

MEMORANDUM OF AGREEMENT

(Host and organize the Easter Tourism Festival)

Made and entered into by and between:

Lejweleputswa District Municipality

Hereinafter referred to as ("the Municipality ")

A category C municipality as envisaged in Section 155(1) (c) of the Constitution of the
Republic of South Africa.

(Herein represented by the Acting Municipal Manager) Me. Palesa Kaota
duly authorized hereto

and

Amanzi Ahlo Bile and Soul Commission


Herein referred to as "the Service Provider"

A company with limited liability (Herein represented by Me Thandeka Tshabalala in her
capacity as Head of Projects and being duly authorized hereto)

Whereas the Municipality invited tenders for the hosting and organizing of the Lejweleputswa
District Municipality Easter Tourism Festival upon which the service provider responded to the
said invitation to tender by submitting the tender which is attached hereto as ANNEXURE "A"
(and appointment letter attached hereto as ANNEXURE "B" for an all-inclusive amount R1,
058.460 (One million and fifty eight thousand four hundred and sixty rands)

And Whereas the Services Provider offered to supply the services in conformity with the
conditions of contract contained in the tender and appointment letter as ANNEXURE "A"

And whereas the parties wish the terms and conditions of the agreement between them to be
recorded in writing,


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Now therefore the parties agree as follows:

1. DEFINITIONS

In this agreement ,unless the contrary is expressly indicated, words in the singular shall include the plural and vice versa and the particular words and expressions indicated in Annexure "A , B" hereto, shall have the meaning assigned to them as stated in Annexure "A , B" hereto.

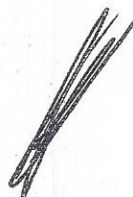
2. CONTRACTUAL TERMS AND CONDITIONS

2.1 The terms and conditions agreed to between the parties are those contained in this agreement read together with the terms and conditions in annexure "A" and "B" hereto.

2.2 In the event of any of the terms and conditions in this agreement being in conflict with the terms and conditions contained in annexure" A" and "B" hereto, the relevant provisions contained in this agreement will be regarded as the terms agreed to between the parties.

2.3 The parties' record that the terms and conditions contained herein read together with annexure "A" and "B" hereto, contain a full and exact recording of all the terms and conditions agreed to between them and no alteration, variation, modification or purported cancellation of this agreement shall be valid and binding unless in writing and signed by the parties representatives.

2.4 No purported or released cancellation of this agreement by consent, shall be valid and binding unless in writing and signed by the parties representatives.



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3. OBLIGATIONS OF THE PARTIES:

The Service Provider Amanzi Ahlo Bile and Soul Commission

The Service Provider must;


- 3.1 Host, coordinate and manage the Tikwe Easter Music Festival to be held on the
- 3.2 Secure sufficient sponsorships for the event.
- 3.3 Secure and provide all the services as per their sponsorship proposal marked Annexure "B" to this agreement.
- 3.4 Ensure that the event is highly successful as far as its responsibility as a Service Provider is concerned and that the Municipality receives value for money.

4. OBLIGATIONS OF THE MUNICIPALITY

- 4.1 The Municipality must pay the Service Provider an amount of R1,058.460 as a sponsorship towards the event mentioned in paragraph 3.1 above.

5. COMMENCEMENT AND DURATION OF THIS AGREEMENT

This agreement shall commence on the 14th of March 2016 despite the date on which the contract was signed up until the 14th May 2016 upon which it will automatically terminate.


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6. EXTENSION OF TIME

- 6.1 If by any reason, due to commotion, strikes, stand-outs or lock-outs, or a combination thereof, or in consequence of fire, flood or by reason of any unforeseen circumstances beyond the control of the Service Provider, and not arising through any act or default on part of the Municipal Manager, of the Municipality or its officials, the Service Provider in its opinion, shall have been delayed in hosting the event then and in such cases, the Service Provider shall immediately give notice in writing to the Municipal Manager and thereupon the Municipal Manager may, grant such extension of time, either prospectively or retrospectively, and assign such other day or days for the hosting of the event as she deems reasonable, without thereby prejudicing or in any manner affecting the validity of the contract.
- 6.2 Any extension of time thus granted shall be deemed to be full compensation in respect of the delay for which it is granted and no other compensation shall be allowed.
- 6.3 The Municipal Manager may further, if she deems fit, even though no application or request has been made, grant and fix any extension of time if such delay has, in her opinion, been caused by the default or delay of the Municipality or its officials. Such extensions may be granted and fixed by the Municipal Manager at any time before payment or refund of all monies due to the Service Provider in respect of this contract has been made.
- 6.4 In the event of any extension of time being granted and fixed, no compensation or damage shall be payable to the Service Provider in respect of such delay or extension of time. No extension of time granted and fixed by the Municipal Manager shall in any way affect the validity or continued operation of this agreement.



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7. **PENALTIES DUE TO LATE COMPLETION**

If the event referred to in paragraph 3.1 is not hosted on 27th April 2016 no penalty will apply.

8. **FEEES AND PAYMENT THEREOF**

8.1 The fees shall be as per paragraph 4.1 hereto.

9. **OWNERSHIP AND INTELLECTUAL RIGHTS**

9.1 The tittle in the product delivered or in any other way made available to the Municipality is vested in the Service Provider.

9.2 Tittle or rights of ownerships, copyright or any other intellectual property rights in the product shall not be transferred to the Municipality.

9.3 The Service Provider shall take upon itself all charges and responsibilities in regard to any patent royalties, trademarks or name, or other protective rights that may be involved in the manufacture and use of any articles embraced in this contract, and it is to hold the Municipality harmless for and is to indemnify the Municipality against any claims of this nature.

10. **MODIFICATIONS**

The Municipality reserves the right to make improvements, substitution or enhancements to any part of the product.



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11. SERVICE PROVIDER TO CONFORM TO ALL REGULATIONS

The Service Provider shall, during the period of this agreement, conform to the provisions of any Acts of Parliament, Provincial Ordinance and to the regulations and by-laws of any Local or other authority relating to the services and shall give all notices required, and pay all fees payable to such authority in respect of the services, and shall hold the Municipality free from all losses, damages or expenses caused by the Service Providers failure to comply with such acts, ordinances, regulations and by-laws.

12. EMPLOYMENT RESTRICTION

A party shall not, while this agreement is in force and for a period of 6 (Six) months from the date of termination thereof, for any reason whatsoever, employ or offer employment to any person employed or acting on behalf of the other party and who was assigned to provide services in terms of this agreement.

13. AUTHORISED REPRESENTATIVES

13.1 The Service Provider and the Municipality shall each appoint an authorized representative to liaise with the other regarding day-to day decisions in connection with the progress of the contract. Subject to the proviso hereunder, the authorized representative shall each have the power to make all such decisions as may be required from him by the other party and the other party shall be entitled to act upon such decision.

13.2 The parties shall not accept instructions or request from the other party other than through the authorized representative, and all such instructions and /or requests shall be in writing.

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- 13.3 The Municipality's representative shall however have no authority to relieve the Service Provider of its duties or obligations under the contract or, except as expressly provided hereunder, to order any work involving delay or any extra payment by the Municipality.
- 13.4 The authority given to the Municipality's representative under this clause shall only include powers and authorities which may be necessary for the efficient execution of the contract and should the Service Provider doubt the authority of the representative, it shall be entitled to request the Municipal Manager to provide a written delegation of powers and authorities to such representatives.
- 13.5 Any written instructions or written approval given by the Municipality's representative to the Service Provider within the terms of such delegation (but not otherwise) shall bind the Service Provider and the Municipality as though it had been given by the Municipal Manager, provided however that:
- 13.6 Failure of the Municipal Manager's representative to disapprove any material shall not prejudice the power of the Municipal Manager thereafter to disapprove such materials, at the sole cost of the Service Provider.
- 13.7 If the Service Provider shall be dissatisfied by reason of any decision of the Municipal Manager who shall thereupon confirm, reverse or vary such decision.

14. FORCE MAJEURE

Provided that the Service Provider has complied with the obligation of notification to the Municipal Manager regarding extensions of time as envisaged in clause 5.1 and the Service Provider acted diligently and expeditiously in pursuance of its obligations during the extension which may have been granted by the Municipal Manager the Municipality shall not have any claim of any nature whatsoever against the Service Provider for any failure of the Service Provider to carry out any of its obligations as a result of force majeure, which shall include acts of God, any strike, lock-out, stand-out, shortage of

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Labour, riot, sabotage, terrorism, political or civil disturbance, industrial action, the elements of any act of any state or government or other authority, or anything occurring over which the Service Provider has no reasonable control.

15. **PERIOD OF AGREEMENT**

Notwithstanding the date on which this agreement is signed, it shall be deemed to have commenced on the commencement date referred to in paragraph 5.1 above and shall endure until the termination date upon which it will automatically terminate.

16. **BREACH AND TERMINATION**

16.1 In the event of either parties committing any breach of the terms and conditions of this agreement or failing to fulfill any of its obligations in terms of this agreement and remaining in breach of such obligation notwithstanding the innocent party having given it 7 (seven) days written notice requiring it to remedy such breach or fulfill such obligation, then and in that event the innocent party shall be entitled to summarily terminate this agreement by way of written notice to the other party to such extend.

16.2 In the event of the Service Provider becoming insolvent or making or proposing to make any assignment for the benefit of its creditors or purpose any composition of its creditor for the settlement of its debt, or in the event that the Service Provider commits any act of insolvency, or in the event the Service Provider passing a resolution in favour of liquidation or in the event of a competent court making a final order of liquidation, the Municipality shall be entitled to summarily terminate this agreement by way of written notice to such extent to the Service Provider.

16.3 In the event of the Service Provider or any person employed by it, giving or promising or offering to give any gratuity, award, commission or benefit whatsoever to the Municipal Manager or to any other Councilor or any person in the employment of the Municipality, the Municipality shall furnish the Service Provider with full particulars thereof and

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request the Service Provider to disapprove or prove to the contrary within 7 (Seven) days of such written notice and if in the opinion of the Municipal Manager, the Service Provider is unable to disapprove such allegations the Municipality shall be entitled to terminate this agreement summarily by written notice to such extend to the Service Provider.

16.4 In the event of the Municipality terminating this agreement on any of the aforesaid grounds, then and in that event the Municipality shall have the following rights, namely:

16.4.1 To summarily take the work wholly out of the Service Provider and expel it and its workmen from its premises and /or the works.

16.4.2 Take whatever steps it deems fit to complete the contract in such time and manner and by such persons as the Municipality may think fit, or perform any act or discharge anything which, in the opinion of the Municipal Manager, the Service Provider failed to do,

16.4.3 Withhold any payment which may have been due to the Service Provider or materials and or services already supplied and delivered , until such time as the damages which may have been suffered by the Municipality are determined as stated hereunder or otherwise,

16.4 In the event of cancellation of this agreement by the Municipality as aforesaid, the Municipal Manager shall be entitled to and is hereby authorized to determine the means or methods, in his discretion, of establishing the damages which the Municipality may have suffered as a result of the premature termination of this agreement as a result of the Service Provider breach, and once he has established such damages, a written certificate certifying the amount of such damages. Such certificate shall be final and binding on the Service Provider, subject thereto that in the event of the Service Provider disputing the correctness of such certificate or the compilation of the damages stated therein; such dispute shall be referred to arbitration as provided for in this agreement.

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17. NON-WAVER/EXTENSION OF TIME

In the event of any of the parties having committed a breach of this agreement or having failed to fulfill its obligations in terms of this agreement and the innocent party having failed to immediately exercise its aforesaid rights, such as failure and /or extension of time which may have been expressly or implied be granted by the innocent party to the other, shall be a bar to the innocent party from subsequently exercising its rights in terms of this agreement.

18. SETTLEMENT OF DISPUTES

If any dispute or differences of any kind whatsoever shall arise between the Municipality and the Service Provider in connection with or arising out of this contract, or the carrying out of the works (whether during the progress of the works or after their completion and whether before or after termination, abandonment or breach of the contract), it shall be referred to and settled by the MUNICIPAL MANAGER who shall state his decision in writing and give notice of the same to the Municipality and the Service Provider. Such decision in respect of every matter so referred, shall be final and binding upon the Municipality and the Service Provider, who shall proceed with the work, and shall forthwith be given effect to by the Service Provider, who shall proceed with the works and with all due diligence, whether notice of dissatisfaction is given by him, or by Municipality, hereinafter provided for, or not. If either the Municipality or the Service Provider be dissatisfied with any such decision of the MUNICIPAL MANAGER, THEN AND IN ANY SUCH CASE, EITHER THE Municipality or the Service Provider, may within 30 (thirty) days after receiving notice of such decision, require the matter to be referred to arbitration by an arbitrator recommended by the Arbitration Foundation of South Africa (AFSA) and in accordance with the rules of AFSA. The award of the arbitrator shall be final and binding on the parties.

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19. DOMICILIUM

19.1 The parties choose as their respective Domicilium citandi et executandi ("Domicilium") and for the delivery of all notices arising out of this agreement or its termination or cancellation, the addresses set out below, namely:

The Service Provider at:

Amanzi Ahlo Bile and Soul Commission
1 Simpson Street
Riebeeckstad
Welkom
9463

The Municipality at:

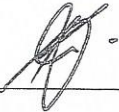
Lejweleputswa District Municipality
Cnr Jan Hofmeyr & Tempest Road
WELKOM
9460
Fax: (057) 353 33382

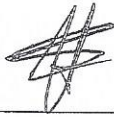
19.2 Either party may, by written notice to the other, vary its Domicilium to any other address within the Republic of South Africa, which is not a post office box number or post restante. Any notice given and any payment made by any party to any other (addressee) which is posted by pre-paid registered post from an address within the Republic of South Africa to the addressee at the addressee's Domicilium shall be deemed, until the contrary is proved by the addressee, to have been received on the 7th day after the date of posting thereof; is sent by facsimile shall be deemed, until the contrary is proved by the addressee, to have been received; within 4 (Four) hours of transmission where it is

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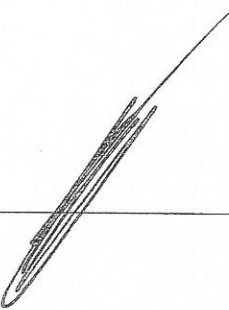
DATED at WELKOM on this 22 day of MARCH 2016

AS WITNESSES:

1.  _____

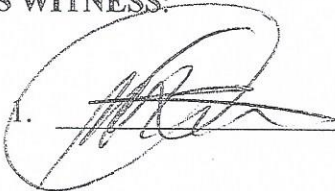
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FOR AND ON BEHALF OF
LEJWELEPUTSWA DISTRICT
MUNICIPALITY

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DATED at WELKOM on this 22 day of MARCH 2016

AS WITNESS:

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FOR AND ON BEHALF OF
Amanzi Ahlo Bile and Soul Commission

2. L. Kgwa. _____

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Office of the Municipal Manager

Physical Address: Corner Jan Hofmeyer and Tempest Road
P.O. Box 2163
Welkom
9460

Tel: 057 391 8906
Fax: 086 547 8092
e-mail: jane@lejwe.co.za



Lejweleputswa
DISTRICT MUNICIPALITY

Ref: 14/1/1/1
Enquiries: C. Petersen
Date: 14 March 2016

Amanzi Ahlo Bile & Soul Commission
1 Simpson Street
Riebeeckstad
Welkom
9459

Attention: Thandeka Tshabalala
Fax: 0865188855

Dear Sir/ Madam

**RE: TENDER NO 10/01/2016: HOSTING AND ORGANIZING OF LEJWELEPUTSWA
DISTRICT MUNICIPALITY'S EASTER FESTIVAL**

The above matter refers.

This correspondence serves to inform you that your company Amanzi Ahlo Bile & Soul Commission has been appointed to host and organize the Lejweleputswa District Municipality's Easter Festival at an amount of R1058 460 inclusive of VAT.

The abovementioned appointment is further subject to your company signing a service level agreement with the municipality, outlining the contractual obligations of both parties.

I trust you find the above in order.

Regards,

PME KAOTA
MUNICIPAL MANAGER