

SERVICE LEVEL AGREEMENT



Waterberg
District Municipality

on the Go for Growth

WATERBERG DISTRICT MUNICIPALITY

Entered into by:

WATERBERG DISTRICT MUNICIPALITY
(the Client)

And

ULTIMATE RECRUITMENT SOLUTIONS
Registration Company Name: **ULTIMATE RECRUITMENT SOLUTIONS**
(PTY) LTD
(Registration no: 2005/138794/23
(The Service Provider))

In respect of the **Advertising Agency**

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Preamble

Whereas:

The Waterberg District Municipality and Ultimate Recruitment Solutions enter into an agreement for the provision of Advertising Agency services for the Waterberg District Municipality.

It is therefore agreed as follows:

1. Parties:

The parties to this agreement are:

1.1 Waterberg District Municipality (hereinafter referred to as "the client"), represented by **Mphetla Samuel Mabotja**, in his duly authorized capacity as Municipal Manager of Waterberg District Municipality; and

1.2 Ultimate Recruitment Solutions (hereinafter referred to as "the Service Provider"), represented herein by **Sarojini Dhaver**, in his duly authorized capacity as Managing Manager of Ultimate Recruitment Solutions.

2. Interpretation

The headings of the paragraphs in this Agreement are for the purposes of reference only and shall not be used in the interpretation of this Agreement. In this Agreement, unless a contrary intention clearly appears:

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- 2.1. the singular includes the plural and vice versa;
- 2.2. the following terms shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings, namely :
- 2.2.1. **'business day'** means any working day, excluding Saturdays, Sundays and public holidays;
- 2.2.2. **'Client'** means the Waterberg District Municipality;
- 2.2.3. **'commencement date'** means the date on which the parties commenced with the performance of their obligations, **01 March 2017**
- 2.2.4. **'contract price'** means the total amount of fees that will be charged by the Service Provider, including disbursements and VAT, for the performance of the services in terms of this Agreement;
- 2.2.5. **'key result'** means an indicator or yardstick in terms of which the Service Provider's successful performance of its obligations may be gauged;
- 2.2.6. **'methodology'** means the professional expertise and the system of methods required by the Service Provider to perform the obligations set out in terms of this Agreement;

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- 2.2.7. '**prime rate**' means the variable interest rate as charged and calculated by the Service Provider's bankers from time to time;
- 2.2.8. '**project**' means the services to be performed by the Service Provider in terms of the Tender and the corresponding obligations to be fulfilled by the Client;
- 2.2.9. '**project plan**' means the strategy prepared by the parties for the successful completion of the Project submit within a reasonable time, prior to commencement of project;
- 2.2.10. '**Remuneration schedule**' means the details of remuneration.
- 2.2.11. '**Service Provider**' means Ultimate Recruitment Solutions, under the registration name: Ultimate Recruitment Solutions (Pty) Ltd, a company established in 2005 under Registration number **2005/138794/23**
- 2.2.12. '**services**' refers to the professional work to be performed by the Service Provider in terms of this Agreement, as per page 5;
- 2.2.13. '**Tender**' means Tender No. **WDM/2016/17-02B**, advertised by the Client and being in respect of the provision of Advertising Agency for the Waterberg District Municipality.

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2.3. figures are referred to in numerals and in letters and if there is any conflict between the two then the letters shall prevail; and,

2.4. expressions defined in this Agreement shall bear the same meanings in schedules or annexures to this Agreement, which do not themselves, contain their own definitions.

3. **Appointment and Duration**

3.1. The Client hereby appoints the Service Provider to carry out the services detailed in Paragraph 7 to this Agreement upon the terms and conditions set out herein.

3.2. The Service Provider will commence and complete the performance of the provision of Advertising Agency services for the Waterberg District Municipality as indicated in the project proposal and in the letter of appointment or on such other dates as may be agreed by the parties.

3.3. The duration of the project is for 36 (thirty six) months, commencing on **Wednesday, 01 March 2017** and ending on **28 February 2020**.

4. **Service Team**

4.1 The team members that will be involved in the project must be according to the proposal and where a team member resigns or leave the institution the client must be informed in writing through Supply Chain Management and the Project Manager.

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4.2 The Client appoints **Bruce Hartney** in his capacity as SCM Senior Admin Officer of the Waterberg District Municipality as the project manager and key point of contact and liason for all matters relating to the project by and between the Service Provider and Client.

4.3 The project Manager is Bruce Hartney and can be reached on **telephone number (014) 718 3300/47 or email: bhartney@waterberg.gov.za**.

4.4 The Service provider appoints **Sarah Chetty** in her capacity as **Traffic Manager** of Ultimate Recruitment Solutions as the project manager and key point of contact and liason for all matters relating to the project by and between the Service Provider and Client.

4.5 The project Manager is **Sarah Chetty** and can be reached on **telephone number (012) 811 1900 or email: info@ursonline.co.za** .

5. **Shareholders**

5.1 In case where the shareholders of the company during the year change, the client must be informed in writing of such changes.

6. **Extent of terms and conditions**

6.1. This Agreement consists of the terms and conditions set out in the documentation listed as follows:

6.1.1. All tender documents comprising the Tender (Schedule 1);

6.1.2. The Service Provider's proposal (Schedule 2);

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6.1.3. Letter of appointment (Schedule 3); and,

6.1.4. This Agreement.

6.1.5. National Treasury Conditions of Contract

6.2. In the event of conflict between the provisions of any of the aforesaid documentation and this Agreement, the provisions of this Agreement shall prevail.

7. **Scope of Services**

This tender makes a provision for the appointment of a service provider to publish tender and vacancies advertisement and other related notices on behalf of Waterberg District Municipality in various newspapers as and when required over thirty six (36) months period.

Some of the responsibilities among others will include:

- ✓ Design, formatting, spell check and editing of information submitted
- ✓ Prepare layout of all adverts or notices
- ✓ The service provider who will be able to submit and place the adverts/notices to media houses on time and in the correct format (or as quick as possible).
- ✓ Produce advertising material/notices according to WDM brief.
- ✓ Resize the adverts/notices, either smaller or bigger where necessary
- ✓ Purchase media space on behalf of WDM
- ✓ Work with or advice the WDM officials on how to develop advertising materials
- ✓ Re-submit a revised quotation and confirm publication

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- ✓ Send a scanned copy of the notice/advert to WDM

Summary of the process to be followed will be as follows:-

A dedicated official from the relevant department will e-mail the tender notice or any other notice to the successful service provider for publication. The names of the newspaper/s to be utilized and the dates when the notices should be published on the newspaper will be forwarded to the service provider. It is therefore, the responsibility of the service provider to confirm receipt of the request within an hour after the (e-mail) has been forwarded.

The service provider will be responsible to format the notice in an acceptable format and as instructed by the official (sender of request). The service provider must forward to the sender of such a request proof of the tender notice as well as a quotation.

The Municipality has the right to request the service provider to resize the notice, either smaller or bigger. In such a case, the service provider has to re-submit a revised quotation to the municipality. The Municipality will after it is satisfied with the advertisement, approve it and forward the official purchasing order to the service provider before any advert/notice can be placed.

It is required that the service provider forward proof (scanned copy of the notices in the newspaper/s) that those notices were indeed published in the newspapers by e-mail after the advert date. They should on the day or a day after the notice appeared in the newspaper, e-mail such proof to the municipality. The service provider is also responsible to submit the invoices timeously to the official responsible who requested the quotation. The correct

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purchasing order number and date of the adverts must appear on all the invoices.

8. Price fee

The contract price in respect of the Tender is as per the pricing schedules provided in by Ultimate Recruitment Solutions. proposal as follows:

8.1 Ultimate Recruitment Solutions is appointed for the provision advertising agency services for the Waterberg District Municipality at **R15, 083.83 VAT Inclusive and R13, 231.43 VAT Excluding per centimetre column. The detailed pricing schedule is contained on page 6; 7, 8, and 9 of tender document.**

8.2 The fee shall be payable within 30 (thirty) days upon receipt of valid invoice.

9. Obligations of the Service Provider

9.1. The aforesated services shall be rendered diligently and to the standard required by the Client;

9.2. The service provider shall act in the best interest of the client at all times;

9.3. The service provider shall at all times exercise due care and skill in delivering services;

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- 9.4. The service provider shall perform the services based upon the client's advertising requirements as agreed;
- 9.5. The service provider shall in all their dealings comply with all applicable laws and regulations, including without limitation, Financial Advisory and Intermediary Services Act, relevant anti-corruption, anti-bribery, trade restriction and anti-money laundering laws;
- 9.6 The service provider is required to **submit written progress reports on a monthly basis, indicating all the invoices for that particular month.**

10. **Obligations of the Client**

- 10.1 The Client shall provide reasonable support to the Service provider to enable it to perform its duties.
- 10.2 The Client shall ensure that the Service Provider has reasonable access to and the support of whatever information or personnel, respectively, may be necessary for the Service Provider to fulfil its obligations.

11. **Remuneration**

- 11.1. The Client hereby agrees to remunerate the Service Provider strictly in accordance with the quotation that has been accepted by issued purchase order.

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- 11.2. If the Client defaults or falls into arrears with any payment then the Service Provider reserves its right to claim payment of interest at the prime rate, calculated from 30 (thirty) days after the payment has become due to the actual date of payment.

12. **Variations and cancellations**

- 12.1 No agreement varying adding to, deleting from or cancelling this agreement shall be of force or legal effect unless reduced to writing and signed by or on behalf of the parties.

13. **Limitation of liability**

- 13.1. The Service Provider hereby protects and secures the Client against all legal liability with regard to any claims that may arise as a result of a breach of contract or negligence on the part of the Service Provider in respect of its obligations in terms of this Agreement.

- 13.2. The maximum liability of the Service Provider in respect of the aforesaid claims shall be limited to the aggregate of fees that have accrued to the Service Provider for the obligations that form the subject of the breach of contract or negligence as at the time that the cause of action arose.

14. **Amicable Settlement**

- 14.1 If any dispute arises in terms of this contract, either party may give five (5) days written notice to the other of such dispute, whereupon the parties shall meet promptly and in good faith attempt to reach an amicable settlement.

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15. Disputes

15.1. In the event that a dispute arises between the Client and the Service Provider it shall be referred to mediation within 5 (five) business days of either party declaring such a dispute. In this regard:

15.1.1. A mediator shall be appointed by the parties, alternatively by the chair of the Attorneys Association in the Province where the dispute arose, to preside over the mediation; and,

15.1.2. The parties shall seek ways and means to resolve the dispute in the most expedient manner.

15.2. Should the dispute not be resolved within 10 (ten) business days of the commencement of mediation it shall be referred to arbitration. Accordingly :

15.2.1. An arbitrator shall be appointed by the parties, alternatively by the chair of the Arbitration Foundation of South Africa ('AFSA'), to preside over the arbitration; and,

15.2.2. The rules of AFSA shall govern the conduct of the arbitration.

15.3. Nothing in this paragraph shall prevent either party from approaching the High Court for suitable judicial relief.

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16. Breach

- 16.1. If either party breaches this Agreement or fails to perform any of its obligations, then the other party shall provide written notice, calling upon the first party to rectify its breach within a period of not less than 10 (ten) business days.
- 16.2. Should the party in breach have failed to rectify the breach within the aforestated time period, the other party may cancel this Agreement and claim recovery of damages.
- 16.3. Timeframe for this project is 36 (thirty-six) months upon commencing from the date of signature by all parties.
- 16.4. Any request for an extension on timeframe must be done in writing and be approved by the Accounting Officer or penalties will be imposed on the Service Provider.
- 16.5. Penalties in case of breach, extension on timeframe or inferior quality of goods and services will be determined by the client on his/her own discretion (penalties can be from 2% - 25%).

17. Termination

- 17.1. This Agreement may be terminated upon 20 (twenty) business days' written notice, after the terminating party has consulted the other about its intention.
- 17.2. The aforestated termination shall not prejudice either party's rights in respect of the obligations already performed or to be performed as at the date of termination.

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18. **Severability**

18.1 Any provision of this agreement found or held invalid or unenforceable, such terms shall be severable and the validity of all other terms shall not be affected thereby.

19. **Whole agreement**

This Agreement constitutes the whole agreement between the parties unless supplemented by further agreements, which shall be in writing.

20. ***Domicilium citandi et executandi***

20.1. The parties choose as their *domicilia citandi et executandi* the addresses set out hereunder :

20.1.1. **Client :**

Office of the Municipal Manager
Waterberg District Municipality
44 Harry Gwala Street
Modimolle

Private Bag X 1018
Modimolle
0510

Contact number: 014 718 3300

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20.1.2 Service Provider :
319 Kim Street
Grootfontein CE
Pretoria

Or

P.O.Box 11506
Tiegerpoort
0056

Contact number: 012 811 1900

- 20.2. Either party may change its *domicilium citandi et executandi* by giving written notice to the other, the new address becoming effective at the expiry of 10 (ten) business days from the communication of notification.

21. Amendments and alterations

- 21.1 No amendments and/or alterations to the terms of this Agreement shall be valid or binding unless reduced to writing and signed by all Parties.

22. Penalty Clause

- 22.1 The expiry date for the implementation period for this project is **28 February 2020.**

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- 22.2 No extension will be granted for this project without good motivation and any failure to deliver the expected results before or on the specified date of the **28 February 2020** will automatically result in penalties to be effected by WDM.
- 22.3 The penalties for delays in completion will be calculated as 1% of the total once-off project amount for every delayed week.
- 22.4 The penalties for non-performance will be calculated from 2% to 25% of the total project amount on the discretion of the municipality. Penalty percentage can be increased from 25% depending on the severity of the penalty.
- 22.5 National Treasury Conditions of Contract will also apply in terms of penalties imposed.

23. **Confidentiality**

- 23.1 For the purposes of the Agreement Confidential Information means any and all information, including but not limited to, technical, financial, product and commercial information - disclosed in writing or otherwise by the Disclosing Party to the Receiving Party, whether disclosed in view of the purpose before or after the date of the Agreement and shall be deemed to include all documents and other material (including samples, models and computer software) containing or embodying or based on the Confidential Information (or part thereof) together with all notes, summaries and other material derived there from and all copies or reproductions of the foregoing. Such Confidential Information shall not include information:

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23.1.1 which is generally available to the public, or which will become generally available to the public other than by breach by the Receiving Party of its obligations hereunder;

23.1.2 which was or is already known to the Receiving Party before it had been or will be disclosed by the Disclosing Party, provided that such information may not reasonably be considered by the Receiving Party as confidential;

23.1.3 which the Receiving Party has received or will receive on a non-confidential basis from any party (including any third party) which is not in breach of an obligation of confidentiality towards the Disclosing Party or any party (including any third party), provided that such information may not reasonably be considered by the Receiving Party as confidential; and

23.1.4 which is independently developed by or on behalf of the Receiving Party.

23.2 All Parties shall:

23.2.1 hold the other Party's Confidential Information in the strictest confidence;

23.2.2 not make use thereof other than for the performance of its obligations under the Agreement; and

23.2.3 only release such Confidential Information on a "need to know" basis subject thereto that the persons to whom such Confidential Information is released shall undertake to be bound by the confidentiality obligations contained herein.

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23.3 No parties shall be entitled to use the name of the other Party publicity releases or advertising or for other promotional purposes without procuring the prior written approval of the Party concerned.

23.4 The Parties' obligation in terms of this clause will survive the termination of this Agreement including the termination thereof by the effusion of time.

23.5 In the case of a release, announcement or document which is required to be given, made or published by law or under the rules of the JSE Securities Exchange South Africa or any other relevant stock exchange, the Party liable so to give, make or publish the same shall give to the other Party as much advance warning thereof as is reasonable in the circumstances together with drafts or a copy thereof as soon as it is at liberty to do so.

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24. Warrant of Authority

The persons signing this agreement on behalf of the parties warrant their authority to do so.

Signed at **Modimolle** this 1st day MARCH of 2017

AS WITNESSES:

1.  For and on behalf of the Client

2.




MS Mabotja
Municipal Manager

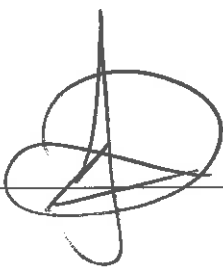
Signed at **Pretoria** this 01 day MARCH of 2016 2017



AS WITNESSES:

1. 

For and on behalf of the
Service Provider

2. 



Sarojini Dhaver
Ultimate Recruitment Solutions