



Infrastructure Services

SERVICE LEVEL AGREEMENT

Entered into and between

LESEDI LOCAL MUNICIPALITY

and

KHOZA TRADINGS

Supply and Installation of Ventilated Improved Dry Sanitation Toilet Units in Lesedi Local Municipality

S/D

M.S.

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SERVICE LEVEL AGREEMENT

Entered into and between

LESEDI LOCAL MUNICIPALITY

A Category B Municipality duly established in terms of the
Local Government Municipal Structure Act Number 117 of 1998
Herein represented by S'busiso Dlamini, Acting Municipal Manager
(Hereinafter referred to as "**EMPLOYER**")

and

KHOZA TRADINGS

(Hereinafter referred to as "**CONTRACTOR** ")

Whereas, **KHOZA TRADINGS** is the appointed Contractor in terms of Section 36 of the Municipal Supply Chain Management Regulations, Pertaining the Municipal Finance Management Act 56 of 2003 and the Provisions of the Department of Corporative Governance and Traditional Affairs Regulations 43814 Section 2, 30 March 2020. For the Supply and Installation of Ventilated Dry Sanitation Toilet Units, at Various Rural Areas in Lesedi Local Municipality.

1. GENERAL DEFINITIONS

In the Contract (as hereinafter defined) the following Words and Definitions expression shall have the meanings hereby assigned to them except where the Contract otherwise requires.

- 1.1 "GCC" means General Conditions for Construction Works (Second Edition) 2015.
- 1.2 "Contract" means the documentation of the agreement between the parties in terms of the form of Offer and Acceptance and such written amendments or additions to the Contract may be agreed to between the parties.
- 1.3 "Contract Data" means specific data which, together with these General Conditions of Contract, collectively describes the risks, liabilities and obligations

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of the Contracting Parties and the procedures for the administration of the contract.

- 1.4 "Contractor" means the person named in the contract data whose offer has been accepted in the form of Offer and Acceptance and legal successors in title of this person.
- 1.5 "Contract Price" means the Contract sum subject to such additions thereto or deductions therefrom as may be made from time to time under provision of the Contract.
- 1.6 "Contract Sum" means the accepted amount provided for in the agreement made in terms of the Form of Offer and Acceptance.
- 1.7 "Employer/Lesedi Local Municipality" means the person from whom the works are to be executed and who is named as the Employer in the Contract Data, and legal successors in title of this person.
- 1.8 "Engineer's Representative" means the Natural person appointed from time to time by the Engineer in terms of the Contract.
- 1.9 "Bill of Quantities" means the document so designated in pricing data.
- 1.10 "Commencement Date" means the date that the Agreement, made in terms of Form of Offer and Acceptance come into effect.
- 1.11 "Certificate of Completion" means the Certificate issued by the Engineer stating the date on which completion was achieved.
- 1.12 "Certificate of Practical Completion" means the Certificate issued by the Engineer stating the date.
- 1.13 "Scope of Work" means the document that specifies and describes the works which are to be provided, and any other requirements and constraints relating to the manner in which the work is to be carried out.

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1.14 "Site" means the land and other places made available by the Employer, for the purpose of the Contract, on, under, over, in or through which the works are to be executed.

1.15 "Engineer" means the consultant or person appointed on behalf of the Employer/Lesedi Local Municipality.

2. SCOPE OF WORK

This Contract covers the Supply and Installation of Ventilated Improved Pit-latrine Toilet Units. The Works to be carried out by the Contractor under this Contract comprise the of the Specifications as per the Request for Quotation, but not limited to the following:

- 2.1 Setting out, excavation for Ventilated Pit-latrine toilet Units
- 2.2 Contractor's Establishment on Site and General Obligations
- 2.3 Site Clearance
- 2.4 Assembling of base panels
- 2.5 Supply, delivery and erect toilet Structures
- 2.6 Top Structures consisting of short and long beams
- 2.7 Slide Panels
- 2.8 End Panels
- 2.9 Top Structures
- 2.10 Roof Panels
- 2.11 Back Panels
- 2.12 Base Slabs
- 2.13 Pit Cover Slab
- 2.14 Galvanized Toilet Doors
- 2.15 Ventilated Improved Pit-latrine Pedestal
- 2.16 110mm Vent Pipes with Fly Screens
- 2.17 10 litres Hand Wash basins

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3. CONTRACT RATES

- 3.1 The contract shall be based on quoted rates of R 19 251.00 inclusive of vat per unit installed

4. PAYMENT

- 4.1 The Employer shall make payment to the Contractor for the executed Project as per the approved rates as per proposal within the tender document, provided that such claims are certified by the Engineer/Consultant.
- 4.2 The Contractor shall submit to the Employer invoice, with supporting approvals from the Engineer/Consultant in line with applicable standards and best practices relating to this Agreement.
- 4.3 The Employer shall pay the amount of the payment certificate after it has been certified by the authorized person from the Employer.
- 4.4 Payment will be made within 30 (thirty) days after the claim certificate has been Issued to the Employer/Lesedi Local Municipality on condition that all other necessary conditions and documents are adhered to and complied with.

5. GOVERNING LANGUAGE

- 5.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.
- 5.2 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in the agreement

6. DURATION OF THE AGREEMENT

- 6.1 This Agreement shall be effective from the 22 June 2020 to the 22 December 2020. Excluding the defects and liability period effective from the end date as per the provisions of the General Conditions of Contract for Construction Works, 2015 second edition.

7. OBLIGATIONS OF THE CONTRACTOR AND SUBMISSION OF MONTHLY PROGRESS REPORTS

- 7.1 The afore-stated services shall be rendered diligently and to the standard required by the Employer and the Engineer/Consultant.
- 7.2 The Contractor is required to submit written progress reports on or before the 20th of every month until the project is fully completed.
- 7.3 The Contractor shall submit job creation figures, including those of the Sub-Contractors participating in this contract
- 7.4 The Contractor shall ensure that COVID-19 regulations are observed and adhered to at all times, during the execution of this agreement.
- 7.5 The Contractor shall ensure that his/her employees are issued with relevant Personal Protective Equipment

8. IDEMNIFICATION

- 8.1 The Contractor Indemnifies the Employer against any liability in respect of the damage to, or physical loss of the property of any person, or injury to or death of any person.

9. HEALTH AND SAFETY STANDARDS AND ACCIDENTS

- 9.1 The Contractor shall adhere to all the requirements of the Occupational Health and Safety Standards and COVID-19 Regulations at all times in line with applicable laws.
- 9.2 In addition to any statutory obligations, the Contract shall, as soon as practicable, report to the Engineer occurrences on the works or the site which causes damage to property, or injury or death to a person including COVID-19 infections.

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10. RELATIONSHIP BETWEEN THE PARTIES

10.2 The relationship between the Parties is that of independent contracting parties and in the circumstances shall not imply any partnership, nor shall it constitute any Party to be the agent or authorised representative of another Party.

10.3 The Contractor shall not be entitled to bind or attempt to bind the Employer, to represent or attempt to represent the Employer, nor to portray to any other third party that it has the authority to bind and/or represent the Employer or to confer any obligation on the Employer.

11. CONFIDENTIALITY

The parties hereby undertake to ensure confidentiality in relation to all information shared in relation to the terms and conditions of the contract, including all correspondence, specification, data and methodology used in the execution of the contract.

12. ANTI-CORRUPTION AND GOOD FAITH

12.1 In implementing this Agreement and in all further dealings with each other, the Parties undertake to observe utmost good faith, and to give effect to the intent and purpose of the Agreement.

12.2 The Employer shall be entitled to terminate this Agreement or any part thereof and recover from the Contractor the amount of any loss resulting thereof.

12.3 The Contractor shall have given or agreed to give any Employer's official any gift or gratification of any kind as an inducement or reward for the appointment of the Contractor for any Contract Work in relation to the this Agreement; or

12.4 If the above acts shall have been done by any person employed by the Contractor or acting on its behalf (with the knowledge of the Contractor); or

12.5 The Contractor or any person acting on its behalf with the knowledge of the Contractor committed any offence under the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004).

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12.6 The Contractor shall use its reasonable endeavours to prevent any of its employees or any person acting on its behalf from performing any of the acts referred to in the Clause above.

13. CONFLICT OF INTERESTS

13.1 Contractor shall maintain, at all times, the highest degree of good faith towards the Employer and shall not engage, either directly or indirectly, during this Agreement, in any business or activities, which would be in conflict with the activities assigned to it in terms of this Agreement.

13.2 In the event of a conflict of interest arising, the Contractor undertakes to immediately advise the Employer of same, upon which advice the Employer shall, in its sole and absolute discretion, decide whether to proceed with the Agreement or to terminate it forthwith. Failure by the Contractor to immediately advise the Employer of any conflict of interest shall amount to a material breach of the Agreement and shall entitle the Employer to terminate the Agreement forthwith.

13.3 Unless agreed in writing between the Parties, neither the Contractor nor the Employer and their employees shall have an interest or receive remuneration in connection with this Agreement except as provided in this Agreement and agreed upon by the Parties.

13.4 The Employer and the Contractor shall not engage in any activity, which may conflict with the interest of the Employer in terms of this Agreement.

14. BREACH AND TERMINATION OF CONTRACT

14.1 In the event of any of the parties ("defaulting party") committing a breach of any of the terms of this agreement and failing to remedy such breach within a period of 14 (fourteen) days after receipt of a written notice from another party ("aggrieved party") calling upon the defaulting party so to remedy, then the aggrieved party shall be entitled, at its sole discretion and without prejudice to any of its other rights in law, either to claim specific performance of the terms of this agreement or to cancel this agreement forthwith and without further notice, claim and recover damages from the defaulting party.

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14.2 Without limiting the generality of Sub-Clause 1 above, the Employer shall be entitled to terminate this agreement summarily if, in the Employer's opinion, the Contractor breaches any of the provisions of this agreement. Such termination shall be effected by the Employer serving a written notice on the Contractor.

15. PENALTIES

15.1 Subject to GCC Clause 25, if the Contractor fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the Employer shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance, or the amount mentioned in the General Definitions (whichever amount is the greater).

15.2 The Employer may also consider termination of the contract in pursuant to GCC 2015 Clause 23.

15.2 The penalty for non-compliance with the written notifications from the Engineer/Consultant, resulting in delays in the execution of the contract will amount to R 1 000.00 per calendar day

16. DISPUTE RESOLUTION AND ARBITRATION

16.1 If any dispute or difference of any kind whatsoever arises between the Employer and the Contractor 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.

16.2 Should any difference or dispute at any time arise between the parties, the duly authorised Senior Officials of each party shall meet within fourteen (14) days, or such period as the parties may agree, from the date on which the dispute arose to resolve the dispute amicably.

16.3 If the dispute is not resolved at such a meeting, or extended meeting as the Parties may agree to in writing, then either of the parties shall be entitled to refer

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the dispute to the Arbitration Foundation of Southern Africa (AFSA) to be determined by arbitration in terms of Arbitration Act, 1965 (Act No. 42 of 1965) as amended, such arbitration shall be held in Johannesburg.

- 16.4 The appointment of the arbitrator shall be agreed upon between the Parties in writing but, failing agreement between them, within a period of 10 (ten) Business Days after the arbitration has been demanded in terms of clause 8.2, above either Party shall be entitled to request the Arbitration Foundation of South Africa to make the appointment and, in making such appointment, to have regard to the nature of the dispute.
- 16.5 The arbitrator shall have the powers conferred upon an arbitrator under the Arbitration Act, 1965 (as amended), but shall not be obliged to follow the procedures prescribed in that Act. The decision of the arbitrator shall be final and binding on the Parties and may be made an order of any court of competent jurisdiction.
- 16.7 Nothing in this clause will preclude either Party from obtaining immediate relief on an urgent basis from a court of competent jurisdiction, pending the decision of the arbitrator.
- 16.8 Unless otherwise expressly agreed to in writing by the Parties, the arbitration proceedings shall be held at Heidelberg.

17. AMENDMENTS AND VARIATIONS

- 17.1 All amendments and variations of this contract shall be reduced in writing, signed by both Parties and approved by the Accounting Officer of the Employer in terms of the Employer's prescribed procurement processes or penalties will be imposed on the Contractor.

18. SUB-CONTRACTING

- 18.1 The Contractor shall not sub-contract this contract or any portion of this contract unless prior written approval is obtained from Employer. Such approval shall not relieve the Contractor from any liability or obligation under this Agreement.

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19. CESSION

- 19.1 The Contractor shall not be entitled to cede its rights and/or obligations under this Contract or any part thereof to any third party without prior written consent of the Employer.

20. TERMINATION OF CONTRACT BY THE EMPLOYER

20.1 The Employer shall terminate the Contract if:

20.1.1 Application is made for the sequestration of the Contractor's estate or presents a petition for the acceptance of the surrender of his estate as insolvent, or being a Company or Close Corporation, goes into liquidation, whether provisionally or finally. Other than a voluntary liquidation for the purposes of amalgamation or reconstruction.

20.1.2 The Contractor makes a compromise with his/her creditors, or assigns in favour of his/her creditors, or agrees to carry out the Contract under the Supervision of a committee representing his/her creditors, or if the Employer's written consent, or if execution is levied on his/her goods

20.1.3 After giving effect to clause 3.2 of the General Conditions of Contract 2015 Second Edition, the Engineer certifies in writing, to the Employer and to the Contractor with specific reference to this clause that the Contractor

20.1.4 Has abandoned the Contract

20.1.5 Has failed to commence the works in terms of clause 5.3 of the General Conditions of Contract 2015 Second Edition hereof, or has suspended the progress of the works for fourteen (14) consecutive days after receiving from the Engineer written notices to proceed;

20.1.6 Has failed to proceed with the works in accordance with the approved programme or in the absence of an approved programme, in the Engineer's opinion;

20.1.7 Is not executing the works in accordance with the contract, with defective and malperformance and in contravention with standard expected as per the

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specification of the contract and is neglecting to carry out his/her obligation under the Contract.

20.1.8 Anyone, on his/her behalf has paid, offered or offer as payment to any person in the employ of the Employer or to the Engineer, or any person in the employ of the Engineer a gratuity or reward or commission;

20.1.9 Has furnished inaccurate information in the returnable documents completed at tender stage and forming part of the Contract.

21. WHOLE AGREEMENT

This Agreement constitutes the whole agreement between the parties unless supplemented by further agreements, which shall be in writing.

22. COMMUNICATION

The Parties agree that:

22.1 It is necessary to keep the channels of communication open between the Parties at all times and on all aspects of the Agreement.

LESEDI LOCAL MUNICIPALITY

The Municipal Manager or his/her nominee.

KHOZA TRADINGS Pty Ltd

The Director: B MSOMI

23. ADDRESSES NOMINATED BY THE PARTIES

23.1 Addresses nominated by the parties in a legal contract at which it elects to receive all legal notices and documents for all purposes arising from this Agreement and will serve as domicile and the addresses are the following:-

Lesedi Local Municipality
1 HF Verwoerd Street
Heidelberg
1441

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KHOZA TRADINGS Pty Ltd

07 Olea Street

Carlswald

Midrand

1685

24. SIGNATURES

Service level Agreement entered into by Lesedi Local Municipality and Khoza Tradings Pty Ltd

Thus signed M HEIDEBERG on this 22 day of June 2020

LESEDI LOCAL MUNICIPALITY

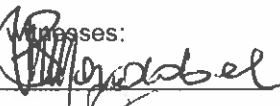
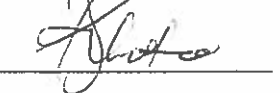


Duly Authorised

Name: S'busiso Dlamini

Designation: Acting Municipal Manager

As witnesses:

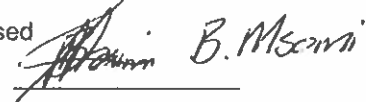
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Thus signed M HEIDEBERG on this 22 day of June 2020

KHOZA TRADINGS PTY LTD

Duly Authorised

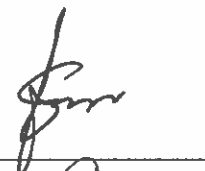
Name:



Designation:

DIRECTOR

As witnesses:

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