

SERVICE LEVEL AGREEMENT

entered into between

GEORGE MUNICIPALITY

A local municipality duly established in terms of
Local Government Municipal Structures Act 117 of 1998

(herein represented by **MICHELE RENÉE GRATZ** in her capacity as
Acting Municipal Manager duly authorized hereto)

(hereinafter referred to as "the Municipality")

and

Marais Attorneys & Conveyancers

A firm of practicing attorneys (herein represented by **Charl Marais**
In his/her capacity as Director/Partner/Manager duly authorized hereto)

(hereinafter referred to as "the Service Provider")



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WHEREAS the Municipality requires the services of the Service Provider to provide services as per the appointment letter on behalf of the Municipality;

AND WHEREAS the best interest of the Municipality will be served by providing the said services and advice in terms of the service level contained in this Agreement;

AND WHEREAS the Municipality appoints:

Marais Attorneys and Conveyancers (name)

to provide legal services and advice by the following Attorneys, being members of the firm, namely:

CF Marais

D Marais

M Roos

NOW THEREFORE the parties hereto agree as follows:

1 DEFINITIONS

- 1.1 In this Agreement clause headings are for convenience and shall not be used in its interpretation and, unless the context clearly indicates a contrary intention:
- 1.2 The following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meaning:
- 1.2.1 **"Agreement"** means this agreement and all its annexures, if any;
- 1.2.2 **"Effective Dates"** means **15 DECEMBER 2020** as the date on which the Agreement commence;
- 1.2.3 **"Day"** means a calendar day;
- 1.2.4 **"Date of Termination"** means **15 NOVEMBER 2023**;
- 1.2.5 **"Service Provider"** means MARAIS LAMPRECHT ATTORNEYS an attorney or a firm of attorneys duly established in terms of the rules of the Legal Practice Council.
- 1.2.6 **"Parties"** means the Municipality and the Service Provider and "Party" refers to any one of them.

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2 APPOINTMENT AND DURATION

- 2.1 The Municipality hereby appoints the Service Provider, who hereby accepts such appointment, to its panel of attorneys on the terms and subject to the conditions set out herein;
- 2.2 The appointment of the Service Provider is for the period from the Effective Date till the Date of Termination unless terminated in terms of this Agreement.

3 RELATIONSHIP BETWEEN MUNICIPALITY AND THE SERVICE PROVIDER

- 3.1 The relationship established between the Municipality and the Service Provider in terms of this Agreement is that of an independent Service Provider and nothing in this Agreement shall be construed so as to give to either of them any rights as an employees, agent, partner or joint venture in the business of the other or to entitle either of them at any time during or after the term of this Agreement to control, bind or obligate the other in any manner except for obligations stated in this Agreement;
- 3.2 The appointment of the Service Provider to the panel of attorneys does not override the ordinary attorney/client relationship between the Municipality and the Service Provider.

4 REPORTING

- 4.1 The Service Provider will on a monthly basis submit progress reports to the Municipality in respect of all active matters being handled by the Service Provider;
- 4.2 On completion of any matter handled by the Service Provider, a final detailed report must be submitted to the Municipality together with all relevant supporting documentation.

5 PROVISIONS OF SERVICES

- 5.1 The Municipality hereby appoints the Service Provider to provide the following legal services and advices as and when required:

PART A

- 5.1.1 Drafting of Contracts;
- 5.1.2 General litigation as well as litigation in terms of Land Use, Town Planning legislation & Building control matters;
- 5.1.3 Expert Legal Opinions; and
- 5.1.4 Investigations and enquiries within the ambit of Administrative and Municipal Law.

PART B

Specialist practitioners specialising in Municipal Forensic investigation services; Human Resource / Labour Law; Procurement Law; Environmental Law, areas with the focus on highly sensitive and confidential matters pertaining to investigations into allegations of misconduct levelled at municipal staff and Councillors.

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- 5.2 The Service Provider undertakes and accepts to undertake, for the duration of this agreement, instructions from the Municipality, relating to any specific matter agreed to in clause 5.1 of this agreement.

6 COMMENCEMENT OF WORK

- 6.1 The Service Provider agrees to commence work from the date the Municipality issues an instruction to the Service provider to render services or advice; and
- 6.2 When the need arises, the Municipality may make ad hoc appointments with the Service Provider to perform certain specific legal tasks.

7 SUBMISSION OF CLAIM

- 7.1 The Service Provider will on a monthly basis, submit a specified account and tax invoice drafted in accordance with the applicable scale of costs in respect of services rendered and disbursements incurred;
- 7.2 Payment in respect of invoices received shall be effected by the Municipality within 30 (thirty) days after receipt of the invoice.

8 APPOINTMENT OF THIRD PARTY SERVICE PROVIDERS

- 8.1 The Service Provider may, after consultation with the Municipal Manager or his authorized representative, appoint a third party for purposes or tasks requiring capacity beyond the carrying capacity of the Service Provider;
- 8.2 Any such third party will render his account to the Service Provider who will include such account as a disbursement in the account of the Service Provider referred to in clause 8.1 above.

9 FEES

- 9.1 The fees prescribed by the Legal Practice Council for both litigious and non-litigious matters will be the maximum fees payable by the Municipality to the Service Provider. The Parties specifically agree that the Service Provider shall not charge rates exceeding the prescribed rates;
- 9.2 In the event of any dispute regarding fees charged by the Service Provider, the Municipality shall submit the account to the Legal Practice Council in order to determine the amount payable by taxation of the said account.

10 OBLIGATIONS OF THE SERVICE PROVIDER

- 10.1 The Service Provider will render legal services to the Municipality as agreed, within reasonable time or time limits as agreed between the Service Provider and the Municipality having regard to the prescribed time frames;

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- 10.2 Devote the necessary time, attention, ability and skill to the matter in hand;
- 10.3 Apply the standards of care, diligence and ethics required of a practising attorney;
- 10.4 Be satisfied that the Municipality have reasonable prospects of success in any civil matter before taking any actions in that regard and the Service Provider will furnish the Municipality with a detailed opinion with regards to the prospects of success when requested to do so by the Municipality;
- 10.5 Take all reasonable steps to settle any matter before proceeding with any action, and/or during the course of the litigation;
- 10.6 Ensure that a suitably qualified legal representative with proper right of appearance attends any court proceedings or hearings with the Municipality at all times;
- 10.7 The Service Provider will generally conduct himself in an ethical and befitting manner and will not cause embarrassment, harm, reputation damage or risk to the Municipality.

11 SERVICE LEVELS

11.1 The Municipality will:

- 11.1.1 Upon receipt of an account drawn in accordance with the applicable tariff together with any supporting documents, payment will be made to the Service Provider within 30 (thirty) days;
- 11.1.2 Attend to any enquiry or request for instructions from the Service Provider and revert with feedback or instructions within 48 (forty eight) hours except in cases of urgency where immediate feedback or instructions should be provided on request;
- 11.1.3 Provide or make available all documents, books or records pertaining to a specific matter handled by the Service Provider;
- 11.1.4 Provide access by the Service Provider to any employee of the Municipality to gather information or consult in regard to any matter handled by the Service Provider.

11.2 The Service Provider will:

- 11.2.1 Acknowledge receipt of any instructions and keep the Municipality updated on progress in matters updated on progress in matters handled by the Service Provider;
- 11.2.2 Act with honesty and integrity in discharging instructions;
- 11.2.3 Attend to instruction with due diligence, skill and care;
- 11.2.4 Advise the Municipality if he/she lacks expertise or experience in handling a particular matter to enable the Municipality to refer the matter to another suitably qualified attorney;

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- 11.2.5 Attend to resolve and/or settle the Municipality's matters as soon as possible, including resorting to litigation;
- 11.2.6 Should the Service Provider intend to settle a matter on behalf of the Municipality where the Municipality is liable to pay the other party's bill of costs, the Municipality's written consent must be obtained regarding the Agreement or decision to pay the opposing parties' bill of costs before the signing of the settlement agreement or otherwise entering into the settlement;
- 11.2.7 Ensuring that staff servicing the Municipality are professional, capable and competent;
- 11.2.8 Unless self-evident in documents, provide a detailed report regarding finalisation of any matters handled by the Service Provider in terms of either judgment, settlement or costs and all other relevant aspects;
- 11.2.9 Will not admit liability on behalf of the Municipality in respect of any claim or otherwise without the Municipality's written consent and indemnifies the Municipality accordingly.

12 INVOLVEMENT OF MUNICIPALITY

The Service Provider acknowledges that the Municipality is a public institution bound by legislation and undertakes, for the duration of this Agreement, to comply with Broad Based Black Economics Empowerment Act No. 53 of 2003, which seeks to accelerate the de-racialization of South African economy and to fast track the re-entry of historically marginalized communities into the main stream of the economy.

13 TERMINATION OF THIS AGREEMENT

- 13.1 Either Party may terminate this Agreement forthwith by written notice to the other Party, should the other Party commit an act of insolvency or goes or is put into liquidation (other than solely for solvent amalgamation or reconstruction) or if a liquidator is appointed over all or any part of its business or assets or a judicial management order is made in respect of it or does or suffer anything analogous to the above under the laws of another country or proceedings are instituted to strike any attorney off the roll;
- 13.2 Either Party may, in its discretion and subject to clause 13.5 below, upon giving 30 (thirty) days' written notice identifying specifically the basis for such notice, terminate this agreement for breach of a material term or condition of this agreement unless the Party receiving the notice cures such breach within the 30 (thirty) day period in accordance with this agreement;
- 13.3 Upon such termination, the Municipality will pay the Service Provider for all professional services rendered and expenses incurred by the Service Provider. Such payment will be made within 30 (thirty) days of receipt of a bill of costs drawn in accordance with this agreement;

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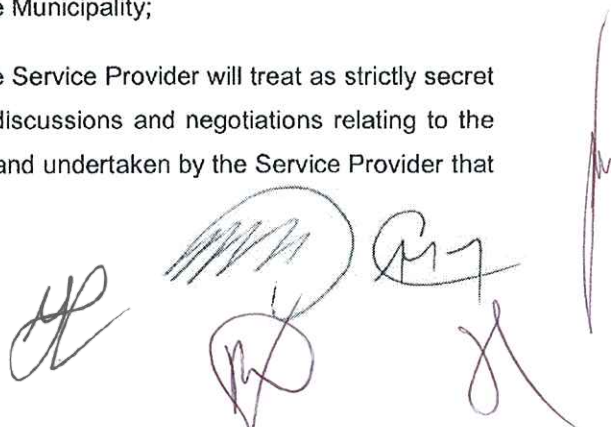
- 13.4 To ensure that the Municipality suffer no loss as a result of such termination of this Agreement, the Service Provider undertakes to hand over all of their active files to the Municipality to enable the Municipality to hand over these files to another attorney to continue with the matters. The Service Provider undertakes to waive its retention rights on these files and the Municipality undertakes to settle all outstanding bills per clause 7.2;
- 13.5 The Municipality reserves the right to suspend or remove any attorney from the Municipality panel of attorneys. A period of 30 (thirty) days notice of any such suspension or removal will be given to the attorney or the Service Provider or, in the case of a material breach of this Agreement by the Service Provider, immediate notice may be given. In this regard, the Parties agree that all clauses contained in this Agreement goes to the root of the Agreement any breach of any of them will be considered material;
- 13.6 The above mentioned provisions do not apply to disputes involving confidentially or infringement of intellectual property rights, in which case either Party will be free to seek available remedies in any forum.

14 CONFLICT OF INTEREST

- 14.1 The Service Provider shall not accept any instruction from any other client in conflict with the interest of the Municipality, nor enter into any litigation against the Municipality on behalf of a third party. In the event of a conflict of interest arising between the Service Provider's private client and the Municipality, the Service Provider will, without delay, inform the Municipality in writing.
- 14.2 Where the Service Provider believes that the Municipality's interest can be protected by the implementation of certain procedures it will discuss the arrangements with the Municipality.

15 CONFIDENTIALITY

- 15.1 During the course of the Service Provider performing services for the Municipality, each Party may be given access to information (in hard copy, verbal and/or electronic form) that relates to the other's past, present and future research, development, business activities, finances, products, services and technical knowledge and which is either marked as, or which by its nature should reasonably be understood to be, confidential ('Confidential Information'). In connection therewith this clause 15 will apply;
- 15.2 Each Party agrees to protect the confidentiality of the Confidential Information. The Confidential Information may not be copied or reproduced without the disclosure's prior written consent except for the provision of the services and will be returned to the Municipality on completion of Service Provider's services to the Municipality;
- 15.3 Save as otherwise provided in this agreement, the Service Provider will treat as strictly secret and confidential the existence and nature of all discussions and negotiations relating to the subject matter of this agreement, it being agreed and undertaken by the Service Provider that

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no disclosure of whatsoever nature or kind of the content of this Agreement to any person without the prior written consent of the Municipality will be made.

16 DISPUTE RESOLUTION

- 16.1 If a dispute of any nature arises between the Parties, then, upon the written request of either Party, each Party will appoint a senior representative tasked with resolving the dispute. Such representatives will discuss the matter and negotiate in good faith in an effort to resolve the matter amicably;
- 16.2 Should the dispute remain unresolved the issue will be referred for the decision of a single arbitrator, to be agreed upon between the parties, or, in default of agreement for 14 (FOURTEEN) days, to be appointed at the request of either party in accordance with, and subject to, the provisions of the *Arbitration Act 42 of 1965* or any statutory modification or re-enactment thereof for the time being in force;
- 16.3 When arbitration proceedings are being held it will be necessary to observe or carry out the usual formalities of procedure (e.g. there will not be any pleadings or discovery or in accordance with the strict rules of evidence);
- 16.4 The independent arbitrator will be an advocate with at least 5 (five) years experience and agreed upon by the Parties, failing agreement, nominated by the chairperson of the Bar Association of the Western Cape. Both Parties will be liable for 50% (fifty percent) of the costs of the arbitrator;
- 16.5 The decision of the arbitrator will be final and binding on the Parties, who will summarily carry out that decision and either of the Parties will be entitled to have the decision made an order of any court with competent jurisdiction.

17 NOTICES AND DOMICILIA

17.1 The Parties hereto select as their respective *domilia citandi et executandi* at the following physical addresses, and for the purposes of giving or sending any notice provided for or required hereunder:

17.1.1 George Municipality

York Street	P O Box 19
George	George
6529	6530
Tel:	044 801 9111
Telefax:	044 873 3776
E-mail:	_____

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17.1.2 The Service Provider:

Suite 104, 72 York Street
George

Tel: 044-8840409

Telefax:

E-mail: charl@marais-law.com

17.2 Any notices addressed to a Party will be delivered by hand, or sent by pre-paid registered post, telefax or e-mail;

17.3 Any notice will be deemed to have been given:

17.3.1 if hand delivered during business hours on a business day, on the day of delivery;

17.3.2 if sent by pre-paid registered post, within 5 (five) days after the date of posting;

17.3.3 if by telefax or e-mail, 8 (eight) hours after the date of sending of such telefax or e-mail.

17.4 No relaxation or indulgence which either Party may grant to the other will constitute a waiver of the rights of that Party and will not preclude that Party from exercising any rights which have arisen in the past or which might arise in future;

17.5 The Parties undertake to co-operate and consult with each other in good faith with regard to the alleviation of any hardship which may be occasioned to either Party as a result of unforeseen circumstances of all such actions and the taking of all such steps as may be open to them and necessary for the maintenance of the import of this agreement.

18 WHOLE AGREEMENT

18.1 This Agreement constitutes the whole of the Agreement between the Parties hereto relating to the subject matter hereof and save as otherwise provided herein no amendment, alteration, addition, variation or consensual cancellation will be of any force or effect unless reduced to writing and signed by the Parties hereto;

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

19 GENERAL

19.1 This Agreement sets forth the entire agreement between the parties hereto and supersedes all prior agreements, proposals, arrangements and communications, whether oral or written, with respect to the subject matter hereof, except in respect of any fraudulent misrepresentation made by either Party. No other agreements, representations, warranties or other matters, whether oral or written, will be deemed to bind the Parties hereto with respect to the subject matter hereof. The Service Provider acknowledges that it is entering into this Agreement solely on the basis of the agreements and representations contained herein.

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19.2 This Agreement, including this clause, may not be modified or amended except by the mutual written agreement of the Parties. No waiver of any provision of this Agreement will be effective unless it is in writing and signed by both parties.

19.3 The delay or failure by either Party to exercise or enforce any of its rights under this Agreement will not constitute or be deemed a waiver of that Party's right thereafter to enforce those rights, nor will any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

19.4 If at any time any one or more of the provisions of this Agreement becomes Invalid, illegal or unenforceable in any respect under any law, the validity, legality or enforceability of its other provisions will not in any way be affected or impaired.

20 SEVERABILITY

Each of the provisions of this Agreement will be considered as separate terms and conditions and in the event that this Agreement is affected by any legislation or any amendment thereto, or if the provisions herein contained are by virtue of that legislation or otherwise, held to be illegal, invalid, prohibited or unenforceable, then such provisions will ineffective only to the extent of the illegality, invalidity, prohibition or unenforceability and each of the remaining provisions hereof will remain in full force and effect as if the illegal, invalid, prohibited or unenforceable provision was not part hereof.

21 CESSION AND ASSIGNMENT

The Service Provider will not be entitled to cede or pledge its interests herein or to trade therewith at its own discretion without the written consent of the Municipality. The Service Provider may also not consent to any alteration, release, relaxation or postponement of the terms hereof and such acting will not be binding on the Municipality in any way whatsoever subject to clause 19.2.

SIGNED at George on this 15th day of February 2021

AS WITNESSES:

1 [Signature]
2 [Signature]


M.R. [Signature]
ACTING MUNICIPAL MANAGER
GEORGE MUNICIPALITY

[Signature]
[Signature]
[Signature]

SIGNED at George on this 19th day of February 2021


AS WITNESSES:

1



2





THE SERVICE PROVIDER

