



SERVICE LEVEL AGREEMENT

Entered into between

LESEDI LOCAL MUNICIPALITY

Herein represented by **ADVOCATE GUGULETHU THIMANE** in her capacity as Acting Municipal Manager of Lesedi Local Municipality duly authorized thereto by a resolution of Council of Lesedi Local Municipality taken at Heidelberg.

(Herein after called **LESEDI LOCAL MUNICIPALITY**)

And

KHABOKEDI WASTE MANAGEMENT (PTY) LTD

(Herein represented by **SIPHO MAKHASANA** in his capacity as The Managing Director who is duly authorised thereto)

(Herein after called **SERVICE PROVIDER**)

WHEREAS the Municipality has allocated responsibility to render services to the Service Provider for the Operation, Management and Maintenance of the Devon Landfill Site for a period of Three (3) Years. **TENDER NUMBER: 32/2018**

AND WHEREAS The Service Provider was appointed to render the services outlined above, which appointment was accepted by the Service Provider on the terms and Conditions contained herein.

1. THEREFORE THE PARTIES AGREE AS FOLLOWS:

2. NATURE OF CONTRACT

The Service Provider will be required to render the following services to Lesedi Local Municipality as contained in this agreement:

3. THE OPERATION, MANAGEMENT AND MAINTAINANCE OF THE DEVON LANDFILL SITE

3.1 The parties further agree that the Service Provider shall be responsible for the Operation, Management and Maintenance of the Devon Landfill Site in line with the requirements as outlined in the.

3.1.1 National Environmental Management Waste Act: 59 of 2008

3.1.2 Waste Classification and management regulations, 2013

3.1.3 Minimum Requirements for Waste Disposal by Landfill (2nd Edition, DWAF, 1998)

3.1.4 Permit Conditions for Class B Landfill Sites

4. PROVISION OF OPERATIONAL PERSONEEL

4.1 The Service Provider shall ensure that the following suitably qualified personnel are available at all times for the Management, Operation and Maintenance of the Devon Landfill Site:

4.1.1 Landfill Management and Operation Supervisor

4.1.2 Plant Operators

4.1.3 Weighbridge Operators

4.1.4 General Workers

4.2 Personnel requirements on site shall be in line with the requirements as outlined in Tender No: 32/2018 Bid Document.

5. SECURITY PROVISION ON SITE

5.1 The Service Provider shall ensure that there is full time security on the premises

5.2 The Service Provider shall report all security breaches on the premises to Lesedi Local Municipality at all times

5.3 The Service Provider shall be financially liable for any loss or damage to property

5.4 The Service Provider shall be professionally liable for any loss to property or life to a third party as result of negligence or dereliction of duties

5.5 The Service Provider shall comply with the statutory requirements governing security personnel at all times

6. SITE OPERATION AND MAINTENANCE

6.1 The Service Provider Shall be responsible for and not limited to the following activities on site

6.1.1 Access Control on Site

6.1.2 Enforcement of rules and conditions to all site users

6.1.3 Weighbridge Operation and data capturing of all waste volumes received on site

6.1.4 Monthly uploading of the waste volumes received on site in the Waste Information System

6.1.5 Ensuring that the ablution facilities on site are kept clean and tidy at all times

6.1.6 Provision of appropriate plant and equipment for dust suppression on site

6.1.7 Reduction of noise levels during operations

6.1.8 Provision of appropriate plant and equipment for operation of the workforce

6.1.9 Application of daily waste cover material in the cell

6.1.10 Effective stormwater management on site

6.1.11 Leachate management on site

6.1.12 Provision of annual site rehabilitation costs to the Municipality to ensure compliance with the requirements of GRAP

7. GENERAL RESPONSIBILITIES OF THE SERVICE PROVIDER

7.1 The Service Provider shall

7.1.1 Ensure that no medical waste allowed at Devon Landfill Site and shall inform Lesedi Local Municipality every time such waste streams are discovered.

7.1.2 Ensure that no radioactive waste allowed at Devon Landfill Site and shall inform Lesedi Local Municipality every time such waste streams are discovered.

7.1.3 Ensure that no hazardous waste allowed at Devon Landfill Site and shall inform Lesedi Local Municipality every time such waste streams are discovered.

7.1.4 And his/her employees shall adhere to the Occupational Health and Safety Act, requirements at all times.

7.1.5 Submit information to Lesedi Local Municipality with regard to the number of work opportunities and hours worked by his/her employees on the project on a monthly basis

7.1.6 Ensure that the use of local labour is maximised on the project

7.1.7 Manage, support and work together with the recyclers on site.

7.1.8 Adhere to the requirements of the Labour Relations Act at all times

7.1.9 Not accept any favours from the site users in the form of money or gifts in exchange of disposal favours

8. CONTRACT PRICE

8.1 The contract price for this agreement shall not exceed an amount of R 10 128 648.24 (Ten Millions, One Hundred and Twenty Eight Thousands, Six Hundred and Forty Eight Rands and Twenty Four Cents) inclusive of vat and annual Consumer Price Index (CPI) escalations for a period of Three (3) Years

8.2 PAYMENT CONDITIONS

8.2.1 Payment will be made strictly 30 (thirty) days after the invoice has been issued to Lesedi Local Municipality on condition that all other necessary conditions and documents are adhered to and complied with.

9. SUB-CONTRACTING

9.1 Sub-contracting shall not relieve the Service Provider from any liability or obligation under this Agreement.

10. CESSION

10.1 The Service Provider may not cede or make over any rights or liabilities in terms of the agreement.

11. SECURITY, SECRECY & LIABILITY

11.1 The Service Provider undertakes that, except as authorized in writing by Lesedi Local Municipality beforehand, it shall, at all times during the continuance of the Agreement and for a period of 10 (ten) years after its termination, for whatever reason:

11.1.2 Use its best endeavors to keep all Confidential Information confidential;

11.1.3 Not disclose, in whole or in part, any Confidential Information to any other person;

11.1.4 Not use the Confidential Information for any purpose otherwise than as contemplated by and subject to the terms of the Agreement;

11.1.5 Not make any copies of, record in any way or part with possession of any Confidential Information; and

11.1.6 The Service Provider may disclose any Confidential Information to an employee of the Service Provider, provided he/she has a clear need to know, to such extent only as is necessary for the purposes contemplated by the

Agreement. Subject to the Service Provider first obtaining an unconditional undertaking in favour of Lesedi Local Municipality from the employee in question, as nearly as practicable to keep the Confidential Information confidential and to use it only for the purposes for which the disclosure is made and submitting such written undertaking to Lesedi Local Municipality .

11.1.7 The Confidential Information shall remain the property of Lesedi Local Municipality and Lesedi Local Municipality may demand the return thereof at any time upon giving written notice to Service Provider. Within 14 (fourteen) Calendar Days of the date of such notice, Service Provider shall return all of the original Confidential Information and shall destroy all copies and reproductions thereof, including in electronic form, in its possession and in the possession of its employees to whom it was disclosed pursuant to the Agreement.

11.1.8 The Service Provider hereby binds itself not to do anything, directly or indirectly, which will or may prejudicially affect Lesedi Local Municipality's business.

11.1.9 Should there be a breach of the Agreement, Lesedi Local Municipality shall, without limiting any other rights that it might have, be entitled to forthwith cancel the Agreement, and claim damages.

11.1.10 All plans, drawings and specifications and other information obtained by Service Provider from Lesedi Local Municipality in connection with the work shall be held in confidence by Service Provider and shall not be used by Service Provider for any purpose other than for the performance of the work or as authorized in writing by Lesedi Local Municipality.

11.1.11 all such documents which were furnished by Lesedi Local Municipality to Service Provider shall remain the property of Lesedi Local Municipality and upon completion of the work.

11.1.12 The Service Provider shall, if requested by Lesedi Local Municipality, either destroy or return to Lesedi Local Municipality all such documents including any copies thereof.

11.1.13 Except as Lesedi Local Municipality may agree beforehand in writing or as may be required by law or regulation, Service Provider shall not make any public announcement or public disclosure with regard to the Contract and shall refrain from

disclosing the existence and contents of the agreement to any other party or authority or to the media.

11.2 The Service Provider will use reasonable skill and care in provision and delivery of the Service and Deliverables or Project Outputs

11.2.1 The Service Provider will accept liability without limit for:

11.2.2 Death or personal injury caused by their negligence or the negligence of their employees acting in the course and scope of their employment;

11.2.3 Any other liability which by law Service Provider cannot exclude or limit.

11.2.4 Subject to exclusions set out in the contract, Service Provider will accept liability to pay compensation for proven financial damages or losses suffered by Lesedi as a direct result of Service Provider providing of the Services where this arises as a consequence of a breach of any of their contractual obligations or negligence by them.

12. OFFER OF EMPLOYMENT

12.1 For the duration of the Contract and for a period of 12 months thereafter the Service Provider shall not employ or offer employment to any of Lesedi Municipality's staff that has been associated with the work without Lesedi Local Municipality's prior agreement in writing

13. AMENDMENT TO CONTRACT

13.1 No agreement to amend, vary or change the contract's conditions, stipulations or provisions thereof shall be valid and of any force unless such agreement to amend or vary is entered into in writing and signed by the contracting parties. Any waiver of the requirements that the agreement seeks to amend or vary shall be in writing.

14. SEVERABILITY

14.1 The Agreement constitutes one indivisible agreement, save that in any particular provision of the Agreement is illegal, invalid or unenforceable or

contrary to public policy but does not go to the root of the Agreement, it shall be severed from the Agreement and the remainder of the Agreement shall remain of full force and effect and binding on the Parties.

14.2 If any such provision does go to the root of the Agreement, the Parties undertake to make amendments to the Agreement in good faith as will rectify that provision.

15. ENTIRE CONTRACT

This Contract contains the entire agreement between the parties hereto and no conditions, warranties or representation made by any party shall be of any force and effect unless herein contained, and no officer, agent, employee or representative shall have any authority to make representations, statements, warranties or agreements that are not herein expressed unless same are made in writing and signed by duly authorized representatives of Lesedi Local Municipality and the Service Provider.

16. ARBITRATION

A dispute arising between the Service Provider and Lesedi Local Municipality will be adjudicated by way of arbitration. The arbitration shall be held before a single arbitrator who is knowledgeable in legal procedures, the rules of evidence and similar engagements.

The arbitrator shall be a person nominated by Lesedi Local Municipality and the Service Provider or failing agreement between Lesedi Local Municipality and the Service Provider within 7 days after the arbitration has been demanded shall be a person appointed by the president of the Association of Arbitration including any applicable statutes or limitation and rules of evidence.

The arbitrator shall deliver a written opinion setting forth findings of fact, conclusions of law and the rationale for the decision. Any opinion entered as a final judgement will be final and binding on both parties.

17. APPLICABLE LAW AND BINDING FORCE

This shall be governed in all respects by and shall be interpreted in accordance with the laws of the Republic of South Africa. Furthermore the parties hereby irrevocable and unconditionally consent and submit to the jurisdiction of the Magistrates Court of the Republic of South Africa in regard to all matters arising from this agreement, notwithstanding the fact that, any matter in dispute falls beyond the jurisdiction of the Magistrate Court.

18. TERMINATION CONDITIONS

Excepting "the replacement of key personnel issue", Lesedi Local Municipality can terminate this agreement without further notice if the Service Provider, in the exclusive discretion of Lesedi Local Municipality, does not fulfil any condition of this agreement and neglects to rectify the conditions after a thirty (30) day written notice to do so.

19. CONTRACT PERIOD

19.1 The contract shall entail a period of Three (3) years from the date of commencement. Notwithstanding signature hereof, the agreement shall commence on 15th November 2018 and shall terminate on the 30th November 2021 after written notification.

19.2 The Service Provider shall make their best endeavours to ensure that they comply with the reasonable timelines as per the terms of agreement with Lesedi Local Municipality from time to time.

20. PENALTIES

20.1 Penalties will be imposed on the Service Provider by Lesedi Local Municipality for failure to honour contractual obligations.

21. DOMICILIA AND NOTICES

The parties select their addresses appearing beneath as their domicillium citandi et executandi for all notices sent to either of them.

Any notice or communication required or permitted to be given in terms of this agreement shall be valid and effective only if it is in writing and the party shall be permitted to give notice by hand delivered letter or an e-mail.

The parties choose their domicilli citandi et executandi as follows:-

Lesedi Local Municipality : No 1 H.F. Verwoerd Street
: Heidelberg
: 1441

Khabokedi Waste Management (Pty) Ltd : No 3 Lambton Ridge
: Lambton
: Germiston
: 1401

THUS DONE AND SIGNED AT Heidelberg ON THIS 18th

DAY OF OCTOBER 2018

AS WITNESSES:

1. [Signature]
2. [Signature]

[Signature]

For and on behalf of
LESEDI LOCAL
MUNICIPALITY

THUS DONE AND SIGNED AT HEIDELBERG ON
THIS 18th DAY OF OCTOBER 2018

AS WITNESSES:
1. [Signature]
2. [Signature]

[Signature]

For and on behalf of
Khabokedi Waste Management Pty Ltd