Annexure A 1/42

GRANT AGREEMENT

between

DEVELOPMENT BANK OF SOUTHERN AFRICA LIMITED

in its capacity as the managing agent of the DWS responsible for the Water Partnerships Office ("WPO")

DEVELOPMENT BANK OF SOUTHERN AFRICA

Building Africa's Prosperity

and

OVERSTRAND LOCAL MUNICIPALITY

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1. **PARTIES**

1.1. The Parties to this Agreement are:

1.1.1. **Development Bank of Southern Africa Limited**, a development finance institution reconstituted and incorporated in terms of section 2 of the Development Bank of Southern Africa Act, 1997, ("**DBSA**"); and

1.1.2. **Overstrand Local Municipality**, a municipality established or deemed to be established in terms of Section 12 of the Local Government: Municipal Structures Act, No 117 of 1998 ("**Recipient**").

2. **DEFINITIONS**

2.1. The headings to the clauses, schedules and annexures of this Agreement are for reference purposes only and shall in no way govern or affect the interpretation of nor modify nor amplify the terms of this Agreement nor any clause, schedule or annexure hereof.

2.2. Unless the context dictates otherwise, the words and expressions set forth below shall bear the following meanings and cognate expressions shall bear corresponding meanings:

2.2.1. "**Accounting Officer**" shall have the meaning ascribed thereto in the MFMA, as amended from time to time;

2.2.2. "**Agreement**" means this agreement including any schedules or annexures hereto, as amended from time to time in accordance with its terms;

2.2.3. "**Applicable Laws**" means -

2.2.3.1. any applicable constitution, statute, ordinance, treaty, decree, proclamation, or subordinated legislation or other legislative measure, including all national and provincial statutes and legislation and all municipal by-laws, as well as the common law and any customary law and any judgement, decision, order or rule of any court or tribunal with relevant jurisdiction, in each case having the force of law in the Republic of South Africa and/or other applicable and competent jurisdiction; and

2.2.3.2. any present or future directive, requirement, instruction, request, order, regulation, condition of or limitation in any necessary approval, permission, permit, consent, licence, authorisation, registration, grant, acknowledgement, exemption or agreement to be obtained from any responsible authority, or direction or rule of a responsible authority which is legally binding;

2.2.4. "**Application**" means the letter of request for support which the Recipient submitted to the DBSA on the Application Date;

2.2.5. "**Application Date**" means 22 April 2026, being the date upon which the Application was received by the DBSA;

2.2.6. "**Approval Date**" means the date upon which the Application was approved by the WPO oversight committee being 14 May 2026;

2.2.7. "**Authorisation**" means any authorisation, consent, registration, filing, agreement, notarisation, certificate, licence, approval, resolution, permit and/or authority or any exemption from any of the aforesaid, by or with any authority;

2.2.8. "**Availability Period**" means the period commencing from the Effective Date and terminating on the date falling 24 months from the Effective Date;

2.2.9. "**Business Day**" means any day other than a Saturday, Sunday or a day which is a statutory public holiday in the Republic of South Africa;

2.2.10. "**Cash-flow Projection and Risk Register**" means a schedule of estimated Project disbursements that will flow and a risk log with identified Project risks stated and assessed to inform effective risk mitigation;

2.2.11. "**Coercive Practice**" means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a Party;

2.2.12. "**Collusive Practice**" means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;

2.2.13. "**Conditions Precedent**" means the conditions precedent contained in Schedule 1 (*Conditions Precedent*) of this Agreement;

2.2.14. "**Commercialisation**" means the use of any Intellectual Property, with or without additions or modifications, for purposes of generating profit, whether through manufacturing, sales, rendering of services or by any other lawful means without limitation;

2.2.15. "**Confidential Information**" means all information confidential to a Party, to the extent that it is not freely and publicly available, commercial, financial, technical, scientific and research information; trade secrets, passwords, or other secret codes, information disclosed with the permission of third parties in which the third parties have confidentiality rights, information legally protected from disclosure, any information the unauthorised disclosure of which could be expected to cause harm or risk to the Party having disclosed the confidential information and any other information designated by such disclosing Party as confidential or which is manifestly confidential;

2.2.16. "**Corrupt Practice**" means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another;

2.2.17. "**Disbursement**" means any amount drawn down by the Recipient against the Grant Amount and disbursed by the DBSA**,** and "**Disbursed**" shall be construed accordingly;

2.2.18. "**Disbursement Request**" means a notice substantially in the form annexed hereto as Schedule 2 (*Disbursement Request*);

2.2.19. "**Effective Date**" means the 1st (first) Business Day after the day on which the DBSA notifies the Recipient upon being satisfied that all of the Conditions Precedent have been fulfilled, deferred or waived, as the case may be as set out in clause 6.1;

2.2.20. "**Event of Default**" means any one or more events or circumstances as envisaged in clause 16;

2.2.21. "**FICA**" means the Financial Intelligence Centre Act, 2001 and all notices and regulations passed thereunder;

2.2.22. "**Financial Year**" means, in respect of the Recipient, each year commencing on 1 July of each year and ending on 30 June of the following year;

2.2.23. "**Grant**" means the grant funding made available by the DBSA to the Recipient under this Agreement in an aggregate sum not exceeding the Grant Amount;

2.2.24. "**Grant Amount**" means a maximum amount of R7 084 642 (seven million eighty four thousand six hundred and forty two Rand) exclusive of value added tax and all other applicable taxes thereon;

2.2.25. "**Intellectual Property**" means any intellectual property, including but not limited to all technical, commercial, financial and marketing information and know-how, including all concepts, specifications, data, diagrams, chemical structures, manufacturing and production techniques and designs, specifications and formulae, products, systems, methods, processes, formulae, memoranda, reports, manuals, and computer modelling; all inventions, designs, trade-marks and other works, whether registrable or the subject matter of an application for such registration or of copyright or not; as well as all statutory intellectual property, comprising all patents and trade-marks, whether registered or being or yet to be applied for, and all copyright in any works, including but not limited to, literary works and computer programmes; relating to any research, development and/or Commercialisation;

2.2.26. "**Material Adverse Effect**" means any event or combination of events and/or circumstances which, in the opinion of the DBSA, has or might reasonably be expected to have a material adverse effect on:

2.2.26.1. the Project, business, operations, property, condition (financial or otherwise) or prospects of the Recipient; and/or

2.2.26.2. the ability of the Recipient to perform its obligations in terms of this Agreement and/or any Project Document; and/or

2.2.26.3. the ability of the Professional Service Providers to perform its obligations in terms of the Professional Service Provider Agreement and/or the Project Implementation Plan; and/or

2.2.26.4. the ability of the Recipient to exercise and enforce any right granted or intended or purported to be granted to it under this Agreement and/or any Project Document; and/or

2.2.26.5. the validity, enforceability and/or legality of this Agreement and/or any Project document;

2.2.27. "**MFMA**" means the Local Government: Municipal Finance Management Act No 56 of 2003, as amended from time to time;

2.2.28. "**PSC**" means the project steering committee to be established, hosted and maintained by the Recipient in accordance with the terms of reference for the establishment of the PSC as fully set out in Schedule 3 (*Terms of Reference for establishing the PSC*) hereto;

2.2.29. "**Parties**" means the DBSA and the Recipient and the term "**Party**" shall as the context requires, be a reference to either one of them;

2.2.30. "**Permitted Recipients**" means employees, directors, officers, professional advisors, financiers and consultants of the Recipient;

2.2.31. "**Personal Information**" shall have the meaning ascribed to it in Chapter 1 of POPI;

2.2.32. "**POPI**" shall mean the Protection of Personal Information Act, No 4 of 2013, as amended from time to time, including any regulations and/or code of conduct made under thereunder;

2.2.33. "**Potential Event of Default**" means any event or circumstance which, with the giving of notice, lapse of time or expiry of a grace period or making of any determination under this Agreement or fulfilment of any other condition, would be or constitute an Event of Default;

2.2.34. "**Processing**" shall have the meaning ascribed to it in Chapter 1 of POPI, "**Process**" or "**Processed**" shall have similar meanings;

2.2.35. "**Professional Service Provider Agreement**" means the agreement entered or to be entered into between the professional service provider and the Recipient in terms of which the appointed Professional Service Provider shall undertake the Project Activities as described in the Project Implementation Plan;

2.2.36. "**Project**" means the development of a seawater desalination facility comprising a 5 megalitre per day (5 Ml/d) seawater reverse osmosis plant located at the New Harbour Precinct, Hermanus, Western Cape, intended to produce and supply an additional 5 Ml/d of potable water in order to enhance the town’s drought resilience and meet increasing water demand driven by population growth;

2.2.37. "**Project Activities**" means the activities to be undertaken by each of the various Professional Service Providers, as will be set out in the Professional Service Provider Agreements and the Project Implementation Plan;

2.2.38. "**Project Budget**" means the budget which sets out all expenses related to the Project, submitted to and approved in writing by the Parties;

2.2.39. "**Project Completion Date**" means the date upon which the DBSA approves in writing the Project Completion Report prepared by the Professional Service Provider;

2.2.40. "**Project Completion Report**" means the report to be prepared by the Professional Service Provider, in consultation with the Recipient, and approved in writing by the DBSA for purposes of Project completion;

2.2.41. "**Project Documents**" means –

2.2.41.1. the Project Implementation Plan;

2.2.41.2. the Professional Service Provider Agreements;

2.2.41.3. the Project Completion Report;

2.2.41.4. any other document which is designated as a "*Project Document*" by the DBSA and the Recipient;

2.2.42. "**Project Implementation Plan**" means the implementation plan prepared by the Professional Service Provider, in consultation with the Recipient, and approved by both Parties setting out the Project deliverables against which to measure the progress of the Project and the Project Budget, accompanied by a Cash-flow Projection and Risk Register, including any amendments thereof as may be agreed in writing by the Parties;

2.2.43. "**Project Progress Reports**" means the monthly progress reports prepared by the Professional Service Provider, in consultation with the Recipient, and to be submitted by the Recipient to the DBSA containing, *inter alia*:

2.2.43.1. the Project's progress (physical and financial) for the month and cumulative for the Financial Year, against the Project Implementation Plan;

2.2.43.2. a presentation of quantitative and qualitative data collected from the monitoring of outcome indicators;

2.2.43.3. any factors that have or could reasonably be expected to have a Material Adverse Effect;

2.2.43.4. if applicable, any proposed changes, including any change in scope to the Project Implementation Plan;

2.2.43.5. a description of the planned progress for the next month in accordance with the Project Implementation Plan; and

2.2.43.6. any such other information as may be required by the DBSA;

2.2.44. "**Purpose**" means the purpose for which the Recipient will utilise the Grant Amount, namely for Project Activities and specialist consulting costs necessary to advance the development and procurement support for the Project.

2.2.45. "**Record**" shall have the meaning ascribed to it in Chapter 1 of POPI;

2.2.46. "**Signature Date**" means the date upon which this Agreement is signed by the Party signing last, provided that all Parties sign this Agreement;

2.2.47. "**Taxes**" means all taxes (including value added tax), charges, imposts, levies, deductions, withholdings or fees of any kind whatsoever, or any amount or payment on account of or as security for any of the foregoing by whomsoever and on whomsoever imposed, levied, collected, withheld or assessed, together with any penalties, additions, fines, surcharges or interest relating thereto, and "**Tax**" and "**Taxation**" shall be construed accordingly;

2.2.48. "**Terminal Disbursement Date**" means the last Disbursement date referred to in the Project Implementation Plan.

3. INTERPRETATION OF AGREEMENT

3.1. Any reference in this Agreement to:

3.1.1. an amendment includes a supplement, novation or re-enactment and amended is to be construed accordingly;

3.1.2. "**law**" shall be construed as any law (including statutory, common or customary law), statute, constitution, decree, judgment, treaty, regulation, directive, by-law, order, other legislative measure, directive, requirement, request or guideline (whether or not having the force of law but, if not having the force of law, is generally complied with by the persons to whom it is addressed or applied) of any government, supranational, local government, statutory or regulatory or self-regulatory or similar body or authority or court and the common law, as amended, replaced, re-enacted, restated or reinterpreted from time to time;

3.1.3. a "**month**" means a reference to a period starting on day one in a calendar month and ending on the numerically corresponding day but one in the next calendar month, except that if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one;

3.1.4. a "**person**" shall be construed as a reference to any natural or juristic person, firm, company, corporation, government, state, agency or organ of a state, association, trust or partnership (whether or not having separate legal personality); and

3.1.5. a "**schedule**" shall, subject to any contrary indication, be construed as reference to an appendix to this Agreement.

3.2. In this Agreement, unless the context otherwise indicates:

3.2.1. all words and expressions referring to any one gender shall be capable of being construed as a reference to the other genders;

3.2.2. the words signifying the singular shall include the plural and vice versa;

3.2.3. a reference to a natural person shall be capable of being construed as a reference to a juristic person and vice versa;

3.2.4. where figures are referred to in numerals and in words in this Agreement, if there is any conflict between the two, the words shall prevail;

3.2.5. words and phrases defined in this Agreement shall bear the meaning assigned to them throughout this Agreement;

3.2.6. words and phrases used in this Agreement, which are defined or used in any statute, which applies to the subject matter, professional person, goods, or services shall be construed in accordance with the applicable statute or regulations; and

3.2.7. headings of clauses and schedules are for convenience only and shall not govern or affect the interpretation, modify or amplify the terms within this Agreement, nor any clause or appendix thereof.

3.3. In the event of a conflict between the provisions of this Agreement and those of its schedules, the provisions of this Agreement will supersede those of its schedules.

3.4. The expiration or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly provided that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.

3.5. In the event that a day for performance of any obligation in terms of this Agreement falls on a day that is not a Business Day, the day for performance of the obligation shall be the next Business Day.

4. **INTRODUCTION**

4.1. The DBSA, acting through the WPO, is mandated to support the development, preparation and financing of strategic water infrastructure projects and programmes, including through the administration of grant funding for project preparation. The Recipient is responsible for the provision of water services within its jurisdiction, including the Greater Hermanus water supply system, and is experiencing increasing water supply risk due to climate variability, prolonged drought cycles, limited conventional augmentation options, and growing demand. In response, the Recipient has adopted a strategy of water conservation, demand management, and resource diversification.

4.2. As part of this strategy, the Recipient has developed the Project, which has been identified, following feasibility and scoping studies, as the preferred option to augment potable water supply and improve long-term water security. The Project is in the project preparation phase and requires specialist advisory, technical, environmental, financial and legal support to advance feasibility, regulatory approvals and procurement structuring. The Recipient has accordingly applied for the Grant to support these activities, and DBSA has agreed, subject to the terms and conditions of this Agreement, to make available the Grant Amount to supplement the Recipient's own financial contribution.

4.3. This Agreement records the terms and conditions upon which the Grant Amount will be made available by the DBSA to the Recipient.

5. **GRANT**

5.1. Subject to the terms and conditions of this Agreement, the DBSA makes the Grant available to the Recipient.

5.2. The Grant shall be used by the Recipient solely for the Purpose, all on the terms and conditions contained in this Agreement.

6. **CONDITIONS PRECEDENT AND CONDITIONS OF DISBURSEMENTS**

6.1. **Conditions Precedent to effectiveness of the Agreement**

6.1.1. The effectiveness of the Agreement shall be subject to the DBSA notifying the Recipient that it has received the documents and evidence set out in Schedule 1 to the effectiveness of the Agreement, in form and substance satisfactory to the DBSA.

6.1.2. The DBSA may in its sole discretion, on written notice to the Recipient waive any of the Conditions Precedent to the effectiveness of the Agreement (where capable of being waived). The DBSA shall promptly notify the Recipient upon being satisfied that all of the Conditions Precedent to the effectiveness of the Agreement have been fulfilled or waived, as the case may be.

6.1.3. For the avoidance of doubt, if the Conditions Precedent to the effectiveness of the Agreement are not fulfilled, this Agreement will never come into force and neither Party shall have any claim against the other Party in respect of this Agreement and the matters related thereto.

6.2. **Disbursements**

6.2.1. The DBSA shall manage the process for all Disbursements. However, the obligation of the DBSA to make any Disbursement in terms of this Agreement is subject to clause 6.7 and to the fulfilment prior to or concurrently with the making of such Disbursement of the following conditions:

6.2.1.1. the DBSA notifying the Recipient that it has received the documents and evidence set out in Schedule 1 to Disbursement, in form and substance satisfactory to the DBSA;

6.2.1.2. no Event of Default or Potential Event of Default having occurred and/or is continuing;

6.2.1.3. the representations and warranties made in terms of this Agreement by the Recipient are true and correct in all respects;

6.2.1.4. the Disbursement (or any part thereof) is not a reimbursement of, or to be used for the benefit of any person who is prohibited from doing business with the Government of the Republic of South Africa;

6.2.1.5. the PSC has recommended to the DBSA to make the Disbursement to the Recipient for the deliverables or milestones achieved on the Project and approved by the PSC; and

6.2.1.6. the signed Disbursement Request, the decision record of the PSC approving the Project's deliverables or milestones for acceptance and recommending to the DBSA to make the necessary Disbursement, for the relevant invoices, milestones being approved as well as supporting documents submitted by the Professional Service Provider are presented to the DBSA for payment.

6.3. **Disbursement Procedure**

6.3.1. Subject to the terms and conditions of this Agreement, the DBSA shall, upon the completion of specific Project milestones, make progressive Disbursements to the Recipient, in accordance with the approved Project Implementation Plan.

6.3.2. The DBSA shall make the Disbursements in South African Rand.

6.3.3. The disbursement date shall be a Business Day within the Availability Period and within 20 (twenty) Business Days of the submission of a signed Disbursement Request by the Recipient.

6.3.4. Notwithstanding anything to the contrary herein contained, the DBSA may validly act on all information, instructions and requests contained in or attached to a Disbursement Request without liability or responsibility to check the accuracy of such information.

6.3.5. Each Disbursement Request shall be irrevocable.

6.4. The Recipient hereby acknowledges and agrees that, should DBSA make any Disbursements directly to the Professional Service Provider, such Disbursements shall constitute valid Disbursements made by the DBSA, to the Professional Service Provider, the benefit of which shall have been received by the Recipient.

6.5. The DBSA shall not be obliged to disburse any portion of the Grant Amount remaining undrawn at close of business on the Terminal Disbursement Date which will include any subsequent final extended date.

6.6. If any monies are Disbursed by the DBSA in terms of this Agreement in the mistaken belief that all of the Conditions Precedent or Disbursement conditions, as the case may be, have been fulfilled, deferred or waived in accordance with this Agreement and it is subsequently discovered that not all the Conditions Precedent or the Disbursement conditions have been fulfilled, deferred or waived, the DBSA, acting reasonably, reserves the right to withhold the next Disbursement until such time as the relevant Condition Precedent or Disbursement condition has been fulfilled, deferred or waived.

6.7. **Limitation**

6.7.1. Notwithstanding anything provided in this Agreement, the DBSA shall only be obliged to make a Disbursement on the Project, if the DBSA is satisfied with the outcome of its consideration of a Disbursement Request by the Recipient pursuant to clause 6.7.2.

6.7.2. The Disbursement Request shall be considered by the DBSA:

6.7.2.1. alongside the Project Progress Report;

6.7.2.2. on completion of milestones or deliverables with approval from the PSC;

6.7.2.3. in the context of the Project Budget and financing to date;

6.7.2.4. against expenditure to date in respect of the Project;

6.7.2.5. against the Project Implementation Plan; and

6.7.2.6. with due consideration of the Cash-flow Projection and Risk Register to date.

7. **DURATION**

7.1. The Parties agree that subject to:

7.1.1. the fulfilment, deferment or waiver, as the case may be, of the Conditions Precedent;

7.1.2. there being no Event of Default or Potential Event of Default,

7.1.3. this Agreement shall commence on the Effective Date and shall continue until the Termination Disbursement Date.

8. **ROLES AND RESPONSIBILITIES OF THE DBSA**

8.1. The role and responsibility of the DBSA shall include but not be limited to the following activities in relation to the Project:

8.1.1. facilitating the Disbursement of the Grant in terms of the provisions of this Agreement;

8.1.2. nominating its members to the PSC;

8.1.3. Actively participating in the preparation of the Project by serving on the PSC and providing strategic advice, guide the project to reach bankability, commenting on project deliverables and ultimate approval or deliverables by the PSC.

8.1.4. periodically reviewing the Project and outlining any discrepancies in respect of the Project Implementation Plan, which the Recipient is obliged to rectify;

8.1.5. reviewing the Project Progress Reports and Disbursement Requests to be submitted by the Recipient to ensure that the Project is progressing in accordance with this Agreement;

8.1.6. if the DBSA, in its sole discretion deems necessary, undertaking periodic on-site visits to the Project to verify progress of the Project;

8.1.7. ensuring and maintaining on-going communication with the Recipient throughout the Agreement;

8.1.8. providing oversight to the Project to ensure delivery in line with the approved Project Implementation Plan and within budget;

8.1.9. if required, appointment of the Professional Service Provider in accordance with the DBSA's procurement policies and procedures.

8.2. The Parties hereby agree that the DBSA reserves the right to undertake the necessary measures to ensure delivery in line with the approved Project Implementation Plan.

9. **ROLES AND RESPONSIBILITIES OF THE RECIPIENT**

9.1. The role and responsibility of the Recipient shall include but not be limited to the following activities in relation to the Project:

9.1.1. establishment, hosting, chairing and operationalization of the PSC to monitor and oversee the implementation of the Project. The PSC is to provide strategic oversight over the implementation of the Project and is to be chaired by the Recipient’s Accounting Officer or a senior official designated by the Recipient’s Accounting Officer;

9.1.2. liaising and coordinating with all provincial and national stakeholders in terms of, *inter alia*, facilitating stakeholder participation in the Project, as well as accessing information, guidelines and approvals that are required to successfully complete the Project, including attendance of PSC meetings;

9.1.3. provision to the Professional Service Provider of, *inter alia*, information, records, databases, especially where such information, records, databases are required for the successful implementation of the Project;

9.1.4. take full ownership of the outputs of the Project and its outputs;

9.1.5. under no circumstances, terminate, abandon, interrupt or suspend the implementation of the Project without the prior written consent of the DBSA;

9.1.6. facilitate the completion of the Project by the Professional Service Provider by no later than the Project Completion Date, unless otherwise agreed in terms of clause 10;

9.1.7. ensure that risk management procedures are in place to deal with the identified risks to the Project;

9.1.8. ensuring that the Project Implementation Plan is accompanied by sufficient detailed planning documentation to substantiate all information contained therein;

9.1.9. ensuring that the deliverables are complied with by the Recipient within the timeframes agreed upon as set out in the Project Implementation Plan;

9.1.10. ensuring that the Project Budget is adhered to;

9.1.11. carry out the Project with due diligence and efficiency;

9.1.12. promptly notify the DBSA upon the occurrence of an Event of Default or Potential Event of Default and the steps that the Recipient is taking to remedy it;

9.1.13. as soon as it comes to the Recipient's attention, promptly inform the DBSA of any Material Adverse Effect and/or event or circumstance that interferes or threatens to interfere with the accomplishment of the purposes of the Project or the Grant or the performance by the Recipient of its obligations under this Agreement;

9.1.14. comply with all Applicable Laws including all environmental laws and ensure that the Professional Services Providers comply with all Applicable Laws;

9.1.15. obtain and maintain in force (and where appropriate, renew in a timely manner) all Authorisations that are necessary for the implementation of the Project;

9.1.16. ensure that no changes in the nature or scope of the Project are made without the prior written consent of the DBSA and that there are no changes to the Project which would be inconsistent with the terms of this Agreement;

9.1.17. permit the DBSA or any other duly authorised representatives of the DBSA (whose appointment as such it shall not be necessary to prove), with reasonable notice and during normal business hours, to visit the premises of the Recipient and the place where the Project is being conducted and all other premises of the Recipient;

9.1.18. on the 7th (seventh) Business day after the end of each month, furnish the DBSA with a Project Progress Report in form and substance satisfactory to the DBSA;

9.1.19. the Recipient will allow the DBSA to review and approve the text of any proposed publicity concerning this Grant prior to its release;

9.1.20. promptly notify the DBSA of any event or condition which has or could be expected to have a Material Adverse Effect;

9.1.21. prepare the Project Completion Report;

9.2. To the extent that it is possible to do so, the Recipient hereby undertakes that any information or document submitted by it in terms of this Agreement shall be true and correct and hereby waives any right it may have over the professional work contained and within such document or information following therefrom.

9.3. Notwithstanding anything contained in this Agreement, the DBSA reserves the discretion to verify and confirm any information or document submitted by the Recipient in the performance or execution of its duties and obligations in terms of this Agreement.

10. **EXTENSION OF DURATION OF THE PROJECT**

10.1. If at any time the Recipient anticipates that the Professional Service Provider will be unable to complete the Project by the Project Completion Date, the Recipient shall without delay notify the DBSA in writing of:

10.1.1. the projected period for which the Project is anticipated to be delayed;

10.1.2. the reason/s for the anticipated delay; and

the steps, if any, which the Recipient has taken and/or intends to take to avoid or mitigate the anticipated delay (the "**Extension Application**").

10.2. Upon receipt of the Extension Application in terms of clause 10.1, the DBSA shall be entitled, but not obliged, without prejudice to its other rights in terms of this Agreement, to:

10.2.1. invoke the provisions of this Agreement relating to an Event of Default by the Recipient; and/or

10.2.2. extend the period of the Project from that recorded in the Project Implementation Plan to such longer period as the DBSA may in its sole discretion determine; and/or

10.2.3. claim such damages as may be incurred by the DBSA as a result of such delay.

10.3. If the contents of the Extension Application are not true and correct or are not free from any misrepresentations, whether intentional or negligent, the DBSA shall be entitled to exercise its rights as set out in clause 16 without prejudice to any other rights it may have.

10.4. Should the DBSA at any time be requested to, and unwittingly make, a payment towards any expenditure or item not eligible for support, such payment may at any stage be reclaimed from, and forthwith be repayable by the Recipient to the DBSA without delay.

10.5. Any expenses incurred in respect of preparing the Application will not be considered as part of the Project Budget.

10.6. The decision of the DBSA regarding the validity and/or amount of expenses is final.

10.7. The DBSA shall be entitled at any time and for any reason whatsoever to perform an audit on any expenses incurred by the Professional Service Provider in relation to the Project. The Recipient shall provide the DBSA with all information and assistance as expected to conduct such audit and consents to any adjustments to the Project Budget which may be arising from such an audit.

10.8. Notwithstanding the foregoing, the Parties record and agree that should there be any delays on the inception, implementation and/or completion of the Project that are due to the negligence, action or inaction of the Recipient, including not providing information or inputs on draft reports as may be requested by the Professional Service Provider, any costs and expenses incurred in respect of the extension of time for the completion of the Project will not be considered as part of the Project Budget but will be for the sole account of the Recipient.

11. MONITORING

The Parties will be responsible for the monitoring of the implementation of the Project. It is recorded and agreed that any oversight and monitoring of the Project will be undertaken at two levels, namely by the PSC:

11.1. in terms of which the Parties will monitor the output of the activities carried out by the Professional Service Provider. This will be accomplished by monitoring the milestones achieved and the reports submitted by the Technical PSC in accordance with the provisions and timelines set out in the Project Implementation Plan, together with any additional information which may be required by the DBSA in its sole discretion from time to time for monitoring purposes;

11.2. in terms of which the Parties will monitor the measurable Project outcomes by monitoring progress made and the deliverables achieved by the Professional Service Provider. This will be accomplished by considering and deliberating on all the milestones reports achieved, including the supporting documentation submitted by the Professional Service Provider in accordance with the provisions and time-lines set out in the Project Implementation Plan, together with any additional information which may be required by the Recipient in its sole discretion from time to time for monitoring purposes and to the satisfaction of both the DBSA and the Recipient; and

12. **CONFIDENTIALITY**

12.1. The Parties undertake to treat all Confidential Information as strictly confidential between themselves and not to divulge any Confidential Information and/or or proprietary information in respect of each other to other parties unless otherwise required by law or agreed to in writing or required by the DBSA in order to fulfil the conditions of this Agreement. The following may however be made public by the DBSA:

12.1.1. after this Agreement has been signed, the Application Date, name of the Recipient, Grant Amount and the Project Completion Date; and

12.1.2. after the final deliverables have been completed or the Project has been cancelled or terminated, the name of the Project, actual Grant Amount paid, Project Completion Date and a concise generic description of the Project.

12.2. The Recipient may disclose the Confidential Information of the DBSA to its Permitted Recipients, provided that:

12.2.1. the Recipient will take such steps as are necessary to ensure that its Permitted Recipients to which Confidential Information is disclosed adhere to this Agreement;

12.2.2. any disclosure by a Permitted Recipient of the DBSA's Confidential Information contrary to this Agreement will be an unauthorised disclosure by the Recipient.

12.3. The Recipient will not use the Confidential Information for any purpose other than:

12.3.1. that for which it is disclosed in connection with this Agreement;

12.3.2. as otherwise permitted by the DBSA in writing; or

12.3.3. in accordance with this Agreement.

12.4. The DBSA does not warrant that the Confidential Information it discloses is accurate or complete and the DBSA will not be liable for any losses, damages, costs or penalties suffered by, or claims made against, the Recipient as a result of any inaccuracies in, or incompleteness of, the Confidential Information disclosed.

12.5. The Recipient hereby indemnifies the DBSA against any loss, cost, damages, expense or liability arising from, or in connection with, disclosure of Confidential Information contrary to this Agreement by the Recipient or Permitted Recipients or third parties to which the Recipient has made disclosure.

12.6. Upon the request of the DBSA, the Recipient will, within 5 (five) Business Days, return, destroy or expunge from any storage device all Confidential Information other than documents prepared by the Recipient; provided that if required by law or for purposes of this Agreement, the Recipient may retain 1 (one) copy of the Confidential Information for the period so required.

13. **PERSONAL INFORMATION**

13.1. The Parties acknowledge their respective obligations under POPI. Where either Party receives any Personal Information from the other Party ("**Disclosing Party**") it shall:

13.1.1. process such Personal Information only with the knowledge and authorisation of the Disclosing Party;

13.1.2. not disclose Personal Information to any third parties without the written consent of the Disclosing Party unless required by law;

13.1.3. have due regard to generally accepted information security practices and procedures which may apply generally or be required in terms of specific industry or professional rules and regulations;

13.1.4. notify the Disclosing Party immediately where there are reasonable grounds to believe that Personal Information has been accessed or acquired by any unauthorised person;

13.1.5. establish and maintain security measures as set out in Schedule 6 to secure the integrity and confidentiality of Personal Information in its possession or under its control by taking appropriate, reasonable technical and organisational measures to prevent loss of, damage to, or unauthorised destruction of Personal Information and unlawful access to, or processing of, Personal Information and shall take reasonable measures to:

13.1.6. identify all reasonably foreseeable internal and external risks to Personal Information in its possession or under its control;

13.1.7. establish and maintain appropriate safeguards against the risks identified;

13.1.8. regularly verify that the safeguards are effectively implemented; and

13.1.9. ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards.

13.2. The Recipient expressly acknowledges, agrees and consents that the DBSA holds and Processes its Personal Information for compliance and business related purposes including but not limited to FICA, procurement, tax, payment and sanction compliance checks and Record keeping related to the procurement process, service delivery, payment and/or project implementation Records.

13.3. The Recipient warrants that were it has supplied the DBSA with third party Personal Information, including information of any shareholder, director, employee, agent or sub-contractor that it has the necessary authorisations to do so.

13.4. The Recipient's failure to comply with this clause shall constitute a material breach of this Agreement. In such event, the DBSA may terminate this Agreement, effective immediately, upon written notice to the Recipient, without further liability, or obligation, to the Recipient.

13.5. Notwithstanding any other provision in this Agreement, the Recipient indemnifies the DBSA against any losses, damages, liabilities, deficiencies, actions, judgments, interests, awards, penalties, fines, costs or expenses, of whatever kind, incurred or suffered by the DBSA, its employees, representatives and/or agents, as a result of the Recipient's warranties in this clause or its failure to comply with its statutory obligations contained in POPI.

14. UNDERTAKINGS BY THE RECIPIENT

The Recipient hereby undertakes:

14.1. to immediately inform the DBSA in writing of the material details of any financing the Recipient acquires from other private sector or governmental sources, banking and/or financial institutions in respect of the Project;

14.2. to respond, to the best of its ability, to any questionnaires for the purpose of evaluating its satisfaction with the support provided by the DBSA.

15. **REPRESENTATIONS AND WARRANTIES**

15.1. The Recipient represents and warrants that:

15.1.1. it has the power to enter into and perform, and has taken all the necessary action to authorise its entry into and performance under this Agreement;

15.1.2. the entry into and performance by it of the terms and conditions as contemplated by this Agreement will not conflict with:

15.1.2.1. any Applicable Law;

15.1.2.2. any agreement or instrument binding upon it or any of its assets;

15.1.3. it has disclosed to the DBSA all information at its disposal pertaining to the Project in the Application and during the DBSA's investigation thereof;

15.1.4. it has disclosed to the DBSA any financing for the Project made available by or applied for from any governmental source and private sector including any banking and/or financial institution;

15.1.5. all the Intellectual Property rights existing and developed as a result of the Project, which the Recipient owns or claims to own is not in any manner whatsoever owned by any other party;

15.1.6. its business has been conducted and will be conducted in compliance with all Applicable Laws, including but not limited to all relevant environmental legislation;

15.1.7. all Authorisations have been obtained or effected and are of full force and effect and no steps have been taken against the Recipient for the revocation, variation or refusal of any Authorisation in respect of the Project and all fees (if any) payable in connection therewith, if due, have been paid and no Event of Default (howsoever described) has occurred in the performance of any of the terms or conditions thereof which is material to the effectiveness of any of the foregoing;

15.1.8. no Event of Default or Potential Event of Default:

15.1.8.1. has occurred or is continuing under or in respect of any agreement or document to which the Recipient is a party or by which it may be bound, including this Agreement;

15.1.8.2. might reasonably be expected to result from the conclusion of this Agreement to which it is a party or the making of any of the Disbursements to the Recipient;

15.1.9. there is no litigation, arbitration or administrative proceeding current or pending against, to the best of the Recipient's knowledge and belief, threatened against the Recipient which may, if adversely determined, have a Material Adverse Effect;

15.1.10. no Insolvency Event in relation to the Recipient has occurred;

15.1.11. none of its assets are subject to any expropriation and to the best of the Recipient's knowledge and belief (and after making reasonable enquiries) no expropriation has been threatened in respect of the whole or any portion of its assets;

15.1.12. it cannot claim immunity from suit or action;

15.1.13. since the Application Date and the Signature Date no facts or circumstances have occurred which may have a Material Adverse Effect.

15.2. The DBSA is entering into this Agreement relying on each of the representations and warranties made by the Recipient, each of which shall be deemed to be a separate representation and warranty which is material and having induced the DBSA to enter into this Agreement.

16. **EVENTS OF DEFAULT**

16.1. Each of the following shall constitute an Event of Default under this Agreement:

16.1.1. any event or condition has occurred which in the opinion of the DBSA has or could be expected to have a Material Adverse Effect;

16.1.2. the Recipient fails to comply with any of its obligations under this Agreement, and any such failure continues for a period of 14 (fourteen) days after the date on which the DBSA notifies the Recipient of that failure or, if earlier, the date on which such Recipient becomes or should have, with diligence, become aware of such failure;

16.1.3. the Project is abandoned, suspended or terminated for any reason whatsoever, by the Recipient or the Project has not been completed by the Project Completion Date;

16.1.4. any representation or warranty made by the Recipient in this Agreement or in any Disbursement Request or in connection with the execution and implementation of this Agreement is found to have been incorrect in any respect;

16.1.5. the Recipient commits any fraud or gross misconduct with respect to the Grant or the Project or in any way does not use the Disbursements in accordance with this Agreement;

16.1.6. an Insolvency Event in relation to the Recipient occurs;

16.1.7. any Authorisation necessary for the Recipient to comply with its obligations under this Agreement or to carry out the Project for any reason ceases to be in full force and effect and is not restored or reinstated within 14 (fourteen) days of written notice by the DBSA to the Recipient;

16.1.8. any Project Document or any of its provisions are revoked, terminated, repudiated, declared void, becomes unlawful or ceases to be in full force and effect without, in each case, the prior written consent of the DBSA, and in that event, if capable of being remedied, is not remedied to the satisfaction of the DBSA within 14 (fourteen) days of the DBSA's notice to the Recipient;

16.1.9. the Recipient has modified the nature or the objective of the Project without the prior written approval of the DBSA;

16.1.10. in the opinion of the DBSA, it is imminent that any authority will condemn, nationalise, seize, expropriate, or otherwise assume custody or control of, all or any substantial part of the business, operations, property or other assets of the Recipient or take any action for the dissolution of the Recipient or any action that would prevent the Recipient or its employees from carrying on all or a substantial part of the Business or operations;

16.1.11. at any time, with respect to the negotiation, execution or the implementation of the Project, including in respect of the procurement or execution of any contract to be financed in full or in part from the proceeds of the Grant, the DBSA determines that any person or entity has engaged in a Corrupt Practice, a Coercive Practice, a Collusive Practice or a fraudulent practice, without the Recipient having taken timely and appropriate action satisfactory to the DBSA to remedy the situation or to address such practices when they occur;

16.1.12. it appears that material information in the Application is incorrect or that material information was not disclosed.

16.2. Forthwith upon the occurrence of an Event of Default and at any time thereafter, if such event continues, the DBSA shall in its sole and absolute discretion be entitled (but not obliged), without prejudice to any other rights which the DBSA may have, by notice to the Recipient to:

16.2.1. suspend any amounts available but not Disbursed under the Grant or declare any amounts available but not Disbursed under the Grant to be automatically cancelled and to declare that no further Disbursement be made available under the Grant; and/or

16.2.2. declare that the obligations of the DBSA in terms of this Agreement shall be cancelled forthwith, whereupon the same shall be so cancelled; and/or

16.2.3. claim immediate payment of any amount disbursed under the Grant, any damages costs and other amounts incurred in consequence of such Event of Default from the Recipient in terms of this Agreement.

16.3. Upon the giving of the notice contemplated above, the right of the Recipient to request any Disbursement shall be suspended, as the case may be. The exercise by the DBSA of the right of suspension shall not preclude the DBSA from exercising its right of cancellation as provided in this Agreement, either for the same or another reason, and shall not limit any other provision of this Agreement.

16.4. Notwithstanding any provision to the contrary in this Agreement, the DBSA may by notice to the Recipient cancel the whole or part of the Grant, as the case may be, if:

16.4.1. the Project activities are interrupted for a consecutive period of 2 (two) calendar months; or

16.4.2. the DBSA determines that any person who is engaged in Corrupt Practice, a Coercive Practice, a Collusive Practice or a fraudulent practice, without the Recipient having taken timely and appropriate action satisfactory or to address such practice when they occur; or

the Recipient has modified the nature or the objective of the Project without the prior approval of the DBSA.

17. **PUBLICATIONS**

Should the Recipient wish to publish the results of the Project deliverables carried out pursuant to this Agreement, the Recipient shall first obtain written approval from the DBSA and supply it with a copy of the proposed publication, who shall review the proposed publication and notify the Recipient, within 30 (thirty) calendar days after receipt, in writing whether the DBSA consents to such Publication.

18. **INTELLECTUAL PROPERTY**

18.1. Any Intellectual Property already existing at Signature Date and utilised in terms of this Agreement shall remain the Intellectual Property of the Party in whom that Intellectual Property had vested at the Signature Date but each Party hereby grants the other Party a non-exclusive right to use such Intellectual Property for the purposes of the Project.

18.2. Subject to clause 18.3 below, all Intellectual Property generated by the Recipient in the Project shall vest in the Recipient, and the Recipient shall be entitled to use the Intellectual Property for any purposes whatsoever, including without limitation for Commercialisation.

18.3. The Recipient hereby grants the DBSA a non-exclusive right to use any and all of the Intellectual Property generated by the Project for purposes of publicity, marketing, and further research.

18.4. Should this Agreement be terminated by reason of breach by the Recipient, the Intellectual Property generated by the Recipient in terms of the Project shall remain vested in the Recipient and the DBSA shall be entitled to use the Intellectual Property however it may elect in its sole discretion, including without limitation for purposes of Commercialisation.

18.5. The Recipient furthermore grants non-exclusive right to any and all third parties to use the Intellectual Property generated by the Project for any purposes within the border of the Republic of South Africa which are for the benefit of the Republic of South Africa. This clause 18.5 is a *stipulatio alteri* capable of acceptance at any time. This clause 18.5 shall not preclude the Recipient from having exclusive rights to the Intellectual Property outside the borders of the Republic of South Africa.

18.6. The Recipient shall enter into appropriate agreements with third parties participating in the Project to ensure the effective management of intellectual Property generated in the course of the Project.

19. **ARBITRATION**

19.1. Should any dispute between the Parties with regard to the interpretation, the carrying into effect and implementation of any one or more of the provisions of this Agreement, any of the rights and obligations or either Party arising from the Agreement, the termination or purported termination of, or arising from the termination of, or the rectification or proposed rectification of the Agreement, or pursuant to this Agreement, or any other matter which in terms of this Agreement requires agreement by the Parties, the Parties shall, in the first instance, attempt to come to an agreement in relation to any such dispute by consultation and negotiation in good faith and in the second instance proceed to arbitration.

19.2. A dispute shall be determined in terms of this clause after written notice has been given by the aggrieved Party to the other Party.

19.3. This clause shall not preclude any Party from obtaining interim relief on an urgent basis from a court of competent jurisdiction pending the decision of the arbitrator.

19.4. The arbitration shall be held:

19.4.1. at a venue to be agreed between the disputing Parties, failing which at the offices of the Arbitration Foundation of South Africa ("**AFSA**") closest to the DBSA's *domicilium* address;

19.4.2. with only the legal and other representatives of the Parties present thereat;

19.4.3. *mutatis mutandis* in accordance with the provisions of the Supreme Court Act, 1959, the rules made in terms of that Act and the practice of the division of the High Court referred to in clause 20;

19.4.4. otherwise in terms of the Arbitration Act, 1965;

19.4.5. it being the intention that the arbitration shall be held and completed as soon as possible.

19.5. The arbitrator shall failing agreement between the Parties be such person as appointed by AFSA.

19.6. The decision of the arbitrator shall be final and binding on the Parties and may be made an order of the court referred at the instance of any of the Parties.

19.7. The Parties agree to keep the arbitration including the subject-matter of the arbitration and the evidence heard during the arbitration confidential and not to disclose it to anyone unless required by Law.

19.8. The provisions of this clause:

19.8.1. constitute an irrevocable consent by the Parties to any proceedings in terms hereof and no Party shall be entitled to withdraw therefrom or claim at any such proceedings that it is not bound by such provisions; and

19.8.2. are severable from the rest of this Agreement and shall remain in effect despite determination of or invalidity for any reason of this Agreement.

20. SEVERABILITY

The Parties agree that each and every provision of this Agreement is severable from the remaining provisions of this Agreement and should any provision of this Agreement be in conflict with any applicable law, or be held to be unenforceable or invalid for any reason whatsoever, such provision should be treated as *pro non scripto* and shall be severable from the remaining provisions of this Agreement which shall continue to be of full force and effect.

21. **CESSION AND DELEGATION**

21.1. The Recipient shall not be entitled to cede, assign, delegate or otherwise transfer any of its rights or obligations under this Agreement to any third party, without the prior written consent of the DBSA.

21.2. The DBSA shall be entitled, without the Recipient's consent, to cede, delegate or assign all or any of its rights, benefits and obligations or obligation only under this Agreement to any third party.

22. **COUNTERPARTS**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same agreements as at the date of signature of the Party last signing one of the counterparts.

23. **GOVERNING LAW**

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

24. **JURISDICTION**

The parties hereby irrevocably and unconditionally consent to the non-exclusive jurisdiction of the High Court of South Africa, Gauteng Local Division, Johannesburg (or any successor to that division) in regard to all matters arising from this Agreement.

25. **COSTS**

25.1. Each Party shall bear its own costs of and incidental to the negotiation and preparation of this Agreement.

25.2. If in any legal proceedings relating to the enforcement by either party of its rights in terms of this Agreement, a court awards costs to any party, such costs shall be determined and recoverable on the scale as between an attorney and his own client and shall include collection charges, the costs incurred by such party in endeavouring to enforce such rights prior to the institution of legal proceedings and the costs incurred in connection with the satisfaction or enforcement of any award or judgment awarded in favour of such party in relation to its rights in terms of or arising out of this Agreement.

26. **NOTICES AND DOMICILIA**

26.1. The Parties choose as their *domicilia citandi et executandi* their respective addresses set out in this Agreement for all purposes arising out of or in connection with this Agreement at which addresses all processes and notices arising out of or in connection with this Agreement, its breach or termination may validly be served upon or delivered to the Parties.

26.2. For purposes of this Agreement the Parties' respective addresses shall be as follows:

26.2.1. **DBSA:**

Physical address:	1258 Lever Road Headway Hill Midrand 1685 South Africa
Telephone number:	+27 11 313 3911
Fax number:	+27 11 313 3086
Email address:	claimadmin@dbsa.org
Attention:	Group Executive Coverage division and General Legal Counsel

26.2.2. **Recipient:**

Physical address:	2 Magnolia Avenue Hermanus 7200
Telephone number:	+27 28 313 8000
Fax number:	
Email address:	depdircomsec@overstrand.gov.za
Attention:	Chief Engineer: Infrastructure Services

or at such other address in the Republic of South Africa of which the Party concerned may notify the other in writing provided that no street address shall be changed to a post office box or post *restante*.

26.3. Any notice given in terms of this Agreement shall be in writing and shall:

26.3.1. if delivered by hand be deemed to have been duly received by the addresses on the date of delivery;

26.3.2. if transmitted by facsimile be deemed to have been received by the addressee on the day following the date of dispatch, unless the contrary is proved.

26.4. Notwithstanding anything to the contrary contained or implied in this Agreement, a written notice or communication actually received by one of the Parties from another including by way of facsimile transmission shall be adequate written notice or communication to such Party.

27. **RELAXATION**

No latitude, extension of time or other indulgence which may be given or allowed by any Party to the other Party in respect of the performance of any obligation hereunder, and no delay or forbearance in the enforcement of any right of any Party arising from this Agreement. No single or partial exercise of any right by any party under this Agreement, shall in any circumstances be construed to be an implied consent or election by such party or operate as a waiver or a novation of or otherwise affect any of the Party's rights in terms of or arising from this Agreement or estop or preclude any such Party from enforcing at any time and without notice, strict and punctual compliance with each and every provision or term hereof. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.

28. **VARIATION**

No addition to or variation, consensual cancellation or novation of this Agreement and no waiver of any rights arising from this Agreement or its breach or termination shall be of any force or effect unless reduced to writing and signed by all the Parties or their duly authorised representatives.

29. **WHOLE AGREEMENT**

This Agreement constitutes the whole agreement between the Parties as to the subject matter hereof and no agreements, representations or warranties between the Parties regarding the subject matter hereof other than those set out herein are binding on the Parties.

30. **INDEMNITY**

30.1. The Recipient, including any person acting for or on behalf of the Recipient, shall exercise due care and diligence in the performance of its duties in terms of this Agreement and the Recipient, including any person acting for or on behalf of the Recipient, shall be liable to the DBSA where the Recipient has failed to exercise such due care and diligence.

30.2. The Recipient indemnifies and holds the DBSA harmless against any liabilities, arising out of the conduct of the Recipient, its employees, agents and or other natural or juristic persons connected with the Recipient, in conducting the work pursuant to this Agreement.

30.3. Notwithstanding anything to the contrary set out in this Agreement, the Recipient hereby indemnifies and shall hold the DBSA harmless against any claims, damages, expenses and costs (including those asserted by third parties) directly or indirectly related to this Agreement, in delict, for breach of statutory duty or otherwise.

30.4. The Recipient shall indemnify and hereby indemnifies the DBSA against any expenditure incurred in vain, as a result of the Recipient committing an Event of Default, any fruitless or wasteful expenditure incurred and any expenditure which could have been avoided had reasonable care been exercised or expenditure incurred as a result of fraud, theft or negligence or commission and/or omission during the execution of the Project.

31. ANTI-CORRUPTION AND GOOD FAITH

31.1. In implementing this Agreement and in all further dealings with each other, the Parties undertake to observe utmost good faith and to give effect to the intent and purpose of this Agreement.

31.2. The Recipient will not make or cause to be made any offer, gift or payment or consideration or benefit of any kind, which would or could be construed as an illegal or corrupt practice, either directly or indirectly to any party, as an inducement or reward in relation to the execution of this Agreement including any activity contained in the Prevention and Combating of Corrupt Activities Act, 2004.

31.3. Any such practice will be a ground for termination of this Agreement.

32. ATTESTATION

The Parties hereby acknowledge having read and signed this Agreement and its schedules, the contents of which are understood and accepted by both the Parties.

Signed at ________________________ on the ___________ day of __________________________ 2026

For and on behalf of

Development Bank of Southern Africa Limited

____

Name:

Capacity:

Who warrants authority

Signed at ________________________ on the ___________ day of __________________________ 2026

For and on behalf of

Overstrand Local Municipality

____

Name:

Capacity:

Who warrants authority

Schedule 1- Conditions Precedent

Part 1: Conditions Precedent to Effectiveness of Agreement

1. Conditions Precedent

The obligation of the DBSA to make any Disbursement in terms of this Agreement is subject to the fulfillment, in a manner satisfactory to the DBSA, of the following conditions:

1.1 This Agreement duly executed by the Parties, together with (where applicable) all documents, or instruments required to be delivered thereunder.

1.2 An copy of the Municipal Council's resolution of the Recipient, signed by the Mayor in terms of the MFMA:

1.2.1 approving the Project, accepting the DBSA's Project support thereon, and resolving to support implementation of the Project;

1.2.2 approving the terms of this Agreement and resolving that the Recipient executes this Agreement; and

1.2.3 authorising the Accounting Officer (or other specified person or persons) to sign this Agreement on its behalf and to sign and/or dispatch all documents and notices to be signed and/or dispatched by it under or in connection with this Agreement.

1.3 A specimen of the signature of the Accounting Officer, and of each person designated and authorised by the Accounting Officer referred to in clause 1.2.3 above, to sign/or dispatch all documents and notices to be signed and/or dispatched by the Recipient under or in connection with this Agreement.

1.4 The establishment of the PSC, to the satisfaction of both Parties which will include representation from the Recipient, the DBSA, the Professional Service Provider, relevant key stakeholders, and/or any other stakeholders required by the DBSA and the Recipient to manage the Project at the municipal level.

1.5 A copy of the Project Implementation Plan, and Project Budget approved by both Parties.

1.6 Copies of all Professional Services Provider Agreements concluded by the Recipient in relation to the Project.

Schedule 2- Disbursement Request

Recipient's letterhead

To: [ ]
1258 Lever Road
Headway Hill
Midrand
1685

[*insert date*]

Dear [***insert***]

Disbursement Request No. [•]

[insert]:

1. We refer to the Grant Agreement dated [***insert date***] between the Overstrand Local Municipality (the "**Recipient**") and the Development Bank of Southern Africa Limited (the "**DBSA**") (the "**Grant Agreement**"). Terms defined in the Grant Agreement have their defined meanings whenever used in this form.

2. We confirm that all Conditions Precedent specified in Schedule 1 (*Conditions Precedent*) of the Grant Agreement are satisfied on the date of this Disbursement Request.

3. We wish to request the Disbursement amount on the following terms:

Proposed Disbursement Date:	[**insert**] (or, if that is not a Business Day, the next Business Day)
Amount:	[**insert**]

4. The proceeds of this Grant should be credited to [**account of Recipient to be inserted**].

5. We attach hereto the Project Progress Report in accordance with the Project Implementation Plan and the invoices of the total expenditure.

6. This Disbursement Request is irrevocable.

7. The Recipient certifies to the best of its knowledge (after due enquiry) as follows:

   a. the representation and warranties made in the Grant Agreement are true on the date of this form and will be true on the date of Disbursement with the same effect as if such representations and warranties had been made on and as of each such date except as set forth on the certificate accompanying this form;

b. the Recipient is not aware (after due enquiry) that any Potential Event of Default or Event of Default has occurred, is continuing or about to occur;

c. since the date of the Grant Agreement no changes in the Project or in the financial condition of the Recipient has occurred and no other circumstance has arisen which has or is reasonably likely to have a Material Adverse Effect;

d. the proceeds of the Disbursement are at the date of this form required by the Recipient exclusively for the Purpose; and

e. after receipt of the Disbursement the Recipient will not be in violation of:

   i. any provision contained in any document to which the Recipient is a party or by which the Recipient is bound; or

   ii. any law, rule or regulation, directly or indirectly limiting or otherwise restricting the Recipient's borrowing power or authority or its ability to borrow.

8. The above certifications are effective as at the date of this Disbursement Request and will continue to be effective as of the date of the Disbursement. If any of these certifications is no longer valid as of or prior to the date of the requested Disbursement, the Recipient undertakes to promptly notify the DBSA unless it is not aware of the same (after due enquiry).

Yours faithfully

____

Authorised signatory

Name: ________________________

Accepted and agreed

____

Accounting officer

Name: ____

Schedule 3- Terms of Reference for establishing the Project Steering Committee

1. Introduction

1.1 Establishment of the PSC upon the Agreement becoming unconditional in accordance with its terms (save for any condition therein requiring the establishment of the PSC), it is agreed that:

1.1.1 the PSC is hereby established as the joint steering committee in terms of the Agreement; and

1.1.2 the role of the PSC is to provide strategic direction relating to the Project and to guide and coordinate the execution of the Project.

2. Purpose of this Document

The purpose of this document is to establish the terms of reference for the PSC. The terms of reference in turn establishes the mandate roles and functions for the PSC. The PSC is the key body within the Project governance structure responsible for the oversight and operational Project issues associated with the Project.

3. Function of the PSC

The function of the PSC is to provide oversight for the operational issues in respect of the Project. The PSC is responsible for monitoring the Project Budget, progress, benefits realized and also monitoring risks, quality and timelines of delivery according to the Project Implementation Plan. The PSC`s scope of work is further elaborated below.

3.1 **Role of the PSC**

The role of the PSC is to:

3.1.1 provide oversight on the implementation of the Project and on the achievement of the outcomes;

3.1.2 to identify potential risks arising from the implementation of the Project and agree on mechanisms to mitigate such risks;

3.1.3 ensure conformity with the Project Implementation Plan;

3.1.4 advise on adjustments to be made to the Project to ensure that the Project is completed within budget and by the Project Completion Date;

3.1.5 recommend, after consultation between the members, the sign-off on the quality of work and reports completed by the Professional Services Provider;

3.1.6 oversee the Technical PSC;

3.1.7 monitor compliance to legislation and regulations in the implementation of the Project;

3.1.8 providing guidance in addressing challenges/bottlenecks as they arise; and

3.1.9 approval and endorsements of completed milestones/deliverables for payments.

3.2 The Principles guiding the PSC

In performing the tasks assigned to the PSC, the members will observe the following principles, namely to:

3.2.1 work together in a spirit of transparency and openness in which the achievement of the Project to a standard of excellence is a prime consideration;

3.2.2 promote trust, fairness, mutual cooperation, dedication to the agreed common goal while understanding each other's expectations and values;

3.2.3 be cognisant of the expectations and interests of each of the stakeholders and to seek to promote "win-win" solutions when balancing the interests of the stakeholders;

3.2.4 to accept that conflict is natural but, in such situations, to promote teamwork in order to work constructively through disagreements;

3.2.5 show flexibility whilst still ensuring that the Project achieves excellence in its construction and operational standards;

3.2.6 promote a culture of zero tolerance towards corruption and other improper activities and ensure adherence to applicable anti-corruption legislation; and

3.2.7 bring full commitment to achieving effective interfacing between the members and their respective stakeholders in order to make decisions with respect to the Project and solve any issues that may arise in connection with the Project in an effective and efficient manner.

3.3 The Role of Individual PSC Members

The role of the individual members of the PSC includes the expectation that each member is to:

3.3.1 appreciate the significance of the Project for all stakeholders;

3.3.2 be an advocate for the Project's outcomes;

3.3.3 have a broad understanding of Project management issues and the approach being adopted to resolve such issues;

3.3.4 be committed to, and actively involved in pursuing the Project's outcomes;

3.3.5 help reconcile conflicting priorities and resources;

3.3.6 check adherence of Project activities to standards and best practice, both within the organizations of the Recipient and DBSA and in a wider context.

4. General Administration of the PSC

4.1 Membership

The PSC shall be comprised of:

4.4.1 DBSA Authorised Representatives;

4.4.2 Key members from the appointed Professional Service Provider;

4.4.3 Key members from the Provincial;

4.4.4 Key members from the Recipient; and

4.4.5 Further, the PSC will appoint other members as they see fit.

4.2 Changes in PSC Membership

Whilst the stakeholders remain cognisant of the need to maintain continuity in membership of the PSC, a stakeholder may replace a member at any time upon written notice to the chairperson of the PSC.

4.3 Secretariat

Secretariat functions for the PSC will be provided by the Professional Services Provider.

4.4 Convener/Chairperson

The Municipal Manager, or in his absence, the Executive Technical Director/Chief Financial Officer (CFO) of the Recipient will be the convener and chairperson of the PSC meetings. If the designated chairperson is not available, then any official from the CFO's office or the Technical Director's office (referred to as the Acting Chair) as delegated by the chairperson will be responsible for convening and conducting the meeting.

4.5 **Secretariat**

The Secretariat will *inter alia* provide the following functions:

4.5.1 prepare and circulate the minutes for comments and inputs. Provide full copies of the minutes, including attachments to all the PSC members;

4.5.2 keep comprehensive records of all the deliberations and decisions of the PSC;

4.5.3 distribute copies of the minutes of the meetings for consideration and ultimately approval by the Chairperson;

4.5.4 prepare and finalise the minutes containing the proceedings and resolutions of the meetings which shall be signed by the Chairperson of the PSC and by the Professional Services Provider and the DBSA; and

4.5.5 the approval of the deliverables/milestones shall be recorded in the minutes. The deliverables and the minutes shall be signed by the chairperson of the PSC and by the Professional Services Provider and the DBSA.

4.6 **Language and Communication Formats**

English will be the preferred language for all dealings of the PSC. The format of communication of the PSC shall be by email messages, or letters. Correspondence requiring approvals shall be by email, or letter. Reports submitted by the Municipal PSP to the members shall be in both hard print and soft computer copy written in software that is used by the Recipient.

4.7 **PSC Meeting Agenda**

4.7.1 All PSC meeting agenda items must be forwarded to the Chairperson or the secretariat support by close of business seven (7) working days prior to the next scheduled meeting.

4.7.2 The PSC agenda with attached meeting documents will be distributed at least 5 working days prior to the next scheduled meeting.

4.7.3 The Chairperson has the right to list an item on the formal agenda, but members may raise an item under 'General / Other Business' if necessary and as time permits.

4.8 **PSC Meeting Minutes and Meeting Documents**

The following administrative requirements apply:

4.8.1 the format of the PSC minutes shall be agreed at the first meeting of the PSC;

4.8.2 a schedule of PSC meetings to be discussed and agreed at the first PSC meeting and shall form part of all the meeting minutes;

4.8.3 the minutes of each PSC meeting will be prepared by the office of the Professional Services Provider;

4.8.4 full copies of the minutes, including attachments, shall be provided to all PSC members no later than ten (10) working days following each meeting;

4.8.5 by agreement of the PSC, out-of-session decisions will be deemed acceptable upon confirmation in writing of the Recipient and the DBSA Authorised Representatives;

4.8.6 all out-of-session decisions shall be recorded in the minutes of the next scheduled PSC meeting; and

4.8.7 the minutes of each PSC meeting will be monitored and maintained by both the Recipient and the DBSA as a complete record as required under the respective document management provisions of the Recipient and DBSA.

4.9 **Frequency of Meetings**

4.9.1 The PSC shall meet monthly on a date to be advised by the Chairperson in line with the meeting schedule to be agreed at the first meeting of the PSC.

4.9.2 Additional meetings outside of the scheduled meeting dates may be convened as circumstances may arise.

4.9.3 Meetings of the PSC shall be co-ordinated through by the Service Provider and called on by the chairperson whenever required in accordance with the terms of reference.

4.9.4 Notice of any meeting of the PSC shall be sent to each member (and copied to the stakeholders) and shall confirm the venue, time and date, together with the proposed agenda for the meeting (including any supporting papers) as far as is reasonably practicable, at least 14 (fourteen) days' notice shall be given of any meeting of the PSC.

4.9.5 The PSC meetings may be held in the offices of the Recipient and/or virtually, via telephone, teleconference, videoconference, Microsoft Teams or via Zoom etc.

4.10 **Proxies to Meetings**

4.10.1 Members of the PSC shall nominate a proxy to attend a meeting if the member is unable to attend. The Chairperson will be informed of the substitution at least three (3) working days prior to the scheduled meeting.

4.10.2 The nominated proxy shall have voting rights at the attended meeting. The nominated proxy shall provide relevant comments/feedback of the PSC member they are representing to the attended meeting.

4.11 **Quorum Requirements**

4.11.1 A meeting quorum shall have been formed if 50% of the PSC members plus one member are in attendance for the recommendations or resolutions to be valid.

4.11.2 The quorum must contain representatives from the DBSA, Recipient and the Professional Services Provider.

4.12 **Governing Law**

This establishment and functioning of the PSC shall be governed by and interpreted in accordance with the Agreement between Recipient and DBSA, and substantive laws of the Republic of South Africa.

4.13 **Confidentiality and Publicity**

Any confidential information obtained by any of the PSC members, or arising from the implementation of the Agreement, shall be treated as confidential by the Party receiving it and shall not be used, divulged or permitted to be divulged to any person not being a member to the PSC, without the prior written consent of the PSC.

5. PSC life span

The PSC will be in existence until the Project Completion Date.