

SERVICE LEVEL AGREEMENT

entered into between

NKOSINGIPHE INKAZIMULO TRADING AND PROJECTS

(Hereinafter referred to as "NKOSINGIPHE INKAZIMULO TRADING AND PROJECTS")

And

NQUTHU LOCAL MUNICIPALITY

(Hereinafter referred to as "Subscriber")

PANEL OF SERVICE PROVIDERS TO DO AFS FOR A PERIOD OF 36 MONTHS

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THE PARTIES AGREE AS FOLLOWS:

INTERPRETATION AND DEFINITIONS

1. In this agreement, unless the context indicates otherwise –
 - 1.1. An expression, which denotes any gender, includes the other genders, a natural person includes a judicial person and vice versa, and the singular includes the plural and vice versa.
 - 1.2. Clause headings are for convenience only and will not be used in its interpretation and the following expressions bear the meanings assigned to them and cognate expressions bear corresponding meaning –

“**Agreement**” means this agreement and any and all Annexures thereto;
“**Service Provider**” means Nkosingiphe Inkazimulo Trading and Projects
“**Municipality**” means Nquthu Local Municipality;
“**Parties**” means the Municipality and the Service Provider;
“**Services**” means Panel of service providers to do AFS for a period of 36 months.
 - 1.3. Words and expressions defined in any sub-clause, for the purpose of the clause of which that sub-clause forms part, bear the meaning assigned to such words and expressions in that sub-clause; and
 - 1.4. This agreement is governed by and construed in accordance with the laws of Republic of South Africa.

DURATION OF THE AGREEMENT

2. This agreement commences on 29 June 2021 and terminates on 29 June 2024, provided that the agreement may be –
 - 2.1. Extended as contemplated in clause 3; and
 - 2.2. Terminated prior to 29 June 2024 as contemplated in clause 5,8,14 and 15

EXTENSION

3. in the event that the Municipality elects to extend the agreement beyond the period contemplated in clause 2 –
 - 3.1. the Municipality must give the Supplier written notice of such proposed extension, no less than 30 days prior to the termination of this Agreement; and
 - 3.2. The Supplier must give written notice of acceptance or refusal, no later than 14 days after receipt of the offer contemplated in clause 3.1.

OFFER OF EXTENSION

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4. Any offer extension as contemplated in clause 3, is at the sole discretion of the Municipality, and will be for a period determined suitable by the Municipality.

NOTICE OF TERMINATION

5. The Municipality is not required to give notice of termination of the agreement, provided that the Municipality, in its sole discretion, may terminate the agreement prior to the date contemplated in clause 2, in which event –
 - 5.1. The Municipality must –
 - 5.1.1. give written notice to the Supplier no less than 30 days prior to the date of intended termination; and
 - 5.1.2. As contemplated in this agreement, pay the Supplier any remuneration due for goods supplied and reimburse the Supplier for cost incurred up to date of termination of the agreement and
 - 5.1.3. A party's right to terminate its contracts may originate from the general principles of contracts or it may arise out of the terms of the contract itself.
 - 5.2. The Supplier must immediately submit to the Municipality all documentation and materials relating in any manner whatsoever to work undertaken as contemplated in this agreement.

DUTIES OF THE SERVICE PROVIDER

The successful service provider will be expected to perform the following:

a) Preparation of Annual Financial Statements

Provide quality assurance on the GRAP Compliant AFS by:

- Assisting with monthly management accounts, reconciliations and updating of registers
- Reviewing of all the year-end reconciliations and make corrections if not accurately prepared.
- Reviewing all documents for completeness and compliance.
- Performing provision for debt impairment based on entity's policy and summarize age analysis for disclosure.
- Performing year end journals.
- Mapping from Pastel to Caseware application
- Compilation of GRAP compliant Annual Financial Statement by using Caseware application in terms of GRAP and other applicable standards.
- Preparation of the Audit file in line with the applicable legislation.
- Adhere to all required legislation.
- Applicability of GRAP reporting framework for 2019/20 to the entity
- Ensuring the GRAP compliance checklist is adhered to, where applicable

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b) Financial support and audit facilitation

- Prepare audit readiness plan and checklist
- Review of all financial related policies and standard operating procedures
- Review and update all registers
- Collate and review of information before submission to the Auditor General (AGSA)
- Assist with audit adjustments
- Identify skills gap within the finance department
- Provide necessary training within the department

c) VAT Review

- Facilitate a VAT review, which includes a review of the current status of the treatment of VAT by the Municipality's accounting system to ensure appropriate application of the relevant provisions of the VAT Act to ensure optimal claiming of the input tax and appropriate declaration of the output tax timeously.
- Detail examination into the general ledger where VAT was potential not claimed.
- Calculate the apportionment percentage based for the current and previous five (5) years.
- Apply the recalculated apportionment percentage to the mixed supply expenses and the amount of under or over payment of input tax, if any.

d) VAT Recovery

- Review the VAT treatment of equitable shares and all other grants, conditional and unconditional, to ensure that the treatment is correct from a VAT, as well as a grant condition point of view.
- A comprehensive written report must be submitted on the findings of the review/recovery identifying risk areas, internal control weaknesses and recommendations for improvement;
- Working papers of all relevant calculations should be handed over to the Municipality.

The VAT review/recovery process should include for the following

VAT Reconciliations

- (a) Obtain input and output figures from the general ledger per tax period.
- (b) Obtain copies of the VAT 201's submitted to SARS.
- (c) Reconcile the input figures from the general ledger with the input figures reflected on the VAT 201's (Submit an electronic reconciliation of the input VAT as per the financial system of the Municipality and compare the reconciliation with the figures as per the SARS system (VAT201)).
- (d) Reconcile the output figures from the general ledger with the output figures reflected on the VAT 201's (Submit an electronic reconciliation of the output VAT as per the financial system of the Municipality and compare the reconciliation with the figures as per the SARS system (VAT 201)).
- (e) Reconcile the figures on the VAT 201 returns to the VAT report from the financial system.
- (f) Investigate differences.

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VAT Input Reconciliation

- (a) Obtain detailed line-by-line general ledger transactions electronically from the system.
- (b) Link the line-by-line detailed transactions of the general ledger VAT input account(s) to the different lines of the different account transactions.
- (c) Reconcile the above linked line-by-line transactions per the expense account to identify instances where VAT registered was not accounted for in the VAT 201 - code these exceptions as; supplier not VAT registered / require valid tax invoice from supplier / no VAT to be claimed / valid VAT saving / VAT charged but supplier not registered for VAT.
- (d) Investigate expenses (general ledger entries) where no VAT as claimed by obtaining invoices/supporting documentation.
The Service Provider to have its own team of staff members to retrieve incorrect, lost, misfiled or misplaced invoices from Municipal suppliers.
- (f) Where VAT as charged by non-VAT vendors, the Service Provider is to recover the VAT charged.
- (g) Investigate journals.

VAT Output Reconciliation

- (a) Obtain detailed line-by-line general ledger transactions electronically from the system.
- (b) Link the line-by-line detailed transactions of the general ledger VAT output account(s) to the different lines of the different income account transactions.
- (c) Perform a detailed breakdown of the debtor's sub-ledgers transactions to review the allocation of VAT.
- (d) Reconcile the VAT linked with the VAT per income stream to identify instances where VAT was incorrectly accounted for in the VAT 201
- (e) Investigate exceptions; Investigate journals.
- (f) Verify income with bank statements/bank reconciliation.

e) The Detailed VAT Review Process

- (a) The successful tenderer will be required to conduct a thorough and meticulous VAT review of the Municipality's general ledger control accounts in relation to VAT transactions to ensure that the Municipality has correctly accounted for VAT on all the expenditure and revenue.
- (b) Review of the VAT report from the financial system to ensure that output tax was declared on all receipts for taxable receipts from customers and input tax claimed for all payments made to VAT vendors.
- (c) An investigation of the accounting system including correct flagging/coding of all expenditure and revenue votes to ensure all votes have been correctly set up for VAT.
- (d) Establish the impact for the years under review if there is any over/under/claimed input and output due to the general ledger being incorrectly set up for VAT.
- (e) Address unresolved pertinent issues that have a direct influence on VAT; such as equitable share and conditional grants.
- (f) Calculate the required VAT adjustments resulting from the review, if any, inclusion on the relevant VAT return.
- (g) Transfer of skills to Municipal staff regarding all VAT facets should take place within the contract period.

4.4 A Detailed Examination into the Municipality's General Ledger, Journal Vouchers, Tax Invoices to ascertain if

VAT was claimed due to:

- (a) The supplier being recorded as a non-VAT vendor on the system but there is proof otherwise.

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(b) Incorrect classification of votes for VAT purposes eg. classified exempt and VAT originally claimed.

(c) The supplier does attract VAT, but this was omitted.

4.5 VAT Apportionment Percentage Review

(a) Analysis of computation of current apportionment ratio applied.

(b) Review and recalculate the apportionment ratio for the current and previous five (5) years as per approved formula.

(c) Apply the recalculated apportionment percentage to determine:

(i) whether the VAT apportionment percentage has been correctly calculated;

(ii) whether the VAT apportionment percentage has been correctly applied; and

(iii) the amount of under or over paid input tax, if any.

(d) Create Excel models that will be used as a basis to calculate apportionment percentage for this period.

(e) Calculate the required VAT adjustments resulting from the review, if any, inclusion on the relevant VAT return.

(f) Provide detail workings for the calculation of the apportionment percentages/ adjustments in excel for the Auditor General and SARS.

(g) Assist the Municipality in completing the VAT return(s), making declaration of liabilities/ receivables if any and completion of any necessary documentation that may be required to claim from SARS.

(h) Liaise directly with SARS on all re-calculation workings and response to queries to obtain any refunds due the Municipality.

f) The methodology and procedures applied during the verification process ensure that the savings and exposures identified are 100% verifiable to any 3rd party, i.e. SARS or the Auditor General. The procedures applied must comply with the VAT Act.

TAXATION

6. Any required income tax or other taxation payments required by law are the responsibility of the Supplier and the Municipality will not deduct any income tax or other taxation from any payments due to the Supplier.

DUTIES OF THE MUNICIPALITY

7. The Municipality must –

8.1 Provide such assistance as is reasonably required by the Supplier to carry out the work.

8.2 Issue all instructions related to the service through the Supplier in writing; and

8.3 Remunerate the Supplier as contemplated in clause 09

PAYMENTS

- 9 The supplier shall furnish the purchaser with an invoice accompanied by progress report and upon fulfilment of other obligations stipulated in the contract.

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9.1 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.

9.2 Payment will be made in Rand unless otherwise stipulated in SCC.

9.3 Payment will be made directly to the Supplier when goods were delivered provide that the municipality may refuse to make payment –

9.3.1 In the event the municipality, in its sole discretion, is of the opinion that the supplier has not performed the service as contemplated in this agreement.

BREACH OF AGREEMENT

10 If either party fails to meet its obligations in terms of this agreement, the innocent party at its choice, and after giving seven days written notice to the defaulting party at its *domicillum*, calling on the latter to remedy the breach, may-

10.1 Terminate the agreement; or

10.2 Enforce the terms of the agreement; and

10.3 In any event claim any damages that it may have suffered as a result of the breach.

TERMINATION

11 The municipality may, at its sole discretion, and after three days written notice to the liquidator, judicial manager or Supplier, as the case may be, terminate the agreement in the event that –

11.1 An application is lodged for the liquidation of the Supplier;

11.2 The supplier reaches a compromise with any of its creditors; or

11.3 The supplier is placed under judicial management.

OBLIGATIONS OF THE MUNICIPALITY

12 Should the agreement be terminated for any reason whatsoever, the Municipality will not incur any obligation to the employees of the supplier, nor in respect of any contracts concluded by the Supplier arising from this agreement.

SETTLEMENT OF DISPUTE

13

13.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.

13.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No

mediation in respect of this matter may be commenced unless such notice is given to the other party.

13.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.

13.4 Notwithstanding any reference to mediation and/or court proceedings herein,

a) The parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and

b) The purchaser shall pay the supplier any monies due the supplier for services rendered according to the prescripts of the contract.

ARBITRATOR

14 The parties must agree on an Arbitrator within thirty days after a dispute has been declared, failing which either of the parties to the dispute may request the State Attorney (KZN) to appoint a suitable Arbitrator.

REFERRAL TO COURT

15 The agreement to refer disputes for arbitration does not bar either of the parties to refer any dispute between them for adjudication by any court with jurisdiction, provided that seventy two hours' notice must be given to the other party prior to such referral.

DOMICILIUM AND NOTICES

16 The parties choose their *domicilium citandi et executendi* for all purposes of the giving of any notice, the payment of any sum, the serving of any process and for any other purpose arising from this agreement, as follows:

The Municipality: Private Bag x 5521

Nquthu

3135

Tel: 034 271 6100

Fax: 034 271 6111

The Supplier: P.O. Box 889

Richards Bay

3900

Tel : 084 317 6849

Fax : 086 598 0460

VARIATION TO DOMICILIUM

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- 17 Either party may from time to time, and upon written notice to the other party, vary its physical address or facsimile number to any other physical address or facsimile number within the Republic of South Africa.

NOTICES

- 18 Any notice given by either party to the other party, which –
- 18.1 Is delivered by hand during the normal business hours of the addressee at the addressee's *domicilium* will be deemed to have been received by the addressee at the time of delivery.
 - 18.2 Is posted by prepaid registered post from an address within the Republic of South Africa to the addressee at the addressee's *domicilium* will be deemed to have been received by the addressee on the seventh day after the date of posting; and
 - 18.3 Is sent by facsimile copier during the normal business hours of the addressee to the addressee's *domicilium* will be deemed to have been received on the date and time of successful transmission thereof.

PRICES

- 19 Prices charged by the supplier for services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized or in the purchaser's request for bid validity extension, as the case may be.

AMENDMENTS TO THIS AGREEMENT

- 20 This agreement is subject to amendment for the addition or deletion of services provided, changes to services provided as a result of process and or technology improvements and resulting enhanced levels of service performance and or reporting capabilities. Any such proposed amendments are to be recorded in an updated version of this document and are subject to the agreement of Nquthu Local Municipality.

PERFORMANCE OF SERVICE PROVIDER

21

- 21.1 Performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.
- 21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.

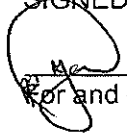
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21.3 Failure to deliver the service as per agreement will result in contract termination.

SIGNING OF AGREEMENT


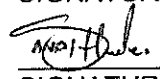
SIGNED AT NQUTHU ON THE 05 DAY OF JULY 2021


For and on behalf of:

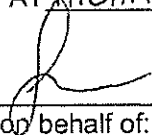
NQUTHU LOCAL MUNICIPALITY
who warrants being duly authorised hereto:

Name of Signatory S-B. MTHEMBU
Capacity of Signatory MUNICIPAL MANAGER

AS WITNESSES:

- 1. PHILA
NAME 
SIGNATURE
- 2. ANDILE
NAME 
SIGNATURE

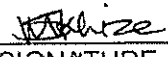
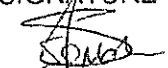
SIGNED AT RICHARDS BAY ON THE 05 DAY OF JULY 2021


For and on behalf of:

NKAZIMULO TRADING AND PROJECTS
who warrants being duly authorised hereto:

Name of Signatory SIPHAMANDLA MYEZA
Capacity of Signatory DIRECTOR

AS WITNESSES:

- 1. SIPHUMELELE MANTENGE
NAME 
SIGNATURE
- 2. MASOBO MLUNGWANA
NAME 
SIGNATURE