

PERFORMANCE AGREEMENT

MADE AND ENTERED INTO BY AND BETWEEN:

**THE EMAKHAZENI LOCAL MUNICIPALITY
REPRESENTED BY THE EXECUTIVE MAYOR**

THOMAS D. NGWENYA

AND

JABULANI W. SHABANGU

**THE MUNICIPAL MANAGER OF THE MUNICIPALITY
[HEREIN REFERRED TO AS THE EMPLOYEE OF THE MUNICIPALITY]**

FOR THE

FINANCIAL YEAR: 2023-2024

PERFORMANCE AGREEMENT

ENTERED INTO BY AND BETWEEN:

The Emakhazeni Local Municipality herein represented by **Thomas D. Ngwenya** in his capacity as the Executive Mayor (hereinafter referred to as the **Employer** or **Supervisor**)

and

Jabulani W. Shabangu an employee of the Municipality (hereinafter referred to as the **Employee**).

WHEREBY IT IS AGREED AS FOLLOWS:

1. INTRODUCTION

- 1.1 The **Employer** has entered into a contract of employment with the **Employee** in terms of section 57(1)(a) of the Local Government: Municipal Systems Act 32 of 2000 ("the Systems Act"). The **Employer** and the **Employee** are hereinafter referred to as "the Parties".
- 1.2 Section 57(1)(b) of the Systems Act, read with the Contract of Employment concluded between the parties, requires the parties to conclude an annual performance agreement.
- 1.3 The parties wish to ensure that they are clear about the goals to be achieved, and secure the commitment of the **Employee** to a set of outcomes that will secure local government policy goals.
- 1.4 The parties wish to ensure that there is compliance with Sections 57(4A), 57(4B) and 57(5) of the Systems Act.

2. PURPOSE OF THIS AGREEMENT

The purpose of this Agreement is to -

- 2.1 comply with the provisions of Section 57(1)(b),(4A),(4B) and (5) of the Act as well as the employment contract entered into between the parties;
- 2.2 specify objectives and targets defined and agreed with the employee and to communicate to the employee the employer's expectations of the employee's performance and accountabilities in alignment with the Integrated Development Plan, Service Delivery and Budget Implementation Plan (SDBIP) and the Budget of the municipality;
- 2.3 specify accountabilities as set out in a performance plan, which forms an annexure to the performance agreement;
- 2.4 monitor and measure performance against set targeted outputs;
- 2.5 use the performance agreement as the basis for assessing whether the employee has met the performance expectations applicable to his or her job;
- 2.6 in the event of acceptable performance determined in terms of 11.2, to appropriately reward the employee; and
- 2.7 give effect to the employer's commitment to a performance-orientated relationship with its employee in attaining equitable and improved service delivery.

3 COMMENCEMENT AND DURATION

- 3.1 This Agreement will commence on the **01 July 2023** and will remain in force from **01 July 2023** to **30 June 2024** thereafter a new Performance Agreement, Performance Plan and Personal Development Plan shall be concluded between the parties for the next financial year or any portion thereof.
- 3.2 The parties will review the provisions of this Agreement during June each year. The parties will conclude a new Performance Agreement and Performance Plan that replaces this Agreement at least once a year by not later than the beginning of each successive financial year.
- 3.3 This Agreement will terminate on the termination of the **Employee's** contract of employment for any reason.
- 3.4 The content of this Agreement may be revised at any time during the above-mentioned period to determine the applicability of the matters agreed upon.
- 3.5 If at any time during the validity of this Agreement the work environment alters (whether as a result of government or council decisions or otherwise) to the extent that the contents of this Agreement are no longer appropriate, the contents shall immediately be revised.

4 PERFORMANCE OBJECTIVES

- 4.1 The Performance Plan (Annexure A) sets out-
 - 4.1.1 the performance objectives and targets that must be met by the **Employee**; and
 - 4.1.2 the time frames within which those performance objectives and targets must be met.
- 4.2 The performance objectives and targets reflected in Annexure A are set by the **Employer** in consultation with the **Employee** and based on the Integrated Development Plan, Service Delivery and Budget Implementation Plan (SDBIP) and the Budget of the **Employer**, and shall include key objectives; key performance indicators; target dates and weightings.
 - 4.2.1 The key objectives describe the main tasks that need to be done.
 - 4.2.2 The key performance indicators provide the details of the evidence that must be provided to show that a key objective has been achieved.
 - 4.2.3 The target dates describe the timeframe in which the work must be achieved.
 - 4.2.4 The weightings show the relative importance of the key objectives to each other.
- 4.3 The **Employee's** performance will, in addition, be measured in terms of contributions to the goals and strategies set out in the **Employer's** Integrated Development Plan.
- 4.4 That Senior Manager/(s) is/are expected to perform the action plan of the Auditor General (Annexure B).
- 4.5 That Senior Managers/(s) is/are expected to deal with the risks as per the risk register of the municipality (Annexure C).

5 PERFORMANCE MANAGEMENT SYSTEM

- 5.1 The **Employee** agrees to participate in the performance management system that the **Employer** adopts or introduces for the **Employer**, management and municipal staff of the **Employer**.
- 5.2 The **Employee** accepts that the purpose of the performance management system will be to provide a comprehensive system with specific performance standards to assist the **Employer**, management and municipal staff to perform to the standards required.
- 5.3 The **Employer** will consult the **Employee** about the specific performance standards that will be included in the performance management system as applicable to the **Employee**.
- 5.4 The **Employee** undertakes to actively focus towards the promotion and implementation of the KPAs (including special projects relevant to the employee's responsibilities) within the local government framework.
- 5.5 The criteria upon which the performance of the **Employee** shall be assessed shall consist of two components, both of which shall be contained in the Performance Agreement.
- 5.5.1 The **Employee** must be assessed against both components, with a weighting of 80:20 allocated to the Key Performance Areas (KPA's) (SDBIP) and the Core Competency Requirements (CCRs) respectively.
- 5.5.2 Each area of assessment will be weighted and will contribute a specific part to the total score.
- 5.5.3 KPAs (SDBIP) covering the main areas of work will account for 80% and CCRs will account for 20% of the final assessment.
- 5.6 The **Employee's** assessment will be based on his/her performance in terms of the outputs / outcomes (performance indicators) identified as per attached Performance Plan (**Annexure A**), which are linked to the KPA's, and will constitute 80% of the overall assessment result as per the weightings agreed to between the **Employer** and **Employee**:

| Key Performance Areas (KPA's) | Weighting |
|---|------------------|
| 1. Basic Service Delivery | 30% |
| 2. Local Economic Development (LED) | 10% |
| 3. Municipal Financial Viability and Management | 20% |
| 4. Municipal Institutional Development and Transformation | 10% |
| 5. Good Governance and Public Participation | 20% |
| 6. Spatial Rationale | 10% |
| Total | 100% |
| The KPA must constitute 100% and be converted to 80% | |

- 5.7 In the case of managers directly accountable to the municipal manager, key performance areas related to the functional area of the relevant manager, must be subject to negotiation between the municipal manager and the relevant manager.
- 5.8 The CCRs will make up the other 20% of the **Employee's** assessment score. CCRs that are deemed to be most critical for the **Employee's** specific job should be selected (√) from the list below as agreed to between the **Employer** and **Employee**. Three of the CCRs are compulsory for Municipal Managers:

| CORE COMPETENCY REQUIREMENTS (CCR) FOR EMPLOYEES | | |
|--|------------|---------------|
| CORE MANAGERIAL COMPETENCIES (CMC) | ✓ | WEIGHT |
| Strategic Capability and Leadership | ✓ | 10 |
| Programme and Project Management | ✓ | 04 |
| Financial Management | compulsory | 10 |
| Change Management | ✓ | 04 |
| Knowledge Management | ✓ | 04 |
| Service Delivery Innovation | ✓ | 04 |
| Problem Solving and Analysis | ✓ | 05 |
| People Management and Empowerment | compulsory | 07 |
| Client Orientation and Customer Focus | compulsory | 07 |
| Communication | ✓ | 04 |
| Honesty and Integrity | ✓ | 05 |
| CORE OCCUPATIONAL COMPETENCIES | | |
| Competence in Self Management | ✓ | 04 |
| Interpretation of and implementation within the legislative and national policy frameworks | | 04 |
| Knowledge of Performance Management and Reporting | ✓ | 04 |
| Knowledge of global and South African specific political, social and economic contexts | | |
| Competence in policy conceptualisation, analysis and implementation | ✓ | 04 |
| Knowledge of more than one functional municipal field / discipline | ✓ | 04 |
| Skills in Mediation | ✓ | 04 |
| Skills in Governance | ✓ | 04 |
| Competence as required by other national line sector departments | ✓ | 04 |
| Exceptional and dynamic creativity to improve the functioning of the municipality | ✓ | 04 |
| Total percentage | | 100% |

6. PERFORMANCE ASSESSMENT

- 6.1 The Performance Plan (Annexure A) to this Agreement sets out -
- 6.1.1 the standards and procedures for evaluating the **Employee's** performance; and
- 6.1.2 the intervals for the evaluation of the **Employee's** performance.
- 6.2 Despite the establishment of agreed intervals for evaluation, the **Employer** may in addition review the **Employee's** performance at any stage while the contract of employment remains in force.
- 6.3 Personal growth and development needs identified during any performance review discussion must be documented in a Personal Development Plan as well as the actions agreed to and implementation must take place within set time frames.

6.4 The **Employee's** performance will be measured in terms of contributions to the goals and strategies set out in the **Employer's** IDP.

6.5 The annual performance appraisal will involve:

6.5.1 Assessment of the achievement of results as outlined in the performance plan:

- (a) Each KPA should be assessed according to the extent to which the specified standards or performance indicators have been met and with due regard to ad hoc tasks that had to be performed under the KPA.
- (b) An indicative rating on the five-point scale should be provided for each KPA.
- (c) The applicable assessment rating calculator (refer to paragraph 6.5.3 below) must then be used to add the scores and calculate a final KPA score.

6.5.2 Assessment of the CCRs

- (a) Each CCR should be assessed according to the extent to which the specified standards have been met.
- (b) An indicative rating on the five-point scale should be provided for each CCR.
- (c) This rating should be multiplied by the weighting given to each CCR during the contracting process, to provide a score.
- (d) The applicable assessment rating calculator (refer to paragraph 6.5.1) must then be used to add the scores and calculate a final CCR score.

6.5.3 Overall rating

An overall rating is calculated by using the applicable assessment-rating calculator. Such overall rating represents the outcome of the performance appraisal.

6.6 The assessment of the performance of the **Employee** will be based on the following rating scale for KPA's and CCRs:

| Level | Terminology | Description | Rating | | | | |
|-------|--|---|--------|---|---|---|---|
| | | | 1 | 2 | 3 | 4 | 5 |
| 5 | Outstanding performance | Performance far exceeds the standard expected of an employee at this level. The appraisal indicates that the Employee has achieved above fully effective results against all performance criteria and indicators as specified in the PA and Performance plan and maintained this in all areas of responsibility throughout the year. | 5 | | | | |
| 4 | Performance significantly above expectations | Performance is significantly higher than the standard expected in the job. The appraisal indicates that the Employee has achieved above fully effective results against more than half of the performance criteria and indicators and fully achieved all others throughout the year. | 4 | | | | |
| 3 | Fully effective | Performance fully meets the standards expected in all areas of the job. The appraisal indicates that the Employee has fully achieved effective results against all significant performance criteria and indicators as specified in the PA and Performance Plan. | 3 | | | | |
| 2 | Not fully effective | Performance is below the standard required for the job in key areas. Performance meets some of the standards expected for the job. The review/assessment indicates that the employee has achieved below fully effective results against more than half the key performance criteria and indicators as specified in the PA and Performance Plan. | 2 | | | | |
| 1 | Unacceptable performance | Performance does not meet the standard expected for the job. The review/assessment indicates that the employee has achieved below fully effective results against almost all of the performance criteria and indicators as specified in the PA and Performance Plan. The employee has failed to demonstrate the commitment or ability to bring performance up to the level expected in the job despite management efforts to encourage improvement. | 1 | | | | |

6.7 For purposes of evaluating the annual performance of the municipal manager, an evaluation panel constituted of the following persons must be established -

- 6.7.1 Executive Mayor or Mayor;
- 6.7.2 Chairperson of the performance audit committee or the audit committee in the absence of a performance audit committee;
- 6.7.3 Member of the mayoral or executive committee or in respect of a plenary type municipality, another member of council;
- 6.7.4 Mayor and/or municipal manager from another municipality; and
- 6.7.5 Member of a ward committee as nominated by the Executive Mayor or Mayor.

7. SCHEDULE FOR PERFORMANCE REVIEWS

7.1 The performance of each **Employee** in relation to his / her performance agreement shall be reviewed on the following dates with the understanding that reviews in the first and third quarter may be verbal if performance is satisfactory:

First quarter : July- September 2023 (on or before 31 October 2023).

Second quarter: October-December 2023 (on or before 31 January 2024).

Third quarter : January – March 2024 (on or before 30 April 2024)

Fourth quarter : April – June 2024 (on or before 31 July 2024).

7.2 The **Employer** shall keep a record of the mid-year review and annual assessment meetings.

7.3 Performance feedback shall be based on the **Employer's** assessment of the **Employee's** performance.

7.4 The **Employer** will be entitled to review and make reasonable changes to the provisions of Annexure "A" from time to time for operational reasons. The **Employee** will be fully consulted before any such change is made.

7.5 The **Employer** may amend the provisions of Annexure A whenever the performance management system is adopted, implemented and / or amended as the case may be. In that case the **Employee** will be fully consulted before any such change is made.

8. DEVELOPMENTAL REQUIREMENTS

The Personal Development Plan (PDP) for addressing developmental gaps must form part of the performance agreement.

9. OBLIGATIONS OF THE EMPLOYER

9.1 The Employer shall –

- 9.1.1 Create an enabling environment to facilitate effective performance by the employee;
- 9.1.2 Provide access to skills development and capacity building opportunities;
- 9.1.3 Work collaboratively with the **Employee** to solve problems and generate solutions to common problems that may impact on the performance of the **Employee**;
- 9.1.4 On the request of the **Employee** delegate such powers reasonably required by the **Employer** to enable him / her to meet the performance objectives and targets established in terms of this Agreement; and
- 9.1.5 Makes available to the **Employee** such resources as the **Employer** may reasonably require from time to time to assist her to meet the performance objectives and targets established in terms of this Agreement.

10. CONSULTATION

10.1 The **Employer** agrees to consult the **Employee** timeously where the exercising of the powers will have amongst others –

- 10.1.1 a direct effect on the performance of any of the **Employee's** functions;
- 10.1.2 commit the **Employee** to implement or to give effect to a decision made by the **Employer**; and
- 10.1.3 a substantial financial effect on the **Employer**.

- 10.2 The **Employer** agrees to inform the **Employee** of the outcome of any decisions taken pursuant to the exercise of powers contemplated in 10.1 as soon as is practicable to enable the **Employee** to take any necessary action without delay.

11. MANAGEMENT OF EVALUATION OUTCOMES

- 11.1 The evaluation of the **Employee's** performance will form the basis for rewarding outstanding performance or correcting unacceptable performance.
- 11.2. A performance bonus ranging from 5% to 14% of the all-inclusive remuneration package may be paid to an employee in recognition of outstanding performance. In determining the performance bonus the relevant percentage is based on the overall rating, calculated by using the applicable assessment-rating calculator; provided that-
- 11.2.1. a score of 130% to 149% is awarded a performance bonus ranging from 5% to 9% and
- 11.2.2. a score of 150% and above is awarded a performance bonus ranging from 10% to 14%.
- 11.3. In the case of unacceptable performance, the **Employer** shall –
- 11.3.1 provide systematic remedial or developmental support to assist the **Employee** to improve his or her performance; and
- 11.3.2 after appropriate performance counselling and having provided the necessary guidance and/ or support as well as reasonable time for improvement in performance, the **Employer** may consider steps to terminate the contract of employment of the **Employee** on grounds of unfitness or incapacity to carry out her duties.

12. DISPUTE RESOLUTION

- 12.1 Any disputes about the nature of the **Employee's** performance agreement, whether it relates to key responsibilities, priorities, methods of assessment and/ or salary increment in the agreement must be mediated by –
- 12.1.1. In the case of the municipal manager, the MEC for local government in the province within thirty (30) days of receipt of a formal dispute from the employee, or any other person designated by the MEC; and
- 12.1.2. In the case of managers directly accountable to the municipal manager, the executive mayor or mayor within thirty (30) days of receipt of a formal dispute from the employee.
- 12.2 Any disputes about the outcome of the employee's performance evaluation, must be mediated by-
- 12.2.1. In the case of the Municipal Manager, the MEC for local government in the province within thirty (30) days of receipt of a formal dispute from the employee, or any other person designated by the MEC; and
- 12.2.2. In the case of managers directly accountable to the municipal manager, a member of the municipal council, provided that such member was not part of the evaluation panel provided for in sub-regulation 27 (4)(e), within thirty (30) days of receipt of formal dispute from the employee; whose decision shall be final and binding on both parties.
- 12.3 In the event that the mediation process contemplated above fails, clause 20.3 of the Contract of Employment shall apply.

13. GENERAL

- 13.1 The contents of the performance agreement must be made available to the public by the employer in accordance with the Municipal Finance Management Act, 2003 and Section 46 of the Act.
- 13.2 Nothing in this agreement diminishes the obligations, duties or accountabilities of the **Employee** in terms of his/ her employment contract, or the effects of existing or new regulations, circulars, policies, directives or other instruments.
- 13.3 The performance assessment results of the municipal manager must be submitted to the MEC responsible for local government in the relevant province as well as the national minister responsible for local government, within fourteen (14) days after the conclusion of the assessment.

Thus **done** and **signed** aton this the day of 2023

AS WITNESSES:

1. _____

MUNICIPAL MANAGER

2. _____

AS WITNESSES:

1. _____

EXECUTIVE MAYOR

2. _____