	0.97370	1.04186	1.11479	1.25971	1.58724	2.06341	2.68243	
Spioenkop Reservoir		4261	600									
				36.0246	38.18143	40.46764	42.89096	48.01717	59.49649	76.94432	100.00660	