

57

**FIXED TERM CONTRACT OF EMPLOYMENT FOR  
THE UNIT MANAGER CORPORATE**

Entered into by and between

**EPHRAIM MOGALE LOCAL MUNICIPALITY** herein  
represented by the Municipal Manager

**MONAKEDI S R**  
["the Employer"]

and

**MAKOKO JOSEPH LEKOLA**  
Identity No. 670310 5429 089

["the Employee"]

**EMPLOYMENT CONTRACT**

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## Whereas

Section 57 of the Local Government Municipal Systems Act No 32 of 2000 provides for the appointment of a Manager reporting to the Municipal Manager may only be appointed in terms of a written employment contract that complies with the provisions of the Act and subject to a separate performance agreement.

NOW THEREFORE the parties record their agreement in writing.

## 1. PARTIES

- 1.1. This employment contract is concluded between the Ephraim Mogale Local Municipality, herein after referred to as the 'the Municipality' established in terms of Section 12 of the Local Government Municipal Structures Act 117 of 1998, as the Employer, on the one hand, and
- 1.2. Makoko Joseph Lekola (ID No. 670310 5429 081) herein after referred to as the 'Unit Manager' as the Employee on the other hand.
- 1.3. The parties as set out in Clauses 1.1 above hereby record the agreement in writing.

## 2. INTERPRETATION

In this Agreement, unless other context otherwise indicates

- 2.1. The singular includes the plural and vice versa.
- 2.2. A reference to one gender includes the other gender.
- 2.3. Words or expressions defined in the Local Government: Municipal Structures Act 117 of 1998 and Local Government: Municipal Systems Act 32 of 2000 shall bear a corresponding meaning, unless defined below or where the context clearly indicates otherwise.
- 2.4. The head notes are for reference purposes only and shall not affect the interpretation of any part thereof.
- 2.5. The schedules and annexures attached to this contract form part of this agreement if specifically included herein.
- 2.6. The schedules and annexures initiated by the parties of this agreement as if specifically included herein.
- 2.7. In the event of any consistency between the provisions of this agreement and any applicable labour legislation, the labour legislation applies prevails.
- 2.8. The following words bear the meanings as set out below and cognate expressions bear a like meaning.
  - 2.8.1. 'this agreement' means contract of employment, schedules and annexure included therein.
  - 2.8.2. BCEA means the Basic Conditions of Employment Act 75 of 1997;

- 2.8.3. Constitution means the Constitution of the Republic of South Africa, Act 108 of 1996;
- 2.8.4. Council means the Council of the Ephraim Mogale Local Municipality
- 2.8.5. Directorate means the Section, or Division or Portfolio, the manager is responsible for.
- 2.8.6. Ephraim Mogale Local Municipality means such Municipality established in terms of Section 12 of the local Government: Municipal Systems Structures Act, No. 117 of 1998.
- 2.8.7. Municipal Systems Act means Local Government: Municipal Systems Act, No. 32 of 2000, as amended;
- 2.8.8. Resolution means a resolution passed by the Executive Authority of the Municipality.

### **3. APPOINTMENT AND DURATION**

- 3.1. The Municipality hereby appoints Mr Makoko Joseph Lekola to the position of Unit Manager Corporate, who hereby agrees to act as such for the Municipality, subject to the terms and conditions recorded herein.
- 3.2. Notwithstanding the date of the signature hereof, this agreement is for a fixed term not exceeding a period of five (5) years from the date of the employee appointment to the Municipality, and the appointment referred to in 3.1. will commence and must in all respect be deemed to have commenced on 01 April 2011 and will endure a fixed term of 5(five) years and terminate automatically on 31 March 2016 subject to 3.3 and 3.4 below.
- 3.3. It is specifically recorded that the Unit Manager shall serve a probationary period of twelve months after which a performance review shall be conducted whereupon this appointment shall only be confirmed upon satisfactory performance by the Unit Manager.
- 3.4. It is specifically recorded that there is no expectation that this agreement will be renewed or prolonged beyond the period referred to in 3.3 other than by specific written agreement between the parties, provided that: all performance agreements concluded and required to be concluded between the Municipal Manager and the Unit Manager have been fulfilled.
- 3.5. Failure to renew or extend the period referred to 3.3 will not constitute a dismissal of the Unit Manager and the Unit Manager will not be entitled to any additional remuneration or compensation in respect of the completion of such period.
- 3.6. For the purposes of clarity, the parties specifically record that this agreement will come to an automatic end on expiry of the fixed period, and will not be construed as a termination based on the Municipality's operational requirement, nor as an unfair dismissal.

Accordingly, reference in 3.4 above to additional remuneration or compensation to which an employee may otherwise be entitled to in the event of a termination based on an employer's operational requirements.

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#### **4. PERFORMANCE CONTRACT**

- 4.1 Notwithstanding anything to the contrary contained in this agreement, the Employee's appointment in terms of this conditional upon the conclusion:
- 4.2 This performance agreement must be reviewed when a new Council is elected.
- 4.3 In the event of such performance agreement being concluded with a reasonable period as stipulated in 4.1 above, this contract of employment may be terminated on the first day after the expiry period.
- 4.4 The Unit Manager specifically acknowledges and agrees that the termination of this agreement, for the reasons set out in 4.1 to 4.3 above, and of any employment relationship that may have arisen prior to the conclusion of a performance agreement, will constitute a fair and lawful termination.
- 4.5 The Performance Agreement shall be attached after 30 days ranging from 18 May 2011, given the conditions and circumstances regarding the period of validity during the fourth term of 2011/2012 Municipal Financial Year.

#### **5. APPOINTMENT TO BE FULL TIME INCUMBENT**

- 5.1 During the existence of this agreement, the unit Manager will devote all his/her time and attention during working hours to the administration and affairs of the Municipality and will not engage either directly or indirectly in any other form of business without the municipality's prior written consent or resolution.

#### **6. HOURS AND PLACE OF WORK**

- 6.1 The Unit Manager will be required to work such hours and days in accordance with the operational needs and requirements of the municipality at any particular time, which should not be less than 40(forty) hours per week from Monday to Friday.
- 6.2 The ordinary hours presently worked at the municipality are from 07h30 to 16h30 from Monday to Friday. These may however be extended at the decision of the Municipality having regard to its operational needs and requirements.
- 6.3 It is a material term and condition of the Unit Manager's employment that he works such hours in addition to the ordinary hours referred to in 6.2 above, and on Saturdays and/or Sundays when required to do so in order to fulfil his job requirements, for which he will not be remunerated.
- 6.4 The Unit Manager's ordinary place of work will be 13 Ficus Street, Marble Hall and other Municipal office falling within the Municipal jurisdiction. The Municipality may from time to time require, and may require the Unit Manager to travel nationally or internationally in the performance of his duties.

#### **7. REMUNERATION**

- 7.1. The commencing total cost to Council remuneration offered and accepted by the Unit Manager will be R559 872.00 annually payable in 12 (twelve) equal monthly instalments on the 20<sup>th</sup> of every month.

Such amount will accordingly be included

- 7.2. The employee can structure his/her remuneration in accordance with governing and regulating tax matters, stipulations and arrangements.
- 7.3. The Unit Manager may be entitled to a salary determined with reference to and payable in accordance with agreements concluded annually between the Council and the Unit Manager.
- 7.4. The Employee's salary will be reviewed annually in line with inflation and at a rate equal to the first round of the South African Local Bargaining Council's annual award.
- 7.5. Subject to 7.1., the Unit Manager is entitled to a salary that will form part of his total cost to Council remuneration package:
- 7.5.1. Motor vehicle benefit
  - 7.5.2. Membership of a recognised retirement fund
  - 7.5.3. Membership of a recognised medical aid scheme
  - 7.5.4. Housing allowance
  - 7.5.5. Group Life Assurance Scheme
- 7.6. In addition to the fringe benefits in 7.5 above, the Employee will be entitled to a Subsistence and Travelling Allowance in terms of Council Policy for official work.
- 7.7. The Municipality will deduct statutory deductions as well as any other deductions in terms of Municipal policy. Other non-statutory deductions will only be deducted upon mutual consent.
- 7.8. The salary scale and benefits applicable to the Unit Manager's post will be published by the Municipality in the national and/or local media on or before 31<sup>st</sup> October of each year, as contemplated by section 58 of the Municipal Systems Act.

## 8. LEAVE

- 8.1 The Unit Manager is entitled to 30(thirty) working days annual leave with full pay, calculated at a rate of 2.5 days per month, for each completed (12 (twelve) month period of employment (the leave cycle). Leave must be taken at a time which is mutually convenient to the Municipal Manager and the Unit Manager, within the leave cycle. No leave can be carried over from cycle to another.
- 8.2 The Unit Manager is entitled to 60(sixty) working paid sick leave over a period of 3 (three) year sick leave cycle, calculated from the commencement of employment.
- Sick leave over and above the Unit Manager's entitlement may only be granted at the Municipality's discretion.
- If the Unit Manager is absent from work for more than 2 (two) consecutive days, or more than two occasions during an eight week period, he will be required to produce a medical certificate from a registered medical practitioner in order to qualify for paid leave.

- 8.3 Any absence from work must be reported to the Municipal Manager as soon as reasonably possible.
- 8.4 If the Unit Manager becomes permanently unable, in the reasonable opinion of the Municipality based on a medical report of a registered medical practitioner and in accordance with the Statutes of the relevant Pension/Provident Funds, to adequately perform his duties by reason of ill health or incapacity, the municipality may terminate his employment in terms of and in accordance with the provisions made in the Labour Relations Act, Act 66 of 1995.
- 8.5 After 4(four) consequently months of employment, the Unit Manager is entitled to 3(three) months paid family responsibility leave during each cycle of 12(twelve) months of employment with the Municipality, to be taken.
- 8.5.1 At the birth of the Unit Manager's child or
- 8.5.2 When the Unit Manager's child is sick or
- 8.5.3 In the event of the death of a spouse, life partner, adoptive parents, grandparents, child, adopted child, grandchild, sibling or any person related to the Unit Manager.
- 8.6 The Unit Manager is entitled to take 1(one) day special leave in order to prepare for examination as well as 1(one) day for the actual sitting of the examination.
- 8.7 Notwithstanding the provisions of any law, Council may at any time cancel, postpone or interrupt leave of absence which has been granted to the Unit Manager in writing.  
In such cases, the reasons for such action will be recorded and the Unit Manager will be credited with such leave over and above the maximum determined in 8.1.

## **9. DUTIES AND RESPONSIBILITIES**

- 9.1 Subject to 4 above, the Unit Manager must conclude at least one performance agreement per annum for the duration of his/her employment contract, with the Municipal Manager.
- 9.2 The Unit Manager must report to the Municipal Manager of the Municipality and must report on such matters and furnish such information as the Municipality as may from time to time, require.
- 9.3 The Unit Manager must at all times faithfully, promptly and punctuality carry out all duties, including such duties as may conform with the position of Unit Manager, be delegated or assigned, and must endeavour to conduct, improve, extend and develop the business and affairs of the Municipality.
- 9.4 In addition to the requirements of the performance agreement attached to this agreement and concluded annually, the Unit Manager must at all times comply with the Municipality's performance management quality and team work standards, systems and/or policies.
- 9.5 As head of a Directorate within the Municipality, the Unit Manager is subject to the policy directions of the Municipality, responsible and accountable for:
- 9.5.1 The formation and development of an economical, effective, efficient and accountable Directorate that is:-

- 9.5.1.1 Equipped to carry out task of implementing the Municipality's integrated development plan, in accordance with Chapter 5 of the Municipal Systems Act;
- 9.5.1.2 Operating in accordance with the municipality's Performance Management Systems Chapter 6 of the Municipal Systems Act;
- 9.5.1.3 Responsive to the needs of the local community to participate in the affairs of the Municipality;
- 9.5.1.4 The management of the Municipality's integrated development plan, and the monitoring of progress with implementation of the plan;
- 9.5.1.5 The management of the provision of services to the local community a sustainable and equitable manner;
- 9.5.1.6 The maintenance of discipline of staff;
- 9.5.1.7 The promotion of sound labour relations and compliance by the Directorate with all applicable labour legislation;
- 9.5.1.8 Managing communications between the Directorate and the Municipality's administration, its political structures and political office bearers;
- 9.5.1.9 Carrying out decisions of the Executive Committee and Municipal Manager of the Municipality;
- 9.5.1.10 The administration and implementation of the municipality's by-laws and other legislation;
- 9.5.1.11 The exercise of any powers and the performance of any duties delegated by the Municipal Manager of the municipality, or sub-delegated or delegated by other delegating authority of the Municipality to the Unit Manager in terms of section 59 of the Municipality Systems Act;
- 9.5.1.12 Facilitating participation by the local community in the running of the affairs of the Municipality;
- 9.5.1.13 Developing and maintaining a system whereby community satisfaction with municipal services is assessed;
- 9.5.1.14 The implementation of national and provincial legislation applicable to the Municipality;
- 9.5.1.15 The performance of any other function that may be assigned by the Municipal Manager and Executive Committee of the Municipality.

9.6 As accounting officer of the Directorate/Department, the Unit Manager is responsible and accountable for:

- 9.6.1 All income and expenditure of the Department/Directorate
- 9.6.2 Proper and diligent compliance with the Municipal Finance Management Act.

9.7 In carrying out these duties, the Unit Manager must:-

- 9.7.1 Do so in accordance with the democratic values and principles embodied in section 195(1) of the Constitution;
- 9.7.2 Strive to achieve the objects of local government as set out in section 152(1) of the Constitution; and
- 9.7.3 Have regard to the values, duties and objectives of:
  - 9.7.3.1 Utilising the resources of the municipality in the best interest of the local community, as determined by the Council of the Municipality;
  - 9.7.3.2 Providing without favour or prejudice, democratic and accountable government;
  - 9.7.3.3 Encouraging local community involvement;
  - 9.7.3.4 Consulting local communities about the municipal services provided and the service delivery options available;
  - 9.7.3.5 Ensuring equal access to services;
  - 9.7.3.6 Promoting the development of the Municipality
  - 9.7.3.7 Promoting gender equity in the exercise of the Municipality

- 9.7.3.8 Contributing, together with other organs of State, to the progressive realisation of the fundamental rights and freedoms as embodied in the Bill of Rights and particularly section 24, 25, 26, 27 and 29 of the Constitution;
- 9.7.3.9 Facilitating a culture of public service and accountability amongst staff;
- 9.7.3.10 Taking measure to prevent corruption and fraud;
- 9.7.3.11 Providing full and accurate information to the community about the level and standard of municipal services;
- 9.7.3.12 Focusing on the objects of local government as set out in section 152 and 153 of the Constitution.

9.8 The Unit Manager must exercise his duties in accordance with the management standards and practices of the municipality which, organised and established with the Municipality's administrative and financial capacity, will enable the Municipality to:

- 9.8.1 Be responsive to community needs;
- 9.8.2 Facilitate a culture of service delivery amongst staff;
- 9.8.3 Meets the objects of section 152 and 153 of the Constitution;
- 9.8.4 Ensure that its political structures, political office bears and managers align their roles and responsible with the priorities and objectives set out in the Municipality's integrated development plan.
- 9.8.5 Establish clear relationships and facilitate cooperation, coordination and communication between:-
  - 9.8.5.1 The political structures political office bearers, the administration and his directorate/Department;
  - 9.8.5.2 The political structures, political office bearers and the community
- 9.9 The Unit Manager must ensure that the administration of his Directorate performs functions under the following understanding:
  - 9.9.1 Through operationally effective and appropriate administrative units;
  - 9.9.2 With clear responsibilities and coordination;
  - 9.9.3 Maximising efficiency and effectiveness in communication and decision making;
  - 9.9.4 In an open, equitable, free and non-discriminatory environment.

## **10. CODE OF CONDUCT**

### **10.1 General Conduct**

10.1.1 The Unit Manager must at all times:

- Loyal execute the lawful policies of the Executive Authority of the municipality;
- Perform the functions of the office in good faith, diligently, honestly and in a transparent manner;
- Act in such a way that the spirit, purpose and objectives of section 50 of the Systems Act are promoted;
- Act in the best interest of Council and in such a way that the credibility and integrity of the municipality are not compromised;
- Act impartially and treat people, including other staff members, equally without favour or prejudice.

### **10.2 Commitment to serve the public interest**



10.2.1 The unit manager is a public servant in the developmental local government system and must accordingly:

- Implement the provisions of section 50(2) of the Systems Act;
- Foster a culture of commitment to servicing the public and a collective sense of responsibility for performance in terms of standards and target;
- Promote and seek to implement the basic values and principles of public administration described in section 195(1) of the Constitution;
- Obtain copies of or information about the Municipality's integrated development plan, and as far as possible within the ambit of the Unit Manager's job description, seek to implement the objectives set out in the integrated development plan and achieve the performance targets set for each performance indicator;
- Participate in the overall performance management system for the municipality, as well as the Unit Manager's individual performance appraisal and incentive scheme in order to maximise the ability of the Municipality as whole to achieve its objectives and improve the quality of life of its residents.

### 10.3 Personal gain

10.3.1 The Unit Manager may not:

10.3.2 Except with the prior consent of the Council and/or Municipal Manager of the Municipality, the Unit Manager may not be party to a contract for:-

- The provision of goods or services to the Municipality;
- The performance of any work for the Municipality otherwise than as a Unit Manager;
- Obtain a financial interest in any business of the Municipality; or
- Be engaged in any businesses, trade or profession other than the work of the Municipality.

### 10.4 Disclosure of benefits

10.4.1 The Unit Manager must disclose in writing full particulars of the benefit to the Council if the Unit Manager, spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded by the Municipality.

10.4.2 This item does not apply to which a Unit Manager's spouse, partner, business associate or close family member has or acquires in common with all other residents of the Municipality.


### 10.5 Unauthorised disclosure of information

10.5.1 The Unit Manager may not without permission disclose privileged or confidential information obtained as the Unit Manager to an authorised person(s).

10.5.2 For the purpose of this item "privileged or confidential information" includes any information:-

- Determined by the Council of the Municipality or any structure or functionary of the Municipality to be privileged or confidential;
- Discussed in closed session by the Council or a Committee of the Council;
- Disclosure of which would violate a person's right to privacy; or
- Declared to be privileged, confidential or secret in terms of any law.

### 10.6 Undue influences



10.6.1 The Unit Manager may not:-

- Undue influence or attempt to influence the Council of the Municipality, or structure or functionary of the Council, or a Councillor, with a view to obtaining any appointment, promotion, privilege, advantage or benefit, or for a family member, friend or associate;
- Mislead or attempt to mislead the Council, or a structure or functionary of the Council, its consideration of any matter, or
- Be involved in a business venture with a Council, or a structure or functionary of the Council, in its consideration of any matter; or
- Be involved in a business venture with a Councillor without prior written consent of the Council of the Municipality

10.7 Rewards, gifts and favours

10.7.1 The Unit manager may not request, solicit or accept any reward, gift or favour for:-

- Persuading the Council of the Municipality, or any structure or functionary of the Council,;
- Disclosing any privilege or confidential information with regard to the exercise of any power or the performance of any duty;
- Making a representation to the Council any structure or functionary of the Council;
- Doing or not doing anything within his powers and/or duties

10.7.2 The Unit Manager must without delay report to the Municipal Manager any offer, which, if accepted, would constitute a breach of the Code of Conduct.

10.7.3 The Unit Manager may not use, take, acquire or benefit from any property or asset owned, controlled or managed by the Municipality to which he has no right and/or authority.

10.8 Payments of arrears

The Unit Manager may not be in arrears to the Municipality for rates and service charges for a period longer than 3(three) months. In the event such payment(s) is/are not honoured, the Municipality may deduct any outstanding amount(s) from the Unit Manager's remuneration after this period. The Unit Manager hereby authorises monthly deductions from his remuneration for his consumer account.

10.9 Participation in elections

The Unit Manager may not participate in an election of the Council of the Municipality, other than in an official capacity or pursuant to any constitutional right.

10.10 Sexual harassment

The Unit Manager may not embark on any action amounting to sexual harassment

10.11 Duty to report

Whenever the Unit Manager has reasonable grounds for believing that a Municipal employee breached the Code of Conduct of the Municipality, the Unit must without delay report the matter to the Municipal Manager.

## 11. PATENTS AND COPYRIGHT

- 11.1 The employer reserves the right to retain all and/or any rights to patents or copyright to any inventions, designs, discoveries, improvements as made, discovered or conceived by the Unit Manager during their employment with the Employer whether wholly or partly, and whether in connection or not during normal working hours and whether or not at the Employer's premises. Such patents or copyright may not be limited to any particular area or country and the Employer has the right to alter, modify, adapt or change any designs, processes or methods or any such patents or copyright.-
- 11.2 The Employee may not copy, print or publish any of the Employer's methods, processes, or procedures relating to the business of the Employer unless permission has been granted by the Employer to do so.

## 12. TRAINING

The Employer may require the Unit Manager to attend from time to time, any appropriate training course or development programmes in order to improve skills, knowledge and experience of the Unit Manager. Attendance at these courses or programmes will be at the discretion and expense of the Employer.

## 13. CHANGE OF STATUS

The Employee must within a reasonable period, notify the Employer of any change to his/her status and identifying particulars such as address dependant, contact details, qualifications etc.

## 14. DOMICILA

Should either party to this agreement serve any notice on the other, this must be in writing, to be delivered by hand or sent by registered post to the address hereunder and such address will be accepted as the address (**domicilium citandi et executandi**) for all illegal intents and purposes concerning this agreement.

FOR THE EMPLOYEE	FOR THE EMPLOYER
Stand No. 19/13 Molepane Street Matlala Tribal Authority Mohlalaotwane Village Ga-Rakgoadi	13 Ficus Street Ephraim Mogale Local Municipality Marble Hall 0450

## 15. GENERAL

- 15.1 This Agreement and attachments shall be the entire agreement between Employer and Employee, and no variation and/or addition will be in force or effect unless placed in writing and signed by both parties.
- 15.2 This agreement, together with any policies as adopted by the Municipality from time to time, shall at all times be subject to the provisions of the Municipal pieces of legislation in their totality, as amended, their successes and any other laws that may be applicable from time to time.

15.3 No indulgence, leniency or extension of time which the parties may grant each other or them, or preclude either of them from exercising their rights.

15.4 Except by resolution of the Council of the Municipality, no variation, modification or waive of any provision of this agreement, or consent to any departure there from, shall in any way be of any force or effect unless confirmed in writing and signed by the parties and then such variation, modification, waiver or consent shall be effective only in the specific instance and for the purpose and the extent for which it was made or given.

## **16. GUARANTEE BY THE EMPLOYEE**

The Employee confirms that all documentation, information and credentials presented to the Employer in support of their application are authentic and correct. It is agreed that in terms of any of the above subsequently providing to be false, this will be grounds for summary termination of services after the required processes and procedures have been followed in terms of Council policy and the provisions of the Labour Relations Act.

## **17. TERMINATION**

17.1 This agreement will terminate:

- Automatically on expiry of the term referred to in 3.2;
- At the insistence of the Employee upon 1(one) calendar month's notice of termination in writing;
- At the Municipality's insistence, if the Municipality terminates Municipal Manager's employment for reasons relating to the Unit Manager's conduct, capacity, performance, operational requirements of the municipality which reason must be recognised by law as sufficient, on 1(one) calendar month's termination in writing.
- If the Employee is declared permanently unfit in terms of the rules/statutes of the relevant Pension/Provident Fund to perform his/her day-to-day functions.

17.2 The Municipality will be entitled to reasonably terminate the Unit Manager's employment contract for any sufficient reason recognised by law, which inter alia, may include the following:

17.2.1 If the Unit Manager:

- Commits any serious or persistent breach of any of the provisions of this agreement;
- Is guilty of any misconduct through omission or commission in the discharge of his/her duties under this agreement and any performance agreements;
- Wilfully disobeys a lawful instruction or direction from Council;
- Is convicted of any criminal offence which in the reasonable opinion of the Municipality affects his/her position as an employee of the municipality;
- Fails to give his whole time and attention to the business and affairs of the municipality and/or carries on any other business/enterprise, which may affect the relationship with the municipality;
- Is guilty of any other conduct that will justify dismissal as under labour law.

## 18. LAW AND JURISDICTION

This agreement is governed by and construed in accordance with the laws including the Constitution of the Republic of South Africa.

## 19. DISPUTE RESOLUTION MECHANISM

19.1 For the purpose of this agreement, a dispute includes, without prejudice to the generality of that term any dispute arising out of or in connection with this agreement and/or the interpretation thereof and/or implementation and/or termination thereof and/or transactions contemplated thereby.

19.2 Save as specifically provided to the contrary in this agreement, should dispute, as any party is entitled to require, by written notice to the other, that the dispute be submitted for consultation, mediation or arbitration in terms of this section

### 19.3 Arbitration

19.3.1 Subject to the provisions of this section, arbitration will be under the provisions of the Arbitration Act, at the cost of both parties split equally, provided that

19.3.1.1 The arbitrator shall be, if the issue in question is:

- Primarily an accounting matter, an independent accountant of not less than 10(ten) years standing;
- Primarily a legal matter, a practicing advocate or attorney of not less than 10(ten) years standing;
- Any other matter, an independent person agreed upon by the parties, and failing such agreement, within 3(three) days of the date on which the arbitration is called for, shall be appointed by the auditors to the municipality who may be instructed by any party to the dispute, to make that nomination at any time after the expiry of the 3(three) days, provided that if an accountant shall be from a firm of chartered accountants not having any professional relationship with either of the parties

19.4 The arbitration will be held in Marble Hall in accordance with the formalities and procedures settled by the arbitrator, and may be held in an informal, summary manner, on the basis that it shall not be necessary to obtain or carry out the usual formalities of procedure, pleading and discovery, or the strict of evidence.

19.5 The arbitration will be held as quickly as possible after it is demanded, with a view to its being completed within 30 (thirty) days after it has been so demanded.

19.6 Immediately after the arbitrator has been agreed upon or nominated in terms of this clause, either of the parties shall be entitled to call upon the arbitrator to fix a date and place when and where arbitration proceedings shall be held and to settle the procedure and matter in which the arbitration proceedings will be held.

19.7 Any award that may be made by the arbitrator:

19.7.1 Is final and binding on both parties;


19.7.2 Will be carried into effect and

19.7.3 May be made an order of Court to whom jurisdiction the parties to the dispute are subject.

19.8 Notwithstanding anything to the contrary contained in this agreement, with party this agreement,

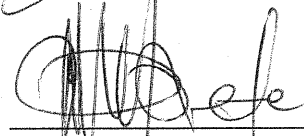
19.9 Is entitled to apply for, and if successful, be granted, an interdict from any competent court having jurisdiction.

Thus **done** and **signed** at Marble Hall on this 03<sup>rd</sup> day of MAY 2011.

  
\_\_\_\_\_  
**EMPLOYEE**

**AS WITNESSES:**

1.   
\_\_\_\_\_

2.   
\_\_\_\_\_

(On behalf of the employee)

  
\_\_\_\_\_  
**EMPLOYER**

Thus **done** and **signed** at Marble Hall on this 03<sup>rd</sup> day of MAY 2011.

**AS WITNESSES:**

1.   
\_\_\_\_\_

2. \_\_\_\_\_

(On behalf of the employer)