

KAROO HOOGLAND LOCAL MUNICIPALITY



SERVICE LEVEL AGREEMENT

ENTERED BETWEEN

KAROO HOOGLAND LOCAL MUNICIPALITY

And

NEXIA SAB&T

WHEREAS

- (a) Karoo Hoogland Local Municipality is a local authority with jurisdiction within its demarcated municipal area.
- (b) Karoo Hoogland Local Municipality performs various functions to enable it to perform its legal responsibilities and duties;
- (c) Karoo Hoogland Local Municipality wishes to engage and the service provider wishes to be engaged as an independent service provider to provide the **service as per Annexure 1** as specified in the Agreement related to the appointment of a service provider;
- (d) For the purpose of this Agreement, shall be engaged to provide the services as per **Annexure 1** service of this Agreement;
- (e) In addition to the expectation by Karoo Hoogland Local Municipality from the service provider to fulfill its traditional role and functions in terms of the tariffs submitted with the bid documents by the service provider and unexhaustive applicable local government legislations.

Karoo Hoogland Local Municipality wishes to agree to benchmarks of service delivery with the service provider and a system of remuneration by Karoo Hoogland Local

Municipality of the service provider, measured against and linked to the agreed benchmarks;

- (f) Karoo Hoogland Local Municipality wishes to attain their objectives of empowerment of previously disadvantaged as well as other applicable legislation in this regard;
- (g) **NEXIA SAB&T** desirous of assisting Karoo Hoogland Local Municipality in attaining the intentions, objectives and benchmarks as contained in this Agreement;
- (h) **NEXIA SAB&T** understands, underwrites and commits to the principles of due diligence, transparency and good governance in fulfilling his role and functions / responsibilities towards Karoo Hoogland Local Municipality; and
- (i) The parties will comply with the Constitution of the Republic of South Africa as amended from time to time and applicable legislation.

NOW THE PARTIES DO HEREBY AGREE:

1. INTERPRETATION

In this Agreement:

- 1.1 Clause headings are for convenience and shall not be in its interpretation.
- 1.2 Unless the context clearly indicates a contrary intention, an expression that denotes any gender shall include the other gender, natural persons shall include an artificial person and vice versa. The singular shall include the plural and vice versa and the following expressions shall bear the meaning assigned to them below and cognate expressions shall bear corresponding meanings:

"Karoo Hoogland Local Municipality" A municipality established under the Local Government; Municipal Structures (Act 117 of 1998, as amended), to govern and represent the said and having its office at:

Karoo Hoogland Local Municipality
Mulder Street
Williston
8920

"Parties" Karoo Hoogland Local Municipality and NEXIA SAB&T

"Effective date" This agreement shall be deemed to commence on the **1 July 2016**.

"Service" A service as contained in the main agreement in the main agreement between the parties and attached to this Agreement as **Annexure "1"**.

"Service Plan" is the plan of service in line with **Annexure "2"** undertaken by the service provider on behalf of Karoo Hoogland Local Municipality which shall be that:

- 1.1.1 **"Acceptance of quotation"** means the signing of the agreement by the municipality which brings this agreement into force;
- 1.1.2 **"Contract documents"** means this service provision document, preliminaries, specifications, bills of costs also any documents annexed to the agreement documents by agreement between the parties;
- 1.1.3 **"Contract price"** means the amount specified in the main agreement and service plan of this agreement;
- 1.1.4 **"Service Provider"** means the persons, partnership, company, close corporation, community of service provider or other legal body that agree to the scope of this agreement and is so identified in the schedule;
- 1.1.5 **"Date of Completion"** means the completion of all work in this agreement including rectification of all defective and incomplete work to the reasonable satisfaction of the municipality;
- 1.1.6 **"Days"** means calendar days (excluding Saturdays, Sundays and public holidays, school holidays, etc);
- 1.1.7 **"Final account"** means the amount to be paid to the contractor in terms of clause 11 hereof;
- 1.1.8 **"Guarantee"** means the guarantee in the exact word of the guarantee form as provided with this document and to be provided by one or more guarantors on behalf of the service provider if required in writing by the municipality. The guarantor(s) will be responsible to finish the agreed work and/or for payment to the municipality of an amount of up to maximum of 10% (ten percent) of the agreed sum, in the event that the service provider does not complete the works;
- 1.1.9 **"Notice in Writing"** means a written notice delivered by either party to the other either by registered post, by hand or by telefacsimile, together with reasonable proof of the date of delivery;
- 1.1.10 **"Payment"** means payment by the municipality to the service provider of the amount(s) as agreed within 30 days of the completion of certain parts of the work to the satisfaction of the municipality;
- 1.1.11 **"Practical completion"** means that stage of completion when a work is completed sufficiently for it to be properly used for the purpose for which it was constructed;
- 1.1.12 **"Site"** means the place where a work is to be exhausted. The service is to construct a work only on the land so defined and indicated in the service provider documents;

1.1.13 **"Variations"** means changes to the works employer issues to the contractor as instructions in writing excluding extra work not described in a written instruction from the municipality, which such work will not be paid for the municipality;

1.1.14 **"Works"** means the work / service which are to be done by the service provider in terms of this contract and as set out in the contract documents.

2. APPOINTMENT:

Karoo Hoogland Local Municipality hereby appoints the service provider who such appointment as an independent service provider to perform the work detailed in the service plan.

3. SERVICE PROVIDER NOT EMPLOYEE OR AGENT IN RESPECT OF OTHER SERVICES

Neither the service provider nor any other person performing any duties or engaged in any work on its instruction shall be an employee or agent of Karoo Hoogland Local Municipality.

4. PERIOD

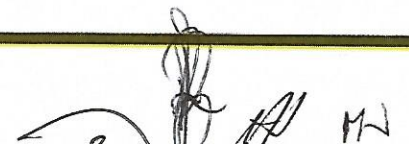
4.1 This Agreement shall, subject to any alternative agreement between the parties, endure for the period of **three (3) years** from date of signature and shall cease to exist after services have been rendered.

4.2 the period of the agreement may be terminated and/or renewed on written agreement between the parties.

5. SERVICE PROVIDER'S OBLIGATIONS

The service provider shall:

- a) Arrange for a service provision guarantee to be provided on the prescribed form attached to this agreement;
- b) Upon notification of the acceptance of the quotation, commence to execute work and carry out the work in accordance with this agreement, to the reasonable satisfaction of the municipality;
- c) Provide all necessary material, labour, equipment etc. the work, complete the work as set out in this agreement to the extent that direct cost will also be recovered from the municipality;
- d) Comply with all applicable statutory provisions and municipal requirements;
- e) Ensure his employees against death or injury arising out of the execution of the works;



- f) Pay the excess as stated in the schedule of each claim to the municipality in the event of a loss leading to a claim against the municipality. Such amounts may be deducted from any payment due by the municipality to the service provider;
- g) Comply with all written instructions of the municipality to make variations to the work undertaken;
- h) Complete and hand over the work on the completion date stated in the schedule, or any extensions thereof in terms of clause 7.1 in line with the project scope;
- i) Make good at his own expense of incomplete and defective work within the period of liability for defects stated in the work schedule;
- j) Pay to the municipality the penalty as indicated in 1.1.11 supra for delay as due to the municipality which such amounts will be deducted from any payment due to the municipality by the service provider;
- k) Regularly inspect the works to satisfy himself that it is being executed as indicated in the service provision documents;
- l) Give any instructions and/or explanations and/or variations to his employees including any relevant advice to assist the employees to understand the service provision documents;
- m) Certify payment to the service provider for work done and for materials delivered to the site;
- n) Inspect the work to decide when it is at the stage of practical completion and, when satisfied, certify that practical completion has occurred;
- o) Inspect the work to decide when it is at the stage of final completion and, when satisfied, certify that final completion has occurred
- p) Decide on the settlement of any dispute that may arise between the service provider and the municipality, subject to the conditions of clause 15.
- q) Skills transfer to municipal staff through on the job training to enable the staff to execute the necessary duties unassisted. The skills transfer will take the following forms: On the job training. Certain municipal staff members will be requested to execute certain duties with the supplier to transfer skills;

6. MUNICIPALITY'S OBLIGATIONS

The Municipality shall:

- 6.1 Ensure the works and materials on site against loss by fire;
- 6.2 Hand over work, necessary documents and information to the provider and provide the necessary information required to execute the works within prescribed and reasonable timeframe when requested from the service provider;

- 6.3 Make payment to the service provider for the works as set out in the service plan;
- 6.4 Ensure municipal staff is available to assist in the execution of the service providers obligations;
- 6.5 Take possession of the works on handling over of works.

7. BREACH AND TERMINATION

- 7.1 Should the Service Provider:
 - 7.1.1 Fail to comply with any term of this Agreement or any of the terms and conditions of the addenda and benchmarks; or
 - 7.1.2 be wound up, or its estate sequestrated, whether provisionally or finally, or be placed under judicial management, or if the service provider defaults in the payment of its liabilities generally; or
 - 7.1.3 Commit an act of insolvency, then and, in any of those events, Karoo Hoogland Local Municipality shall immediately be entitled, without prejudice to its rights in terms of this Agreement to cancel this Agreement in writing to the service provider.
- 7.2 Any of the parties to this agreement may terminate the Agreement in whole or in part by giving 30 (thirty) calendar days' notice of the other party at the domicile given in this Agreement;
- 7.3 Such cancellation of this Agreement shall not affect in any way work completed or not completed by the service provider. Any remuneration paid or payable by Karoo Hoogland Local Municipality to the service provider shall be made on a pro rata basis for work completed up to date of actual termination of this Agreement and shall be reconciled between the parties with effect from the date of inception of this Agreement.
- 7.4 The service provider warrants that he/she has not made, and will not make any promises to any person of the municipality, nor to any relative or business associate of political associate of the municipality to do or not to do anything as an inducement to award this agreement to the service provider or to allow any such wrongful inducement to gain an advantage in the carrying out of the contract. Such conduct will serve as good grounds for cancellation.
- 7.5 The establishment by the municipality of proof of improper conduct by the service provider shall be grounds for immediate cancellation of the agreement by the municipality and of payment by the service provider to the municipality of any loss suffered by the municipality due to such cancellation.
- 7.6 Stops works for more than 14 days; and/or