

**PERFORMANCE AGREEMENT
THE CHAIRPERSON OF THE BOARD OF SDA AND THE EXECUTIVE
MAYOR**

SHAREHOLDER'S COMPACT

ENTERED INTO BETWEEN



SEKHUKHUNE DEVELOPMENT AGENCY

(A municipal entity of the municipality established in terms of the Municipal Systems Act and the Municipal Finance Management Act and registered and incorporated as a Private Limited Company in terms of the Companies Act, 2008 as amended)

(Hereinafter referred to as SDA)

Represented by Mr. Dithabe Oupa Nkoane as the Chairperson of the Board of Directors of SDA

And



THE SEKHUKHUNE DISTRICT MUNICIPALITY

(A category C Municipality established in terms of section 155(c) of the Constitution of South Africa Act 108 of 1996 and which is governed by the Municipal Systems Act and the Municipal Finance Management Act)

(Hereinafter referred to as the Parent Municipality)

Represented by the Honorable Cllr Keamotseng Stanley Ramaila

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PREAMBLE

- WHEREAS** SDA is a municipal entity established in terms of the Municipal Systems Act (MSA), the Municipal Finance Management Act (MFMA) and the Companies Act
- WHEREAS** the Board must, in terms of the MSA and MFMA, comply with its fiduciary duties and manage all revenue, expenditure, assets and liabilities of SDA effectively and efficiently;
- WHEREAS** the Board, as the Accounting and governing body, must submit to the Executive Mayor, as the Executive Authority of SDM, a budget for each Financial Year for approval;
- WHEREAS** the Executive Mayor has to oversee the functioning and monitoring of the Board;
- WHEREAS** the Executive Mayor and the Board wish to establish a transparent and accountable working relationship on matters relating to the implementation of the provisions of the MSA and MFMA;
- AND WHEREAS** the Executive Mayor and the Board wish to enter into an agreement (known as “Shareholder’s Compact”), which will assist the Parties to measure performance, and to manage the working relationship between the Parties;
- NOW THEREFORE** the Executive Mayor and the Board have reached the following understanding on such a working relationship.

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1. DEFINITIONS AND INTERPRETATIONS

1.1 **Definitions** In this Shareholders Compact, the following expressions and words have the meaning assigned to them below and derivative

Expressions and words will have a corresponding meaning, unless inconsistent with or otherwise indicated by the context-

1.1.2 **“Board”** means the Board of SDA, herein represented by the Chairperson;

1.1.3 **“Chairperson”** means the Chairperson of the Board;

1.1.4 **“Committee”** means a Sub-Committee of the Board;

1.1.6 **SDM”** means the Sekhukhune District Municipality

1.1.7 **“Board Member”** means a Non-Executive and Executive member of the Board of SDA as appointed by SDM and provided by legislative provisions;

1.1.8 **“Effective Date”** means the date of signature of this agreement by both parties;

1.1.9 **“Executive Authority”** means the Executive Mayor of the Parent Municipality who is responsible for SDA in terms of MSA.

1.1.10 **“Financial Year”** means the financial year beginning on 1st July on each calendar year ending on 30 June of the following year.

1.1.11 **“Chief Executive Officer”** means the Accounting Authority of SDA duly authorized by the Board to act in terms of this shareholders’ compact.

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- 1.1.12 **“Member”** means a member of a Sub-Committee.
- 1.1.13 **“Month”** means a calendar month.
- 1.1.14 **“Non Executive Director”** Means a Director who is not involved in the day to day management and not a full time salaried employee of SDA.
- 1.1.15 **“Parties”** means the Executive Mayor and/or Board as the context indicates.
- 1.1.16 **“Performance Agreement”** means an agreement that will set out specific performance indicators, targets, measurements in line with the principle set out in the shareholder’s compact and shall become an addendum to the shareholder compact.
- 1.1.17 **“MSA”** means the Municipal Systems Act
- 1.1.18 **“MFMA”** means the Municipal Finance Management Act
- 1.1.19 **“Representative”** means a person appointed by the parties in terms of this shareholder compact to fulfill and administer the functions set out herein on behalf of the parties.
- 1.1.20 **“SDA”** means Sekhukhune Development Agency a municipal entity established in terms of the MSA and MFMA and registered and incorporated in terms of the Company laws of South Africa.
- 1.1.21 **“Shareholder’s Compact”** is an agreement setting high level principles upon which a performance agreement will be developed as an addendum hereto.

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1.1.22 **“Strategic Plan”** means the strategic plan of SDA under the MSA and MFMA.

1.1.23 **“Writing”** means handwritten, type written or printed communication including telegram, facsimile transmission, electronic transmission or any like communication and “in writing” and “written” shall have corresponding meanings.

1.2 Interpretation

In the shareholder compact:-

1.2.1 Unless indicates a contrary intention and expression:

1.2.1.1 Any reference to the singular includes the plural and vice versa.

1.2.1.2 Any reference to the natural person includes legal persons and vice Versa

1.2.1.3 Any reference to a gender includes the other genders.

1.2.2 When any number of days is prescribed same shall, unless otherwise specifically stated, be reckoned exclusively of the first and inclusively on the last day.

1.2.3 Where words have been defined in the body of this shareholder’s compact, such words shall, unless otherwise required by context, have the meanings so assigned to them through this shareholder’s compact.

1.2.4 Where any provision contemplates a notice to be given or agreement to be reached between two parties, such notice or agreement should be in writing, unless expressly provided otherwise.

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1.2.5 If any provision of this shareholder's compact is in any way inconsistent with the provisions of the MSA and MFMA, the provision of the MSA and MFMA shall prevail, and this shareholder's compact shall be read in all respect subject thereto.

1.2.6 Notwithstanding the omission from this shareholder's compact of any provision to that effect the SDA may do anything which the statute empowers the SDA to do.

2. PURPOSE OF SHAREHOLDER'S COMPACT

2.1 The parties agree to sign the shareholder's compact as an over-arching document setting out the principles, the details of which shall be crystallised in the performance agreement. In this regard, both parties shall therefore sign the shareholder's compact and the performance agreement to achieve the uniformity and standardization of reporting requirement.

2.2 The purpose of the shareholder's compact is to:

2.2.1 Formalize and regulate the working relationship between the Executive Mayor and the Board pursuant to the provision of the MSA and MFMA, and the Companies Act.

2.2.2 Set out the mandating processes of the SDA.

2.2.3 Set out the process of developing the assessment criteria to be used to facilitate the assessment and monitoring of the Boards' performance against pre-determined objectives.

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2.2.4 Define procedures and processes for accountability and quarterly reporting to the Executive Mayor by the Board through the Chairperson.

2.2.5 Distinguish between:

2.2.5.1 Enduring rights, obligations and undertakings; and

2.2.5.2 Performance reporting and revisions at specified intervals.

2.2.5.3 Establish reporting channels between the Executive Mayor and the Board.

2.2.5.4 The parties shall, where applicable, implement best practice guidelines as recommended in the King III and King IV report on Corporate Governance for South Africa and the protocol on governance in the public sector, 2002.

3. MANDATE SETTING PROCESS

3.1 The mandate of SDA is set out in the Board Charter and SDA By-Law and in its corporate plan. This mandate remains unchanged and SDA is required to perform and to comply with these mandates.

3.2 Concurrent with achieving the legislative mandate, SDA shall deliver on the developmental mandate of the Municipality as set out in government planning processes the result of which shall be duly and promptly communicated to SDA and specific indicators, targets and measurements shall be jointly developed between SDA and the Municipality.

4. ROLES AND RESPONSIBILITIES OF THE EXECUTIVE MAYOR

4.1 The Executive Mayor through Council appoints and/or terminates the appointment of all the Non-Executive Board Members;

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- 4.3 The Executive Mayor may, in writing or other means desirable, instruct the Board to discontinue any activity of the Board within a specific period, where such activity is contrary to the strategic or economic interest of the Sekhukhune District Municipality.
- 4.4 The Executive Mayor may facilitate:
- 4.4.1 The overall assessing of the Board's performance on the basis of SDA's actual performance in delivering the desired outcomes and objectives of SDA as per agreed objective of the Municipality.
- 4.4.2 Overall monitoring and reporting to Council of the financial, commercial and socio-economic strategic performance of SDA. For this purpose, the Board shall report to the Executive Mayor on the matters and at the intervals stipulated in the MSA; MFMA and the shareholder's compact.
- 4.4.3 The Executive Mayor has the right to solicit independent advice and audit support in the discharge of his role and functions in terms of the shareholder's compact and performance agreement.

5. ROLES AND RESPONSIBILITIES OF THE BOARD

- a) Advise the Executive Mayor on any matter affecting the economic development of the District;

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- b) Stimulate an awareness of the importance of economic development to all citizens of the District and the part they can play in ensuring its success and gaining access to its opportunities,
- c) Co-ordinate, advise and guide other bodies, organizations or institutions whose activities or aims could have an impact on the promotion, development or management of economic development of the District.
- d) Investigate the manner in which, and encourage citizens of the District to get involved in the economic development and participate in its social and economic benefits.
- e) Produce economic development promotional material of whatever nature, initiate and implement promotional campaigns and activities to promote, develop and market the economy of the District.
- f) Undertake research on the marketing and development functions, and seek advice on any matter affecting the economy of the District.
- g) Offer an advisory service to any person participating or intending to participate in the economic development as investors.
- h) Encourage the provision and the improvement of economic development infrastructure and facilities and ensure that all economic developments and activities take place on a sustainable basis.
- i) Open and operate administrative and information offices and aviation resources center in and outside the province.
- j) Employ or use the service of agents, contractors and consultants where necessary.

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- k) Employ the services of professional, technical, administrative or other categories or staff on a full time or part-time basis;

- l) Encourage and enter into joint ventures and partnerships with other institutions and other organizations in order to optimize economic development bodies or persons in the District.

- m) Acquire movable or immovable property necessary for the performance of the functions and fulfillment of the objectives of the Board.

- n) Carry out any other functions which the Executive Mayor may confer or impose under any other law.

- o) Insure with any registered insurer, the staff and property of the Board against any risks which the Board may incur.

- p) For the performance of its activities purchase, hire or lease or otherwise acquire land or buildings, to erect buildings on its land, to sell, let or otherwise dispose off mortgage such as land or buildings.

- q) Accept donations and to receive any money offered or due to it;

- r) Purchase, hire , develop , hold, describe or otherwise acquire or take moveable property of any kind including any shares, stocks, debentures, securities, any interest in any business of or any mortgage over any property, to let, sell or otherwise alienate it, pledge it or deal otherwise therewith ;and

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5.1 The Board shall ensure it meets at least four times a year to formally consider and approve the following.

5.1.1 The annual strategic plan for SDA.

5.1.2 The quarterly reporting.

5.1.3 The annual report and financial statements;

6. CORPORATE GOVERNANCE

For effective and efficient discharge of its duties, the Board shall appoint the following committees.

6.1 REMUNERATION, HUMAN RESOURCE & FINANCE SUB-COMMITTEE

The REMCO will:

Policy

6.3.1. Evaluate whether management is setting the appropriate “human resources culture” by implementing sound human resources policies and procedures, including a human resources policy manual.

6.3.2. Take cognisance of the SDA’s policy on employment equity and other related legislation.

6.3.3. Co-ordinate appointment of all senior personnel of SDA.

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6.3.4. Evaluate whether management is setting the appropriate “financial culture” by implementing sound financial policies and procedures.

6.3.5 Evaluate whether management is setting the appropriate “procurement culture” by ensuring that an effective procurement policy is implemented. This policy should take cognisance of the SDA’s policy on procurement from SMME businesses and historically disadvantaged businesses.

6.3.6 Evaluate whether management is setting the appropriate “tender processes” by implementing sound tender policies and Procedures

6.3.7. Ensuring and overseeing a transparent and effective means for maintaining suitably qualified and committed Board membership.

6.3.8 Continuous assessment of the Board’s composition.

6.3.9 Governance and effectiveness and recommendation of appropriate changes; and

6.3.10 Overseeing the governance of Entity.

Reporting

General

1. Review the reports received from management on personnel appointed.
2. Review annual salary increases.

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3. Review organogram of SDA.
4. Review significant changes to the human resources policies and procedures manual.
5. Review any legal matters, which could significantly impact the human resources policies and procedures.
6. Review the effectiveness of the system for monitoring compliance with laws and regulations pertaining to human resources.
7. Obtain regular updates from management regarding compliance matters.
8. Regularly update the Board about committee activities and make appropriate recommendations.
 - Ensure that the Board is aware of matters, which may significantly impact the financial conditions or affairs of the SDA.
9. Perform other oversight functions as requested by the full Board.
10. If necessary, institute special investigations and, if appropriate, course the appointment of counsel or experts to assist.
11. Review and update the charter; receive approval of changes from the Board.

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12. Evaluate the committee's own performance on a regular basis.
13. Review the reports received from management on tenders awarded and service providers appointed.
14. Consider any fraud, illegal acts, deficiencies in internal control or other similar issues in awarding tenders and appointing service providers.
15. Review significant changes to the financial policies and procedures manual.
16. Review significant changes to the tender process.
17. Review any legal matters, which could significantly impact the financial policies, procedures and tender policy.
18. Pay particular attention to complex and/or unusual transactions such as long term contracts.
19. Review policies of management to safeguard assets of SDA.
20. Review the effectiveness of the system for monitoring compliance with laws and regulations pertaining to finance and procurement.
21. Obtain regular updates from management regarding compliance matters.
22. Regularly update the Board about committee activities and make appropriate recommendations.
23. Ensure the Board is aware of matters, which may significantly impact the financial conditions or affairs of the SDA.
22. Perform other oversight functions as requested by the full Board.
23. If necessary, institute special investigations and, if appropriate, hire special counsel or experts to assist.
24. Review and update the charter: and receive approval of changes from the Board.
25. Evaluate the committee's own performance on regular basis.

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6.2 ECONOMIC DEVELOPMENT SUB-COMMITTEE

1.

6.3. AUDIT COMMITTEE

The Audit Committee will:

6.5.1 Internal control

6.5.1.1. Evaluate whether management is setting the appropriate “control culture” by communicating the importance of internal control and the management of risk and ensuring that all officials have an understanding of their roles and responsibilities.

6.5.1.2. Consider how management is held to account for the security of computer system and applications, and the contingency plans for processing financial information in the event of a systems breakdown.

6.5.1.3. Gain an understanding of whether internal control recommendation made by internal and external auditors have been implemented by management.

6.5.2. Financial reporting

General

6.5.2.1. Gain an understanding of the current areas of greatest financial risk and how management is managing these effectively.

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- 6.5.2.2. Consider with the internal and external auditors, any fraud, illegal acts, and deficiencies in internal control or other similar issues.
- 6.5.2.3. Review significant accounting and reporting issues, including recent professional and regulatory pronouncements, understand their impact on the financial statement.
- 6.5.2.4. Establish from management and the internal and external auditors about significant risks and exposures and the plans to minimise such risks.
- 6.5.2.5. Review any legal matters, which could significantly impact the financial statements.

6.5.3. Annual Financial Statements

- 6.5.3.1. Review the annual financial statement and determine whether they are complete and consistent with the information known to committee members. Assess whether the financial statements reflect appropriate accounting principles.
- 6.5.3.2. Pay particular attention to complex and /or unusual transactions such as restructuring charges and derivative disclosures.
- 6.5.3.3. Focus on judgemental areas, for example those involving valuation of assets and liabilities; warranty; product or environmental liability; litigation reserves; and other commitments and contingencies.

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6.5.3.4. Meet with management and the external auditors to review the financial statement and the result of the audit.

6.5.3.5. Review the other sections of the annual report before its release and consider whether the information is understandable and consistent with Officials' knowledge about the aviation operations.

6.5.4. Internal Audit

6.5.4.1. Review the activities and organisational structure of the internal audit function and ensure no unjustified restrictions or limitation made.

6.5.4.2. Review the qualification of internal audit personnel and concur in the appointment, replacement, reassignment or dismissal of the manager of internal audit.

6.5.4.3. Review the effectiveness of the Internal Audit functions.

6.5.4.4. Meet separately with the Finance Manager to discuss any matters that the committee or auditors believe should be discussed confidentially.

6.5.4.5. Ensure that significant recommendations made by the internal auditors are received and discussed on a timely basis.

6.5.5. External audit

6.5.5.1. Review the external auditors' proposed audit scope and approach and ensure no unjustified restriction or limitation have been placed on their audit scope.

6.5.5.2. Review performance of the external auditors.

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6.5.5.3. Consider the independence of the external auditors, including reviewing the range of service provided in the context of all consulting services bought by SDA.

6.5.5.4. Make recommendation to the Board regarding the appointment of external auditors.

6.5.5.5. Meet separately with the external auditors to discuss any matters that the committee or auditors believe they should be discussed privately.

6.5.5.6. Ensure that significant findings and recommendations made by external auditors are received and discussed on a timely basis.

6.5.5.7. Ensure that management responds to recommendation by the external auditors.

6.5.6. Compliance with laws and regulations

6.5.6.1. Review the effectiveness of the system for monitoring compliance with laws and regulations and the result of management's investigation and follow up (including disciplinary action) of any fraudulent acts or non-compliance.

6.5.6.1 Obtain regular updates from management regarding compliance matters.

6.5.6.2. Be satisfied that all regulatory compliance matters have been considered in the preparation of the financial statements.

6.5.6.3. Review the finding/s of any examination by regulatory agencies.

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6.5.6.4 Ensure that the code of conduct is in writing and those arrangements are made for all officials to be aware of it.

6.5.6.5 Evaluate whether management is setting the appropriate “tone at the top” by communicating the importance of the code of conduct and the guidelines for acceptable behaviour.

6.5.6.6 Review the process for monitoring compliance with the code of conduct.

6.5.6.7. Obtain regular updates form management regarding compliance.

6.5.7 Reporting responsibility

6.5.7.1 Regularly update the Board about committee activities and make appropriate recommendations.

6.5.7.1 Ensure that the Board is aware of matters, which may significantly impact the financial conditions or affairs of GSDM

6.5.7.2 Perform other oversight function as requested by the full Board.

6.5.7.3 If necessary, institute special investigations and, if appropriate, hire special or expert to assist.

6.5.7.4 Review and update the charter; and receive approval of changes from the Board.

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6.5.7.5 Evaluate the committee's own performance on a regular basis.

6.6.1.1 6.6 .

7. UNDERTAKING BY THE EXECUTIVE MAYOR

7.1 The Executive Mayor undertakes to-

7.1.1 Provide an environment that encourages the discretion of the Board regarding matters falling within its authority, as provided for in the in this shareholder compact.

7.1.2 Expedite the implementation of critical decisions; and

7.1.3 Facilitate the proper constitution of the Board, and to fill vacancies that arises promptly.

7.2 Promote the SDA's programme within the Council.

7.3 Engage timeously with the Board, before exercising any of his or her powers, if the exercise of such power will-affect the performance of SDA's functions;

7.3.1 Commit SDA to implement or give effect to decisions taken by the Executive Mayor.

8. UNDERTAKING BY THE BOARD.

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8.1 The Board undertakes to:-

- 8.1.1 Diligently adhere to the corporate objectives statement, strategic plan, as well as reporting requirements.
- 8.1.2 Diligently supervise SDA in accordance with MSA, MFMA and this shareholder's compact;
- 8.1.3 Engage SDA in transactions within the ordinary course of business;
- 8.1.4 Dispose off assets in accordance with the MFMA and the Act within the normal course of business; and
- 8.1.5 Give effect to the instruction of the Executive Mayor as given from time to time.

9. SERVICE TO THE EXECUTIVE MAYOR AND DEPARTMENT

- 9.1 The Board undertakes to co-operate and liaise with relevant law enforcement agencies regarding information in their possession that may be required by a court of law.
- 9.2 The Board must keep the Executive Mayor informed on matters concern between the SDA, Local Municipalities and other authorities of South Africa.
- 9.3 The Board may notify the Executive Mayor of any agreements, which the Municipality may enter into with other state entities.

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10. GOVERNMENTAL POLICIES

10.1 The Board shall support, and assist the Executive Mayor and the Municipality with the development and implementation of the SDA's Strategic Plan, and the Municipal Integrated Development Plan

10.2 The Executive Mayor shall formally document and communicate to the Board the SDAs strategic Plan.

10.3 The Board shall model the SDA's policies in a manner that is consistent with the spirit of the national policies, to promote and support the objectives of Government in relation to economic development related matters.

10.4 The Board shall implement the following policies-

10.4.1 Employment equity policy;

10.4.2 Procurement policy, which takes into account, Black Economic Empowerment and a fair and objective procurement process in terms of the BBBEE guidelines set by the Department of Trade and Industry;

10.4.3 Position SDA to deal with the global and economic challenges facing the economic development of the district by delivering a predictable safe, secured, efficient and reliable economic development service to its customers;

10.5 Where necessary revise and review a code of ethics.

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10.5.1 Align SDA's overall operations with the District, Provincial, and National and the Global economic development matters and trends.

10.6 The Board shall ensure that it remains abreast with the international and national affairs in the economic development environment and will make recommendations to the Executive Mayor in relation to all the plans contemplated in clause 10.1 supra.

10.7 The Board shall integrate any Governmental policy, relating to SDA into its Strategic plan.

11. TREATMENT OF DEVELOPMENTAL OBJECTIVES

11.1 The parties agree that SDA's corporate objectives shall include developmental and socio-economic objective and that the achievement of all such objectives shall be measured through the reporting systems and key performance measures and indicators stipulated in this Shareholder's Compact.

11.2 The Executive Mayor shall at least within 90 (ninety) days of the end of the Financial Year give notice to the Board, of developmental objectives that the MEC requires.

11.3 The parties shall during the relevant budgeting round agree on the financial package and performance measures to be applied and the Board shall incorporate such objectives into its key performance measures and indicators for the following Financial Year.

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12. APPROPRIATIONS FROM LEGISLATURE

12.1 SDA shall receive appropriations from the Municipality on terms and conditions negotiated between the Executive Mayor and Council after consultation with the Board.

12.2 Payments from GSDM must take account of –

12.2.1 Outputs to be delivered;

12.2.2 Capital expenditure incurred in terms of the business plan for the year;

12.2.3 The agreed minimum funds that will be at GSDM disposal; and other relevant factors.

13. BUDGETING AND FINANCING CYCLE

13.1 The parties recognize that SDA's annual budget and Corporate Business Plan must be approved by the Accounting Authority before commencement of the new financial year.

13.2 The parties agree that prior to the submission of SDA's annual budget, the Chief Executive Officer and the Municipal Manager shall consult and come to an agreement on SDA's annual budget and corporate plan and for this purpose the Board shall submit the annual budget and corporate plan to the Municipal Manager no later than #

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13.3 Parties agree that the annual budget of SDA shall include a projection of **revenue** collected and expenditure for that year.

13.4 The Chief Executive Officer shall before incurring any expense not Provided for in the annual budget or corporate plan request approval in writing from the Municipal Manager

14. STRATEGIC PLAN

14.1 The Board shall, develop and prepare the Strategic Plan that will include a framework of acceptable levels of materiality for budgeting, forecasting and reporting purposes.

14.2 The Board shall submit a draft Strategic Plan to the Executive Mayor for consideration, by not later than end March of each year.

14.3 The Board shall, within # months after internal consultations submit the final Strategic Plan to the MEC for approval.

15. KEY PERFORMANCE MEASURES INDICATORS AND EVALUATION

15.1 The Board shall, from the effective date, provide key performance measures and indicators for all its commercial, developmental and socio-economic objectives to facilitate the measurement of both financial and non-financial out-put targets for such objectives by the Executive Mayor or the Municipal Manager on a quarterly basis.

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- 15.2 The Format, content and coverage of key performance measures and indicators are set out in the Strategic Plan.
- 15.3 The actual performance target values for key performance measure and indicators set out in the Strategic Plan shall be reported on in the quarterly package.
- 15.4 The Board shall by not later than # of each year, submit its proposal for the following three financial years with its Strategic Plan to the Municipal Manager for consideration, and consultation and approval by the Council in terms of the MFMA.
- 15.5 If the Executive Mayor establishes that after any quarterly assessment of the key performance measures and indicators, SDA fails-
- 15.5.1 To meet any one or more of the prescribed key performance measures and indicators by 25% or more for 2(two) successive quarters, or for the year as a whole taking into account results to date and future forecasts; or
- 15.5.2 To meet the projected revenue or net cash flow by a material Margin; or
- 15.5.3 To adhere to the corporate objectives statement; or
- 15.5.4 To comply with the MFMA; or
- 15.5.5 To comply with the other required standards as set by GSDM and Government policies;

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15.6 The Executive Mayor may decline to provide the necessary support that may be required by SDA in relation to funding mechanisms.

16. INTERACTIONS WITH OTHER GOVERNMENT DEPARTMENTS

16.1 The Board shall ensure that communication by SDA with other Government Entities is through the Municipal Manager if such is necessary and:-

16.1.1 Potentially impacts on the rights, obligations or undertakings of the parties;
or

16.1.2 Requires sanction or instruction from another Government Entity; or

16.1.3 Conveys policy requirements or obligations.

16.2 SDA shall notify the Municipal Manager immediately if SDA received such communication from another Government Entity and shall request such Government Entity to direct the matter to the Municipal Manager.

16.3 The Municipal Manager shall, upon written request from the Chief Executive Officer, conclude inter-governmental memoranda of understanding to stipulate the procedure for inter-governmental liaison.

16.4 The parties recognize that SDA and other Government Entities may, in the normal course of business, have the need for routine interactions for operational, regulatory or advisory reasons as may be applicable to any

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private business and agree that such communication may be concluded directly between SDA and such other Governmental Entity.

17. RELATIONSHIP WITH STAKEHOLDERS

The Board shall maintain a sound working relationship with all stakeholders in the various sector industries and SDA shall focus on relation management with all the relevant stakeholders through the communication strategy (developed).

18. REPORTING SYSTEMS

18.1 The Board shall submit a quarterly report to the Executive Mayor as set out in the Performance Agreement which will be inclusive of the following:-

18.1.1 Revenue collected, balance sheet and cash flow achieved that quarter as compared to the budgeted performance anticipated in the Strategic Plan and actual performance;

18.1.2 The actual revenue and expenditure for that quarter compared with the estimated revenue and expenditure, and

18.1.3 The achievement of key performance measures and indicators for that quarter.

18.1.4 The Board shall ensure that it will consistently and comprehensively comply with the format and content requirement of the quarterly reporting package as prescribed in the performance agreement and that internal management

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measures be introduced to ensure that quarterly reporting is not delayed or inadequate.

19. LIAISON WITH THE MEDIA

19.1 The parties must advise each other in advance of any intention to liaise with the media particularly if the subject matter to be addressed may have an effect on the powers, rights and privileges of the other party.

19.2 However, the above does not in anyway deprive any party of its right to freely communicate with the public on matters that relates to its core business.

19.3 The parties shall maintain an open and transparent relationship and appraise each other of decisions or planned decisions timeously, to avoid the occurrence of embarrassment and surprises; this applies especially to dealings with the media and other third parties.

20. COMMUNICATION

20.1 The parties agree that on strategic matters the Board shall report to the Executive Mayor directly on the performance of this Shareholder's Compact and as often as required on issues at hand but not less than quarterly.

20.2 The Executive Mayor shall meet with Chairperson as and when required to evaluate progress on the performance of the Shareholder's Compact.

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20.3 The Executive mayor shall convene a forum of Chairpersons when necessary for strategic purposes.

20.4 The purpose of these meetings is-

20.4.1 To communicate strategic and policy objectives of the Municipality.

20.4.2 To evaluate progress in the attainment of Municipal objectives , in so far as SDA is concerned.

20.4.3 To enhance the relationship of the Chairpersons with the Executive Mayor.

20.5 The Municipal Manager shall convene a meeting with the Chief Executive Officer as and when required. The purpose of these meetings is to plan, budget, strategize, project expenditure, monitor and evaluate progress on the performance of the SDA.

20.6 All communications concerning the management of this Shareholder's Compact shall, unless otherwise agreed between the Municipal Manager and the Chief Executive Officer, take place between the party's representatives who may have such ad hoc meetings as and when requested by either party for the effective and efficient communication between parties.

20.7 However, nothing precludes direct communication between the Executive mayor and the Chairperson on matters relating to this Shareholder's Compact

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21. INTERACTION WITH FOREIGN STATES AND INTERNATIONAL

ORGANISATIONS

- 21.1 Any agreements representing the Municipal interest must be brought to the knowledge of the Executive Mayor and the agreement must clearly outline SDA's intentions and the implications for the municipality.
- 21.2 Where necessary, the municipality must also obtain the necessary credentials on behalf of the SDA in furtherance of the interest of international relations between SDA and the third party.
- 21.3 Correspondence received by SDA from foreign states or international organizations on policy and regulatory matters must be forwarded to the municipality timeously, to enable the Municipality to act upon it expeditiously.

22. ACCESS TO INFORMATION

- 22.1 In addition to information referred to in the Act and this Shareholder's Compact, the Board undertakes to furnish the Executive Mayor on written request with the following:-
- 22.1.1 Any such information as may be required from time to time;
- 22.1.2 Copies of agendas, reports and confirmed minutes of every Board meeting;

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22.1.3 An updated report or information on SDA's activities and financial position;

22.1.4 Accurate and up to date reports and statistics on environmental, and patronage into the province.

23. ADDITIONAL FUNCTIONS

23.1 SDA may not undertake functions or responsibilities other than those set out in the Shareholder's Compact and the SDA By-Law unless directed in writing to do so by the Executive Mayor.

24. NON PERFORMANCE

24.1 Where the Executive Mayor is not satisfied with the Board's or SDA's performance with respect to any matter under the MSA and the MFMA, the Act or this Shareholder's Compact, the Executive Mayor shall convene a meeting with the Chairperson.

24.2 The Chairperson will have the opportunity at the meeting to satisfy the Executive Mayor of the measures being taken to ensure the Board's performance become satisfactory and any programme, including dates, for implementing these measures.

25. CONFLICT RESOLUTION

25.1 In the event of either party fails to comply with any of the Shareholder's Compact, or if any dispute arises between the parties as to the interpretation, application or performance of any provision of this

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Shareholder's Compact, the matter shall first be referred to the representatives of the parties who will use their best endeavors to resolve the dispute within 14 (fourteen) days of the dispute having been referred to them.

25.2 Should the parties representatives fail to resolve the dispute within 14 (fourteen) days the dispute shall be referred to the Municipal Manager and the Chief Executive Officer who shall use their best endeavors to rectify the non-performance or confer with a view to resolving the dispute.

25.3 Should the Municipal Manager and the Chief Executive Officer fail to resolve the dispute, either of them may refer the matter to the Executive Mayor for resolution.

25.4 The matter shall be resolved at the Executive Mayor's discretion.

26. WHOLE AGREEMENT

This Shareholder's Compact constitutes the entire agreement between the parties in respect of the subject matter hereof and neither party shall be bound by any undertakings, representation, warranties or promises not recorded in this Shareholder's Compact.

27. DURATION OF THE SHAREHOLDER'S COMPACT

27.1 This Shareholder's Compact shall be reviewed on an annual basis.

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- 27.2 SDA's representative shall on or before 15 December of each year submit a draft shareholder's Compact to the Head of Department for the purpose of negotiating the Shareholder's Compact for the following year.
- 27.3 The Municipal Manager and the Chief Executive Officer shall set a process to commence consultation on the draft Shareholder's Compact.
- 27.4 The Municipal Manager and the CEO shall as soon as they agree on the proposed Shareholder's Compact, submit it through their respective governance processes and thereafter to the Executive Mayor and the Chairperson for their approval and signature.

28. NO VARIATION

No variation or consensual cancellation of this Shareholder's Compact, and no addition to this Shareholder's Compact, including this clause, shall be of any force or effect unless reduced to writing and signed by both parties.

**THUS DONE AND SIGNED AT _____ ON THIS _____ DAY OF
_____ 2017.**

AS WITNESSES

1. _____

**Mr. Oupa Nkoane
Chairperson: SDA
Duly authorized thereto**

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2. _____

AS WITNESSES:

1. _____

Honorable Executive Mayor

2. _____