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CONTRACT OF EMPLOYMENT

ENTERED INTO by and between

LAINGSBURG MUNICIPALITY

Hereinafter referred to as "the Municipality", conducting business at **2 Van Riebeeck Street, LAINGSBURG**, and herein represented by **M Gouws**, duly authorized thereto in his capacity as **Executive Mayor** in terms of Section 57(2)(b) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), read with Regulation 3(2) of the Local Government: Municipal Performance Regulations for Municipal Managers and Managers directly accountable to Municipal Managers, 2006;

AND

PA WILLIAMS

(Identity Number: 6709285472080)

Hereinafter referred to as "the Employee".

PREAMBLE

WHEREAS Section 54A(1)(a) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) determines that the municipal council of a municipality must appoint a municipal manager, who shall be the head of the administration and also the accounting officer of the municipality;

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AND WHEREAS Section 57(1)(a) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) determines that a person appointed as a municipal manager of a municipality may be appointed to that position only in terms of a written employment contract with the municipality;

NOW THEREFORE the parties hereby conclude a written Contract of Employment on the following terms and conditions:

1. INTERPRETATION

In this Agreement, unless the context clearly indicates a contrary intention -

- 1.1 The singular includes the plural and *vice versa*.
- 1.2 A reference to one gender shall include the other gender.
- 1.3 The clause headings in this Agreement have been inserted for reference purposes only and shall not affect the interpretation of any part of the Agreement.
- 1.4 The validity, application and interpretation of this Agreement will be governed by the laws of the Republic of South Africa.
- 1.5 Words and expressions defined in the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) and any Regulations promulgated thereunder, shall be given those defined meanings when used in this Agreement.

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- 1.6 If any provision in **clauses 1 and/or 2** is a substantive provision conferring rights or imposing obligations on any Party, then notwithstanding that such provision is contained in **clauses 1 and/or 2**, effect shall be given thereto as if such provision(s) were a substantive provision in the body of the Agreement.
- 1.7 The terms of this Agreement have been negotiated and accordingly, the rule of interpretation which construes the Agreement against the Party who prepared it, shall not be applicable.

2. DEFINITIONS

In this Agreement, unless the context indicates the contrary:

- 2.1 "*Appointment and Conditions of Employment Regulations*" shall mean the Local Government: Regulations on Appointment and Conditions of Employment of Senior Managers, published in GN 21 of 17 January 2014;
- 2.2 "*Agreement*" shall mean the Contract of Employment together with annexures and documents referred to herein and the performance agreements to be concluded between the parties, which shall be regarded as having been incorporated into the Contract of Employment by reference;
- 2.3 "*BCEA*" shall mean the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997) and Regulations promulgated thereunder;
- 2.4 "*Constitution*" shall mean the Constitution of the Republic of South Africa, 1996;
- 2.5 "*COIDA*" shall mean the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 69 of 1993);

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- 2.6 "*Disciplinary Regulations*" shall mean the Local Government: Disciplinary Regulations for Senior Managers, published in GN 344 of 21 April 2011;
- 2.7 "*LRA*" shall mean the Labour Relations Act, 1995 (Act No. 66 of 1995) and Regulations promulgated thereunder;
- 2.8 "*MFMA*" shall mean the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) and Regulations promulgated thereunder;
- 2.9 "*Municipality*" shall mean the Cape Winelands District Municipality, a local authority duly established in accordance with applicable legislation;
- 2.10 "*Municipal Council*" shall mean the Municipal Council of the Laingsburg Municipality;
- 2.11 "*Operational requirements*" shall mean the requirements based on the economic, technological, structural or similar needs of the Municipality, as defined in section 213 of the LRA and as contemplated in section 189 of the Act, and not requirements related to a change of control of the Municipality and without limiting the generality of the foregoing, it shall include requirements resulting from the application by the Municipality of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) and any Regulations promulgated thereunder.
- 2.12 "*Parties*" shall mean the Municipality and the Employee;

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- 2.13 "Performance Regulations" shall mean the Local Government: Municipal Performance Regulations for Municipal Managers and Managers directly accountable to Municipal Managers, 2006, published in GN R805 of 1 August 2006;
- 2.14 "Structures Act" shall mean the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) and Regulations promulgated thereunder;
- 2.15 "Systems Act" shall mean the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and Regulations promulgated thereunder;
- 2.16 "TCOE" shall mean Total Cost of Employment.

3. APPOINTMENT, DURATION AND EXTENSION OR RENEWAL

3.1 APPOINTMENT

The Municipality hereby appoints the Employee in the position of Municipal Manager as resolved by the Municipal Council at Item 4 during the meeting on Special Incommittee Council Meeting held 19 November 2018 and the Employee hereby accepts the appointment, subject to the terms and conditions of this Agreement.

3.2 DURATION

Notwithstanding the date of signing thereof, this Agreement and appointment referred to in **clause 3.1**, shall in all respects be deemed to have commenced on 1 January 2019 and shall endure for a fixed term of **five (5)** years, not exceeding a period of **one (1)** year ending after the election of the next Municipal Council.

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3.3 EXTENSION OR RENEWAL

- 3.3.1 The Municipality may, by resolution of the Municipal Council, extend or renew the Contract of Employment on such terms and conditions as the parties may agree to in writing, subject to prevailing law: Provided that the Employee explicitly acknowledges that there exists no expectation on his part, whether reasonable, legitimate or otherwise, that this Agreement will be extended or renewed beyond the term referred to in **clause 3.2** and as stipulated in regulation 4(3) of the Performance Regulations.
- 3.3.2 The terms and conditions of any extension of this Agreement must be concluded in writing before the election of the next Municipal Council.
- 3.3.3 The terms and conditions of any renewal of this Agreement must be concluded in writing after the election of the next Municipal Council, but prior to the termination of this Agreement.
- 3.3.4 The Employee must, at the date of extension or renewal, satisfy all statutory requirements pertaining to his appointment, notwithstanding that such requirements may not have been of application as at the date of commencement of this Agreement, failing which no extension or renewal shall come into effect.
- 3.3.5 Failure to extend or renew the period referred to in **clauses 3.1 and 3.2** above shall not constitute a dismissal and the Employee shall not be entitled to any additional remuneration or compensation in respect of the completion of such period, save as provided for in this Agreement.

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4. PERFORMANCE AGREEMENT

The Agreement shall, in terms of section 57(2)(a)(i) and (ii) of the Systems Act, be subject to the conclusion and signing of a separate Performance Agreement within **sixty (60)** days after the Employee has been appointed as the Municipal Manager and annually, thereafter, within **one (1)** month after the beginning of each financial year of the Municipality.

5. REMUNERATION AND PERFORMANCE BONUS

5.1 ANNUAL REMUNERATION PACKAGE

5.1.1 The Employee shall, as from the effective date, be paid an annual remuneration package of **R 1 163 285,00 plus 4% Payment of remote allowance per annum**, payable in equal monthly instalments on the 25th (twenty fifth) of every month, in accordance with the Upper Limits of Total Remuneration Packages Payable to Municipal Managers and Managers directly Accountable to Municipal Managers, Government Notice No. 1224 published in Government Gazette No. 42023 dated 8 November 2018 as amended and published from time to time by the Minister for Cooperative Governance and Traditional Affairs.

5.1.2 It is recorded and agreed that the remuneration package referred to in **clause 5.1.1** above is based on the TCOE of the Employee and is inclusive of all benefits and must be structured in accordance with the guidelines issued from time to time by the South African Revenue Service.

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5.1.3 The Employee's annual remuneration package shall be adjusted in terms of the Local Government: Upper Limits of Total Remuneration Packages Payable to Municipal Managers and Managers directly accountable to Municipal Managers as promulgated by the Minister of Co-operative Governance and Traditional Affairs.

5.1.4 The precise allocation of the Employee's remuneration package to cash component, allowances and other benefits shall be determined by agreement between the parties, subject thereto that the Employee shall be liable to instruct the Chief Financial Officer beforehand in writing of such restructuring, by no later than the 7th (**seventh**) day of the month in which the restructuring is to be effected.

5.2 PERFORMANCE MANAGEMENT, EVALUATION AND BONUS

5.2.1 The Employee is obliged to participate in the performance management system of the Municipality, subject to performance evaluations as prescribed in the Performance Regulations and Performance Agreement:

5.2.2 An annual non-pensionable performance bonus in terms of regulation 32(2) of the Performance Regulations, to a maximum of 14% of the total remunerating, shall be payable to the Employee as per the resolution by Council taken and subject to the adoption of the annual report for the financial year under review by the Municipal Council, and such performance bonus shall be paid to the Employee within **30 (thirty)** days after the adoption of the annual report by the Municipal Council, subject to –

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- (a) The conditions of this Agreement;
- (b) The conditions of the performance agreements to be concluded between the Parties, an evaluation of performance in accordance with regulation 23 of the Performance Regulations and the approval of such evaluation by the Municipal Council;

5.2.3 The annual performance bonus shall be calculated on the TCOE of the last working day of the financial year on which the performance bonus is due.

5.3 ADVANCES

The Employee shall not be entitled to draw any advance(s) against his remuneration or the performance bonus, respectively referred in **clauses 5.1 and 5.2**.

5.4 DEDUCTIONS

The Municipality may deduct monies from the Employee's all-inclusive remuneration package, subject to the provisions of the BCEA.

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6. PLACE OF WORK AND OFFICIAL WORKING HOURS

6.1 PLACE OF WORK

The Employee's ordinary place of work shall be the Administrative Offices of the Municipality in Laingsburg and shall include the area of jurisdiction of the Municipality. Provided that the Municipality may require or allow the Employee to perform his duties at another place reasonably required by the Municipality, or to travel internationally, nationally and provincially outside the area of jurisdiction of the Municipality at the Municipality's cost in accordance with the approved Subsistence and Travel Policy, which shall include but shall not be limited to, the attendance of congresses, seminars, provincial and national workshops, training courses, technical and advisory working group sessions and district meetings.

6.2 HOURS OF WORK

6.2.1 OFFICIAL WORKING HOURS

The Employee shall be required to work such hours and days in accordance with the operational needs and requirements of the Municipality, which shall not be less than **forty (40)** hours per week from **Monday to Friday**, ordinarily to be rendered from **07:30 to 16:15** from **Monday to Friday**, subject thereto that the working hours as aforesaid may, on a temporary basis, be structured by the Employee on a flexible basis with the prior approval of the Executive Mayor.

6.2.2 OVERTIME

- (a) The Employee must place the whole of his time at the disposal of the Municipality and it will be required of the Employee to work overtime, when reasonably required to do so, in the fulfilment of his duties and to meet the operational needs and requirements of the Municipality.

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- (b) As a senior managerial employee as contemplated in section 6(1)(a) of the BCEA and in accordance with regulation 22 of the Appointment of Conditions of Employment Regulations, the Employee shall not be entitled to additional remuneration for any overtime worked.

7. JOB PURPOSE, DUTIES, RESPONSIBILITIES AND ACCOUNTABILITIES

7.1 GENERAL

7.1.1 The Employee shall at all times fulfil his obligations and strive to achieve performance objectives with due diligence, loyalty and competency and he shall strive to the best of his ability, as far as is reasonably possible, and/or subject to the budgetary constraints of the Municipality, to effectively manage, extend, develop or improve the business and affairs of the Municipality in compliance with the Municipality's strategic objectives, Budget and Integrated Development Plan.

7.1.2 The Municipality undertakes to provide the Employee with appropriate resources, authority, direction, guidance and assistance within its available resources to –

- (a) Comply with the conditions of this Agreement;
- (b) Achieve the strategic objectives of the Municipality; and
- (c) Attain any performance objectives, targets and work standards for the Employee in terms of his Performance Agreement.

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- 7.1.3 The Employee shall execute his duties and responsibilities within the policy framework and directives of the Municipality and shall furthermore at all times comply with the policies, practices, procedures and systems adopted by the Municipality, as well as such work standards, quality measures, targets, objectives and goals set in terms of the Performance Agreements to be concluded between the Parties.
- 7.1.4 The Employee shall furthermore, in accordance with the requirements of section 57(6)(d) of the Systems Act, execute his duties and responsibilities with due regard to, *inter alia* –
- (a) The basic values and principles governing local public administration as contained in section 50 of the Systems Act, i.e. –
 - (i) The democratic values and principles of section 195(1) of the Constitution, an excerpt of which is incorporated into this Agreement as **Annexure “A”**;
 - (ii) The objects of local government as set out in section 152(1) of the Constitution, an excerpt of which is incorporated into this Agreement as **Annexure “B”**;
 - (iii) The duties of municipalities as set out in sections 4(2) and 6 of the Systems Act, an excerpt of which is incorporated into this Agreement as **Annexure “C”**;
 - (b) The Code of Conduct for Municipal Staff Members as set out in Schedule 2 of the Systems Act, an excerpt of which is incorporated into this Agreement as **Annexure “D”**;

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- (c) The management standards and practices contained in section 51 of the Systems Act, an excerpt of which is incorporated into this Agreement as **Annexure “E”**.

7.2 JOB PURPOSE

In his capacity as Municipal Manager, the Employee shall provide –

- 7.2.1 Leadership and direction to the Administration through effective strategies to fulfil the objects of local government provided for in the Constitution and any other legislative framework that governs local government;
- 7.2.2 Fostering relationships between the Municipal Council and the Administration as well as other key stakeholders; and
- 7.2.3 Creating an environment that defines the purpose and role of local government as a means to involve people in shaping the future of communities.

7.3 MAIN ACCOUNTABILITIES

As Head of Administration and Accounting Officer of the Municipality, the Employee shall be responsible and accountable for and perform the following main functions in addition to those specified in **clauses 7.4 and 7.5** –

- 7.3.1 Municipal transformation and organizational development;
- 7.3.2 Basic service delivery;
- 7.3.3 Local economic development;

7.3.4 Municipal financial viability and management; and

7.3.5 Good governance and public participation.

7.4 HEAD OF ADMINISTRATION

As Head of Administration of the Municipality, the Employee shall, in accordance with the provisions of section 55(1) of the Systems Act and subject to the policy directives of the Municipality, be responsible and accountable for:

7.4.1 The formation and development of an economical, effective, efficient and accountable administration that –

- (a) Is equipped to carry out the task of implementing the Integrated Development Plan in accordance with Chapter 5 of the Systems Act;
- (b) Operates in accordance with the Municipality's Performance Management System implemented in terms of Chapter 6 of the Systems Act; and
- (c) Is responsive to the needs of the local community to participate in the affairs of the Municipality;

7.4.2 The management of the Administration in accordance with the Systems Act and other legislation applicable to the Municipality;

7.4.3 The implementation of the Integrated Development Plan and the monitoring of progress with the implementation of the Plan;

7.4.4 The management of the provision of services to the local community in a sustainable and equitable manner;

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- 7.4.5 The appointment of staff other than those referred to in section 56(1)(a) of the Systems Act, subject to the Employment Equity Act, 1998 (Act No. 55 of 1998);
- 7.4.6 The management, effective utilisation and training of staff;
- 7.4.7 The maintenance of staff discipline;
- 7.4.8 The promotion of sound labour relations and compliance with applicable labour legislation;
- 7.4.9 Advising the political structures and office-bearers of the Municipality;
- 7.4.10 Managing communication between the Administration and its political structures and political office bearers;
- 7.4.11 Carrying out the decisions of the political structures and political office bearers of the Municipality;
- 7.4.12 The administration and implementation of the Municipality's by-laws and other legislation;
- 7.4.13 The exercise of any powers and the performance of any duties delegated by the Municipal Council, or sub-delegated by other delegating authorities of the Municipality, to the Employee in terms of section 59 of the Systems Act;
- 7.4.14 Facilitating participation by the local community in the affairs of the Municipality;
- 7.4.15 Developing and maintaining a system whereby community satisfaction with municipal services is assessed;

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7.4.16 The implementation of applicable national and provincial legislation applicable to the Municipality; and

7.4.17 The performance of any other function that may be assigned by the Municipal Council.

7.5 ACCOUNTING OFFICER

As Accounting Officer of the Municipality, the Employee is responsible and accountable for –

7.5.1 All income and expenditure of the Municipality;

7.5.2 All assets and the discharge of all liabilities of the Municipality; and

7.5.3 Proper and diligent compliance with the MFMA, specifically Chapter 8, incorporated into this Agreement as **Annexure "F"**.

8. CONTRIBUTIONS

8.1 RETIREMENT OR PENSION FUND MEMBERSHIP

8.1.1 The Employee must belong to a retirement or pension fund registered in terms of the Pension Funds Act.

8.1.2 The Employee must annually submit proof of membership of the retirement or pension fund to the Municipality.

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8.1.3 The Employee must be afforded an opportunity to make a once-off choice in respect of a retirement or pension fund to which he wants to become a member, including a retirement or pension fund accredited by the Bargaining Council designated for municipalities: Provided that such fund must be registered in terms of the Pension Funds Act.

8.1.4 The Employee's contribution to a retirement or pension fund will form part of the remuneration package referred to in **clause 5.1**.

8.2 GROUP LIFE INSURANCE SCHEME MEMBERSHIP

The Employee may contribute to the Municipality's Group Life Insurance Scheme: Provided that such contribution will form part of the remuneration package referred to in **clause 5.1**.

8.3 MEDICAL SCHEME MEMBERSHIP

8.3.1 The Employee must belong to a medical aid registered in terms of the Medical Schemes Act.

8.3.2 The Employee must submit annually proof of membership of the medical aid scheme to the Municipality.

8.3.3 The Employee must annually be afforded an opportunity to make a once-off choice in respect of a medical aid scheme to which he wants to become a member, including a medical scheme accredited by the Bargaining Council designated for municipalities: Provided that such scheme must be registered in terms of the Medical Schemes Act.

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8.3.4 The Employee's contribution to a medical aid scheme will form part of the remuneration package referred to in **clause 5.1**.

8.3.5 The Employee will not be entitled to continuous medical scheme benefits on termination of his services with the Municipality, for any reason whatsoever.

9. CELLULAR PHONE

The Municipality must, in addition to the remuneration package referred to in **clause 5.1**, pay the Employee an amount of R 3500,00 per month in respect of a mobile telephone and data card for official purposes in accordance with the relevant policy of the Municipality, as may be amended from time to time.

10. MOTOR VEHICLE

10.1 The Employee must have a motor vehicle available for the proper performance of his functions and official duties: Provided that he must secure his own financing for the vehicle.

10.2 In the event that the Employee utilises his private vehicle to carry out official duties, he must be compensated for the kilometres travelled in respect of the official trip.

10.3 Official distances travelled may be claimed in accordance with the applicable tariffs prescribed by the Department of Transport on a monthly basis for the use of privately-owned vehicles.

10.4 For purposes of claiming motor vehicle and maintenance allowances, the Employee must keep a logbook acceptable to the South African Revenue Service reflecting the official and private kilometres travelled per month.

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11. LEAVE

11.1 ANNUAL LEAVE

- 11.1.1 The Employee's annual leave cycle will be calculated from 01 January to 31 December.
- 11.1.2 The Employee is entitled to not more than **two (2)** working days leave on full remuneration for every month which he worked in any annual leave cycle, calculated on a *pro rata* basis.
- 11.1.3 The Employee must take at least **ten (10)** working days annual leave in each leave cycle: Provided that the remaining days must be taken before the end of the following annual leave cycle, failing which they are forfeited.
- 11.1.4 The Employee must apply for annual leave on the prescribed leave application form and submit such application to the Executive Mayor.
- 11.1.5 The Employee shall not accrue leave during any period of unpaid leave or if the Employee is absent from work without permission.
- 11.1.6 The accrual of leave must be reduced on a *pro rata* basis in accordance with the number of unpaid leave days or days on which the Employee was absent without permission.
- 11.1.7 The Employee may only take annual leave with the prior written approval of the Executive Mayor.

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11.1.8 Annual leave must be taken at a time which is convenient for the Municipality taking into account the operational requirements of the Municipality.

11.1.9 If the Employee is recalled from leave due to operational requirements, he must be credited with the number of annual leave days forsaken.

11.2 SICK LEAVE

11.2.1 The Employee's "sick leave cycle" means the period of **thirty six (36)** months employment with the Municipality, calculated from 01 January.

11.2.2 The Employee's "sick leave cycle" will commence on 01 January 2019.

11.2.3 The Employee is entitled to **thirty six (36)** working days paid sick leave during each sick leave cycle.

11.2.4 Sick leave may not be carried over from one sick leave cycle to the next sick leave cycle.

11.2.5 If the sick leave of the Employee is depleted within a sick leave cycle the Employee may take annual leave in lieu of sick leave for the purposes of recovery.

11.2.6 If the sick leave and the annual leave of the Employee are depleted, the Employee may, at the discretion of the Municipality, be granted unpaid leave, to a maximum of **thirty (30)** days.

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11.2.7 Notwithstanding **clauses 11.2.6 and 11.2.7**, the Municipality may, with the consent of the Employee, reduce the pay to which the Employee is entitled to in respect of any day's absence due to illness or injury, if the Municipality complies with the conditions set out in section 22(6) of the Basic Conditions of Employment Act.

11.2.8 If the Employee takes sick leave for more than **two (2)** consecutive days or on more than **two (2)** occasions during any eight week period, he must provide an original medical certificate, issued and signed by a medical practitioner or any other person who is certified to diagnose and treat patients and who is registered with a professional council established by an Act of Parliament.

11.2.9 The Employee must submit a sick leave application on the prescribed form for any period of absence due to illness or injury, immediately on his return to work, and submit such application to the Executive Mayor.

11.2.10 If the Employee falls sick or is injured during any period of leave other than sick leave, he must complete that period of leave before sick leave may be granted.

11.2.11 If the Employee is unable to report for duty due to sickness or injury, he must, as soon as reasonably possible, inform the Executive Mayor about his absence and expected duration of absence.

11.3 FAMILY RESPONSIBILITY LEAVE

11.3.1 The Employee is entitled to **five (5)** working days family responsibility leave per annual leave cycle for utilisation if the Employee's –

- (a) Spouse or life partner gives birth to the Employee's child;

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- (b) Child, spouse or life partner is sick; or
- (c) Child, spouse or life partner, parent, adoptive parent, grandparent, adopted child, grandchild or sibling, dies.

11.3.2 The Employee must apply for family responsibility leave on the prescribed leave form and submit such application to the Executive Mayor.

11.3.3 The Municipality may require reasonable proof of an incident in respect of which family responsibility leave is granted.

11.3.4 Family responsibility leave does not accrue and lapses at the end of every annual leave cycle.

11.4 STUDY LEAVE

11.4.1 If the Employee plans to attend a training programme that forms part of the Employee's personal development plan, the Municipality may, upon receipt of official proof of the programme, grant the Employee up to **twenty (20)** working days' leave per year, **ten (10)** days of which must be for examinations linked to formal qualifications and **ten (10)** days to attend classes or lectures.

11.4.2 Notwithstanding **clause 11.4.1**, the Employee may be granted leave to attend workshops, conferences or seminars associated with continued professional development: Provided that the Executive Mayor has approved the Employee's attendance at such workshop, conference or seminar.

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11.4.3 If the Employee is required to attend a training programme in relation to a priority skill identified by the Municipality in terms of the Employee's personal development plan, the Employee must be granted paid time off to attend the training in addition to the Employee's entitlement to leave.

11.4.4 The Municipality may grant appropriate flexible working arrangements to the Employee if he is required to complete a structured learning programme.

11.4.5 The Employee must submit a leave application form for any period of study leave on the prescribed leave form and submit such application to the Executive Mayor.

11.5 OCCUPATIONAL ACCIDENTS AND DISEASES

The provisions of **clauses 11.1.9 and 11.2.11** do not apply to an inability to work caused by an accident or occupational disease as defined in COIDA, except in respect of any period which no compensation is payable in terms of the COIDA.

11.6 SPECIAL LEAVE

11.6.1 The Municipality may grant special leave, with or without pay, to the Employee for a reasonable number of working days, subject to the prior approval of the Executive Mayor.

11.6.2 The Employee must submit a leave application for any period of special leave on the prescribed leave form and submit such application to the Executive Mayor.

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12. DISCLOSURE OF BENEFITS AND INTERESTS

- 12.1 The Employee must within **sixty (60)** days after his appointment, and annually thereafter, from the commencement of the new financial year of the municipality declare his benefits and interests.
- 12.2 The benefits and interests contemplated in **clause 12.1** may include any shares, directorships or property, which may potentially be in conflict with the Employee's official duties.
- 12.3 The Employee must disclose all his registerable interests on the form attached as **Annexure "G"** to the Agreement.
- 12.4 If the circumstances change significantly after an initial disclosure has been made, and new or additional facts become material, the Employee must disclose such facts as soon as reasonably possible.
- 12.5 Failure to disclose benefits and interests is a breach of contract and must be dealt with in terms of the Code of Conduct for Municipal Staff Members as provided for in Schedule 2 of the Systems Act, read in conjunction with the Disciplinary Regulations.

13. PRECAUTIONARY SUSPENSION

The Municipality may suspend the Employee, subject to the provisions of regulation 6 of the Disciplinary Regulations.

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14. TERMINATION OF SERVICE

14.1 This Contract of Employment will terminate automatically on expiry of the term referred to in **clause 3.2**, subject to an extension or renewal;

14.2 This Contract of Employment of the Employee may be terminated only on written notice of –

14.2.1 **Two (2)** weeks, if the Employee has been employed for **six (6)** months or less;

14.2.2 **Four (4)** weeks, if the Employee has been employed for **twelve (12)** months or less; or

14.2.3 **One (1)** calendar month, if the Employee has been employed for more than **twelve (12)** months.

15. DISMISSAL FOR MISCONDUCT, INCAPACITY OR OPERATIONAL REQUIREMENTS

15.1 The Employee may be dismissed for misconduct, or incapacity or for operational requirements if the Municipality has complied with the relevant provisions of the Labour Relations Act.

15.2 If the Municipality is of the opinion that the Employee is incapable of carrying out the duties attached to the Employee's post as a result of continued ill-health or injury, the Municipality may require the Employee to undergo a medical examination by a registered medical practitioner nominated by the Municipality and at the Municipality's expense.

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- 15.3 The record of any medical examination performed must be kept confidential and may be made available only –
- 15.3.1 In accordance with the ethics of medical practice;
- 15.3.2 If required by law or court order; or
- 15.3.3 If the Employee has consented in writing to the release of such record.
- 15.4 The Municipality may, on the basis of medical evidence consider the dismissal of the Employee on account of ill-health.
- 15.5 A dismissal on account of ill-health or injury must be done with due regard to items 10 and 11 of Schedule 8 of the Labour Relations Act.
- 15.6 If the Employee applies for a discharge from service on account of continuous ill-health or injury, the provisions of **clauses 15.2 to 15.5** apply with the necessary changes required by the context.
- 15.7 If the Employee refuses or fails to be subjected to a medical examination, the Employee may be dismissed for misconduct subject to the Labour Relations Act.

16. PARTICIPATION IN ELECTIONS

- 16.1 Should the Employee accept a nomination as a candidate for election as a member of a municipal council, provincial legislature or Parliament, he shall be deemed to have voluntarily terminated his services with the Municipality with effect from the date on which he is issued a certificate in terms of section 64 of the Local Government: Municipal Electoral Act, 2000 (Act No. 27 of 2000) or section 31(3) of the Electoral Act, 1998 (Act No. 73 of 1998), stating that he is a candidate in the relevant election, or from the date on which he is nominated as a permanent delegate to the National Council of Provinces.

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- 16.2 In the event that the Employee is issued with a certificate in terms of section 31(3) of the Electoral Act, 1998 (Act No. 73 of 1998), or section 15(3) or 18(1)(d) of the Local Government: Municipal Electoral Act, 2000 (Act No. 27 of 2000), he shall, on the working day following the day on which he has received the certificate, present a copy of the certificate to the Municipality.
- 16.3 In such instance, the Employee shall be deemed to be on annual leave from the working day contemplated in **clause 16.2** until the date on which the result of the election is declared in terms of section 190(c) of the Constitution.
- 16.4 If the Employee is elected, he shall apply for further annual leave until his resignation in terms of **clause 16.6**.
- 16.5 If the Employee has insufficient annual leave, he shall be deemed to be on unpaid leave for the period of leave taken in excess of his available annual leave.
- 16.6 Subject to section 21(2) of the Structures Act, the Employee, if elected as a member of the National Assembly, a provincial legislature or a municipal council, shall be deemed to have resigned from the Municipality with effect from the date immediately before the date he assumes office.
- 16.7 If the Employee is a candidate in elections, he may not, for the purpose of his election campaign, utilize any movable and/or immovable property of the Municipality.
- 16.8 If the Employee is a candidate in elections, he may not, during working hours, utilize or accept assistance from any staff member of the Municipality for the purpose of promoting his election campaign.

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17. GRIEVANCES

In terms of regulation 18 of the Performance Regulations, the Employee may lodge a complaint or grievance concerning an act or omission of the Municipality with the Municipal Council in accordance with applicable procedures and timeframes.

18. DISPUTE RESOLUTION

18.1 For the purposes of this clause, "dispute" includes, without prejudice to the generality of that term, any dispute in its widest sense arising out of or in connection with this Agreement and/or the interpretation thereof and/or the implementation thereof and/or transactions contemplated thereby.

18.2 Save as specifically provided to the contrary in this Agreement, should a dispute arise, any Party shall be entitled, to require, by written notice to the other, that the dispute be submitted to arbitration in terms of this clause.

18.3 Subject to the provisions of this clause, arbitration shall be held under the provisions of the Arbitration Act, 1965 (Act No. 42 of 1965): Provided that –

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

- (a) Primarily an accounting matter, an independent practising accountant of not less than **five (5)** years standing;
- (b) Primarily a legal matter, a practising advocate or attorney of not less than **five (5)** years standing;
- (c) Any other matter, an independent person, agreed upon by the parties to the dispute.

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18.3.2 Should the parties fail to agree whether the dispute is principally an accounting, legal or other matter within **three (3)** days after the arbitration was demanded, the matter shall be deemed to be a legal matter.

18.3.3 Should the parties fail to agree on an arbitrator within **seven (7)** days after the expiry of the period referred to in **clause 18.3.2**, the arbitrator shall be appointed at the request of any party to the dispute, by the President for the time being of the Cape Law Society.

18.4 The arbitration shall be held in accordance with the formalities and/or procedures set by the arbitrator, and may be held in an informal and summary manner, on the basis that it shall not be necessary to observe or carry out the usual formalities of procedure, pleadings and/or discovery, or the strict rules of evidence.

18.5 The arbitration shall be held as quickly as possible after it is demanded with a view to being completed within **twenty (20)** working days after it has been so demanded.

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

18.7 Any award that may be made by the arbitrator:

18.7.1 Shall be final and binding;

18.7.2 Will be carried into effect; and

18.7.3 May be made an order of court to whose jurisdiction the parties to the dispute are subjected.

18.8 Notwithstanding anything to the contrary contained in this clause, the Municipality shall be entitled to apply for, and if successful, be granted, an interdict from any competent court having jurisdiction.

18.9 This clause is severable from the rest of this Agreement and shall, notwithstanding termination thereof, remain in full force and effect.

19. **DOMICILIA AND NOTICES**

19.1 The parties choose, as their *domicilia citandi et executandi*, their respective addresses set out in this clause for all purposes arising out of, or in connection with, this Agreement, at which addresses all processes and notices arising out of, or in connection with, this Agreement, its breach or termination, may validly be served upon or delivered to the Parties.

19.2 For purposes of this Agreement, the parties' respective *domicilia* shall be –

19.2.1 The Municipality: **2 Van Riebeeck Street, LAINGSBURG, 6900**

19.2.2 The Employee: **44 Springfontein Street, DURBANVILLE, 7550**

or at such other address in South Africa of which the Party concerned may notify the other in writing: Provided that no street address mentioned in this sub-Clause shall be changed to a post office box or *poste restante*.

19.3 Any notice given in terms of this Agreement shall be in writing and shall, if delivered by hand, be deemed to have been duly received by the addressee on the date of delivery;

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- 21.2 The Employee shall not, without the prior written approval of the Executive Mayor, disclose to any person, any confidential information related to the activities or business of the Municipality.
- 21.3 In the interest of the protection and maintenance of the Municipality's confidentiality and strategic information (which for purposes hereof means the Municipality's goodwill, technical and business know-how, trade secrets, confidential information and the intangible assets in general), the Employee undertakes that, except as required by the terms and nature of his employment with the Municipality or by law, he shall –
- 21.3.1 Not during his employment or at any time thereafter, either himself use and/or directly or indirectly divulge and/or disclose to any third party any of the Municipality's confidential matters;
- 21.3.2 Treat as confidential all matters which a third party has in terms of any contract made available to the Municipality and which has become known to him in the course of his duties under this Agreement, and not divulge to other third parties any information regarding such matters of the aforesaid contract.
- 21.4 Any documents or records (including written instructions, drawings, notes or memoranda) relating to the confidential matters of the Municipality which are made by the Employee or which come into his possession during the period of his employment with the Municipality, shall be deemed to be the property of the Municipality and shall be surrendered to the Municipality on demand, and in any event, on the termination of the Employee's employment, and the Employee shall not retain any copies thereof or excerpts therefrom.
- 21.5 The provisions of **clause 21.1** shall not apply to matters which –
- 21.5.1 Become part of the public domain prior to the date of disclosure;

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21.5.2 Have lawfully come into the possession of the Employee on a non-confidential basis from a source other than the Municipality, Councillors or other employees having the legal right to disclose such information.

22. RETURN OF ASSETS AND DOCUMENTS

In the event of termination of the Employee's employment for whatever reason, the Employee shall return to the Municipality any assets, including documents of whatever kind, belonging to the Municipality.

23. LATITUDE, INDULGENCE OR WAIVER

No latitude, extension of time or other indulgence which may be given or allowed by the Municipality to the Employee in respect of the performance of any obligation in terms of this Agreement, and no delay or forbearance in the enforcement of any right of any party arising from the Contract of Employment, and no single or partial exercise of any right by any party under the Agreement, shall in any circumstances be construed to be an implied consent or election by such party, or operate as a waiver or novation of, or otherwise affect any of the party's rights arising from the Contract of Employment, or estop or preclude any such party from enforcing at any time and without notice, strict and punctual compliance with each and every condition or term thereof.

24. VARIATION

This Agreement constitutes the whole Agreement and no variation or addition or mutually agreed cancellation or novation of the Agreement shall be of any force or effect unless reduced to writing and signed by or on behalf of both parties.

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25. SEVERABILITY

Save to the extent contemplated in the Agreement, the parties acknowledge and agree that each phrase, sentence, paragraph and clause of the Agreement is severable, the one from the other, notwithstanding the manner in which they may be linked together or grouped automatically, and if in terms of any judgment or order any phrase, sentence, paragraph or clause is found to be defective or unenforceable for any reason, the remaining phrases, sentences, paragraphs and clauses, as the case may be, shall nevertheless continue to be of full force and effect.

26. GUARANTEES AND REPRESENTATIONS

The parties to this Agreement acknowledge that no guarantees, representations, disclosures and/or expressions of opinion shall be binding on the parties, unless incorporated into this Agreement as warranties or undertakings.

27. FULL AGREEMENT

This Agreement, together with the Performance Agreements to be concluded between the Parties referred to herein, constitute the full Agreement between the Municipality and the Employee and no amendment, addition or omission thereto, and no variation, novation or consensual cancellation of the Agreement, shall be of any force or effect unless reduced to writing and signed by both parties.

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SIGNED AT Laingsburg ON THIS THE 29th DAY OF January 2019

AS WITNESSES:

1. 

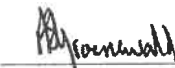
2. 



M GOUWS
EXECUTIVE MAYOR

SIGNED AT Laingsburg ON THIS THE 29 DAY OF January 2019

AS WITNESSES:

3. 

4. 



PA WILLIAMS
MUNICIPAL MANAGER

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