

## **SERVICE LEVEL AGREEMENT**

entered into by and between

### **Prince Albert Municipality**

(Herein after referred to as the “Municipality”)

herein represented by

**ALDRICK IVAN HENDRICKS**

in his capacity as

**Municipal Manager**

AND

**HCB VALUATIONS AND SERVICES (PTY) LTD.**

(Hereafter referred to as the “Service Provider”)

Herein represented by

**HENDRIK COENRAAD BOTHA**

in his capacity as

**Director**

## PREAMBLE

**WHEREAS** the Municipal Valuation Act of 2004 (Act No. 6 of 2004) regulate the power of municipalities to impose rates on properties to make provisions to implement a transparent and fair system of exemptions, reductions and rebates through rating policies fair and equitable valuation methods of properties and the objection and appeal process.

**AND WHEREAS** Section 81 of the Act confers the power to the MEC for Local Government and Traditional Affairs to monitor whether the municipalities comply with the Act;

**AND WHEREAS** the Municipality of Local Government and Traditional Affairs acknowledges the need to promote the orderly and efficient growth and development of our communities and or settlements regarding the enhancement of revenue generation through promotion of land development facilitation via appropriate Spatial Planning, Land Survey and Municipal Property Valuation.

## NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

### 1. DEFINITIONS

“**the Act**” refers to: Municipal Property Valuation Act of 2004 (Act No. 6 of 2004);

“**the Agreement**” means this Agreement, all annexures and amendments thereto;

“**the Municipality**” refers to the Prince Albert Municipality;

“**the Parties**” means the Municipality and the Service Provider;

“**the Assignment/project**” means the totality of efforts exerted by the Service Provider in the execution of its duties and responsibilities under this agreement;

“**the Service Provider**” refers to: HCB Valuations and Services (Pty) Ltd.

“**working days**” will exclude Saturdays, Sundays and public holidays and will be calculated exclusive of the last day.

1.1) In this Agreement, except where the context otherwise requires:

1.1.1) the masculine includes the feminine regarding gender sensitivity;

1.1.2) the singular includes the plural;

1.1.3) any reference to natural persons includes created entities (incorporated or unincorporated);

- 1.1.4) the head notes to the clauses of this agreement are included for reference purposes only and shall not affect the interpretation of the provisions to which they relate;
- 1.1.5) words and phrases defined in any clause shall bear the meanings assigned thereto;
- 1.1.6) the annexures to the agreement as well as any documentation pertaining to the agreement are deemed to be incorporated herein and form an integral part of this agreement;
- 1.1.7) the various parts of the agreements are severable and may be interpreted as such;
- 1.1.8) the expressions listed in one clause bear the meaning as assigned hereto and cognate expressions bear corresponding meanings;
- 1.1.9) If any provisions in the sub clause 1.1 above are a substantive provision conferring rights or imposing obligations on any party, effect shall be given to it as if it were a substantive clause in the body of the agreement, notwithstanding that it is only contained in the said sub clause.

## **2. APPOINTMENT AND ACCEPTANCE**

- 2.1) The Prince Albert Municipality hereby appoints the Service Provider, namely HCB Valuations and Services (Pty) Ltd to execute the service specified in this Agreement and Tender No. 95/2023 and the Service Provider accept such appointment subject to the terms and conditions set out in the Tender Specification.
- 2.2) Notwithstanding anything herein contained to the contrary, it is specifically agreed that the appointment of the Service Provider shall not create an employment contract or relationship between the parties.

## **3. DURATION OF AGREEMENT**

- 3.1) Notwithstanding the date of signature hereof this Agreement shall be deemed to have commenced on 15/10/2023 and shall proceed until 30/06/2029.

- 3.2) The maintenance of the General Valuation Roll and the ensuing Supplementary Valuation Roll as well as the supply of the other valuation related services in compliance with the MPRA of 2004 for financial year 01/07/2024 to 30/06/2029.
- 3.3) Subject to the terms of clauses 18 and 19 relating to breach and termination respectively, the term of the Agreement will be from the date stipulated in clause 3.1 supra, unless extended in terms of clause 3.3.
- 3.4) The terms of Agreement may be extended as a result of bona fide negotiations between the parties. No extension of term shall be valid unless reduced to writing and signed by all parties.

#### **4. DELIVERABLE**

The main deliverable/s will include:

The key milestones are as follows:

- 4.1) Creating of all General Valuation Rolls as required by the act.
- 4.2) Possible creating of the supplementary rolls as required by the act.
- 4.3) Printing and supplying of the Valuation Rolls.
- 4.4) According to the act more than one supplementary valuation roll may be compiled per financial year.
- 4.5) Access to our valuation program for valuation, financial, town planning, corporate information and reports.
- 4.6) Handling of all Objections as per the regulations of the MPRA.
- 4.7) Attending and adhering to all Valuation matters pertaining to the Prince Albert Municipality.
- 4.8) Any other services as may be stated in the Tender document, tender no. 95/2023.

#### **5. DUTIES AND OBLIGATIONS OF THE SERVICE PROVIDER**

- 5.1) In order to achieve the deliverables as contained in clause 4 above, the Service Provider will deal with the study that will generate management decision making information on following aspects:

- 5.2) The Service Provider shall ensure that the responsible level of care and responsibility be exercised when using items belonging to the Local Municipality in the performance of its duties and obligations as stipulated in the agreement.
- 5.3) Service Provider shall ensure that progress reports are made on regular basis; monitoring, reporting and evaluation reports are submitted to the Municipal Council.
- 5.4) The Service Provider shall exercise the highest degree of skill, care and diligence that can be expected of its profession.

## **6. RESPONSIBILITIES OF PRINCE ALBERT MUNICIPALITY**

Prince Albert Municipality has the role and responsibility of the following:

- 6.1) Contractual and financial management;
- 6.2) Designate an official to co-ordinate the activities of the project;
- 6.3) Ensure that relevant information and documents are made available to the service provider at reasonable time, as set out in Tender no. 95/2023.
- 6.4) Participate in meetings of the various establishments related to the Assignment as Local District and Provincial.
- 6.5) As stipulated in the Tender Document the Municipality will ensure payments are made within 30 days after submission of an invoice or claim from the Service Provider.

## **7. ROLLS OF THE SERVICE PROVIDER**

- 7.1) The Service Provider will produce reports based on a milestone plan of the method of assessment.
- 7.2) The Service Provider is required to possess its own tools i.e., Information Technology equipment.

## **8. PAYMENT PROCEDURE**

Refer to Tender 95/2023.

**9. TERMS AND CONDITIONS**

- 9.1) The time frames and number of days set out herein are estimates only and may be varied by Agreement between Prince Albert Municipality and the Service Provider.
- 9.2) The Service Provider acts as an independent contractor and not as an agent of employee of the State and has no authority to bind the State or this local municipality.
- 9.3) Invoices shall be certified by the Service Provider that the amount claimed in the invoices is due and payable in terms of the Agreement, that the amount claimed does not cover the amounts already claimed and that the claim truly reflects the value and extent to the work performed.
- 9.4) Should the invoices not be acceptable to the Local Municipality, the Service Provider will be informed thereof in writing together with reasons for the non-acceptable of such invoices, with three (3) days of receipt of the invoices.
- 9.5) Should the Local Municipality accept the invoices, payment shall be made to the Service Provider within thirty (30) days after certification.
- 9.6) Should the Local Municipality not be satisfied with the work done by the Service Provider, the Municipality will request the Service Provide to rectify or improve the work done at the Service Provider's expense.
- 9.7) Any and all extra costs incurred by the Service Provider resulting from the Service Provider having to address and/or rectify queries arising from the claim submitted in respect of work done, shall be for the account of the Service Provider.

**10. OWNERSHIP AND PUBLICATION OF REPORTS**

- 10.1) The Local Municipality will become the owner of the information, advice, recommendation and reports collected, furnished and/or compiled by the Service Provider during the course of, and the purpose of executing this Agreement all of which will be handed over to the Local Municipality on request, but in any event on

the termination of this Agreement for whatever reason. The Service Provider relinquishes its retention of any other rights to which it may be entitled.

- 10.2) The Service Provider hereby indemnifies the Local Municipality against any action, claim, damage or legal cost that may be instituted against the Local Municipality on the ground of an alleged infringement of any copyright or other intellectual property right in connection with the work outlined with this Agreement.
- 10.3) All documents, recommendations, and reports collected or compiled must be regarded as confidential and may not be communicated or made available to any person outside the Local Municipal services and may not be published during the currency of this Agreement or after termination thereof without the prior written consent of the Local Municipality.

#### **11. INTELLECTUAL PROPERTY RIGHTS INDEMNITY**

- 11.1) The Service Provider undertakes to obtain the necessary consent from the proprietors or their licenses should the Service Provider make use of the intellectual property of any other person.
- 11.2) The Service Provider further indemnifies the Local Municipality against any claim or action (including costs) caused by and/or arising from the failure to obtain such consent.

#### **12. NO AGENCY OR PARTNERSHIP**

The relationship between the parties shall not imply any partnership in the legal sense, nor shall it constitute either party the agent or authorized representative of the other party.

#### **13. ASSIGNMENT**

Neither party shall be entitled to assign this Agreement, all or any of its rights and obligations hereunder without prior written consent of the other party. Each party warrant that it is acting as a principal agent and not as an agent for an undisclosed principal.

**14. INDULGENCES**

No extension of time, latitude or other indulgence without which may be given or allowed by either party to the other shall constitute a waiver to alteration of this Agreement, or effect such party's right, or prevent such party from strictly enforcing, due to some compliance with each and every provision of this Agreement.

**15. THE EXERCISE OF THE REASONABLE SKILLS, CARE AND INDULGENCE.**

15.1) The Service Provider guarantees that it will perform all its duties professionally and that all the work done by it will be of the highest standard that may be expected from a professional body in its position.

15.2) If, for any reason, the Service Provider finds itself incapable of completing the services as agreed in terms of this Agreement, it will notify the Local Municipality within five (5) days, stating full reasons.

15.3) The Service Provider shall ensure that a reasonable level of care and responsibility be exercised by all parties and individuals under its control when such parties or individuals are using property belonging to the Municipality in the performance of this contract and in general in the performance of the Service Provider's duties and obligations as stipulated in this Agreement.

15.4) The Service Provider shall maintain an efficient well-trained and qualified staff. Should the Local Municipality find any member of the Service Provider unable to perform the task to the satisfaction of the Local Municipality the Local Municipality may, in writing and together with reasons therefore, request that he/she be replaced in order to meet the requirement of the contract?

**16. FORCE MAJEURE**

16.1) Force majeure shall be considered to be, if the performance of any obligation in terms of the Agreement is suspended or postponed by:

16.2.1) Strikes or lock-out or any combination therefore by employees or either of the parties;



- 16.2.2) Fire or accident on the premises of the Municipality not occasioned by negligence on the part of either of the parties;
- 16.2.3) War or civil commission;
- 16.2.4) Any cause, except as may be otherwise provided for in the Agreement, beyond the reasonable control of either of the parties; and
- 16.2.5) Any act of God/nature.
- 16.2) Should the completion of obligation be delayed as a result of force majeure, the party who is unable to perform its obligation shall, within twenty (20) days of occurrence of such force majeure, give notice thereof in writing to the other party and request an extension of time in which to comply with its obligation. On receipt of such notice and supporting particulars of the claim, the other party may, in writing grant an extension of time as may be justified.
- 16.3) The party who is incapable of performing its obligations shall not be liable for any such claim which the other party may have as a result of such obligation not being performed provided that the reason why it cannot perform its obligation is due to force majeure and provided further that the notice referred to in 16.2 has been duly delivered.
- 16.4) In the event of force majeure continuing for a period of twenty (20) days, either party shall be entitled to terminate the Agreement by written notice to the other party and without any party incurring any liability to the other party.

## **17. SEQUESTRATION, LIQUIDATION AND JUDICIAL MANAGEMENT**

- 17.1) Should the estate of the Service Provider be sequestered or liquidated or if it is placed under judicial management or administration order to be issued against it by any court, the person nominated as a substitute Valuer in the Tender Document shall assume all responsibilities in terms of the Specification thereof as if he were the Municipal Valuer.

## **18. BREACHES OF AGREEMENT**

- 18.1) The Municipality may terminate this Agreement should the Service Provider or any of its agents make themselves guilty of misconduct in terms of the code of conduct of their profession or if the Service Provider acts dishonestly or contrary to the integrity which is required by its profession, provided that the relevant Professional Body responsible for such Profession has made such a finding and all appeals and / or reviews against such finding have been finalized.
- 18.2) In the event of any breach by the Local Municipality of the terms and conditions of this Agreement, and in the event of the Prince Albert Municipality remaining in default after ten (10) day's written notice to the Municipality calling for rectification of such breach, the Service Provider shall be entitled to:
- (a) enforce strict compliance with the terms and conditions of the Agreement;
- 18.3) If, owing to circumstances beyond the control of the Service Provider (other than Force majeure as set out above) it becomes impossible for the Service Provider to fulfill any of its obligations in terms of this Agreement, the Municipality, upon receipt of written request from the Service Provider, shall consider granting the Service Provider the necessary permission to defer such performance for such period as is required under the circumstances, which permission shall not be unreasonably withheld.
- 18.4) In the event of the Municipality granting the Service Provider permission to defer performance as provided above, it is specifically recorded that the Service Provider shall not be entitled to payment thereof until the particular obligations have been discharged fully.

## **19. TERMINATION OF AGREEMENT**

- 19.1) The Local Municipality shall have the right to terminate the Agreement without prejudice to any of its other rights upon the occurrence of any of the following cases;

- 19.2) On commencement of any action for dissolution and/or liquidation of the Service Provider except for the purpose of the amalgamation of restructuring approved in advance by the Local Municipality;
- 19.3) If the Service Provider receives a court order to be placed under judicial management or commence liquidation procedures that are not withdrawn within five (5) days;
- 19.4) The Service Provider informs the Local Municipality that it intends to cease performing its obligations in terms of the Agreement.
- 19.5) The Service Provider informs the Local Municipality that it is incapable of completing the project as described.
- 19.6) Termination of the Agreement will relieve the Local Municipality and the Service Provider of their respective obligations in terms of the Agreement
- 18.1) The Service Provider shall not be entitled to advance a right of retention nor any similar rights if this Agreement is terminated.

## **20. DISPUTE RESOLUTION**

- 20.1) The terms of this clause shall apply, if the parties agree in writing within five (5) days, after failure of negotiations of the parties in good faith to reach Agreement of the dispute, that the dispute to be referred to arbitration.
- 20.2) Notwithstanding anything herein contained to the contrary, it is agreed that irrespective of the fact that the dispute is referred to negotiation arbitration or litigation in court, the decision of the Local Municipality on the dispute involved will immediately be given affect to by the Service Provider and the Association will proceed with the project or work with diligence unless the parties agree otherwise in writing.
- 20.3) The arbitrator shall be a person agreed upon between the parties and if this fails, the arbitrator shall be nominated in terms of laws that govern arbitration in South Africa.

20.4) The Party instituting these proceedings shall appoint the arbitrator and the arbitrator shall notify the parties beforehand of the remuneration requires by him for his services.

## **21. GENERAL**

21.1) This is the entire Agreement between the parties and may only be amended in writing and duly signed by both parties.

21.2) The Agreement shall be governed by, construed end interpreted according to the law of the Republic of South Africa.

21.3) The parties agree that the High Courts of the Province shall have jurisdiction in respect of any matter arising from this Agreement, subject to the provisions of clause 20 relating to dispute resolutions.

## **22. DOMICILIUM CITANDI ET EXECUTANDI**

The parties choose the following addresses for the services of correspondence for purpose of this agreement:

### **Service provider**

HCB Valuations & Services (Pty) Ltd  
P.O. Box 247  
114 Long Street  
MOORREESBURG  
7310

### **Local municipality**

Prince Albert Municipality  
Private Bag X53  
33 Church Street  
PRINCE ALBERT  
6930

Either party shall be entitled, on fourteen (14) days' notice to the other, to change its domicile to another physical address.

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THUS, DONE AND SIGNED AT \_\_\_\_\_ ON THIS \_\_\_\_\_  
DAY OF \_\_\_\_\_ 2023

FOR THE SERVICE PROVIDER

AS WITNESSES

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DATE: \_\_\_\_\_ 2023

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THUS, DONE AND SIGNED AT \_\_\_\_\_ ON THIS \_\_\_\_\_  
DAY OF \_\_\_\_\_ 2023

FOR THE MUNICIPALITY

AS WITNESSES

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MUNICIPAL MANAGER/REPRESENTATIVE

DATE: \_\_\_\_\_ 2023

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