



SERVICE LEVEL AGREEMENT (COMPILATION OF A BASIC ASSESSMENT REPORT)

Between:

THE MSUNDUZI MUNICIPALITY

Represented by Mrs Nelisiwe Ngcobo
In her capacity as Acting City Manager

and

SIVEST SA (PTY) LTD (Appointed from panel number SCM 16 of 17/18)

Reg. No.: 2000/006717/07

Represented by Tarryn Curtis
In her capacity as Divisional Head

CERTIFIED by LEGAL SERVICES	
NAME:	<i>Janice Mokoena</i>
DATE:	<i>29/10/2018</i>
SIGNATURE:	<i>[Signature]</i>

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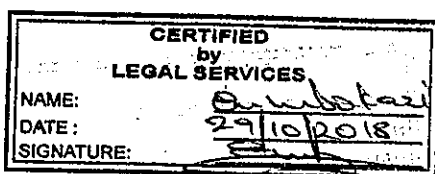
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1 INTRODUCTION

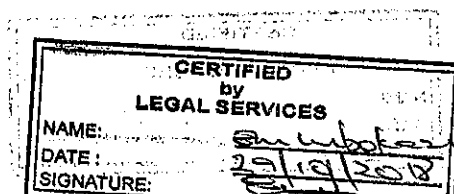
- 1.1 The Municipality, by way of technical grant assistance made available through the NDPG initiative and programme has appointed experienced and competent professional service providers to perform various services, technical studies and related activities pertaining to the establishment and implementation of the Edendale Town Centre.
- 1.2 The National Treasury has approved Technical Grant assistance to the Municipality for the purposes contemplated in clause 1.1 above.
- 1.3 The Service Provider submitted a project proposal, which the Municipality has accepted. The Municipality appoints the Service Provider to compile a basic assessment report as contemplated in the Regulations.
- 1.4 This Agreement regulates the relationship between the Parties, details the services to be provided by the Service Provider and prescribes, *inter alia*, the standards of performance that the Service Provider is expected to achieve and maintain during the currency of this Agreement.

NOW, THEREFORE, it is agreed by the Parties as follows:

2 DEFINITIONS

In this Agreement, unless the context clearly indicates the contrary, the following words, phrases and expressions shall have the respective meanings assigned to each of them hereunder:

- 2.1 **AFSA** means the Arbitration Foundation of Southern Africa.
- 2.2 **Agreement** means this written agreement entered into between the Municipality and the Service Provider, all proposals or bid/tender documents submitted by the Service Provider to the Municipality and any appendices or schedules to this Agreement.
- 2.3 **Applicable Law** means all laws, regulations or governmental policies having the force of law that binds either of the Parties or both of them.
- 2.4 **Business Day** means any day other than a Saturday, Sunday or public holiday recognized as such in the Republic of South Africa in terms of the Public Holidays Act, 1994.
- 2.5 **Commencement Date** means the date on which the Service Provider commenced providing the Services, notwithstanding the Signature Date and which, for the avoidance of doubt, is 01 October 2018.
- 2.6 **Confidential Information** means any information or knowledge acquired by the Service Provider in the course of performing the Services regardless of whether or not the information or knowledge emanates from the Municipality and includes any information or data, whether oral or in writing, graphic or electronic or in any other form such as in documents, accounts, paper, memoranda, correspondence, notebooks, reports,



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drawings, diagrams, discs, articles or samples, which is disclosed intentionally or unintentionally by the Municipality in terms of this Agreement or in order to enable the Service Provider to perform the Services, or which otherwise becomes known to the Service Provider and which is not in the public domain, or ought not to be in the public domain, without limiting the generality of the term.

- 2.7 **Contract Price** means the price payable to the Service Provider for the full and proper performance of its contractual obligations to provide the Services contemplated in this Agreement as more fully described in Schedule 2 (Contract Price).
- 2.8 **Defect** means any departure from the Services specified in this Agreement, the Tender Documents, Schedule 1 (Scope of Services), Schedule 2 (Contract Price), Schedule 3 (Project Programme) and the Regulations.
- 2.9 **Intellectual Property** means any creation of the mind resulting from or attributable to the intellectual activity of an individual, which is capable of being protected by law from use by any other person, whether in terms of South African law or foreign intellectual property law, and any rights in such creation, including but not limited to:
- 2.9.1 Know-how and copyright;
- 2.9.2 Any trade mark, service mark, design, invention, trading or business name, domain name, topographical rights or any rights of a similar nature;
- 2.9.3 Any registered right such as that afforded by a patent, registered trade mark, registered design, utility model and the like, and all rights to apply therefor; and
- 2.9.4 Any such rights in technical descriptions, plans, models, designs or documents and the like that are developed for use, as contemplated in the Scope of Services, research and development data and research materials utilized as a basis for any description, plan, model, design or document produced in terms of the provisions of this Agreement or otherwise in relation to the Project.
- 2.10 **Municipality** means The Msunduzi Municipality, a local Municipality established in terms of the Constitution and the applicable local government legislation.
- 2.11 **Parties** means the Municipality and the Service Provider and any reference to "Party" shall be a reference to either of them individually.
- 2.12 **Penalty** bears the meaning ascribed to the term in clause 23 (Penalties).
- 2.13 **Project** means the development of the Edendale Town Centre.
- 2.14 **Regulations** means the regulations applicable to a basic assessment report promulgated under the National Environmental Management Act 107 of 1998.



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- 2.15 **Service Provider** means SiVEST SA (Pty) Ltd, a propriety limited company duly incorporated in terms of the company laws of South Africa, with Registration Number 2000/006717/07, which has its principal place of business at 170 Peter Brown Drive, Montrose, Pietermaritzburg.
- 2.16 **Services** means the Services detailed in clause 8 of this Agreement and which are more fully described in the Tender Documents, Schedule 1 (Scope of Services), Schedule 2 (Contract Price) and Schedule 3 (Project Programme).
- 2.17 **Signature Date** means the on which the last signing Party signs this Agreement.
- 2.18 **South Africa** means the Republic of South Africa.
- 2.19 **Tax invoice** means the document required by Section 20 of the VAT Act.
- 2.20 **Tender Documents** means the proposal and all supporting documents submitted by the Service Provider to the Municipality.
- 2.21 **Termination Date** means 31 March 2020 or the date on which the Service Provider otherwise completes all its obligations and performs all the Services under this Agreement, or the date on which this Agreement is terminated by either Party in accordance with clause 17 (Force Majeure) or clause 22 (Breach and Termination).
- 2.22 **VAT Act** means the Value Added Tax Act 89 of 1991.
- 2.23 **ZAR, R or Rand** is a reference to the lawful currency of South Africa.

3 INTERPRETATION

- 3.1.1 In this Agreement, unless the context clearly indicates the contrary, each reference to:
- 3.1.2 the singular shall include a reference to the plural and *vice versa*;
- 3.1.3 any one gender shall include a reference to the other gender; and
- 3.1.4 a natural person shall include a reference to a legal person and *vice versa*.
- 3.2 The headings to the clauses of this Agreement are for reference purposes only and shall not govern their interpretation.
- 3.3 The Parties acknowledge that each of them have had an opportunity to take legal advice regarding this Agreement, and agree that no provision or word used in this Agreement shall be interpreted to the disadvantage of either party



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because that Party was responsible for or participated in the preparation or drafting of this Agreement or any part of this Agreement.

3.4 For the purposes of this Agreement, any reference to:

3.4.1 "day" means a calendar day;

3.4.2 "business day" means any day other than a Saturday, Sunday or South African Public Holiday;

3.4.3 "month" means a month calculated from a particular day in one month to the day before the day numerically corresponding to it in the following month;"calendar month" means 1 (one) of the 12 (twelve) months of the year, beginning on the first and ending on the last day of such month; and

3.4.4 whenever any number of days is prescribed, it excludes the first and includes the last day unless the last day falls on a Saturday, Sunday or South African public holiday in which case the last day will be the next succeeding business day.

3.5 Words not specifically defined in this Agreement shall bear their ordinary grammatical meaning.

3.6 An amendment includes any supplement, novation, re-enactment, replacement or variation and amend will be construed accordingly.

3.7 A person includes any individual, company, corporation, unincorporated association or body (including a partnership, trust, fund, joint venture or consortium), government, state, agency, organization or other entity whether or not having separate legal personality.

3.8 Rand, ZAR or R is a reference to the lawful currency, from time to time, of South Africa.

3.9 A provision of law is a reference to that provision as extended, applied, amended or re-enacted, and includes any subordinate legislation.

3.10 A Party or any other person includes its successors in title, permitted assigns and permitted transferees. A reference to Parties shall be construed accordingly.

3.11 A document includes, without prejudice to any prohibitions on amendments contained in this Agreement, all amendments, however fundamental, to that document.

3.12 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, effect must be given to it as if it were a substantive provision in the body of this Agreement, notwithstanding that it is contained in the interpretation clause.

3.13 A reference to a clause is a reference to a clause of this Agreement.



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- 3.14 Headings of clauses are used solely for convenience and are not to be construed as conferring substantive rights upon any Party to this Agreement unless the contrary is specifically stated. In addition, such headings shall not be used in the interpretation of this Agreement.
- 3.15 The use of the word including followed by specific examples will not be construed as limiting the meaning of the general wording preceding it, and the legal rule of interpretation that general wording following a list of specific items refers to an item of the same type as those in the list must not be applied in the interpretation of such general wording or such specific examples.
- 3.16 The rule of construction that an agreement is to be interpreted against the Party responsible for the drafting or preparation thereof must not be used in the interpretation of this Agreement.
- 3.17 Where there is a conflict or inconsistency between or amongst the provisions of this Agreement, the Tender Documents, any appendices or schedules, any or all of them, all of the documents shall be read together, as a whole, and in a manner that is consistent with the overall commercial intentions of the Parties. Accordingly, conflict or inconsistency, should, in the first instance, be resolved through reading all of the documents in this light. Where there is irreconcilable conflict or inconsistency, the following hierarchy applies:
 - 3.17.1 As between the provisions of this Agreement, the clause conferring the stronger right on the Municipality or imposing the greater obligation on the Service Provider shall prevail;
 - 3.17.2 As amongst clauses in this Agreement, the Tender Documents, schedules, annexures, appendices, the clauses in this Agreement shall prevail, unless the conflict or inconsistency arises in relation to any matter specifically dealt with in the Tender Documents, Schedule 1 (Scope of Services), Schedule 2 (Contract Price) or Schedule 3 (Project Programme).
 - 3.17.3 As amongst the schedules in relation to any matter, the schedule dealing with that specific matter shall prevail.

4 APPOINTMENT

- 4.1 The Municipality appoints the Service Provider to provide the Services recorded in this Agreement, the Tender Documents, Schedule 1 (Scope of Services), Schedule 2 (Contract Price) and Schedule 3 (Project Programme) in the manner contemplated in this Agreement and in the Regulations.
- 4.2 The Service Provider accepts the appointment and agrees to provide the Services to the Municipality on the terms and conditions in this Agreement.
- 4.3 The Service Provider warrants and represents that it possesses the appropriate level of experience and expertise to provide the Services contemplated in this Agreement.



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5 INDEPENDENT CONTRACTOR

5.1 The Parties enter into this Agreement as independent contractors and nothing in this Agreement shall be construed in a manner that suggests that either Party is the partner, agent, or legal representative of the other for any purpose whatsoever. Similarly, this Agreement does not grant either Party any authority to assume or to create any obligation on behalf of or, in the name of the other.

5.2 The Service Provider represents and warrants to the Municipality that those of the Service Provider's employees who are to be involved directly or indirectly in the provision of the Services are the employees of the Service Provider and not of the Municipality and accordingly, the Service Provider shall hold the Municipality harmless from and indemnify the Municipality against any claims made by any such employee of the Service Provider in his capacity as employee under the Applicable law..

6 CONDITIONS PRECEDENT

6.1 This Agreement is subject to the fulfilment of the following Conditions Precedent:

6.1.1 The Service Provider submitting an original and valid Tax Clearance Certificate to the Municipality within fifteen (15) Business Days of the Commencement Date;

6.1.2 The Service Provider submitting a valid, certified copy of its VAT Registration Certificate to the Municipality within fifteen (15) Business Days of the Commencement Date; and

6.1.3 The Service Provider submitting a valid, certified copy of its B-BBEE Certificate to the Municipality within fifteen (15) Business Days of the Commencement Date.

6.2 The Conditions Precedent shall be fulfilled within the time periods stipulated for the fulfilment of each condition, or within such extended period as the Parties may otherwise agree in writing.

7 DURATION

7.1 This Agreement shall commence on the Commencement Date and shall endure for a period of Eighteen (18) months, calculated from the Commencement Date and terminating on 31 March 2020 unless terminated earlier in terms of clause 17 (Force Majeure) or clause 22 (Breach and Termination).

7.2 It is agreed that the Service Provider has already commenced with performing the Services and that the Duration of this Agreement may have to be extended by the Parties in accordance with Schedule 3 (Project Programme).

7.3 Notwithstanding anything to the contrary in this Agreement, this Agreement shall not be capable of being extended beyond the date of receipt of the environmental authorization by the Service Provider.



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8 OBLIGATIONS OF THE SERVICE PROVIDER IN TERMS OF SCHEDULE 1 (SCOPE OF SERVICES), SCHEDULE 2 (CONTRACT PRICE), SCHEDULE 3 (PROJECT PROGRAMME) AND THE REGULATIONS

8.1 The Service Provider will be responsible *inter-alia*, for performing the following obligations, in accordance with the detailed requirements of the Tender Documents, Schedule 1 (Scope of Services), Schedule 2 (Contract Price) and Schedule 3 (Project Programme) in the following phases and in accordance with the norms and standards imposed by the Regulations and any other Applicable Law:

Phase 1

8.1.1 The Service Provider shall be responsible for assessing and determining the requirements of the Department of Economic Development, Tourism and Environmental Affairs (EDTEA) in relation to the Project and the basic assessment report; and

8.1.2 The preparation of an inception report containing findings and scope definition, with a revised programme, cashflow and proposed budget changes by no later than thirty (30) Business Days from the Commencement Date;

Phase 2

8.1.3 Performing baseline studies to identify issues and alternatives, including specialist studies identified as necessary during Phase 1;

8.1.4 Preparing and timeously submitting all relevant submissions and applications on behalf of the Municipality to the EDTEA;

8.1.5 Producing and submitting a basic assessment report for approval and, in the production of the report, it is agreed that the Service Provider will undertake the following activities or tasks more fully identified in Schedule 1 (Scope of Services) and Schedule 3 (Project Programme):

8.1.5.1 Conducting a site assessment;

8.1.5.2 Appointing specialists within the confines of the available budget and in consultation with the Municipality to perform various tasks and activities identified in Schedule 1 (Scope of Services), Schedule 2 (Contract Price) and the Regulations;

8.1.5.3 Preparation of interested and affected parties' and key stakeholders' databases;

8.1.5.4 Preparing background information documentation for interested and affected parties and key stakeholders;

8.1.5.5 Preparing a draft basic assessment report and draft environmental management programme;



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- 8.1.5.6 Placing site notices indicating the availability of the draft basic assessment report and draft environmental management programme for comment within the relevant time period provided in the Applicable Law;
- 8.1.5.7 Consulting with interested and affected persons with the input and direction of the Municipality;
- 8.1.5.8 Compiling a comments and responses report for inclusion in the final basic assessment report and the draft environmental management programme;
- 8.1.5.9 Notifying interested and affected parties of the availability of the final reports referred to in clause 8.1.5.8 above for comment within the relevant period prescribed by the Applicable Law;
- 8.1.5.10 Consulting with interested and affected parties and stakeholders with the input and at the direction of the Municipality; and
- 8.1.5.11 Attending a progress meeting at the Municipality's offices, the cost of which is included in the Schedule 2 (Contract Price), and it is agreed that if additional meetings are necessary, the Parties shall agree on the additional costs associated therewith given the applicable budgetary constraints.

Phase 3

- 8.1.5.12 Preparing and submitted the relevant applications required by Schedule 1 (Scope of Services), Schedule 3 (Project Programme) and the Regulations to the EDTEA and obtaining a case specific reference number within three (3) months from the Commencement Date, or within such extended period as the Parties may otherwise agree, up to a maximum of eighteen (18) months from the Commencement Date;
- 8.1.5.13 Compiling comments and responses report and submitting the final basic assessment report and final environmental management report to the EDTEA for decision;
- 8.1.5.14 Submission of all applications required in terms of Schedule 1 (Scope of Services) and Schedule 3 (Project Programme) within three (3) months from the Commencement Date, or within such extended period as the Parties may otherwise agree, up to maximum of eighteen (18) months from the Commencement Date;
- 8.1.5.15 The submission of electronic progress reports, including gis shape files and specialist study data to the Municipality on a monthly basis; and
- 8.1.5.16 Procuring a decision from the relevant authority pertaining to environmental authorization; and
- 8.1.5.17 Undertaking all activities and tasks that will enable the fulfilment of its obligations in terms of this Agreement and in the manner contemplated in this Agreement.



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Phase 4

8.1.5.18 Submission of Close Out report to the Municipality

8.2 The Service Provider's obligation to perform the Services includes the supply of all necessary resources to achieve each specific obligation recorded in Schedule 1 (Scope of Services) and Schedule 3 (Project Programme), by the dates specified therein.

8.3 The Service Provider agrees and warrants that it shall operate a quality management system that is appropriate and suitable given the obligations that it is required to perform in terms of this Agreement, the Tender Documents, Schedule 1 (Scope of Services) and Schedule 3 (Project Programme).

8.4 The Service Provider agrees and warrants that all reports, applications, and documents drafted and produced by it on behalf of the Municipality are suitable and fit for the purposes contemplated in this Agreement and the Regulations, in all respects and that they are free from all errors or Defects.

9 GENERAL OBLIGATIONS

9.1 Notwithstanding anything to the contrary in this Agreement, the schedules and Tender Documents, and without limitation, the Service Provider undertakes to:

9.1.1 Perform the Services strictly in accordance with the terms and conditions in this Agreement and, in any event, with the requisite degree of skill and diligence generally expected of an experienced service provider performing services of the kind contemplated in this Agreement and in accordance with generally accepted techniques, norms, and standards generally observed by similar service providers performing services of a similar nature or standard;

9.1.2 Act conscientiously when providing advice to the Municipality and always act in a manner that safeguards the legitimate interests of the Municipality in respect of any matter arising from this Agreement;

9.1.3 Acknowledge the statutory functions and duties of the Municipality and perform its functions and obligations in a manner that does not detract from the image of the Municipality;

9.1.4 Inform the Municipality immediately if any complaint or dispute arises in relation to the provision of the Services;

9.1.5 Keep full records of all transactions concluded by it in relation to the provision of the Services in this Agreement;

9.1.6 Keep and maintain, at all time during the currency of this Agreement, all licences and permits that it is required to keep and maintain in terms of the Applicable Law;



- 9.1.7 Communicate openly and honestly with the Municipality in relation to the provision of the Services;
 - 9.1.8 Endeavour to provide the highest possible standards of service, notwithstanding anything to the contrary in this Agreement;
 - 9.1.9 Not allow any conflict of interest to develop between its own interests and that of the Municipality;
 - 9.1.10 Not accept any offer, nor allow, induce, or promote the acceptance or offering of any gratuity, enticement, or gift that could reasonably be regarded as a bribe or as an attempt to otherwise exert under influence over the recipient;
 - 9.1.11 Not mislead any officials of the Municipality, its employees, stakeholders or officers;
 - 9.1.12 Not act in any manner, which could reasonably be expected to damage the image of the Municipality;
 - 9.1.13 Immediately report any fraudulent, unlawful or unethical conduct to the Municipality;
 - 9.1.14 Timeously submit to the Municipality any information, account, document, or reported, which is related to the Services or which may otherwise be required by the Municipality.
- 9.2 The Parties acknowledge and agree that the Municipality relies on the specialized skill, judgment, knowledge, skill and experience of the Service Provider and the Service Provider warrants that it shall ensure that in performing its obligations, it shall draw upon such skill, judgment, knowledge and experience.
- 9.3 The Service Provider warrants that it has the requisite ability to perform the Services and that it has sufficient equipment, personnel, and resources to perform its obligations to the standard that is required by this Agreement.
- 9.4 The Services shall be suitable, in all respects, for the purposes of the Project.

10 PROHIBITION ON SUBCONTRACTING

- 10.1 Subject to clause 10.2 below, the Service Provider shall not, without the prior written consent of the Municipality, subcontract any portion of Services to any third party.
- 10.2 It is agreed that the inception report and Tender Documents make provision for identified subcontractors and that the Municipality agrees that these subcontractors shall carry out the portions of the Services identified in the inception report and Tender Documents.
- 10.3 Notwithstanding anything to the contrary in this Agreement, the Service Provider shall be liable for any services, or part thereof, produced by any subcontractor as fully and effectually as if the Service Provider had performed the services itself.

CERTIFIED	
by	
LEGAL SERVICES	
NAME:	<i>[Handwritten Signature]</i>
DATE:	29/10/2018
SIGNATURE:	<i>[Handwritten Signature]</i>

[Handwritten initials]

11 CONFIDENTIALITY

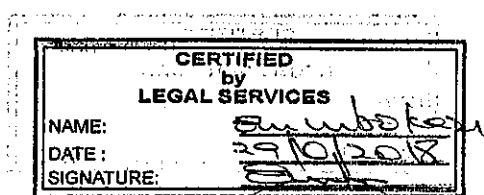
- 11.1 The Service Provider shall not, directly or indirectly, disclose any Confidential Information relating to the affairs of the Municipality or regarding this Agreement, to any person, without the prior written consent of the Municipality, unless such person is authorized by the Municipality, or is entitled, by law, to have access to such information.
- 11.2 In the event that the Service Provider is in any doubt as to whether it may disclose or is obligated to disclose, the Service Provider shall consult the Municipality prior to disclosing any Confidential Information.
- 11.3 Notwithstanding anything to the contrary contained in this Agreement or the above clauses, the Service Provider shall only be entitled to disclose Confidential Information with the prior written permission of the Municipality.
- 11.4 The Service Provider shall not be entitled, under any circumstances, to act on or make use of any Confidential Information belonging to the Municipality and it shall promptly notify the Municipality in the event that it becomes aware that a third party intends to make use of or disclose, or has made use of or disclosed, any Confidential Information and it shall provide any assistance as may reasonably be required by the Municipality to prevent the use or disclosure of such Confidential Information, or the continued use of or disclosure of such Confidential Information.
- 11.5 This clause 11 shall survive the termination of this Agreement.

12 INTELLECTUAL PROPERTY

- 12.1 The Service Provider acknowledges that all Intellectual Property created in terms of this Agreement is the sole and exclusive property of the Municipality.
- 12.2. Future Intellectual Property Rights including copyright and other rights that may be created during the duration of this Agreement, and after this Agreement has been concluded, are hereby assigned to the Municipality by the Service Provider and shall become the sole and exclusive property of the Municipality; provided that such rights are created in the course of performing the Services, or are related to the Scope of Services in terms of this Agreement.
- 12.3. The Service Provider warrants that any Intellectual Property created during the course of performing its obligations in this Agreement will not constitute an infringement of any Intellectual Property belonging to any third party.

13 RETURN OF PROPERTY

- 13.1 Upon the termination of this Agreement for any reason, the Service Provider shall immediately return to the Municipality all property whatsoever that belongs to the Municipality.



13.2 In addition, the Service Provider shall return all documents or material containing information relating to the Municipality, regardless of whether or not such information was originally supplied by the Municipality, including, but not limited to records, discs, accounts, letters, notes or memoranda.

14 REPORTING

14.1 The Service Provider shall furnish the Municipality with monthly reports concerning the Service Provider's activities, as well as such other reports as it may request, from time to time, in writing.

14.2 In addition, the Service Provider shall be required to provide, as and when required by the Municipality, copies of any relevant document pertaining to the project, for inspection.

15 CONTRACT PRICE

The Contract Price for the Basic Assessment Process is R 1 02 160,00 (One Million Rand One Hundred and Two Thousand and Hundred and Sixty Rand) inclusive of VAT and disbursements, more fully described in Schedule 2 (Contract Price) and Schedule 3 (Project Programme) and which is fixed and firm for the duration of this Agreement unless otherwise agreed.

16 INVOICING AND PAYMENT

16.1 Payment will be effected to the Service Provider after the Services have been provided, and are found to comply with the provisions of this Agreement. The Services shall be properly invoiced and, subject further, to any additional requirements imposed by the National Treasury. The National Treasury shall effect payment to the Service Provider, subject to the requirement of this clause 16 (Invoicing and Payment).

16.2 The Service Provider shall provide the Tax Invoices strictly on the basis of the achievement of the milestones stipulated in Schedule 2 (Contract Price) and Schedule 3 (Project Programme), which shall be submitted together with a milestone achievement report, which records the achievement of all milestones up to and including the date of the relevant Tax Invoice and the amounts charged for the achievement thereof.

16.3 All Tax Invoices must be submitted by the Service Provider to the Municipality in duplicate (one original and a copy) and must bear the Municipality's VAT number.

16.4 The Municipality's VAT number must also appear on all statements of account.

16.5 Any failure to comply with the above shall disentitle the Service Provider to payment until such time as it complies with the requirements of this clause 16 (Invoicing and Payment).

16.6 All Tax Invoices shall be expressed in South African Rand.



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- 16.7 A Tax Invoice will not be paid until such time as the Tax Invoice is certified for payment by the municipal representative designated for this purpose. A Tax Invoice will not be certified for payment unless the municipal representative is satisfied that it is correct in relation to:
- 16.7.1 The description of the Services rendered;
 - 16.7.2 The fact that the Tax Invoice matches up with the requirements of the Services to be rendered;
 - 16.7.3 The fact that the relevant milestones have been achieved; and
 - 16.7.4 That accordingly the Service Provider is entitled to payment.
- 16.8 If the municipal representative disputes the Tax Invoice (whether in whole or in part):
- 16.8.1 Payment of the undisputed portion of such Tax Invoice (if any) may be paid to the Service Provider and will be notified accordingly;
 - 16.8.2 The Municipality shall notify the Service Provider of the portion of the Tax Invoice which it disputes and the reason for such dispute within thirty (30) days of the date of receipt of the Tax Invoice. In such event:
 - 16.8.2.1 The Service Provider must pass a credit note cancelling or amending the disputed Tax Invoice and supply the Municipality with a replacement Tax Invoice (where the credit note cancelled the disputed Tax Invoice); which, if approved by the Municipality, shall become due and payable within thirty (30) days of the date of receipt by the Municipality of an updated Tax Invoice and statement; or
 - 16.8.2.2 Alternatively, should the Service Provider disagree with the reasons submitted by the Municipality with regards to its dispute of the Tax Invoice, the Service Provider shall notify the Municipality thereof and within fourteen (14) Business Days, the Parties shall meet in order to resolve such dispute through *bona fide* negotiation;
 - 16.8.3 Should the dispute not be resolved within a period of fourteen (14) Business Days following the date of the meeting referred to in clause 16.8.2.2 above, the matter shall be referred within a further fourteen (14) Business Days to the Municipal Manager of the Municipality.
 - 16.8.4 Should the dispute not be resolved through the process contemplated in clause 16.8.3 within fourteen (14) Business Days of the date of referral of the dispute to the Municipal Manager of the Municipality, the dispute shall be dealt with in accordance with the provisions of clause 27 (Dispute Resolution).
- 16.9. The Tax Invoice shall become due and payable, subject to the provisions of clause 16.7 above, within thirty (30) days of presentation of the Service Provider's invoices to the Municipality.



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16.10. All payments shall be made by electronic funds transfer into the Service Provider's bank account as specified below:

Bank	First National Bank
Branch code	221426
Account number	62025882871
Payment reference	Proj No. 15308

16.11. Payment of an invoice shall not be construed as:

- 16.11.1. Evidence or an admission that the Services have been rendered in accordance with the Scope of Services;
- 16.11.2. Evidence of the value of the Services rendered;
- 16.11.3. An admission that the Services were satisfactorily supplied;
- 16.11.4. An admission of liability; or
- 16.11.5. Acceptance or approval of the Service Provider's performance, but shall be viewed solely as the settlement of the Tax Invoice in respect of which such payment is made.

17. FORCE MAJEURE

- 17.1. Subject to clause 17.2, a Party (the "Unaffected Party") shall not have any claim against the other Party (the "Affected Party") arising from any failure or delay in the performance of any obligation by the Affected Party under this Agreement caused by circumstances beyond the reasonable control of the Affected Party including acts of God, fire, flood, war, strike, lockout, industrial dispute, government action, laws or regulations, riots, terrorism or civil disturbance, defaults, delays or discontinuance on the part of independent contractors, or other circumstances or factors beyond the reasonable control of the Affected Party (*Force Majeure* Event).
- 17.2. Strike, lockout or any similar labour dispute that is not industry-wide and is restricted to the Staff of the Affected Party only shall not constitute a *Force Majeure* Event. If the strike, lockout or any similar labour dispute is restricted to the Service Provider, the Service Provider may make an application to the Municipality advising the Municipality of the grounds on which such strike, lockout or similar labour dispute should be deemed to constitute a *Force Majeure* Event. The Municipality shall, on a case-by-case basis, take due consideration of the factors submitted by the Service Provider in substantiation of such allegation of *Force Majeure* and shall notify the Service Provider in writing if it, in its sole discretion, considers such strike, lockout or labour dispute a *Force Majeure* Event.
- 17.3. Notwithstanding anything to the contrary in this Agreement, the Affected Party shall take all reasonable and lawful measures to resume full performance as soon as possible.



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17.4. Should the Service Provider be unable to provide the Services for a period in excess of fourteen (14) Business Days as a result of the occurrence of a *Force Majeure* Event, to the extent feasible, the Municipality reserves the right to procure the Services from an alternative service provider during the period of the Service Provider's inability to provide the Service.

17.5 Should the Affected Party be unable to fulfil a material part of its obligations under this Agreement for a period in excess of sixty (60) Business Days due to a *Force Majeure* Event, the Unaffected Party may cancel this Agreement forthwith by written notice without liability for any damages arising out of such termination, save insofar as obligations that accrued prior to the occurrence of the *Force Majeure* Event are concerned.

18 LIABILITY AND INSURANCE

18.1 The Service Provider shall be liable for all loss or damage caused to the Municipality or any third party, whether arising in contract, delict, on the basis of strict liability or otherwise, as a result of the conduct of the Service Provider or anyone for whose conduct it is vicariously liable in the course of performing any of its obligations in terms of this Agreement.

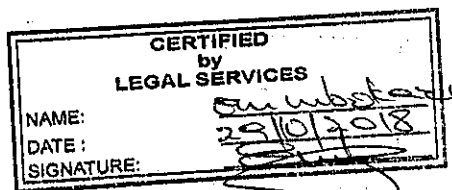
18.2 The Service Provider's liability in terms of this clause 18 (Liability and Insurance) is in addition to any warranty or condition, express or implied, in terms of the Applicable Law, or otherwise, relating to the provision of the Services.

18.3 Without limiting the liability of the Service Provider in terms of this Agreement, the Service Provider warrants that it has adequate insurance cover in place, from a reputable insurer, in respect of all risks for which it is prudent for the Service Provider to insure against. The level of insurance will be kept under review by the Municipality, on an annual basis, to ensure the adequacy thereof, provided that any variation thereto shall be at the discretion of the Municipality.

18.4 In the event that the Service Provider fails to procure adequate insurance or if for whatever reason the insurance cover enjoyed by it in terms of any policy of insurance is reduced, it shall promptly notify the Municipality, who may elect to purchase such insurance or make good any shortfall at the expense and on behalf of the Service Provider. The Municipality assumes no responsibility for the adequacy or otherwise of such insurance and the Parties record and agree that the adequacy of insurance is considered a material term of this Agreement.

18.5 The fact that the Service Provider has insurance cover in place shall in no way limit or reduce any liability the Service Provider may have to the Municipality in relation to the provision of the Services in terms of this Agreement.

18.6 The Service Provider will provide evidence of such insurance cover to the Municipality as and when requested by the Municipality.



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18.7 The Parties shall review the adequacy of insurance from time to time and where the Parties are unable to agree on what constitutes adequate insurance, the Service Provider agrees that it shall maintain the insurance cover that it had as at the Commencement Date.

19 INDEMNITY

19.1 The Service Provider indemnifies and holds the Municipality harmless, without limitation, during and after this Agreement, against any and all claims of any nature whatsoever, including claims for indirect and consequential loss, arising out of the intentional and/or negligent acts or omissions of the Service Provider, or any person acting for and on behalf of the Service Provider and for whom it is vicariously liable, or otherwise by virtue of the Service Provider performing its obligations in terms of this Agreement.

19.2 The Municipality shall not be liable to the Service Provider for any expenses incurred by the Service Provider that falls outside of the ambit of the Services or which is unnecessary or irrelevant to the provision of the Services.

20 DELAY IN THE PERFORMANCE OF SERVICE PROVIDER'S OBLIGATIONS

20.1 In the event that the Service Provider fails to perform any of its obligations in terms of the Scope of Services on the date agreed for performance in terms of this Agreement and such delay causes the Municipality to incur costs and expenses and the Service Provider accepts liability for the costs and expenses, the Service Provider shall be obliged to compensate the Municipality for any agreed direct costs, expenses and damages as it may have suffered as a result of such delay.

20.2 Failing agreement on the extent of such direct costs, expenses and damages, the disagreement may be determined in accordance with the provisions of clause 27 (Dispute Resolution).

20.3 The Service Provider shall, within thirty (30) days of receiving the Municipality's invoice in respect of such costs, expenses and damages, become liable to pay the Municipality the amount of costs and expenses reflected on the invoice, provided that the Municipality furnishes satisfactory evidence to the Service Provider that the costs and expenses have actually been incurred and paid by it.

20.4 This clause shall be without prejudice to any other rights that the Municipality may have in terms of this Agreement.

21 RIGHT TO INSPECT AND AUDIT

The Municipality shall have the right on seven (7) days' notice given in writing to inspect and/or audit the accounts, documents and records kept by it in relation to this Agreement, at any place where such accounts, documents and records may be kept and the Service Provider agrees to provide access to such place(s) so that the authorized representatives of the Municipality can conduct the inspection and audit and make copies of any accounts, documents or records inspected.

CERTIFIED	
by	
LEGAL SERVICES	
NAME:	<i>[Signature]</i>
DATE:	29/10/2018
SIGNATURE:	<i>[Signature]</i>

[Handwritten initials]

22 BREACH AND TERMINATION

22.1 The remedies available to either Party in this clause 22 (Breach and Termination) shall be without prejudice to any other right that such Party may be entitled to exercise in terms of the provisions of this Agreement or the Applicable Law.

22.2 In the event that either Party ("the Defaulting Party") breaches any of the provisions of this Agreement, the other Party ("the Aggrieved Party") shall be entitled to require the Defaulting Party, on fifteen (15) Business Days' written notice to remedy that breach. Where the Defaulting Party is the Municipality, the Service Provider shall address such notice to Municipal Manager of the Municipality.

22.3 If the Defaulting Party fails to remedy the breach within the period stipulated in clause 22.2, and if:

22.3.1 The breach is not a material breach, the Aggrieved Party shall become entitled, but not obliged to enforce specific performance of this Agreement and to claim damages, provided that, in claiming damages, to the extent that the Defaulting Party is the Municipality, the Municipality shall be entitled to deduct the amount of any Penalties, costs, damages and expenses due to it in terms of the provision of clause 23 (Penalties) from the Service Provider's damages claim; or

22.3.2 If the breach is material, then the Aggrieved Party shall, in its sole discretion, be entitled to enforce specific performance of this Agreement or to cancel this Agreement, in either event, without prejudice to its rights to claim damages, provided that, to the extent that the Defaulting Party is the Municipality, the Municipality shall be entitled to deduct any Penalties, costs, damages or expenses due to it in terms of the provisions of clause 23 (Penalties) from the Service Provider's damages claim.

22.4 Notwithstanding the foregoing provisions, the Municipality shall be entitled to cancel this Agreement immediately on written notice to the Service Provider if:

22.4.1 The Service Provider or any of its staff are found guilty of having been involved in any fraudulent activity in relation to this Agreement; or

22.4.2 During the currency of this Agreement, there is a change in Government policy that affects the Municipality's or the Service Provider's ability to perform their respective obligations in terms of this Agreement; or

22.4.3 If the Service Provider does anything that may be regarded as being contrary to the public or community mores, or which brings the reputation of the Service Provider into disrepute, and as a consequence, the Municipality believes that its continued association with the Service Provider will be prejudicial or otherwise detrimental to its image as an organ of state; or

22.4.4 If the Service Provider, being a partnership, company or other corporate entity, undergoes a change in its structure by redirecting its affairs, whether by ownership or shares, membership, change in its board



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of directors, or otherwise, which in the reasonable opinion of the Municipality, limits or affects the capacity of the Service Provider to provide the Services or to carry out any obligation in terms of this Agreement; or

- 22.4.5 If the Service Provider, being a partnership, company or other corporate entity, is liquidated or placed under judicial management, either voluntarily or by order of court, or if a business rescue practitioner is appointed to manage the affairs of the Service Provider or if the Service Provider enters into a compromise with any of its creditors.
- 22.5 Should the Service Provider breach this Agreement and should such breach involve fraud, then the Municipality, in addition to the remedy available to it in terms of clause 22.4.1, shall be entitled to:
- 22.5.1 Include the Service Provider's details on a list of blacklisted service providers;
- 22.5.2 Notify National Treasury and request the inclusion of the Service Provider on its register of tender defaulters; and
- 22.5.3 Report such matters to the SAPS.

23 PENALTIES

- 23.1 Without prejudice to any other rights it may have in terms of the Applicable Law and this Agreement or in terms of clause 22 (Breach and Termination), the Municipality shall be entitled to recover any direct costs, damages or expenses incurred by it as a result of a Defect, non-performance or delayed performance on the part of the Service Provider and the Service Provider accepts liability for such costs, damages and expenses.
- 23.2 The Municipality shall furnish satisfactory evidence to the Service Provider that the costs, damages and expenses have actually been incurred and paid by it. In the event of a disagreement between the Parties on the issue of the amount of such costs, damages or expenses, the matter may be determined in accordance with the provisions of clause 27 (Dispute Resolution).
- 23.3 In the event that there is no disagreement on the issue of the amount of the Municipality's direct costs, damages or expenses, the Service Provider shall be obliged to make payment thereof to the Municipality within fifteen (15) days of receipt of the Municipality's Tax Invoice in respect of such costs, damages or expenses.
- 23.4 In addition to what is provided in clause 23.1 above, and without prejudice to any other right it may have in terms of this Agreement, the Applicable Laws or clause 22 (Breach and Termination), the Municipality shall be entitled to levy Penalties calculated at seven comma five percent (7,5%) ("Penalty Rate") of the value of any Tax Invoice rendered by the Service Provider following, defective performance, non-performance or delayed performance, as the case may be, provided that should there be continued non-performance or delayed performance thereafter, the Municipality shall be entitled to levy Penalties at the Penalty Rate on any



subsequent Tax Invoice until such time as the defective performance, non-performance or delayed performance has been remedied. In the event that the Municipality elects to levy Penalties, it shall be entitled to advise the National Treasury to deduct the amount of the Penalty ("Penalty Amount") from the Tax Invoice rendered by the Service Provider and to pay the balance of the Tax Invoice, less the Penalty Amount, to the Service Provider within the applicable period for the payment of any Tax Invoice, provided that, if for any reason, the National Treasury pays the full amount of the invoice of the Service Provider, and does not deduct any Penalty amount, this shall not detract from the Service Provider's liability to effect payment of the Penalty to the Municipality on demand.

24 WITHHOLDING OF PERFORMANCE

24.1 Subject to clauses 24.2 and 24.3, the Service Provider may not, under any circumstances, including non-payment by the Municipality, withhold the provision of the Services to the Municipality unless it validly terminates this Agreement in accordance with the provisions of clause 22 (Breach and Termination).

24.2 Should the Municipality, in the absence of any:

24.2.1 *Bona fide* dispute between the Parties; or

24.2.2 Breach of this Agreement by the Service Provider

fail to make payment of any amount due to the Service Provider in terms of this Agreement for a period exceeding seven (7) Business Days, after the lapse of the period specified in clause 16.9 (Invoicing and Payment) then the Service Provider shall notify the Municipality's Municipal Manager, in writing, and the Municipal Manager shall use his best endeavours to resolve the dispute within seven (7) Business Days of receipt of such written notification.

24.3 In the event that the Municipality fails to pay the amount referred to in clause 24.2.2, then the Service Provider shall not be obliged to provide further services to the Municipality until the issue of non-payment has been rectified. For the avoidance of doubt, in no event shall the Service Provider be entitled to withhold the provision of Services until the expiry of the period mentioned in clause 24.2.2 above.

25 ADDITIONAL WARRANTIES AND UNDERTAKINGS

25.1 The Service Provider warrants that:

25.1.1 The Services shall be free from Defects of whatsoever nature;

25.1.2 It will not do anything to limit, restrict or disclaim any warranty, representation, undertaking or remedy that the Municipality may have against it pursuant to a breach thereof; and



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25.1.3 It has taken all precautions to ensure that in the event of the occurrence of a *Force Majeure* Event, that the impact of such event on the ability of the Service Provider to perform its obligations in terms of this Agreement have been minimized to the greatest extent possible.

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 will be as follows:

26.2.1 The Municipality:

Physical: City Hall, Chief Albert Luthuli Street
Postal: Private Bag X321, Pietermaritzburg, 3201
Tel:
Facsimile:
Attention: Mrs Nelisiwe Ngcobo (Acting City Manager)

26.2.2 The Service Provider:

Physical: VCC Estate, Northview Building
170 Peter Brown Drive
Montrose, PMB
3201
Postal: PO Box 707, Msunduzi, 3231
Tel: (033) 347 1600
Facsimile: (033) 347 5762
Attention: Mrs Tarryn Curtis

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 will be changed to a post office box or *post restante*.

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

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



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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 will be adequate written notice or communication to such party.

27 DISPUTE RESOLUTION

27.1 The Parties agree to negotiate in good faith with a view to resolving any dispute that may arise between them in relation to this Agreement and neither Party shall be entitled to initiate any further proceedings against the other until either Party has given notice, in writing, that the negotiations have failed to bring about a resolution to the dispute.

27.2 Any dispute or claim that cannot be settled between the Parties may be referred by the Parties, without legal representation, to a single mediator for mediation. The mediator shall be selected by agreement between the Parties and; failing such agreement, by the President of the KwaZulu-Natal Law Society.

27.3 If either Party is unwilling to mediate the dispute, or is dissatisfied with the opinion of the mediator or the mediation fails, then either Party may:

27.3.1 Serve process instituting action arising out of such dispute or difference in a competent civil court; or

27.3.2 With the consent of the other Party, refer the dispute to arbitration by a single arbitrator to be mutually agreed upon within a time period of fifteen (15) Business Days calculated from the date that either Party requests the consent of the other to refer a dispute to arbitration, or, failing such agreement, an arbitrator nominated by the President of the KwaZulu-Natal Law Society. The arbitration shall be conducted in accordance with the rules of the AFSA.

27.4 Referral of a dispute to arbitration in terms of clause 27.3.2 shall occur within three (3) calendar months of the date of notice mentioned in clause 27.1 above that the settlement negotiations have failed, or, within three (3) calendar months of the date that the mediator has expressed his opinion or has declared that mediation has failed.

28 GOVERNING LAW

This Agreement shall be governed by and construed according to the law of South Africa, and any litigation arising from this Agreement must be instituted in a South African Court having jurisdiction.

29 SEVERABILITY

29.1 All the provisions of this Agreement are severable notwithstanding the manner in which they have been drafted or linked grammatically. Accordingly:



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29.1.1 The Parties declare that it is their intention that this Agreement would have been executed without the unenforceable provisions, had they been aware of such unenforceability as at the date of signature; and

29.1.2 Any provision of this Agreement that becomes unenforceable, whether due to voidness, illegality, unlawfulness, or for any other reason, shall be deemed *pro non scripto* and the remaining provisions of the Agreement shall remain in full force and of full effect.

30 COUNTERPARTS

This Agreement may be signed in any number of counterparts, all of which taken together, shall constitute one and the same instrument which shall be deemed to be the original but all of which shall together constitute one and the same Agreement. Either Party may enter into this Agreement by signing any such counterpart.

31 CUMULATIVE RIGHTS

31.1 The rights and remedies of each Party under this Agreement are cumulative and not exclusive, except where expressly provided otherwise.

31.2 Rights and remedies may only be waived in terms of this Agreement specifically and in writing.

32 COSTS

Each Party shall bear its own costs in relation to the preparation and execution of this Agreement.

33 WHOLE AGREEMENT

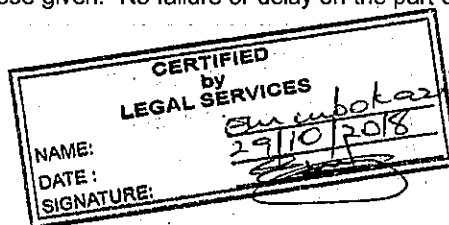
33.1 This Agreement constitutes the whole of the agreement between the Parties relating to the subject matter thereof, and no amendment, alteration, addition, variation or consensual cancellation of this Agreement, this clause or any of the annexures hereto will be of any force or effect unless reduced to writing and signed by the Parties.

33.2 The Parties agree that no other terms or conditions, whether oral or written, and whether express or implied, apply.

33.3 This Agreement shall bind the Parties and their respective successors- in-title.

34 WAIVER

No waiver of any of the terms and conditions of this Agreement will be binding for any purpose unless expressed in writing and signed by the Party giving the same, and any such waiver will be effective only in the specific instance and for the purpose given. No failure or delay on the part of either Party in exercising any



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right, power or privilege will operate as a waiver, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

35 INDULGENCES

No indulgence granted by a Party shall constitute a waiver of any of that Party's rights under this Agreement; accordingly, that Party shall not be precluded, as a consequence of having granted such indulgence, from exercising any rights against the other which may have arisen in the past or which may arise in the future.

36 CESSION AND ASSIGNMENT

This Agreement exists specifically between the Municipality and the Service Provider. The Service Provider may not cede or assign any of its rights or obligations in terms of this Agreement without prior written consent of the Municipality.

37 GOOD FAITH

In the implementation of this Agreement, the Parties shall observe the utmost good faith and they warrant that in their dealings with each other, neither shall do anything nor refrain from doing anything, which might prejudice or detract from the rights or interests of the other party.

38 WARRANTY OF AUTHORITY

The persons signing this Agreement on behalf of each of the Parties respectively warrant their authority to do so.

39 SIGNATURES

Signed at Pietermaritzburg on this 4th day of October 2018

As Witnesses:

Print Name:

Jackie Jackson

Signature:

JcJacks

UAG

For and on behalf of: **THE SERVICE PROVIDER**, who hereby warrants that (s)he is duly authorised to sign this agreement on its behalf

Full Name/s:

Tarryn Curtis

Designation:

Divisional Head



SCHEDULE 1 (SCOPE OF SERVICES)

The Service Provider is required to undertake a Basic Assessment Report (BAR) as specified in GNR 324, 327 for the proposed Edendale Town Centre Hub – Extension of 800M Radius (Phase 2).

1 Phase 1: Inception Report and Communication Plan

1.1 This Phase will entail the following:

1.1.1 The Service Provider will assess the project from a desktop perspective.

1.1.2 An inception meeting will be held to discuss deliverables, program, cash-flow and information requirements.

1.1.3 The Service Provider will liaise with the Department of Economic Development, Tourism and Environmental Affairs (EDTEA) and the Department of Water and Sanitation (DWS) to assess their requirements and any possible specialist study requirements.

1.2 Phase 1 Deliverables:

- An inception report of findings and scope definition with revised programme and cash-flow. This report will also highlight whether any scope or budget changes are required.

2 Phase 2: Obtaining Environmental Authorisation

2.1 This phase will entail the following:

2.1.1 Baseline studies to identify issues and investigate alternatives, including specialist studies as identified during the Inception Phase.

2.1.2 All relevant submissions to EDTEA in KwaZulu-Natal.

2.1.3 Production and submission of approval of a Basic Assessment Report.

2.1.4

2.1.5 Attendance at progress meetings at the Municipality's offices in Pietermaritzburg, KwaZulu-Natal. (The costing has made provision for one team meeting as part of the Basic Assessment process. Should further team meetings or meetings with the Department be required, the Municipality will be charged at an hourly rate, subject to the Parties reaching agreement on the hourly rate in accordance with clause 9 of the Agreement).

2.1.6 The following will be undertaken in fulfilment of the Basic Assessment process for the proposed development:

2.1.6.1 Site assessment



Signed at Pietermaritzburg on this 30 day of NOVEMBER 2018

As Witnesses:

Print Name: Mmulo

Signature: [Signature]

[Signature]
For and on behalf of: THE MUNICIPALITY,
who hereby warrants that (s)he is duly
authorised to sign this Agreement on its
behalf

Full Name/s: MARGARET NELISINE NGOSO
Designation: ACTING CITY MANAGER

CERTIFIED
by
LEGAL SERVICES
NAME: [Signature]
DATE: 29/10/2018
SIGNATURE: [Signature]

TC

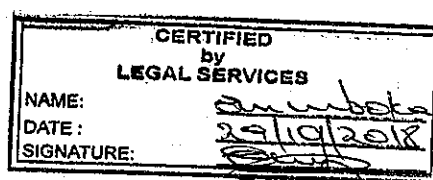
- 2.1.6.2 Appointment of specialists (additional specialist studies may be required) according to available budget
- 2.1.6.3 Preparation of interested and affected parties (I&APs) and key stakeholder databases
- 2.1.6.4 Preparation of background information document (BID) to I&AP's and key stakeholders
- 2.1.6.5 Preparation of the draft Basic Assessment Report (DBAR) and Draft Environmental Management Programme (EMPr)
- 2.1.6.6 Placement of site notices and indicate availability of the DBAR and Draft EMPr for comment (comment period of thirty (30) days)
- 2.1.6.7 Consultation with the relevant I&Aps
- 2.1.6.8 Compile and submit comments and responses report and include in the final basic assessment report and EMPr
- 2.1.6.9 Preparation of the final basic assessment report and environmental management programme (EMPr)
- 2.1.6.10 Notify I&APs of availability of the DBAR and EMPr for comment (comment period is 30 days)
- 2.1.6.11 Consultation with relevant I&APs and stakeholders
- 2.1.6.12 Preparation and submission of an application to the Department of Economic Development, Tourism and Environmental Affairs (EDTEA) to obtain a case specific reference number
- 2.1.6.13 Compile a comments and responses report and submit final basic assessment report and EMPr to EDTEA for decision

2.2 Phase 2 deliverables:

- Monthly progress reports via email for the duration of the project;
- Environmental authorization decision; and
- Final EMPr

3 Phase 3: Decision

- 3.1 Liaison with the competent authority (Provincial Department of EDTEA) and site visit.
- 3.2 Written notification of record of decision by the EDTEA to all registered I&APs, including adverts.
- 3.3 Observation of the appeal period once the decision has been communicated to I&APs.



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3.4 Phase 3 Deliverables:

- Environmental Authorisation Decision

4 Phase 4: Close-out

- 4.1 Project assessment and close-out of the project.
- 4.2 Preparation of all completed and approved documentation, and preparation of comprehensive report on public participation.
- 4.3 Submissions shall be in both hard copy and electronic version of the Local Area.
- 4.4 All spatial information collected shall be submitted in GIS file format (preferably shape-files) for use in a GIS environment. The shape-files must have clear attribute information which differentiates each strategy construct and its purpose.
- 4.5 Metadata indicating, inter alia, source, date, and accuracy of data, shall be provided.
- 4.6 Provide all GIS and associated shapefiles electronically.
- 4.7 Spatial data will only be accepted in projected WG31 co-ordinates on the Hartbeeshoek '94 datum.

5 Specialist Studies

- 5.1 For purposes of the proposed development, the following specialist studies are recommended:
- 5.1.1 Vegetation rehabilitation plan and alien plant control plan;
- 5.1.2 Social impact assessment;
- 5.1.3 Social Facilitation;
- 5.1.4 Traffic Impact Assessment;
- 5.2 All costs for specialist studies have been estimated and will be confirmed following the inception meeting.



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SCHEDULE 2 – COSTS TO UNDERTAKE THE BASIC ASSESSMENT PROCESS (CONTRACT PRICE)

CERTIFIED
by
LEGAL SERVICES
NAME: Amwbokezi
DATE: 29/10/2018
SIGNATURE: [Signature]

MLK

**EDENDALE TOWN CENTRE HUB - EXTENSION OF 800M RADIUS
BUDGET TO UNDERTAKE ENVIRONMENTAL BASIC ASSESSMENT (BAR)**



ACTIVITY	FEES	Project Leader		Project Consultant	
		@	975	@	500
PROFESSIONAL FEES	R 395 300,00	108	R 105 300,00	580	R 290 000,00
1. Planning and Administration	R 152 550,00	58	R 56 550,00	192	R 96 000,00
Consultation with Client & Project Team (x10 meetings) *	R 69 250,00	30	R 29 250,00	80	R 40 000,00
Clarification meeting with Client and EDTEA (planning)	R 19 800,00	8	R 7 800,00	24	R 12 000,00
Project technical information gathering	R 12 000,00			24	R 12 000,00
Site Visit & Assessment	R 15 900,00	4	R 3 900,00	24	R 12 000,00
Project Administration	R 35 600,00	16	R 15 600,00	40	R 20 000,00
2. Application for Authorization	R 5 950,00	2	R 1 950,00	8	R 4 000,00
Prepare Application Form	R 5 950,00	2	R 1 950,00	8	R 4 000,00
4. Public Participation	R 113 350,00	26	R 25 350,00	176	R 88 000,00
Advertising on-site	R 8 000,00			16	R 8 000,00
Identification and Consultation key stakeholders	R 19 900,00	4	R 3 900,00	32	R 16 000,00
Give written notice (BID) to identified I&APs	R 9 950,00	2	R 1 950,00	16	R 8 000,00
Advertising in Newspapers	R 4 000,00			8	R 4 000,00
Public meeting (x2)	R 31 600,00	16	R 15 600,00	32	R 16 000,00
Compile and Manage I&AP Database	R 8 000,00			16	R 8 000,00
Compile Comments & Response Report	R 31 900,00	4	R 3 900,00	56	R 28 000,00
5. Basic Assessment	R 123 450,00	22	R 21 450,00	204	R 102 000,00
GIS Mapping	R 8 000,00			16	R 8 000,00
Compilation of draft Basic Assessment Report (DBAR)	R 35 800,00	8	R 7 800,00	56	R 28 000,00
Compilation of draft EMPr (Construction)	R 13 950,00	2	R 1 950,00	24	R 12 000,00
Compilation of draft EMPr (Operation)	R 13 950,00	2	R 1 950,00	24	R 12 000,00
Revise draft report following review by client	R 9 950,00	2	R 1 950,00	16	R 8 000,00
Distribute draft report to I&AP's	R 8 000,00			16	R 8 000,00
Incorporate I&APs concerns/comments into DBAR	R 13 950,00	2	R 1 950,00	24	R 12 000,00
Submission of Final BAR to EDTEA	R 9 950,00	2	R 1 950,00	16	R 8 000,00
Meeting/Site Visit with EDTEA (if required)	R 7 900,00	4	R 3 900,00	8	R 4 000,00
Notify registered I&APs of Environmental Authorisation (electronically)	R 2 000,00			4	R 2 000,00
DISBURSEMENTS	R 29 600,00				
Travel (1000km* R 4.50)	R 4 500,00				
AMAFI Application Fee (Compulsory)	R 600,00				
Department Application Fee (Applicant = Municipality)	N/A				
Telephone / Communication Costs (Fixed Rate - R 100 * 6 months)	R 600,00				
Admin / Sundry Costs (Fixed Rate - R200 *12 months)	R 2 400,00				
Courier Fees (R100 per document * 15 documents)	R 1 500,00				
Printing including binding and covers	R 10 000,00				
Advertising (includes newspapers and site notices)	R 10 000,00				
SPECIALISTS	R 533 500,00				
Social Facilitation	R 38 500,00				
Social Impact Assessment	R 22 000,00				
Landscape Management Plan (Including Vegetation Rehab Plan & Alien Control)	R 143 000,00				
Traffic Impact Assessment	R 330 000,00				
SUB-TOTAL	R 958 400,00				
VAT @ 15%	R 143 760,00				
TOTAL	R 1 102 160,00				

* Please note that SIVEST have budgeted for 10 meetings. Should this be exceeded, the client will be invoiced on a time cost basis.

**CERTIFIED
by
LEGAL SERVICES**

NAME: *Enubokaei*
DATE: *29/10/2018*
SIGNATURE: *[Signature]*

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CERTIFIED
 by
 LEGAL SERVICES
 NAME: _____
 DATE: _____
 SIGNATURE: _____
 2/19/2018
 [Signature]

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Schedule 3 - Project Programme (BAR)

	Critical Milestones and Timelines																								
	2018/2019			2019/2020			2020/2021			2021/2022															
	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	
Technical Assistance: NDPG 2016-2017																									
Etendale Town Centre: Environmental																									
• Letter of Appointment																									
• Appointment of consultant Inception report and Communication Plan																									
Application Process																									
• Completion of Application Form																									
• Specialist studies																									
• Appointment of specialists and undertaking of field work/assessments																									
Public Participation																									
• Compilation / update of I&AP list																									
• Project Announcement using Notice Boards, Newspaper Adverts & Written Notices																									
• Ongoing consultation with I&APs																									
• AWAFA Application																									
Reporting & Submission																									
• Compilation of Draft Basic Assessment Report (BAR)																									
• Completion of EMP/																									
• Incorporate specialist findings into BAR																									
• Copying & Circulation of Draft Basic Assessment for public comment (30 days)																									
• Finalisation of Basic Assessment																									
Decision																									
• Liaison with Competent Authority and site visit																									
• Written Notification of Record of Decision to all I&APs, including adverts																									
Close-out																									

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