

SERVICE LEVEL AGREEMENT

BETWEEN


**UGU SOUTH COAST TOURISM (PTY) LTD
(2009/003419/07)**

AND

UGU DISTRICT MUNICIPALITY

(together herein referred to as "the Parties")

**And established in terms of Section 93C of Act
32 of 2000**

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PREAMBLE

WHEREAS the District Municipality is a Municipality as defined in terms of the Local Government: Municipal Systems Act 32 of 2000, the Municipal Structures Act 117 of 1998;

AND WHEREAS the parties wish to give effect to and recognition of the Principles enshrined in the Constitution of the Republic of South Africa of 1996, and with specific reference to Section 156 of such Constitution and the parties are obliged to take cognizance of Section 93C and 93D of the Systems Act.

AND WHEREAS the parties are also cognizant of and acknowledge that they are properly bound by the Municipal Finance Management Act 56 of 2003, and more specifically Section 87 of such Act as well as rules pertaining to National Treasury Funding.

AND WHEREAS Section 38 of the Kwa Zulu Natal Tourism Act of 1996 has application to the relationships between the parties.

AND WHEREAS Ugu is, inter alia, empowered, and wishes to in terms of the Municipal Structures Act and Systems conclude such an agreement.

AND WHEREAS Ugu South Coast Tourism as a properly created Municipal Entity as defined herein has the capacity, experience and know-how to implement its statutory functions.

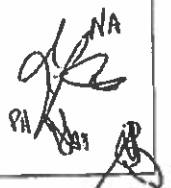
NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:-



DEFINITIONS

The definitions as contained in all Acts mentioned in the text of this Agreement and Regulations are applicable to this contract. In addition, the following definitions are applicable:-

- 1.1 "Ugu District Municipality area" or "Ugu" is a District Municipality as provided for in the Local Government: Municipal Structures Act, Act 117 of 1998 as amended;
- 1.2 "Ugu South Coast Tourism (Pty) Ltd" a Private Company Registration No. 2009/003419/07 which is a Municipal entity as defined in the Municipal's Systems Act.
- 1.3 "Preferential Procurement" means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).
- 1.4 "Tourism or references to Tourism" shall specifically include the provisions of Section 38 of the Kwa Zulu Natal Tourism Act of 1996 which shall also refer to the Constitution of the Entity.
- 1.5 "Integrated Development Plan" or "IDP" shall mean development planning as provided for in terms of the Division of Revenue Act 1 of 2007 and the Act and the Municipal Systems Act.
- 1.6 "The Constitution" shall mean the Constitution of Ugu South Coast Tourism (Pty) Ltd.

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- 1.7 "Contract" means this Service Level Agreement of which the only two parties, shall be Ugu and Tourism, and shall, in context, hereinafter be referred to as the "parties"; as well as any addenda hereto as may be concluded from time to time by the Parties, and properly annexed hereto.
- 1.8 "Person" includes reference to a juristic person.
- 1.9 "The CEO" means the Chief Executive Officer in the company appointed by the Board of Directors of the Company;
- 1.10 "Constituent member" shall mean the Ugu Regional Tourism and Community Tourism organisations as provided for in Ugu Tourism Constitution or a member of them.
- 1.10 "The Municipal Finance Management Act" means Local Government Municipal Finance Management Act No. 56 of 2003;
- 1.11 "Parent Municipality" means the Ugu District Municipality;
- 1.12 "the Companies Act" means the Act 61 of 1973, as amended or any Act which replaces it, and any and every other statute or subordinate legislation from time to time in force concerning companies and necessarily affecting the company, South Coast Tourism (Pty) Ltd.
- 1.13 "a sponsorship" or "a sponsor" shall mean the support of an event, activity, person, organisation financially or through the provision of products or services. A sponsor is the individual or group that

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provides the support, similar to a benefactor, as it applies to the Municipal Entity.

1.14 "the Municipality" or "Ugu" means the Ugu District Municipality, established in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), represented herein by Mr. Dhanpalan D Naidoo in his capacity as the Municipal Manager thereof, he being duly authorized.

1.15 "South Coast Tourism" means Ugu South Coast Tourism or Tourism (a company incorporated under the Companies Act, 1973) and represented herein by Mr. Justin Macrory as the Chief Executive Officer; he being duly authorized, as Chief Executive Officer.

1.16 "The Articles" means the Articles of the Company and any and every other Statute or subordinate legislation from time in force concerning companies and necessarily affecting the Company.

1.17 "The Systems Act" or "the Act" means the Local Government: Municipal Systems Act 32 of 2000;

1.18 "Effective date: means the 1st of July 2014

1.19 "The Municipality's address" means:

1.19.1 PO Box 33, Port Shepstone, 4240

1.19.2 For communications by

Facsimile: 039 682 1720

Telephone 039 688 5700

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1.19.3 For other purposes: Ugu Municipal Offices,
28 Connor Street,
Port Shepstone

1.20 "South Coast Tourism's address" means:

1.20.1 For postal purposes: PO Box 570, Port Shepstone, 4240.

1.20.2 For communications by telephone and facsimile:

Telephone (039) 682 7944 and Fax (039) 682 1034

1.20.3 For other purposes: 16 Bisset Street, Port Shepstone, 4240;

1.21 "the Company" or "the Entity" shall mean South Coast Tourism (Pty) Ltd.

INTERPRETATION

2.1 Headings of clauses shall be deemed to have been included for purposes of convenience only and shall not effect the interpretation of this Agreement.

2.2 Unless inconsistent with the context, words relating to any gender shall include the other genders, words relating to the singular shall include the plural and vice versa and words relating to natural persons shall include associations of persons having corporate status by statute or common law.

2.3 In the event that any of the provisions of this Agreement or its co-lateral Constitution, are found to be invalid, unlawful or

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unenforceable, such terms shall be severable from the remaining terms which shall continue to be valid and enforceable.

- 2.4 This Agreement incorporates the Annexures and Constitution, which Annexures shall have the same force and effect as if set out in the body of this Agreement. The various documents forming part of this Agreement are to be taken as mutually explanatory. In the event of any conflict or inconsistency the provisions contained in the main body of the Agreement will prevail.
- 2.5 If any provision in a definition is a substantive provision conferring any right or imposing any obligation on any party, then notwithstanding that such provision is only in this interpretation clause or in a definition elsewhere in this agreement, effect shall be given to it as a substantive provision of this agreement.
- 2.6 When any number of days is prescribed in this agreement, the same shall be reckoned exclusively of the first and inclusively of the last day unless that last day falls on a Saturday, Sunday or proclaimed public holiday in the Republic of South Africa, in which event the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday.
- 2.7 Any reference to an enactment is to that enactment as at the date of signature hereof and as amended or re-enacted from time to time.
- 2.8 If any provision in this agreement is in conflict or inconsistent with any law, the invalidity of any such provision shall not affect the validity of the remainder of the provision hereof.

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- 2.9 Where figures are referred to in words and in numerals, if there is any conflict between the two, the words shall prevail.

NOW THEREFORE

1. RECORDAL

- 1.1 Ugu South Coast Tourism is a Destination Management Organisation/Community Tourism Organisation responsible through its mandate to grow, promote and develop tourism within the area of jurisdiction of the Ugu District Municipality.
- 1.2 Ugu South Coast Tourism strives to align its own strategies to those being applied by entities such as the National Department of Tourism (NDT), the KwaZulu Natal Department of Economic Development and Tourism and Tourism KwaZulu-Natal (TKZN).

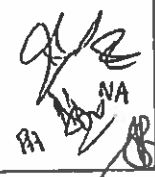
2. FUNCTION OF UGU SOUTH COAST TOURISM

- 2.1 The main business which the Company is to carry on; is the promotion and implementation of tourism within the Parent Municipality's area of jurisdiction, predicated on the Kwa Zulu Natal Tourism Act as needs be, based on the Parent Municipality's Integrated Development Plan, its District Growth & Development Strategy and other Strategies and Policies of the Parent, from time to time.
- 2.2 To develop and implement a Tourism Strategy, which is informed by, inter alia:



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Strategic Thrust	Implication to Ugu SCT Strategy (O= Operational, M = Marketing/Communications and D = Developmental)
Policy and a Legislative Framework	Operations needs to be aligned with key legislation and regulatory frameworks applicable to a State Owned Enterprise (O)
Collaborative Partnerships	Public and private partner relationships are fundamental in within the mandates for the entity (M)
Prioritising Tourism at National, Provincial and Local Government Level	Through reporting compliance and communications actions, the sector and operational performances can be conveyed to National, Provincial and our District and Local Municipalities (O /M)
Marketing and Brand Management	This is fundamental in terms of strengthening the South Coast brand within a broader geographic context (M)
Regional Tourism	The destination should to some degree seek new markets from within some SADC countries (M)
Business and Events Tourism	Marketing should use these segments and niches as a forefront part of applied actions (M/D)
Relevant Capacity Building	Internal (personnel) and external development of people within tourism should be applied throughout each municipal area (D)
Product Information	Awareness of tourism product needs to be quantified for presentation to the destination's captive markets and niches and via Visitor Information Centres and hard/soft marketing tools (M)
Responsible Tourism	Through member protocols and codes of conduct the entity will enhance responsible tourism within stakeholder groupings (M)
Investment Promotion	The entity will need to assist the newly formed development agency for the Ugu District through packaged investment opportunities within the tourism sector (M/D)
Quality Assurance	Members will need to be encouraged to meet sector standards (M)
Transformation	Stakeholders through protocols should aspire towards compliance with transformation and empowerment directives for the sector (M)
Community Beneficiation	Community orientated tourism and tourism awareness should be included in strategies towards 2017 and beyond (M/D)


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- 2.3 Notwithstanding the foregoing, the main object of Tourism shall be to contribute to the economic, social and environmental development of the area of jurisdiction of the Parent Municipality through Tourism as contemplated in Section 8 read with Section 86E of the Local Government: Municipal Systems Act.

3. **POWERS OF UGU SOUTH COAST TOURISM**

- 3.1. Schedule 2 of the Companies Act of 1973 shall not apply to the Company.

- 3.2. The Company is a private company established in terms of Section 86C of the Systems Act and accordingly is restricted to act as a municipal entity in terms of:

3.2.1 Chapter 8A of the Systems Act; and

3.2.2 Chapter 10 and 11 of the Local Government Municipal Finance Management Act No. 56 of 2003; and

3.2.3 Section 41 of the Systems Act; and

3.2.4 Section 38 of the Kwa Zulu Natal Tourism Act 113 of 1996; and

3.2.5 Its Articles and Memorandum of Association.

- 3.3. Section 86D(2) of the Systems Act shall apply namely that Tourism must restrict its activities to the purpose for which it is created by its Parent Municipality in terms of Section 86E(1)(a); and Tourism shall have no competence to perform any activity which falls outside the functions and powers of its Parent Municipality contemplated by Chapter 8 of the Act.

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3.4. Ugu South Coast Tourism shall register as a Community Tourism Association with the accredited Government approved Tourism Bodies, and as provided in the Tourism Act.

4. RESTRICTIONS ON UGU SOUTH COAST TOURISM

4.1. All the income, expenditure, sponsorship and property of Tourism shall be applied solely towards the promotion of its main objective;

4.2. No portion of Tourism's income, expenditure and property shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise, to Ugu or directors of the Company, or its Parent Municipality; provided that nothing herein contained shall prevent the payment in good faith or reasonable remuneration to an officer or servant of the Company or to any member in return for any services actually rendered to the company, nor shall Tourism be precluded from acquiring bona-fide sponsors to improve and further its objects and functions.

4.3. The winding-up of the company, shall be in terms of the stipulations contained in the Local Government: Municipal Systems Act, The Local Government: Municipal Finance Management Act and other relevant Acts.

4.4. The company shall monitor, and annually review its annual budget process as set out in Section 87 of the Municipal Finance Management Act.

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4.5. Ownership of, equity interest or shares or any alienation or transfer of that share in the Company may only be alienated or disposed of in terms of Section 86G of the Systems Act.

4.6. To only provide goods and services as provided for in respect of the achievement of its objectives as outlined in this Agreement.

4.7. To acquire goods and services only as provided for in the Preferential Procurement Policy Framework Act of 2000 (Act 5 of 2000), the Broad Based Black Economic Empowerment Act of 2003 (Act 53 of 2003), Local Government: Municipal Finance Management Act of 2003 (Act 56 of 2003) and the Supply Chain Management Policy of the Company or the Parent Municipality, should the Company not have adopted such Policy at the time of procurement of any goods and services.

5. ACTIVITIES OF UGU SOUTH COAST TOURISM

5.1. The activities of the Company shall, for the duration of this Agreement, be aligned to the duly adopted Ugu South Coast Tourism Strategic Plan for the period 2013 – 2017, and as may be amended from time to time, and is annexed hereto as Annexure "A".

5.2. Section 86D (2) of the Systems Act shall apply and provides that:

A private company which is a municipal entity –

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- (a) must restrict its activities to the purpose for which it is used by its parent municipality in terms of Section 86H(1)(a);
- (b) and has no competence to perform any activity which falls outside the functions and powers of its parent municipality contemplated by Chapter 8.

6. OWNERSHIP OF COMPANY

- (a) The Company is established and fully owned by the Parent Municipality in terms of Section 86C of the Systems Act, and as such holds all the shares therein.
- (b) No other party shall be a party to this agreement, or claim enforceable rights, or obligations from the parties arising from this agreement, or resulting from the Constitution of South Coast Tourism (Pty) Ltd.
- (c) No District or Area Tourism Committee shall have any enforceable rights in respect of the Company.

7. DUTIES OF PARENT MUNICIPALITY

Sections 93A and 93B of the Systems Act stipulates the following duties of the Parent Municipality with respect to the Company:

- 1 The parent municipality must:

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- (a) exercise any shareholder, statutory, contractual or other rights and powers it may have in respect of the municipal entity to ensure that –
 - (i) both the municipality and the municipal entity comply with the Systems Act, the Municipal Finance Management Act and any other applicable legislation; and
 - (ii) the municipal entity is managed responsibly and transparently, and meets its statutory, contractual and other obligations as well as the provisions of its own Constitution;
- (b) allow the board of directors and chief executive officer of the municipal entity to fulfill their responsibilities; and
- (c) establish and maintain clear channels of communication between the municipality and the municipal entity.

2 The Parent Municipality must:

- (a) ensure that annual performance objectives and indicators for the municipal entity are established by agreement with the municipal entity and included in the municipal entity's multi-year business plan in accordance with Section 87(5)(d) of the Municipal Finance Management Act;
- (b) must monitor and annually review, as part of the municipal entity's annual budget process as set out in Section 87 of the Municipal Finance Management Act, the performance of the

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municipal entity against the agreed performance objectives and indicators; and

(c) may liquidate and disestablish the municipal entity –

- (i) following an annual performance review, if the performance of the municipal entity is unsatisfactory;
- (ii) in the event of financial difficulties if the municipality does not impose a financial recovery plan in terms of the Municipal Finance Management Act and the municipal entity continues to experience serious or persistent financial problems; or
- (iii) if the municipality has terminated the services delivery agreement or other agreement it had with the municipal entity.

(d) If the company is liquidated and/or disestablished: -

- (i) take charge and possession of all assets, liabilities, rights and obligations of the company, due to fact that it then vest in the parent municipality; and
- (ii) ensure that the staff of the company be dealt with in accordance with applicable labour legislation.

8. POWERS AND DUTIES OF DIRECTORS OF TOURISM


1 in terms of Section 93H of the Systems Act:

(a) the board of directors of Ugu South Coast Tourism shall

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- (i) provide effective, transparent, accountable and coherent corporate governance and conduct effective oversight of the affairs of tourism;
 - (ii) ensure that Tourism comply with all applicable legislation agreements;
 - (iii) communicate openly and promptly with the parent municipality of Tourism; and
 - (iv) deal with the parent municipality in good faith.
 - (v) give effect to the Constitution of the Republic of South Africa.
 - (vi) ensure that the rights to operate an exclusive Tourism Structure by the parent municipality are upheld.
 - (vii) attend its meetings punctually and regularly.
- (b) A director of South Coast Tourism must at all times act in accordance with the Code of Conduct for directors referred to in Section 93L of the Systems Act.
- 2 Tourism shall comply with the Systems Act and ensure in terms of Section 93J of the Act, that:

- (a) the board of directors of Tourism appoint a Chief Executive Officer (CEO) of the municipal entity.
- (b) The chief executive officer of Tourism shall be accountable to the board of directors for the management of the municipal entity.

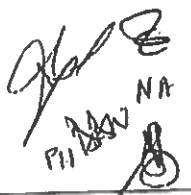
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3. The board of directors of the municipal entity shall also be responsible to in consultation with the parent appoint all the Executive Managers and the Managers reporting directly to the Chief Executive Officer (the CEO) of the company.
4. The Municipal Entity is enjoined to divert as far as possible resources, time funding and skills to the non coastal areas within the Municipality and shall develop Tourism destinations in rural and traditional areas within the Municipality areas of the District as far as may reasonably possible, and subject to budgets and demand and desirability.
5. In giving effect to clause 9.4 Tourism shall, as far as possible develop websites alerting visitors to places of historical and cultural interest and importance as well as to places in which the bio-diversity or natural beauty of the area is recognised.

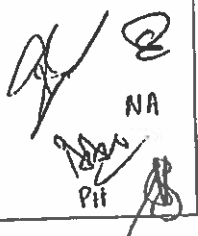
9. THE CHIEF EXECUTIVE OFFICER AND STAFF OF SOUTH COAST TOURISM

1. The Chief Executive Officer of Tourism shall be accountable to the board of directors for the management of Tourism.
2. The Chief Executive Officer as the head of administration of Tourism is subject to the policy directions of the board of directors and is responsible and accountable to the board of directors for: -

- (a) the formation and development of an economical, effective, efficient and accountable administrative unit: -


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- (i) equipped to carry out the task of implementing the functions of Tourism;
 - (ii) responsive to the needs of the community to participate in the affairs of the Tourism;
 - (iii) to deal with subordinate Tourism Communities;
 - (iv) to liaise with the Offices of the Municipal Managers of the Municipalities.
- (b) the management of the affairs of Tourism in accordance with the articles of Association and other legislation applicable to the Company;
- (c) the implementation of the Company's development plans, and policies of the company and monitoring of progress with the implementation thereof;
- (d) the appointment of staff, other than the senior managers directly accountable to the Chief Executive Officer, and subject to the Employment Equity Act No. 55 of 1998 and shall regulate;
- (e) the management, effective utilisation and training of staff;
- (f) the maintenance of discipline of staff;
- (g) the promotion of sound labour relations and compliance by Tourism with applicable labour legislation;
- (h) advising the board of directors of the company;



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- (i) deciding from time to time the number of meetings to be held in respect of:
 - (i) Board Meetings;
 - (ii) Tourism Committees; and
 - (iii) any other meetings of the Company.
- (j) the drafting of standing rules for Directors and Committees.

10. ACCOUNTABILITY TO THE UGU COMMUNITY

10.1. Both parties shall facilitate participation by the community in the affairs of Tourism and shall, as far as may be reasonably possible; with further reference to Section 80(2) of the Systems Act: -

- 10.1.1 develop and maintain a network whereby community satisfaction or dissatisfaction with the work of Tourism is assessed through its committees where practical;
- 10.1.2 the implementation of national and provincial legislation applicable to the functions of Tourism;
- 10.1.3 the performance of any other function that may be assigned by the parent company.
- 10.1.4 Give attention, and preference as far as may be reasonably possible, to the development of Tourism destinations other than within the Coastal areas of the District.

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11. MANAGEMENT BY THE CHIEF EXECUTIVE OFFICER OF TOURISM

1. Section 57 of the Systems Act, read with the necessary amendments thereto, shall mutatis mutandis be applicable to the Chief Executive Officer and the managers directly accountable to the Chief Executive Officer.
2. The upper limits of the salary, allowances and other benefits of the Chief Executive Officer and senior managers of the Company shall be determined by the Parent Municipality in terms of Section 89(a) of the Municipal Finance Management Act.

12. MEETINGS OF THE BOARD OF DIRECTORS

1. Section 93I of the Systems Act stipulates that at the Meetings of board of directors and shall sit as a committee as far as may be possible serving the interests of Tourism in the District:
 - (a) Meetings of the board of directors of Tourism must be open to the Municipal representatives referred to in Section 93D(1)(a).
 - (b) Municipal representatives referred to in Section 93D(1)(a) have non-participating observer status in a meeting of the board of directors of the Company.
2. Every meeting of directors as a committee shall, be held in the area of jurisdiction of the Parent Municipality in which the company's registered office is for the time being situated.

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13. GENERAL MEETINGS OF TOURISM

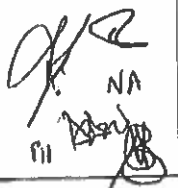
1. The Mayor or executive Mayor, as the case may be, of the parent municipality may at any time call or convene any meeting of the shareholders or any other General Meeting comprising the Board of Directors and the representatives of the parent municipality, in order for the board of directors to give account for actions taken by it.
2. Should such meeting be called, the Manager or Executive Mayor shall as far as reasonably possible, give written notice of the meeting, and an Agenda for such meeting.

14. REPRESENTATION AT GENERAL MEETINGS OF TOURISM

1. Save as otherwise herein provided, there shall be no less than one (1) of the representatives, mandated by the parent Municipality to represent it at the General Meeting.
2. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place, or at which the poll is demanded, shall be entitled to a second or casting vote.
3. All business that is transacted at a general meeting, and all that is transacted at the annual general meeting, shall be deemed to be special business.


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- 3.1 The parties record that it was of paramount importance that the directors of the Entity play a purposeful and ongoing role in the running of the Entity as stipulated in Section 93D of the Act.
- 3.2 Should it occur that any director of the Company and for any reason whatsoever misses three consecutive committee meetings of the Company, or misses a cumulative total of 3 out of any 5 meetings of the company then;
- 3.3 The Chairman shall forward a written communication, to be delivered by hand to such director who shall be invited to furnish viva voce reasons at the next sitting of the committee of the Company, or if the Chairman accepts otherwise, written reason to explain his/her ongoing absence from such meetings;
- 3.4 If no reasons are given on the date designated by the Chairman, or if the reasons given are unacceptable to a quorum of the meeting of the representatives present; who shall evaluate such reasons; then such director shall be reported to the Parent Municipality for intervention.
- 3.5 following such report, the Mayor or Executive Mayor as well as the affected Director shall be notified in writing of such report, and shall be furnished with a copy of the relevant minutes of the meeting.
- 3.6 The provisions of 14.3.1 to 14.3.5 set out hereinabove shall mutatis mutandis apply to the Ugu representative as


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contemplated in clause 14.1 and the same procedural steps shall apply mutatis mutandis to such representative.

15. CODE OF CONDUCT FOR DIRECTORS AND STAFF OF TOURISM

1. In terms of Section 93L of the Systems Act the following applies to the Directors of the Company:
 - (a) The Code of Conduct for Councilors contained in Schedule 1 of the Systems Act applies.
 - (b) In the application of item 14 and 15 of the Code of Conduct in respect of the Directors of the Company.
2. In terms of Section 93L of the Systems Act the following applies to any member of Staff (employees) of the Company:

The Code of Conduct for municipal staff members contained in Schedule 2 of the Systems Act applies with the applicable and necessary changes, to members of staff (employees) of the Company.

16. MUNICIPAL REPRESENTATIVES

1. The Parties shall comply with 93D of the Systems Act namely that:
 - (a) The Council of the Parent Municipality must designate a councilor or an official of the parent Municipality, or both, as the representative or representatives of the Parent Municipality –

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- (i) to represent the parent municipality as a non-participating observer at meetings of the board of directors of Tourism; and
 - (ii) to attend Directors meetings and to exercise the parent municipality's rights and responsibilities as a shareholder, together with such other councilors or officials that the council may designate as representatives.
 - (iii) failure by any representative to attend any such meeting shall be recorded in the minutes of such meeting
- (b) (i) The official lines of communications between Tourism and the parent municipality exist between the Chairperson of the board of directors of Tourism and the Mayor or Executive Mayor, as the case may be, of the parent municipality.
- (ii) The Mayor or executive Mayor, as the case may be, of a parent municipality may at any time call or convene any meeting of shareholders or other general meeting comprising to board of directors of the Company concerned and the representatives of the parent municipality, in order for the board of directors to give account for actions taken by it.
- (iii) The council of a parent municipality may determine the reporting responsibilities of a municipal representative.
- (c) (i) A municipal representative must represent the parent municipality faithfully at shareholder meetings, without consideration of personal interest or gain, and shall keep the council informed of –

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- (a) how voting rights were exercised; and
 - (b) all relevant actions taken on behalf of the municipality by the representative.
- (ii) A municipal representative
 - (a) must act in accordance with the instructions of the council; and
 - (b) may be reimbursed for expenses in connection with his or her duties as a municipal representative, but may not receive any additional compensation or salary for such duties.

17. EXISTING AGREEMENT

This agreement shall supercede any other agreements between any Tourism Association, and any Municipality which falls within the Ugu District.

18. DURATION

1. This agreement shall commence on the effective date and shall continue for a fixed period of 5 years, whereafter a new agreement must be negotiated between the parties.
2. Should any of the Parties be desirous of terminating this Agreement before the attainment of the five (5) year period, the Party wishing to terminate must provide one (1) year's written notice of it's intention to terminate to the other Party. Such Notice must be delivered to the other Party's domicilium as recorded in 24 below.


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19. FINANCIAL CONTRIBUTION BY MUNICIPALITY

1. South Coast Tourism shall annually –

1.1 prepare a business plan linked to and taking cognizance of the Ugu District Municipality Integrated Development Plan. This annual business plan shall be submitted to the Municipality which shall annually make a grant to South Coast Tourism as stipulated herein;

1.2 not more than six months after the end of its financial year, after completion of the annual audit, submit to the Municipal Manager of the Municipality a report on its affairs and activities during the financial year and its audited annual financial statements, which report and financial statements shall be tabled at the next meeting of the Municipality; and

1.3 before or on the date prescribed, submit a budget for the ensuing financial year and a business plan as prescribed, to the Municipal Manager, which budget and business plan shall be considered by the Municipal Council in line with its budgeting process when considering the increase referred to in clause 19.5 below.

1.4 The funds of South Coast Tourism shall consist of –

1.4.1 Grant in Aid from District and Local Municipalities of the Ugu District;



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1.4.2 donations, bequests, sponsorships or contributions;

1.4.3 subject to the KwaZulu-Natal Tourism Act, income generated so as to achieve its objects; and

1.4.4 membership fees;

- 2 When the annual business plan of South Coast Tourism is so submitted. Without limiting the generality of such report it shall incorporate therein all information which may be called for by the Municipal Manager or other authorised officials of the Municipality. The report shall be comprehensive enough to enable the Municipality to assess whether South Coast Tourism has fully complied with this agreement, what service levels it has maintained and generally what its performance has been.
3. The parties record that Ugu District Municipality has committed itself to make a financial contribution to South Coast Tourism from the municipal budget.
4. The parties therefore record that the Municipality has committed itself to a base level contribution as a Grant-in-Aid to South Coast Tourism for the duration of this contract period. The amount will inline with the annual budget increases of the Municipality, subject to the availability of funds etc. per annum as it applies to Municipalities subject however to the availability of funds and any unforeseen/impending shortfalls in budgeted revenue.


PH  NN

5. Ugu District Municipality will inform South Coast Tourism by not later than 31 May each year of the approved increase in the base level Grant-in Aid.
6. Sponsorships of each less than R200 000.00 (Two Hundred Thousand Rand) shall form part of the ordinary income received by Tourism, and not be subject to any Preferential Procurement policy and shall be treated as sponsorship funding as provided for in the Kwa Zulu Natal Tourism Act.

20. FUTURE DEVELOPMENT OF SOUTH COAST TOURISM

South Coast Tourism shall, within a reasonable period:

1. Effect such changes as maybe necessary or appropriate for it to function as a Local Tourism Association in terms of the KwaZulu-Natal Tourism Act, 1996 (KwaZulu-Natal Tourism Act, Act 11 of 1996). Without limiting the generality of the requirement, it shall adopt and follow the objects set out in the said Tourism Act, and any other relevant legislation regarding tourism and the local authority.
2. South Coast Tourism is to conduct its activities as laid out in the Memorandum of Association, as per its core business, being tourism marketing and development.
3. South Coast Tourism shall in the course of its daily business, and by way of its Constitution as far as may be permitted; be entitled to procure funding by way of Sponsorships either with reference to:

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- (a) a sponsorship panel;
- (b) ad hoc sponsorships.

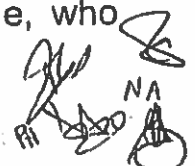
4. Such sponsorships shall not have to comply with the MFMA or the supply Chain Management Policy subject to Section 93C(a)(iii) of the Systems Act.
5. If any doubts exist as to whether or not a sponsorship or monies received should be dealt with in terms of the MFMA, this item shall be tabled and minuted and resolved at a director's meeting as defined herein.

22. PREMISES

1. South Coast Tourism has entered into separate formal lease with a Wideprops 118 Pty Ltd 2002/030541/08 (a private landlord) for the sole occupation of the premises at 16 Bisset Street, Port Shepstone for a period not more than 2 years and 11 months, which lease may be renewed by mutual consent.

22. AUDIT

- (a) The parties record that the books and records of South Coast Tourism will be subject to an annual audit and the results thereof made available to the Ugu District Municipality.
- (b) For the purposes of cost efficacy, the Municipalities Chief Financial Officer, or his nominated representative will engage the services of the Company Auditors from time to time, who



shall prepare an Audit Report, which shall together, with working papers in support thereof be submitted to the Auditor General in compliance with all statutory requirements.

23. PERFORMANCE EVALUATION

1. The parties agree that the activities of South Coast Tourism will be monitored and evaluated.
2. The monitoring and evaluation shall be done in accordance with the reasonable requirements of the Municipal Manager of the Municipality, who reserves this right and who is, in any event obliged to comply with Section 87 of the Municipal Finance Management Act. He may utilise the services of consultants or other experts for this purpose including the conducting of periodic or ongoing and / or annual market research as to the views of the public generally and the members of South Coast Tourism in this regard.
3. The following reports shall be submitted to the Municipal Manager to evaluate the ongoing performance of South Coast Tourism:
 - 3.1 Audited financial statements, within 60 days of South Coast Tourism year end.
 - 3.2 Mid year Budget and Performance Assessment report.
 - 3.3 A quarterly summary activity report
4. Board minutes from time to time shall be forwarded to the Municipal Manager.

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5. Annual board review of company performance to be forwarded to the municipal manager within 90 days of its year-end.

24. DOMICILIUM AND NOTICES

The parties select their addresses as hereinbefore stated as their respective *domicilia citandi et executandi* for all purposes arising out of this agreement or the cancellation thereof.

Any notice sent to the *domicilia citandi et executandi* of a party by previous registered post or delivered there by hand shall be deemed to have been received on the fifth business day after posting or on the date of delivery, as the case may be.

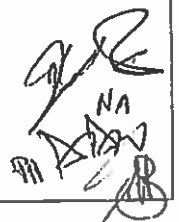
Any party may, by written notice to the other, change his *domicilia citandi et executandi* to another physical address (not being a post office box number or poste restante) within the Republic of South Africa and such change shall become effective seven days after the giving of such notice.

All notices which may or may have to be given in terms of this agreement shall be in writing.

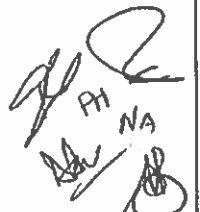
25. JUDICIAL PROCEEDINGS AND DISPUTE RESOLUTION

1. The parties acknowledge that with reference to interpretation of powers and obligations of the parties, and in the event of a dispute between the parties that:

1.1 This Service Level Agreement shall have application and;

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- 1.2 The Articles and Memorandum of the Company shall have application.
2. Should a dispute arise at any level between the parties, which cannot be resolved by intervention, of the CEO, the Municipal Manager, and/or the directors of the Entity, then the parties acknowledge that Chapter 4 of The Intergovernmental Relations Framework Act 113 of 1995 shall have application (Act 113 of 2005).
3. In terms of Section 41 read with 42(2) of Act 113 of 2005,
- 3.1. Any dispute which may arise between the parties relating to the interpretation, effect or termination of this agreement or to their rights or obligations in terms hereof shall be submitted for facilitation if any party to the dispute so requires.
- 3.2. The Facilitator shall then make his/her finding available to the relevant MEC in terms of Section 44 of Act 113 of 2005.
4. The Arbitrator shall be a practising or retired attorney or Senior Government Official who have had not less than 10 (ten) years experience. He/she shall be appointed by agreement between the parties to the dispute, and failing such agreement, within 7 (seven) days after the date upon which the arbitration is demanded, by the relevant MEC in Kwa Zulu Natal, or his nominee.

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26. ENTIRE AGREEMENT – NO VARIATION

Non Variation

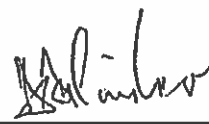
This agreement shall constitute the entire agreement between the parties, as to the regulation of the Municipal Entity, and no addition to or variation, consensual cancellation or novation of this Service Level Agreement and no waiver of any right arising from this Agreement or its breach or termination shall be of any force or effect unless reduced to writing and signed by all the parties or their duly authorized representatives.

THUS DONE and SIGNED by UGU DISTRICT MUNICIPALITY at Port Shepstone on this 20th day of May 2015.


AS WITNESSES:


1. 

2. 



D D NAIDOO
MUNICIPAL MANAGER
Duly Authorised


.....
APPROVED
MANAGER: LEGAL SERVICES
MELANIE OLIVIER
DATE: 20/05/2015.....

NA

RM

THUS DONE and SIGNED by SOUTH COAST TOURISM at Port
Shepstone on this 28th day of May 2015.

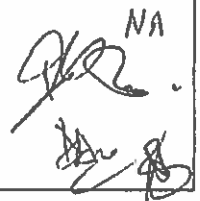

AS WITNESSES :

1. 

2. 


JUSTIN MACRORY

CHIEF EXECUTIVE OFFICER –
SOUTH COAST TOURISM

 NA


SERVICE LEVEL AGREEMENT

ENTERED INTO BY AND BETWEEN

UGU DISTRICT MUNICIPALITY

**(Duly represented by Mr D D Naidoo in his capacity as
Municipal Manager) of the one part**

AND

UGU SOUTH COAST DEVELOPMENT AGENCY (RF) SOC LTD (2016/158371/30)

**(Duly represented BY Ms E J Crutchfield in her
capacity as Interim Chief Executive Officer) of the
other**

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1. Preamble

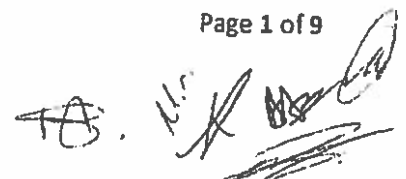
Whereas the Municipality adopted the Integrated Development Plan in compliance with the Municipal Systems Act. Economic Development has been identified as a key performance area hence necessitates the need to invest in economic development implementing agency.

And Whereas Ugu South Coast Development Agency is an economic development implementing agent. Its mandate is to engage in economic development projects that grow the economic development footprint of the municipality.

And Whereas the Municipality has resolved to grant funding to the economic development implementing agent namely the Ugu South Coast Development Agency, to the tune of R5 250 000.00 per annum escalating at 5% per annum.

And Whereas Ugu South Coast Development Agency hereby accepts the funding from the municipality.

The parties as stated above hereby choose the terms and conditions stated below to regulate their business relationship.

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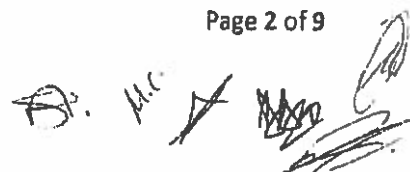
2. Definitions

Business Day/s:	Means all days excluding Saturday, Sunday and Public Holidays, as determined by the Republic of South African Government.
Contract:	Means this contract as set-out in the various clauses and all its annexures.
Municipality:	Means the Ugu District Municipality
Agency:	Means Ugu South Coast Development Agency
Funding:	Mean the financial resource that will be transferred to the Ugu South Coast Development Agency.
Parties:	Mean Ugu District Municipality and the Ugu South Coast Development Agency.

3. Interpretations

Unless inconsistent with the context, an expression which denotes:

- 3.1. One gender includes the other gender.
- 3.2. A natural person includes a juristic person and vice versa.
- 3.3. The singular includes the plural and vice versa.
- 3.4. When any number of days is prescribed in this contract, the same shall be reckoned exclusively of the first and inclusively of the last day unless day falls on a Saturday, Sunday or proclaimed public holiday in the Republic of South Africa, in which event the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday.
- 3.5. Figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
- 3.6. Any reference in this contract to "goods" includes works and/or services.
- 3.7. The written and signed contract represents the final agreed terms and conditions between the parties and it super cedes any prior oral contracts or discussions.
- 3.8. All annexure and appendices shall form part of the contract.



4. Contract Duration

- 4.1. This contract will commence on 01 July ²⁰¹⁹~~2014~~ and will endure for the period of 3 (Three) years.

5. Contract Termination

- 5.1. This contract may be terminated by either party by giving the other party not less than 90 (Ninety) business days written notice of termination.
- 5.2. Due to the nature of the service required and the duration of the contract, the termination procedure stated in clause 5.1 above is applicable only if the termination of the contract does not materially affect the deliverables of the services required by the Agency.

6. Undertakings

- 6.1. The municipality hereby undertakes to make available to the Ugu South Coast Development Agency an amount of R5 250 000 per annum escalating at 5% per annum.
- 6.2. The Ugu South Coast Development Agency hereby accepts the funds stated in clause 6.1 above.

7. Obligation of the parties

7.1. Obligations of the Municipality:

- a. To transfer to the Agency the amount referred to in clause 6.1.
- b. In addition to the above obligation, the amount referred escalates at a rate of 5% per annum.
- c. To transfer the funds to the following banking details.
Account Name: Ugu South Coast Development Agency
Account Number: 4057525673
Bank: ABSA
Branch: Port Shepstone
Branch Code: 632005
- d. The bank details stated in clause 7.1(c) may be amended by the Ugu South Coast Development Agency and will be deemed to be amended upon receipt of a written notice from the Ugu South Coast Development Agency.

7.2. Obligation of the Ugu South Coast Development Agency.

In utilizing the funding the Ugu South Coast Development Agency undertakes to

- a. Implement effective, efficient and transparent financial management and internal controls systems to guard against fraud, theft and financial management and internal

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control systems to guard against fraud, theft and financial mismanagement in handling the funds.

- b. Provide reports detailing financial and operational performance to the municipality on quarterly basis or as and when required, provided that reasonable notice has been given.
- c. To utilize the funds to further the economic development initiatives of the District.
- d. In addition to the above, the Agency shall undertake projects given by the municipality in line with Agency corporate strategy. The projects which may be undertaken are included in the District Growth & Development Strategy; as well as any other projects as may be identified by the Municipality.

8. Performance Standards

- 8.1. The parties must ensure that all time frames are adhered to in order to ensure efficiency.

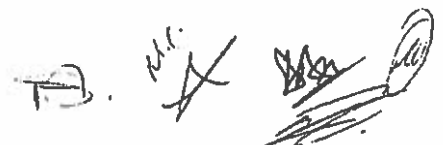
9. Contract Amendments/Variations.

- 9.1. No variation in or modification of the terms of this contract shall be made except by written amendment signed by the parties concerned.

10. Confidentiality

The Parties shall:

- 10.1. Treat as strictly confidential any and all Confidential Information given or made except by written amendment signed by the parties concerned.
- 10.2. Keep all such Confidential Information confidential towards third parties and only use it in co-operation with each other for the purpose expressly agreed upon by the Parties and to disclose same to their employees only on the basis as the need to know.
- 10.3. The foregoing obligations shall not apply to any information which:
 - 10.3.1. Is lawfully in the public domain at the time of disclosure;
 - 10.3.2. Subsequently becomes available to one party from a source other than the other party, which source is lawfully entitled without any restriction on disclosure to disclose such confidential information; and



10.3.3. Is disclosed pursuant to a requirement or request by operation of law, regulation or order of a competent court.

10.3.4. This clause is severable from the rest of this contract and shall remain valid and binding on the parties notwithstanding any termination of this Contract.

11. Intellectual Property

The intellectual property discovered or created as the direct or indirect result of this contract shall remain the property of the Ugu South Coast Development Agency.

12. Warranties

12.1. The parties warrant that they have the required authority to enter into this contract.

13. Breach

13.1. In the event of breach any party may issue a written notice requiring the defaulting party to remedy a breach of this contract within 30 business days of the date of receipt of the notice.

13.2. If the defaulting party fails to remedy the breach within the 14 days specified in 12.1, the aggrieved party shall be entitled without notice, in addition to any other remedy available to them at law or under this contract:

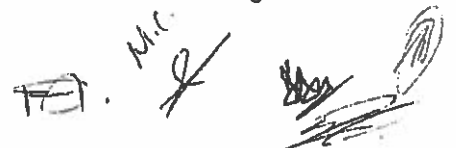
13.2.1. To claim specific performance of any obligation whether or not the due date for performance has arrived; or

13.2.2. To terminate this contract with accordance with paragraph 5 of this contract, against the defaulting party, in either event without prejudice to the aggrieved part's rights to claim damages.

14. Dispute Resolution

Provision is hereby made for arbitration in the following manner:

14.1. Any dispute arising from the performance or terms or conditions or termination or cancellation of this contract, and which cannot be settled between the parties themselves, shall be way of independent arbitration.

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The identity of the Arbitrator and terms of reference must be agreed to by the parties prior to any arbitration commencing.

14.1.1. Manner

The arbitration takes place in an informal manner.

14.1.2. Place

The arbitration takes place in Port Shepstone, in the Republic of South Africa.

14.1.3. Secrecy

Any arbitration in terms hereof shall be deemed to be strictly confidential between the parties involved therein.

14.1.4. The Arbitrator

If the dispute is primarily by nature:

14.1.4.1. An accountancy matter

The Arbitrator shall be an independent, registered Chartered Accountant.

14.1.4.2. A legal or any other matter

The Arbitrator shall be a practicing Advocate or Attorney of at least five (5) years standing.

14.1.5. Failure to appoint an Arbitrator

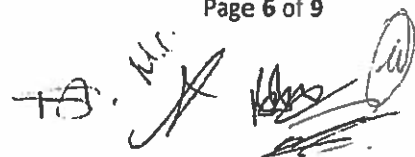
If the parties cannot agree on an arbitrator within seven (7) days of the reference, either party shall be entitled to request the Chairman, for the time being, of the KwaZulu-Natal Bar Council or his/her successor in title to appoint a suitable arbitrator.

14.1.6. Binding

The parties hereby irrevocably agree that the award made in any arbitration in terms hereof shall be final and binding upon them and they shall comply with it.

14.2. The provisions of this paragraph:

14.2.1. Are severable from the rest of this contract and shall remain in force despite the termination of this contract or its invalidity for any other reason; and

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14.2.2. Does not preclude a party from obtaining interim relief on an urgent basis from a court of competent jurisdiction, pending the decision of the arbitrator.

15. Monitoring and Evaluation

15.1. The parties hereby agree that there will be quarterly meetings per annum to discuss the implementation progress of all the economic development projects.

15.2. The reports may be extended to other relevant municipal structures and or committees.

16. Notices

For the purposes of this contract, the parties choose their respective domicilia citandi et executandi as follows:

16.1. Ugu District Municipality

28 Connor Street

Port Shepstone

4240

Tel: 039 688 5700

Fax: 039 682 1720

16.2. Ugu South Coast Development Agency

10 Berea Road

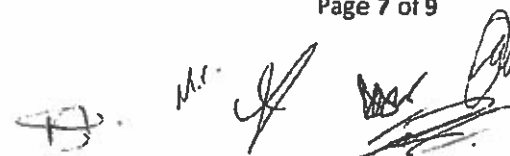
Port Shepstone

4240

Tel: 039 682 3881/2

Fax: 039 682 3883

16.3. The parties hereby choose domicilium citandi et executandi for all notices and processes to be given and served in pursuance hereof at their respective addresses given on the first page of this contract. Any notice of any change in such address shall be given in writing by the parties concerned and delivered by hand or sent by registered mail to the other party, upon notification of which address so notified shall serve as the new citandi et executandi.

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16.4. A party may at any time change that party's domicilium by notice in writing, provided that new domicilium is in the Republic of South Africa and consists of, or includes, a physical address at which the process can be served.

16.5. Any notice to a party:

16.5.1. Sent by prepaid registered post in a correctly addressed envelope, to it, shall be deemed to have been received on the 7th (seventh) day after posting (unless the contrary is proved);

16.5.2. Delivered by hand to a responsible person during ordinary business hours at the physical address chosen as its domicilium, shall be deemed to have been received on the day of delivery; or

16.5.3. Sent by telefax to its chosen telefax number, shall be deemed to have been received on the date of dispatch (unless the contrary is proved).

17. Whole Contract

This contract constitutes the whole contract between the parties in relation to its subject matter and supercedes all prior contracts and no documentation, presentation; warranty or contract not contained herein shall be of any force between the parties.

18. Signatures

SIGNED AT PORT SHEPSTONE ON THIS 29 DAY OF JUNE 2015



SIGNATURE ON BEHALF OF THE

UGU SOUTH COAST DEVELOPMENT AGENCY

NAME: JOY CLUTCHFIELD

POSITION: ACTING CHIEF EXECUTIVE OFFICER

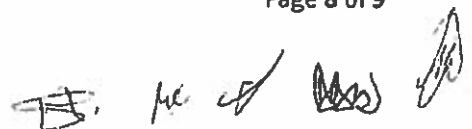
In the presence of the following witnesses:

1. 

2. 

NAME: MONIQUE HERBST

NAME: MIRAN MKHIZE



SIGNED AT Port Shepstone ON THIS 24th DAY OF June 2015

[Signature]

NAME: D. D. Ndodo

SIGNATURE ON BEHALF OF

POSITION: Municipal Manager

UGU DISTRICT MUNICIPALITY

In the presence of the following witnesses:

1. [Signature]

2. [Signature]

NAME: M. G. Olivier

NAME: N. Surigbally

[Signature]
 APPROVED
 MANAGER: LEGAL SERVICES
 MELANIE OLIVIER
 DATE: 25/6/15

[Signature] Mc. [Signature]

UGU DISTRICT MUNICIPALITY

“The Municipality”



BUDGET POLICY

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1. **DEFINITIONS**

In this Policy, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Act, has the same meaning as in that Act.

“Accounting Officer” means the Municipal Manager of Ugu Municipality;

“Allocation” means –

- i) a municipality's share of the local government's equitable share referred to in Section 214(l) (a) of the Constitution;
- ii) an allocation of money to a municipality in terms of Section 214(1) (c) of the Constitution;
- iii) an allocation of money to a municipality in terms of a provincial budget; or
- iv) any other allocation of money to a municipality by an organ of state, including by another municipality, otherwise than in compliance with a commercial or other business transaction.

“Annual Division of Revenue Act” means the Act of Parliament, which must be enacted annually in terms of Section 214(1) of the Constitution;

“Approved budget” means an annual budget -

- a) approved by a municipal Council, or
- b) includes such an annual budget as revised by an adjustments budget in terms of section 28 of the MFMA.

“Budget-related policy” means a policy of a municipality affecting or affected by the annual budget of the Municipality, including -

- a) the tariffs policy, which the Municipality must adopt in terms of Section 74 of the Municipal Systems Act;
- b) the rates policy which the Municipality must adopt in terms of Section 3 of the Municipal Property Rates Act;
- c) the credit control and debt collection policy, which the Municipality must adopt in terms of Section 96 of the Municipal Systems Act;

“Budget year” means the financial year of the Municipality for which an annual budget is to be approved in terms of Section 16(1) of the MFMA;

“Chief Financial Officer” means the Chief Financial Officer of Ugu Municipality;

“Council” means the Council of Ugu Municipality;

“Current year” means the financial year, which has already commenced, but not yet ended;

“Delegation” in relation to a duty, includes an instruction or request to perform or to assist in performing the duty;

“Financial Statements” means statements consisting of at least -

- a) a statement of financial position;
- b) a statement of financial performance;
- c) a cash-flow statement;
- d) any other statements that may be prescribed; and
- e) any notes to these statements;

“Financial year” means a twelve months period commencing on 1 July and ending on 30 June each year;

“Fruitless and wasteful expenditure” means expenditure that was made in vain and would have been avoided had reasonable care been exercised;

“Irregular expenditure”, means –

- a) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the MFMA Act, and which has not been condoned in terms of Section 170 of the MFMA;
- b) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the Municipal Systems Act, and which has not been condoned in terms of that Act;
- c) expenditure incurred by a municipality in contravention of, or that is not in accordance with, a requirement of the Public Office-Bearers Act, 1998 (Act 20 of 1998); or

- d) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the supply chain management policy of the municipality or entity or any of the municipality's by-laws giving effect to such policy, and which has not been condoned in terms of such policy or by-law, but excludes expenditure by a municipality which falls within the definition of "unauthorised expenditure";

"Investment" in relation to funds of a municipality, means -

- a) the placing on deposit of funds of a municipality with a financial institution; or
- b) the acquisition of assets with funds of a municipality not immediately required, with the primary aim of preserving those funds;

"long-term debt" means debt repayable over a period exceeding one year;

"Mayor" means the Mayor of Ugu Municipality;

"Municipality" refers to Ugu District Municipality

"National Treasury" means the National Treasury established by Section 5 of the Public Finance Management Act;

"Official" means -

- a) an employee of a municipality or municipal entity;
- b) a person seconded to a municipality or municipal entity to work as a member of the staff of the municipality or municipal entity; or
- c) a person contracted by a municipality or municipal entity to work as a member of the staff of the municipality or municipal entity otherwise than as an employee;

"Overspending" means -

- a) causing the operational or capital expenditure incurred by the Municipality during a financial year to exceed the total amount appropriated in that year's budget for its operational or capital expenditure, as the case may be;
- b) in relation to a vote, means causing expenditure under the vote to exceed the amount appropriated for that vote; or

- c) in relation to expenditure under Section 26 of the MFMA, means causing expenditure under that section to exceed the limits allowed in subsection (5) of this section;

“Quarter” means any of the following periods in a financial year:

- a) 1 July to 30 September;
- b) 1 October to 31 December;
- c) 1 January to 31 March; or
- d) 1 April to 30 June.

“Service Delivery and Budget Implementation Plan” means a detailed plan approved by the Mayor of a municipality in terms of Section 53 (l) (c) (ii) of the MFMA for implementing the Municipality's delivery of municipal services and its annual budget, and which must indicate:

- a) projections for each month of:
 - i) revenue to be collected, by source and vote; and
 - ii) operational and capital expenditure, by vote;
- b) service delivery targets and performance indicators for each quarter; and
- c) any other matters that may be prescribed, and includes any revisions of such plan by the Mayor in terms of Section 54(l)(c) of the MFMA;

“Unauthorised expenditure” means any expenditure incurred by a municipality otherwise than in accordance with section 15 or 11(3) of the MFMA, and includes –

- a) overspending of the total amount appropriated in the Municipality's approved budget;
- b) overspending of the total amount appropriated for a vote in the approved budget;
- c) expenditure from a vote unrelated to the department or functional area covered by the vote;
- d) expenditure of money appropriated for a specific purpose, otherwise than for that specific purpose;
- e) spending of an allocation referred to in paragraph (b), (c) or (d) of the definition of "allocation" otherwise than in accordance with any conditions of the allocation; or
- f) a grant by the Municipality otherwise than in accordance with the MFMA;

“Virement” means transfer of funds between functions / votes

“Vote” means

- a) one of the main segments into which a budget of a municipality is divided for the appropriation of money for the different departments or functional areas of the municipality; and
- b) which specifies the total amount that is appropriated for the purposes of the department or functional area concerned.

2. PRINCIPLES

- 2.1 Section 215 (1) of the Constitution of the Republic of South Africa states that National, provincial and municipal budgets and budgetary processes must promote transparency, accountability and the effective financial management of the economy, debt and the public sector. It also states in S215 (3), that Budgets in each sphere of government must contain;
- a. Estimates of revenue and expenditure, differentiating between capital and current expenditure;
 - b. Proposals for financing any anticipated deficit for the period to which they apply; and
 - c. An indication of intentions regarding borrowing and other forms of public liability that will increase public debt during the ensuing year.
- 2.2 Section 26(h) of the Municipal Systems Act (Act 32 of 2000) requires a municipality's Integrated Development Plan to reflect a financial plan, which must include a budget projection for at least the next three years (Medium Term Expenditure Framework);
- 2.3 Section 21 of the Municipal Finance Management Act (Act 56 of 2003) prescribes the function of the Mayor who must coordinate the processes for preparing the annual budget and for the reviewing of the municipality's Integrated Development Plan and budget related policies and to ensure that any revisions are mutually consistent and credible;
- 2.4 Section 16 of the Municipal Finance Management Act, requires the municipal council to approve an annual budget for the municipality before the start of the financial year;
- 2.5 The Minister with the concurrence of the Minister for Provincial and Local Government, has in terms of S168 of the Municipal Finance Management Act issued the Municipal Budget and Reporting Regulations which aim to secure sound and sustainable management of the budgeting and the reporting practices of the municipalities by establishing uniform norms and standards and other requirements for ensuring transparency, accountability and appropriate lines of responsibility in the budgeting and reporting processes; Now therefore, the Council of Ugu District Municipality adopts the Budget Policy as set out in this document.

3. OBJECTIVES OF THE POLICY

To set a broad framework within which Budget related decisions of the Municipality will be taken and implemented to ensure efficient and transparent financial planning that will promote sound and sustainable financial management, essential for the achievement of the Municipality's developmental priorities as contained in its Integrated Development Plan.

4. SCOPE AND INTENDED AUDIENCE

- 4.1 This Policy will serve as a guideline for the effective management of the Municipal budgetary processes, in order to attain the strategic objectives of the Municipality within the ambit of the applicable legislation, and shall apply to all departments within the Municipality.
- 4.2 Council has considered the guidelines distributed by National Treasury to local government which detail the processes and formats to be followed when preparing the budget policy.
- 4.3 The Municipality shall comply with the provisions of this Policy in the compilation of each of its budgets.

5. REGULATORY FRAMEWORK

In the process of preparing the Municipal budget, The Mayor, political office bearers (Councillors), Accounting Officer, Chief Financial Officer and other officials shall comply with all relevant legal requirements, including:-

- a) The provisions of Chapter 4 of the Municipal Finance Management Act, 2003, ('the MFMA'), as well as Sections 42, 43, 53, 54, 55, 68, 69, 70, 71, 72, 75, 80, 81, and 83 thereof; and
- b) The Municipal Budget and Reporting Regulations published in terms of Section 168 of the MFMA.
- c) All relevant budget related Circulars and notices issued by the National Treasury.

6. ROLES AND RESPONSIBILITIES**6.1 Role of Council**

- a) Must provide political leadership and direction

- b) Play an oversight role by approving budget related policies, and ensuring that the priorities are reflected in the budget. (Council may not delegate approval of budgets and policies)
- c) Approve the Integrated Development Plan, the Annual Budgets and the Service Delivery Budget Implementation Plan.
- d) Monitor the outcomes of the implementation of the policies and budgets.

6.2 **Role of the Mayor**

- a) Provide general political guidance over the budget process and the priorities that must guide the preparation of the budget. (S53, MFMA)
- b) Prepare and table a schedule of key deadlines for the preparation, tabling and approval of the budget, annual review of the IDP and the consultative process. (S21, MFMA)
- c) Take all reasonable steps to ensure that the Municipality approves its annual budget before the start of the financial year and report to the Municipal Council and the MEC for finance in the province any delays in the tabling of the annual budget. (S53, MFMA)
- d) Must establish a Budget Steering Committee to provide technical assistance to the Mayor in discharging the responsibilities set out in S53, MFMA

6.3 **Role of the Accounting Officer**

- a) Assist the Mayor in performing budgetary functions assigned to him/her in terms of Chapter 4 & 7 of the MFMA and to provide administrative support, resources and information necessary for the performance of those functions. (S68, MFMA)
- b) Is responsible for the implementation of the approved budget and must take all reasonable steps to ensure that the spending of funds is in accordance with the budget and is reduced as necessary when the revenue is anticipated to be less than the projected in the budget.
- c) Ensure that revenue and expenditure are properly monitored.
- d) Must prepare an adjustments budget and submit it to the Mayor for consideration and tabling in the Municipal Council when necessary.
- e) Report to the Municipal Council any shortfalls in budget revenue, overspending and necessary steps taken to prevent shortfalls and overspending.
- f) Submit to the Mayor actual revenue, borrowings, expenditure and where necessary report variances on projected revenue and the budget.

6.4 Role of the Chief Financial Officer (CFO)

- a) Without derogating in any way from the legal responsibilities of the Accounting Officer as Accounting Officer, the Chief Financial Officer shall be responsible for preparing the draft annual capital and operating budgets (including the budget components required for the ensuing financial years), any required adjustments budgets, the projections of revenues and expenses for the service delivery and budget implementation plan (including the alignment of such projections with the cash management programme prepared in terms of the banking, cash management and investments policy), and shall be accountable to the Accounting Officer in regard to the performance of these functions.
- b) Must advise the Accounting Officer on the exercise of powers and duties assigned to him in terms of the MFMA.
- c) Must assist the Accounting Officer in the preparation and implementation of the Municipality's budget.
- d) The Chief Financial Officer shall draft the budget timetable for the ensuing financial year for the Council's approval, and shall indicate in such timetable the target dates for the draft revision of the annual budget and the preparation of the annual budget for the ensuing financial year, which target dates shall follow the prescriptions of the Municipal Finance Management Act, and target dates for the submission of all the budget-related documentation to the Management Committee, Finance Portfolio, Executive Committee and Council.
- e) Except where the Chief Financial Officer, with the consent of the Mayor and Accounting Officer, decides otherwise, the sequence in which each annual budget and adjustments budget shall be prepared, shall be: first, the capital component, and second, the operating component. The operating component shall duly reflect the impact of the capital component on:
 - i) depreciation charges;
 - ii) repairs and maintenance expenses;
 - iii) interest payable on external borrowings; and
 - iv) other operating expenses.
- f) In preparing the operating budget, the Chief Financial Officer shall determine the number and type of votes to be used and the line-items to be shown under each

vote, provided that in so doing the Chief Financial Officer shall properly and adequately reflect the organisational structure of the Municipality, and further in so doing shall comply – in so far as the organisational structure permits – also with the prescribed budget format of National Treasury

- g) Must perform all budgeting and other duties as delegated by the Accounting Officer in terms of S79, MFMA.
- h) The Chief Financial Officer shall determine the depreciation expenses to be charged to each vote, the apportionment of interest payable to the appropriate votes, the estimates of withdrawals from (claims) and contributions to (premiums) the self-insurance reserve, and the contributions to the provisions for debt impairment, accrued leave entitlements and obsolescence of stocks
- i) The Chief Financial Officer shall further, with the approval of the Mayor and the Accounting Officer, determine the recommended contribution to the asset financing reserve and any special contributions to the self-insurance reserve.
- j) The Chief Financial Officer shall also, again with the approval of the Mayor and the Accounting Officer, and having regard to the Municipality's current financial performance, determines the recommended aggregate growth factor(s) according to which the budgets for the various votes shall be drafted.
- k) The Chief Financial Officer shall compile monthly budget reports, with recommendations, comparing actual results with budgeted projections, and the heads of departments shall timeously and adequately furnish the Chief Financial Officer with all explanations required for deviations from the budget. The Chief Financial Officer shall submit these monthly reports to the Mayor, Finance Portfolio and Executive Committee, and all other prescribed parties, in accordance with the prescriptions of the Municipal Finance Management Act.
- l) The Chief Financial Officer shall provide technical and administrative support to the Mayor in the preparation and approval of the annual and adjustment budgets, as well as in the consultative processes, which must precede the approval of such budget.
- m) The Chief Financial Officer shall ensure that the annual and adjustments budgets comply with the requirements of the National Treasury, reflect the budget priorities

determined by the Mayor, are aligned with the IDP, and comply with all budget-related policies, and shall make recommendations to the Mayor on the revision of the IDP and the budget-related policies where these are indicated.

- n) The Chief Financial Officer shall make recommendations on the financing of the draft capital budget for the ensuing and future financial years, indicating the impact of viable alternative financing scenarios on future expenses, and specifically commenting on the relative financial merits of internal and external financing options.
- o) The Chief Financial Officer shall determine the basis for allocating overhead expenses not directly chargeable to votes. The expenses associated with the democratic process shall be allocated to a separate vote, and shall not be charged out as an overhead.
- p) The Chief Financial Officer shall ensure that the cost of indigent relief is separately reflected in the appropriate votes.
- q) The Chief Financial Officer shall ensure that the allocations from other organs of state are properly reflected in the annual and adjustments budget, and that the estimated expenses against such allocations (other than the equitable share) are appropriately recorded.

6.5 Role of Senior Managers & Other Officials

- a) Each Senior Manager and each Municipal official exercising financial management responsibilities must take all reasonable steps within his/her area of responsibility to ensure that the financial resources of the Municipality are utilised effectively, efficiently, economically and transparently.
- b) Must prevent unauthorised, irregular and fruitless or wasteful expenditure and other losses within his/her Department.
- c) Must ensure that all revenue due to the Municipality is collected.
- d) Must ensure that all information required by the Accounting Officer for compliance with the provisions of the Acts is timeously submitted.

6.6 Role of the Budgeting Steering Committee

6.6.1 The Municipal Budget and Reporting regulations (Government Gazette 32141) chapter 2 requires the Mayor to establish a Budget steering comprising of the following members:-

- a) The Mayor – Chairperson
- b) The Speaker
- c) The Whips of Political Parties
- d) The Accounting Officer (Municipal Manager)
- e) The Chief Financial Officer
- f) The IDP Manager
- g) The Manager Budget Office and,
- h) Members of Senior Management (Top Management)

6.6.2 The role of the Committee shall be:-

- a) To assist the Mayor in carrying out his/her statutory roles and responsibilities in accordance with S52 and S53 of the MFMA.
- b) To provide technical assistance to the Municipal political office bearers during policy formulation and to assist priority determination.
- c) To interrogate and make recommendations on the adoption of the Annual Budget, the Service Delivery and Budget Implementation Plan (SDBIP), S71 monthly budget statements and S72 Midyear budget and performance report and the Adjustments Budget.
- d) To evaluate the progress report of the Accounting Officer with regard to the financial year end closure and compilation of the Municipal audit file.
- e) To evaluate progress report on the statutory audit by the office of the Auditor General.
- f) To exercise oversight in the compilation of the Annual Report.
- g) To evaluate action plans from the Accounting Officer on corrective measures to be taken on issues raised by the Auditor General.
- h) To evaluate and recommend payment of Annual Performance Bonuses to the Accounting Officer and Senior Management after the annual report has been adopted by Council on 31 January each year.

6.6.3 Council may adopt its existing Finance Portfolio Committee as its Budget and Steering Committee.

6.7 **Role of the Budget and Treasury Office**

- a) To assist the Accounting Officer in tabulating key time frames for the Budget Process.
- b) To provide guidance to the Accounting Officer and Senior Managers during the budget preparation process in accordance with National Treasury MFMA Reforms.
- c) To consolidate departmental Capital and Operating budgets.
- d) To consolidate departmental S71 monthly budget statements, quarterly returns and the Midyear monitoring report and submit to the Finance Portfolio Committee.
- e) To report any unauthorised, irregular, fruitless and wasteful expenditure or any deviations from the approved budget to the Finance Portfolio Committee.
- f) To assist the Accounting Officer in implementing recommendations of the Finance Portfolio Committee.
- g) To manage the administrative operations of the Budget and Treasury Office to ensure full compliance with the MFMA and any issued guidelines or Circulars from National Treasury.

6.8 **Delegation of roles and responsibilities**

6.8.1 All delegations by the Mayor to the Accounting Officer, Mayor to the members of the Finance portfolio Committee, the Accounting Officer to the Chief Financial Officer and other Senior Managers, of their roles, duties and responsibilities as per the MFMA:-

- a) Must be in writing,
- b) Are subject to the limitations as may be imposed by the Act,
- c) Does not absolve the Mayor, the Accounting Officer or the Senior Officials of the responsibilities concerning the exercise of the delegated power or the performance of the fiduciary duties, and
- d) Should not be indefinite and must be reviewed annually.

7 **ANNUAL SCHEDULE OF KEY DEADLINES**

- 7.1 The deadline dates for all budget preparation processes shall be as per the approved Process Plan as tabled by the Mayor to Council in August.
- 7.2 Such Process Plan shall indicate the target dates for the draft revision of the Integrated Development Plan and the preparation of the annual budget for the ensuing financial year, which target dates shall follow the prescriptions of the MFMA, for the submission

of all the budget-related documentation to the Mayor, Finance Committee, Executive Committee and Council.

- 7.3 Such time schedule shall provide for the deadlines set out in Appendix A, unless the Mayor, after consultation with the Chief Financial Officer, determines otherwise and provided that the requirements of the MFMA shall at all times be adhered to.
- 7.4 The Chief Financial Officer shall be responsible for ensuring that the time schedule is adhered to.

8 BUDGET PRINCIPLES

The sequence in which the Annual Budget shall be prepared shall be, first, the capital component and second, the operating component, except where the Chief Financial Officer with the consent of the Mayor decides otherwise. The Municipality's annual budget should:-

- a) Move towards the achievement of goals and objectives of the Municipality within the constraints of the available resources.
- b) Consider the Priorities as identified in the State of the Nation Address, State of the Province Address and the State of the District Address.
- c) Reflect the priorities contained in the Municipality's Integrated Development Plan.
- d) Be credible and fully funded from realistically anticipated revenues.
- e) Consider any resolutions taken by Council or the Executive Committee in the previous Budget Year which have financial implications on the current Medium Term Revenue Expenditure Framework.
- f) The basis of measurement and accounting policies underpinning the Municipality's annual financial statements must be the same as those used in the preparation of the Municipality's annual budget and supporting documentation.
- g) Expenses may only be incurred in terms of the approved annual budget (or adjustments budget) and within the limits of the amounts appropriated for each vote in the approved budget.

9 FUNDING OF EXPENDITURE

An Annual budget must be funded only from:

- a) Realistically anticipated revenues to be collected.
- b) Cash-backed accumulated surpluses from previous years not committed for other purposes;

- c) Borrowed funds, but only for revenue-generating capital projects; and
- d) Grants and subsidies as per DORA.

10 THE CAPITAL BUDGET

- 10.1 The Budget shall be prepared in the prescribed budget format of National Treasury.
- 10.2 The annual capital budget shall be prepared from a zero base, except in so far as capital projects represent a contractual commitment to the Municipality extending over more than one financial year.
- 10.3 The annual capital budget shall only be approved by Council if it is properly balanced (i.e. if the sources of finance have been secured to fund the budget and are equal to the proposed capital expenditure).
- 10.4 Before approving the capital budget, the Council shall consider the impact on the present and future operating budgets in relation to Finance Charges on external loans, Depreciation on fixed assets, Maintenance costs of fixed assets, and any other ordinary operational expenses associated with any item in that capital budget.
- 10.5 The Council shall also consider any impact of operating expenses – net of any revenues to be generated from the project – i.e. on future service tariffs.
- 10.6 Expenditure of a project shall be included in the Capital Budget if it meets the asset definition in terms of Council's approved Asset Management Policy

11 OPERATING REVENUE

- 11.1 The Operating revenue must include:
 - a) Estimates for all municipal revenue sources and;
 - b) All gazetted grants and subsidies, donations and subsidies in kind or emergency relief funding.
- 11.2 The allocation of interest on investments shall be budgeted for in terms of the cash, banking and investment policy.
- 11.3 In preparing the revenue budget, the Municipality shall strive to maintain the aggregate revenues from service charges at not less than 90% of the aggregate revenues net of operating grants.
- 11.4 The proposed increases in tariffs should be affordable, i.e. in line with CPIX, and should take into account the need to address infrastructure backlogs.
- 11.5 Tariff increases must respond to the population growth rate and the Division of Revenue Act.

- 11.6 The water and sanitation charges shall be calculated and levied as per the reviewed Water and Sanitation Tariffs Policy for that MTREF.
- 11.7 All tariffs shall be published in a local newspaper, and placed on the Municipal website and at the entrance of Ugu offices at least 30 days before the start of the financial year.
- 11.8 All tariffs must be gazetted in the Government Gazette before the 1st July each year.

12 OPERATING EXPENDITURE

- 12.1 The Municipality shall budget in each annual and adjustments budget for the contribution to:

- a) provision for accrued leave entitlements.
- b) entitlement of officials as at 30 June of each financial year;
- c) provision for impairment of debtors in accordance with its Rates and Tariffs Policies;
- d) provision for the obsolescence and deterioration of stock in accordance with its Supply Chain Management Policy;
- e) depreciation and finance charges shall be charged to or apportioned only between the departments or votes to which the projects relate;

- 12.2 The operating budget shall duly reflect the impact of the capital component on:

- a) Depreciation and impairment charges;
- b) Repairs and maintenance expenses;
- c) Interest payable on external loans, and
- d) Any other operating expenses associated with fixed assets.
- e) The operating budget must be in the prescribed National Treasury Format.

12.3 SALARIES AND ALLOWANCES

The budget for salaries and allowances shall be separately prepared and shall not exceed the parameter (percentage) of the aggregate operating budget component of the annual or adjustments budget, the parameters as may be contained in the budget circular issued by National Treasury from time to time. If the salary budget, exceed the parameter (percentage) of the aggregate operating budget as issued by National Treasury Council will be advised and provided with reasons and remedial action. The remuneration of Councillors and other political office bearers shall be excluded from this limit.

12.4 PROVISION FOR MAINTENANCE

The Municipality shall adequately provide in each annual and adjustments budget, for the maintenance of its fixed assets in accordance with its Fixed Asset Management and Accounting Policy as well as the routine maintenance plans. A minimum of 8% of the carrying amount of the fixed assets shall be provided for the expenditure on Repairs and Maintenance in the annual budget of the Municipality in accordance with the National Treasury norms.

12.5 FINANCE CHARGES, DEPRECIATION AND IMPAIRMENT

12.5.1 The Finance Charges payable by the Municipality shall be apportioned between departments or votes on the basis of the proportion at the last balance sheet date of the outstanding loan balances belonging to such department or vote to the aggregate outstanding loan balances. However, should Council decide to raise loans only for financing of fixed assets in a specified service or vote, finance charges shall be charged to or apportioned only between the departments or votes relating to such service.

12.5.2 The depreciation expenses shall be apportioned to each department based on the cost of assets allocated to that department. The depreciation method used shall be in terms of the Fixed Assets Management and Accounting Policies.

13 CONSULTATION ON TABLED DRAFT BUDGETS

The Municipality shall, after the annual draft budget is tabled in Council, consider the views of the local community, the National and Provincial Treasuries, organs of state and local municipalities, as required by Section 23 of the MFMA, and shall comply with all other requirements of that section. For the purpose of consultation, the draft budget will be made available to the community, through the community libraries, the municipal offices and the municipal website soon after tabling in Council.

14 APPROVAL OF THE ANNUAL BUDGET

The Council shall approve the budget before the start of the financial year, in accordance the provisions of Section 24 of the MFMA, failing which, the Municipality shall be subject to the provisions of Section 25 of the MFMA.

15 PUBLICATION OF THE BUDGETS

In accordance with Section 22 of the MFMA, the Municipal Manager shall ensure that immediately after the annual budget is tabled in the Council:

- a) The budget is made public in accordance with the provisions of Section 17 (3) of the Local Government Municipal Systems Act.
- b) The budget is submitted to the National Treasury and Provincial Treasury in printed and electronic formats;
- c) The budget is submitted to any prescribed organs of state and to other municipalities affected by it.

16 MONTHLY BUDGET REPORTS

The Chief Financial Officer shall compile monthly budget reports, with recommendations, comparing actual results with budgeted projections, and the heads of departments shall furnish the Chief Financial Officer with all explanations required for deviations from the budget.

The Chief Financial Officer shall submit these monthly reports to the Mayor, Finance Committee and Executive Committee, and all other prescribed parties, in accordance with the prescriptions of the Municipal Finance Management Act.

17 RELATED POLICIES

This Policy must be read in conjunction with the following budget-related policies of the Municipality:-

- 17.1.1 Indigent Support Policy
- 17.1.2 Asset Management Policy
- 17.1.3 Water Services Policy (incorporating the Tariff Policy)
- 17.1.4 Cash, Banking and Investments Policy
- 17.1.5 Supply Chain Management Policy
- 17.1.6 Credit Control and Debt Collection Policy
- 17.1.7 Funding and Reserves Policy
- 17.1.8 Virement Policy
- 17.1.9 Basic Services Policy

18 REVIEW OF THE POLICY

This Policy will be reviewed annually by the Budget Steering Committee prior to the commencement of the budget process to ensure compliance with any changes in

legislation or any 'best practice' guidelines and MFMA Circulars as may be issued by National Treasury from time to time.

19 COMPLIANCE AND ENFORCEMENT

- a. Violation of or non-compliance with this Policy may give a just cause of disciplinary steps to be taken.
- b. It will be the responsibility of Accounting Officer to enforce compliance with this Policy.

20 EFFECTIVE DATE

This Policy shall come to effect upon approval by Council.

21 POLICY ADOPTION

This Policy has been considered and approved by the **COUNCIL OF UGU DISTRICT MUNICIPALITY** as follows:

Resolution No:.....

Approval Date:.....

ANNEXURE: LEGAL REQUIREMENTS

MUNICIPAL FINANCE MANAGEMENT ACT

Section 15 Appropriation of funds for expenditure

Expenses may only be incurred in terms of the approved annual budget (or adjustments budget) and within the limits of the amounts appropriated for each budget vote.

Section 16 Annual budgets

The Council of the municipality must approve the annual budget before the start of the financial year to which it relates.

The Mayor must table the annual budget at least ninety days before the start of such financial year.

The capital budget may extend over three years, provided that it is separated into annual appropriations for that period.

Section 17 Contents of annual budgets and supporting documents

The budget must be in the prescribed format, and must be divided into a capital and an operating budget.

The budget must reflect the realistically expected revenues by major source for the budget year concerned.

The expenses reflected in the budget must be divided into votes.

The budget must also contain the foregoing information for the two financial years following the financial year to which the budget relates, as well as the actual revenues and expenses for the year before the current year, and the estimated revenues and expenses for the current year.

The budget must be accompanied by all the following documents:

- draft resolutions approving the budget and levying property rates, other taxes and tariffs for the financial year concerned;
- draft resolutions (where applicable) amending the IDP and the budget-related policies;

- measurable performance objectives for each budget vote, taking into account the municipality's IDP;
- the projected cash flows for the financial year by revenue sources and expenditure votes;
- any proposed amendments to the IDP;
- any proposed amendments to the budget-related policies;
- the cost to the municipality of the salaries, allowances and other benefits of its political office bearers and other councillors, the municipal manager, the chief financial officer, and other senior managers;
- particulars of any proposed allocations or grants to other municipalities, municipal entities, external mechanisms assisting the municipality in service delivery, other organs of state, and organisations such as NGOs, welfare institutions and so on;
- particulars of the municipality's investments; and
- various information in regard to municipal entities under the shared or sole control of the municipality.

Section 18 Funding of expenditures

The budget may be financed only from:

- realistically expected revenues, based on current and previous collection levels;
- cash-backed funds available from previous surpluses where such funds are not required for other purposes; and
- borrowed funds in respect of the capital budget only.

Section 19 Capital projects

A municipality may spend money on a capital project only if the money for the project (excluding the cost of any required feasibility studies) has been appropriated in the capital budget.

The total cost of the project must also be approved by the Council.

The envisaged sources of funding for the capital budget must be properly considered, and the Council must be satisfied that this funding is available and has not been committed for other purposes.

Before approving a capital project, the Council must consider the projected cost of the project over all the ensuing financial years until the project becomes operational, as well as the future operational costs and any revenues which may arise in respect of such project, including the likely future impact on property rates and service tariffs.

Section 20 Matters to be prescribed

The Minister of Finance must prescribe the form of the annual budget, and may further prescribe a variety of other matters, including the inflation projections which the municipality must use in compiling its budget.

The Minister may also prescribe uniform norms and standards in regard to the setting of tariffs where a municipality entity or other external mechanisms is used to perform a municipal service; and may also take appropriate steps to ensure that a municipality does not, in exceeding its fiscal powers, materially and unreasonably prejudice national economic policies (particularly on inflation, administered pricing and equity), economic activities across municipal boundaries, and the national mobility of goods, services, capital or labour.

Section 21 Budget preparation process

The Mayor of the municipality must:

- Co-ordinate the processes for preparing the annual budget, and for reviewing the municipality's IDP and budget-related policies to ensure that the budget, the IDP, and the policies are mutually consistent and credible.
- At least ten months before the start of the ensuing financial year, table in the Council the time schedule with key deadlines for the preparation, tabling and approval of the following year's annual budget, the review of the IDP and budget-related policies, and the consultative processes required in the approval of the budget.

- When preparing the annual budget, take into account the municipality's IDP, the national budget, provincial budget, the National Government's fiscal and macro-economic policies, and the annual Division of Revenue Act.
- Take all reasonable steps to ensure that the municipality revises its IDP in line with realistic revenue and expenditure projections for future years.
- Consult the district municipality (if it is a local municipality) and all other local municipalities in the district, and all other local municipalities in the district if it is a district municipality.
- Consult the National Treasury when requested, the Provincial Treasury, and such other provincial and national organs of state as may be prescribed.
- Provide, on request, any budget-related information to the National Treasury, other national and provincial organs of state, and any other municipality affected by the budget.

Section 22 Publication of annual budgets

Immediately after the annual budget has been tabled, the Municipal Manager must make this budget and other budget-related documentation public, and must invite the local community to submit representations in regard to such budget.

The Accounting Officer must also immediately submit the tabled budget in both printed and electronic formats to the National Treasury, the Provincial Treasury, and in either format to prescribed national and provincial organs of state and other municipalities affected by the budget.

Section 23 Consultations on tabled budgets

After the budget has been tabled, the Council of the municipality must consider the views of the local community, the National Treasury, the Provincial Treasury, and any provincial or national organs of state or municipalities which have made submissions on the budget.

After considering these views, the Council must give the Mayor the opportunity to respond to the submissions received, and – if necessary – revise the budget and table the relevant amendments for consideration by the Council.

The National Treasury may issue guidelines on the manner in which the Council must process the annual budget, including guidelines on the formation of a committee of the Council to consider the budget and hold public hearings. Such guidelines shall be binding only if they are adopted by the Council.

Section 24 Approval of annual budgets

The Council must consider approval of the budget at least thirty days before the start of the financial year to which such budget relates.

The budget must be approved before the start of such financial year, and the resolutions and performance objectives referred to in Section 17 must simultaneously be adopted.

Section 25 Failure to approve budget before start of budget year

This Section sets out the process which must be followed if the budget is not approved in the normal course of events. Briefly the Council must reconsider and vote on the budget, or an amended version of the budget, every seven days until a budget is approved. The Mayor must immediately inform the MEC for Local Government if the budget is not adopted by the start of the budget year, and may request a provincial intervention.

Section 26 Consequences of failure to approve budget before start of budget year

The provincial executive must intervene in any municipality which has not approved its annual budget by the start of the relevant financial year. Such intervention must entail the taking of any appropriate steps to ensure a budget is approved, including dissolving the Council and appointing an administrator until a new Council can be elected, and approving a temporary budget until such new Council can adopt a permanent budget for the municipality. The Section also imposes restrictions on what may be spent in terms of such temporary budget.

Section 27 Non-compliance with provisions of this chapter

This Section sets out the duties of the Mayor to report any impending non-compliance and the general consequences of non-compliance with the requirements of the various foregoing prescriptions.

Section 28 Municipal adjustments budgets

A municipality may revise its annual budget by means of an adjustments budget.

However, a municipality must promptly adjust its budgeted revenues and expenses if a material under-collection of revenues arises or is apparent.

A municipality may appropriate additional revenues which have become available but only to revise or accelerate spending programmes already budgeted for.

A municipality may in such adjustments budget, and within the prescribed framework, authorise unforeseen and unavoidable expenses on the recommendation of the Mayor.

A municipality may authorise the utilisation of projected savings on any vote towards spending under another vote.

Municipalities may also authorise the spending of funds unspent at the end of the previous financial year, where such under-spending could not reasonably have been foreseen at the time the annual budget was approved by the Council.

Only the Mayor of the municipality may table an adjustments budget. Such budget may be tabled whenever necessary, but limitations on the timing and frequency of such tabling may be prescribed.

An adjustments budget must contain all of the following:

- an explanation of how the adjustments affect the approved annual budget;
- appropriate motivations for material adjustments; and
- an explanation of the impact of any increased spending on the current and future annual budgets.

Municipal taxes and tariffs may not be increased during a financial year except if required in terms of a financial recovery plan.

Section 29 Unforeseen and unavoidable expenditure

In regard to unforeseen and unavoidable expenses, the following apply:

- the Mayor may authorise such expenses in an emergency or other exceptional circumstances;
- the municipality may not exceed a prescribed percentage of the approved annual budget in respect of such unforeseen and unavoidable expenses;
- these expenses must be reported by the Mayor to the next Council meeting;
- the expenses must be appropriated in an adjustments budget; and
- the adjustments budget must be passed within sixty days after the expenses were incurred.

Section 30 Unspent funds

The appropriation of funds in an annual or adjustments budget will lapse to the extent that they are unspent by the end of the relevant budget year, but except for the expenses referred to above in Section 16.

Section 31 Shifting of funds between multi-year appropriations

If the funds for a capital project have been appropriated for more than one financial year (see Section 16) these expenses may exceed the appropriation for any one financial year, provided:

- the increase is not more than 20% of that financial year's allocation;
- the increase is funded in the next financial year's appropriations;
- the Municipal Manager certifies that actual revenues are expected to exceed budgeted revenues, and that enough funds will be available to finance such increased appropriation without incurring further borrowing beyond the annual budget limit;
- the Mayor gives prior written approval for such increased appropriation; and
- all the above documentation is provided to the Auditor-General.

Section 32 Unauthorised, irregular or fruitless and wasteful expenditure

Unauthorised expenses may be authorised in an adjustments budget.

Section 33 Contracts having future budgetary implications

Contracts extending beyond one financial year may be entered into by a municipality, but if such contract extends beyond the three years covered in the annual budget, the municipality may enter into such contract only if:

- The Municipal Manager, at least sixty days before the Council meeting at which the contract is to be approved, has made the contract public, with an information statement summarising the municipality's obligations, and inviting the local community and other interested parties to submit comments or make representations.
- The Municipal Manager solicits the views and recommendations of the National Treasury and Provincial Treasury in respect to such contract, as well as those of the National Department of Provincial and Local Government, and any national department concerned with water, sanitation or electricity, if the contract relates to any of these services.
- The Council has taken into account the projected financial obligations in regard to such contract, the impact on tariffs, and the views and comments received from all the foregoing parties.
- The Council adopts a resolution determining that the municipality will secure a significant capital investment or derive a significant financial or economic benefit from the contract, and approves the entire contract exactly as it is to be executed.

A contract for purposes of this Section shall exclude any contract relating to the incurring of long-term debt by the municipality, employment contracts, contracts for categories of goods as may be prescribed, or contracts where the value of the contract is less than a prescribed value or a prescribed percentage of the annual budget.

Section 42 Price increases of bulk resources for provision of municipal services

National and provincial organs of state which supply water, electricity or any other bulk resources to municipalities or municipal entities for the provision of municipal services may increase the price of such resources only after doing all the following:

- The proposed increase must be submitted to the organ's executive authority and (where legislation so requires) to any regulatory agency for approval.
- At least forty days prior to the above submission the National Treasury and organised local government must be invited to submit written comments on the proposed increase.
- The executive authority, after taking into account the comments received, must table the price increase in Parliament or the provincial legislature, as the case may be, with a full motivation and certain other prescribed explanatory documentation.

Unless the Minister of Finance otherwise directs, a price increase must be tabled on or before 15 March to take effect from 1 July of the same year. If it is tabled after 15 March it may only take effect from 1 July of the following year.

Section 43 Applicability of tax and tariff capping on municipalities

If a national or provincial organ of state is legislatively empowered to determine the upper limits of any municipal tax or tariff, such determination takes effect on the date specified in the determination, but provided that, unless the Minister of Finance otherwise directs:

- A determination promulgated on or before 15 March shall not take effect before 1 July of the same year.
- A determination promulgated after 15 March shall not take effect before 1 July of the following year.
- A determination shall not be allowed to impair a municipality's ability to meet any annual or periodic escalations in the payments it must make in respect of any contract legally entered into by a municipality.

Section 53 Budget processes and related matters

The Mayor of the municipality must:

- Provide general political guidance over the annual budget process and the priorities that guide the preparation of each budget.

- Co-ordinate the annual revision of the IDP, as well as the preparation of the annual budget, and determine how the IDP is to be taken into account or is to be revised for purposes of such budget.
- Take all reasonable steps to ensure that the Council approves the annual budget before the start of the financial year to which it relates, and that the municipality's service delivery and budget implementation plan is approved within twenty-eight days after the approval of the budget.
- Ensure that the annual performance agreements for the Municipal Manager and the senior managers of the municipality are linked to measurable performance objectives which are approved with the budget and the service delivery and budget implementation plan.

The Mayor must promptly report to the Council and the MEC for Local Government any delay in tabling the annual budget, approving the service delivery and budget implementation plan or signing the annual performance agreements.

The Mayor must further ensure that the service delivery targets and quarterly performance indicators, and the monthly projections of revenues and expenses in the service delivery and budget implementation plan, are made public not later than fourteen days after these matters have been approved; and that the performance agreements of the Municipal Manager and other senior officials are similarly made public not later than fourteen days after their approval.

Section 68 Budget preparation

The Municipal Manager must assist the Mayor in performing the assigned budgetary functions and must provide the Mayor with administrative support, operational resources and the information necessary to perform these functions.

Section 69 Budget implementation

The Municipal Manager is responsible for implementing the budget, and must take reasonable steps to ensure that:

- funds are spent in accordance with the budget;
- expenses are reduced if expected revenues are less than projected; and

- revenues and expenses are properly monitored.

The Municipal Manager must prepare any adjustments budget when such budget is necessary and submit it to the Mayor for consideration and tabling in Council.

The Municipal Manager must submit a draft service delivery and budget implementation plan to the Mayor fourteen days after the annual budget has been approved, and must also within the same period submit drafts of the annual performance agreements to the Mayor.

Section 70 Impending shortfalls, overspending and overdrafts

The Municipal Manager must report in writing to the Council any impending shortfalls in the annual revenue budget, as well as any impending overspending, together with the steps taken to prevent or rectify these problems.

Section 71 Monthly budget statements

The Municipal Manager must, not later than ten working days after the end of each calendar month, submit to the Mayor and Provincial Treasury a report in the prescribed format on the state of the municipality's budget for such calendar month, as well as on the state of the budget cumulatively for the financial year to date.

This report must reflect the following:

- actual revenues per source, compared with budgeted revenues;
- actual expenses per vote, compared with budgeted expenses;
- actual capital expenditure per vote, compared with budgeted expenses;
- actual borrowings, compared with the borrowings envisaged to fund the capital budget;
- the amount of allocations received, compared with the budgeted amount;
- actual expenses against allocations, but excluding expenses in respect of the equitable share;
- explanations of any material variances between the actual revenues and expenses as indicated above and the projected revenues by source and expenses by vote as set out in the service delivery and budget implementation plan;
- the remedial or corrective steps to be taken to ensure that the relevant projections remain within the approved or revised budget; and

- projections of the revenues and expenses for the remainder of the financial year, together with an indication of how and where the original projections have been revised.

The report to the National Treasury must be both in electronic format and in a signed written document.

Section 54 Budgetary control and early identification of financial problems

On receipt of the report from the Municipal Manager, the Mayor must:

- consider the report;
- check whether the budget has been implemented in accordance with the service delivery and budget implementation plan;
- issue appropriate instructions to the Municipal Manager to ensure that the budget is implemented in accordance with this plan, and that the spending of funds and the collection of revenues proceed in accordance with the approved budget;
- identify any financial problems facing the municipality, as well as any emerging or impending financial problems; and
- submit to the Council within thirty days of the end of each quarter a report on the implementation of the budget and the financial state of affairs of the municipality.

If the municipality faces any serious financial problems, the Mayor must:

- promptly respond to and initiate the remedial or corrective steps proposed by the Municipal Manager, and
- alert the MEC for Local Government and the Council of the municipality to the problems concerned.

The Mayor may revise the details of the service delivery and budget implementation plan, but any revisions to the service delivery targets and quarterly performance indicators must be approved by the Council, and be supported by an adjustments budget. Any changes made to the projections of revenues and expenses as set out in the plan must promptly be made public.

Section 55 Report to provincial executive if conditions for provincial intervention exist

If the Council has not approved its annual budget by the first day of the financial year to which it relates, or if the municipality encounters serious financial problems, the Mayor must

immediately report this matter to the MEC for Local Government and may recommend a provincial intervention.

Section 72 Mid-year budget and performance assessment

The Municipal Manager must assess the budgetary performance of the municipality for the first half of the financial year, taking into account all the monthly budget reports for the first six months, the service delivery performance of the municipality as against the service delivery targets and performance indicators which were set in the service delivery and budget implementation plan, and the past financial year's annual report and the progress made in resolving problems identified in such report.

The Municipal Manager must then submit a report on such assessment to the Mayor, the National Treasury and the Provincial Treasury.

The Municipal Manager may in such report make recommendations for adjusting the annual budget and for revising the projections of revenues and expenses set out in the service delivery and budget implementation plan.

In terms of Section 54(1)(f) the Mayor must promptly submit this assessment report to the Council of the municipality.

Section 73 Reports on failure to adopt or implement budget-related and other policies

The Municipal Manager must inform the Provincial Treasury, in writing, of any failure by the Council to adopt or implement any budget-related policy or a supply chain management policy, and of any non-compliance by an office bearer or political structure with such policy.

Section 75 Information to be placed on websites of municipalities

The Municipal Manager must place on the municipality's official website (inter alia) the following:

- the annual and adjustments budgets and all budget-related documents;
- all budget-related policies;
- the annual report;
- all performance agreements;
- all service delivery agreements;

- all long-term borrowing contracts;
- all quarterly reports submitted to the Council on the implementation of the budget and the financial state of affairs of the municipality.

Section 80 Establishment (of municipal budget and treasury office)

Every municipality must have a budget and treasury office comprising a Chief Financial Officer supported by appointed officials and contracted staff.

Section 81 Role of chief financial officer

The Chief Financial Officer is administratively in charge of the budget and treasury office and must, inter alia,

- assist the Municipal Manager in preparing and implementing the budget;
- perform such budgeting, financial reporting and financial management and review duties as are delegated by the Municipal Manager;
- account to the Municipal Manager for the performance of all the foregoing responsibilities.

Section 83 Competency levels of professional financial officials

The Municipal Manager, senior managers, the Chief Financial Officer and the other financial officials in a municipality must all meet prescribed financial management competency levels.

SUMMARISED TIMETABLE

NOTE: DATES IN BRACKETS ARE PUTATIVE

FINAL DATE	ACTION BY MUNICIPALITY	ACTION BY MUNICIPAL ENTITY
31 August	Table in council timetable for preparation of coming year's annual budget	-
20 January	-	Assess current year's budget performance and submit report to board of directors and municipality
25 January	Assess current year's budget performance	-
31 January	Table assessment report in council	-
31 January or earlier	-	Submit proposed budget for coming year to municipality
(31 January)	Consider municipal entity's proposed budget for coming year and make recommendations	-
(31 January or earlier)	Table municipal entity's adjustments budget for coming year	Submit adjustments budget for current year to municipality and make budget public
(Between 31 January and 31 March)	Table municipality's adjustments budget for current year and changes to service delivery targets and KPIs	-
(Between 31 January and 31 March)	Make public (adjustments budget and) revisions to service delivery and budget implementation plan for current year	-
Mid-March	-	Submit revised budget for coming year to municipality
31 March	Table municipality's draft budget for coming year	-
31 March	Table municipal entity's revised budget for coming year	-
Immediately after 31 March	Make public draft budget for coming year and invite submissions from community, provincial treasury and others	-
FINAL DATE	ACTION BY MUNICIPALITY	ACTION BY MUNICIPAL ENTITY
Before 31 May	Respond to submissions and revise draft budget for coming year	-
31 May	Consider approval of budget for coming year and attendant resolutions	Approve revised budget for coming year and make budget public

30 June	Budget for coming year and attendant resolutions must be approved by 30 June. Approved budget of entity must be tabled.	-
Early June to early July: immediately after budget approved	Submit budget to national treasury and provincial treasury	-
Early June to early July: immediately after approval dates	Place on website annual budgets and all budget-related documents	-
Mid June to mid July: 14 days after budget approved	Finalise draft service delivery and budget implementation plan and draft performance agreements	-
Late June to late July: 28 days after budget approved	Approve service delivery and budget implementation plan	-
Late June to late July: 28 days after budget approved	Conclude performance agreements	-
Mid July to mid August: 14 days after service delivery and budget implementation plan approved	Make public projections of revenues and expenses for each month of coming year, service delivery targets for each quarter, and performance agreements	-
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DETAILED BUDGET TIMETABLE

Section of Municipal Finance Management Act No. 56 of 2003	Date by which action must be completed	Action required	Responsible party	Practical considerations
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21(1)(b)	31 August	<p>Mayor must at least 10 months before start of budget year table in council time schedule outlining key deadlines for</p> <ul style="list-style-type: none"> - preparation, tabling and approval of annual budget - annual review of IDP - annual review of budget-related policies - tabling and adoption of any amendments to IDP and budget-related policies - any consultative processes forming part of foregoing 	Mayor	Time schedule must either fit in with already scheduled council meetings or must indicate when special council meetings must be scheduled.
Section 88	20 January	Accounting officer of municipal entity must assess entity's budgetary and financial performance for first six months of financial year, and submit assessment report to board of directors and parent municipality.		
72(1), (2) and (3)	25 January	Accounting officer of municipality must assess budgetary and financial performance of municipality for first six months of financial year, make recommendations on whether adjustments budget necessary, and recommend revised projections for revenues and expenses. This assessment must be submitted to the mayor, national treasury and the provincial treasury (presumably immediately).	Accounting officer	P214
54(1)(f)	31 January	Mayor must submit accounting officer's report to council.	Mayor	Special council meeting may have to be scheduled.
87	31 January or earlier if so requested by parent municipality	Board of directors of municipal entity must submit to parent municipality proposed budget for entity for ensuing financial year.	Board of directors of entity	<p>It is not clear to what person or structure in the parent municipality this budget must be submitted.</p> <p>However, it makes good sense for the council of the municipality to consider this budget at the same meeting that it considers the municipality's own proposed adjustments budget.</p>

						It is not clear what person or structure in the parent municipality must perform this action, but the council seems the logical party. It would also make sense for the council to consider this budget by 31 January.
87		(31 January to mid-March)	Parent municipality must consider proposed budget, and make any necessary recommendations.			It is not clear what person or structure in the parent municipality must perform this action, but the council seems the logical party. It would also make sense for the council to consider this budget by 31 January.
87		(Tabled in council by 31 January)	Board of directors of entity may, with approval of mayor of parent municipality, revise budget of entity for certain prescribed reasons. Adjustments budget once approved by board of directors of entity must be tabled by mayor at next meeting of council of parent municipality. Adjustments budget must be made public.	Board of directors and mayor of parent municipality		Evidently such an adjustments budget may be prepared at any stage. It would make good sense, however, for the parent municipality to insist that the entity's revised budget be prepared and submitted to the mayor at the same time that or before the entity's proposed budget for the new financial year is considered.
54(1) and (2)		(Between 31 January and 31 March)	If municipality faces "serious financial problems" mayor must "promptly" respond to and initiate remedial steps proposed by accounting officer, including steps to reduce expenses and tabling of adjustments budget. Mayor must also consider revisions to service delivery and budget implementation plan. (Note that only council may approve changes to service delivery targets and KPIs – these changes must therefore be tabled with the adjustments budget).	Mayor		Again the potential problem of different parent municipalities having different views will have to be resolved by (presumably) the mayors considered. Adjustments budgets may be prepared by the accounting officer, and tabled in council by the Mayor "when necessary". They must be so prepared and tabled (within prescribed limits as to timing and frequency) whenever material adjustments to expenses or revenues are required, and not only when "serious financial problems" are looming. In general, adjustments budgets should preferably be tabled by or as soon as possible after 31 January, and certainly not later than 31 March when the draft annual budget for the next year is first tabled.

54(3)	(Between 31 January and 31 March)	Mayor must ensure that revisions to service delivery and budget implementation plan are "promptly" made public. (Note that no concomitant revision of performance agreements is evidently envisaged).	Mayor	Presumably the accounting officer must make these revisions for the mayor's approval as part of the process of adjusting the annual budget. The deadline for these revisions must be by or as soon as possible after 31 January, but certainly not later than 31 March. See also 54(1) and (2).
87	100 days before start of financial year (approximately mid March)	Board of directors of entity must consider recommendations, and if necessary submit revised budget to parent municipality.	Board of directors of entity	
16(2)	31 March	Mayor must table (draft) annual budget of municipality at council meeting at least 90 days before start of budget year.	Mayor	Council meeting must be scheduled appropriately.
87	31 March	Mayor of parent municipality must table originally proposed or proposed revised budget (as case may be) of entity when (draft) annual budget of municipality first tabled.	Mayor	-
22(a) and 22(b)	Immediately after 31 March or earlier date if annual budget tabled before 31 March	Immediately after (draft) annual budget tabled in council, accounting officer must (1) make public budget and documents referred to in Section 17(3), and invite local community to submit representations in connexion with budget, and (2) submit annual budget in both printed and electronic formats to provincial treasury, and in either format to prescribed national and provincial organs of state and to other municipalities affected by the budget.	Accounting officer	
23(2)	Before 31 May	Council must give mayor opportunity (1) to respond to submissions received on (draft) annual budget and attendant documentation and (2) to revise budget, if necessary, and table amendments for consideration by council.	Mayor and council	-

24(1) and (2)	31 May	Council must consider approval of annual budget, together with resolutions imposing rates and levies, setting tariffs, approving measurable performance objectives for revenue from each source and for each vote, approving any changes to IDP, and approving any changes to budget-related policies.	Council	Although council has until 30 June to approve budget, best practice will be to approve budget not later than 31 May.
87(4)	31 May	Board of directors of municipal entity must approve budget for coming year, having taken into account recommendations of council of parent municipality, and must make budget public.	Board of directors of municipal entity	
24(3)	(Immediate after approval date)	Accounting officer must submit approved annual budget to national treasury and provincial treasury.	Accounting officer	No time limit is specified for this action, and neither is the format in which the budget is to be submitted specified. Common sense dictates that the submission should be at least in electronic format and that it should be made as soon as possible after the approval date.
25(1) and (2)	Within 7 days of date of council meeting which failed to approve annual budget	If council fails to approve annual budget at meeting scheduled in terms of Section 24, must reconsider budget within 7 days of date of such meeting. If necessary, process must be repeated until budget approved by 30 June.	Council	As province will intervene if budget not approved by 30 June, mayor, councillors and accounting officer must co-operate to ensure obstacles to approval timeously removed.
69(3)(a) and (b)	14 days after approval of annual budget (mid June to mid July)	Accounting officer must submit to mayor draft service delivery and budget implementation plan, and drafts of annual performance agreements for municipal manager and all senior managers.	Accounting officer	
53(1)(c)(ii)	Within 28 days after date annual budget approved (late June to late July)	Service delivery and budget implementation plan must be approved by mayor, including projections of revenues and expenses for each month, and service delivery targets and performance indicators for each quarter. (Note that though the mayor approves these targets and KPIs, only the council	Mayor	-

		may change them and then only following the approval of an adjustments budget. See Section 54(1)(c)).			
53(1)(c)(iii)(aa) & (bb)	Within 28 days after annual budget approved (late June to late July)	Mayor must take all reasonable steps to ensure that annual performance agreements for municipal managers and all senior managers are linked to measurable performance objectives approved with the budget and to the service delivery and budget implementation plan, and are concluded in accordance with Section 57(2) of the Municipal Systems Act.	Mayor	No date is specified for the completion of this requirement, but the logical inference is that the date should not be much later than the date on which the service delivery and budget implementation plan must be approved. See Section 53(3)(b).	
16(1)	30 June	Annual budget must be approved by council	Council	-	
53(3)(a) and (b)	14 days after approval of service delivery and budget implementation plan (mid July to mid August, depending on date plan approved)	Projections of revenues and expenses for each month and service delivery targets for each quarter (as set out in approved service delivery and budget implementation plan), and performance agreements of municipal manager and senior manager must be made public, and copies of performance agreements must be submitted to council and MEC for local government.	Mayor	Although this is not specified as a requirement, logic dictates that copies of the service delivery and budget implementation plan should also be submitted to council and the MEC.	P218

UGU DISTRICT MUNICIPALITY

“The Municipality”



VIREMENT POLICY

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Annexure: Virement Request Form (PLEASE ATTACH THE VIREMENT FORM)

1. **DEFINITIONS**

In this Policy, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Act, has the same meaning as in that Act.

“Accounting Officer” means the Municipal Manger of Ugu District Municipality,

“Chief Financial Officer” means the Chief Financial Officer of Ugu District Municipality

“Financial year” means a twelve months period commencing on 1 July and ending on 30 June each year;

“Identified Savings”, the original budget less all the expenditure incurred and committed orders on that account.

“Virement”, means “a regulated transfer or re-allocation of money from one line item account to another, within the same vote especially public funds.”

“Vote” means

- a) one of the main segments into which a budget of a municipality is divided for the appropriation of money for the different departments or functional areas of the municipality; and
- b) which specifies the total amount that is appropriated for the purposes of the department or functional area concerned.

2. OBJECTIVES OF THE POLICY

To introduce a Framework by which departmental budgets can be managed by Heads Of Department's to ensure effective financial management.

A virement represents a flexible mechanism to effect budgetary amendments within a municipal financial year.

3. LEGISLATIVE FRAMEWORK

- a. Chapter 4 of the Municipal Finance Management Act.
- b. The Municipal Budget and Reporting Regulations published in terms of Section 168 of the MFMA.
- c. All relevant budget related Circulars and notices issued by the National Treasury.

4. DETERMINATION OF VOTE

Chief Financial Officer shall determine the number and type of votes to be used and line items to be shown under each vote. In so doing, the Chief Financial Officer shall consider and properly reflect the organisational structure and shall comply with the prescribed budget format of National Treasury. The operating expenditure shall be classified as per the Government Financial Statistics classifications used in the prescribed National Treasury format.

5. AUTHORISATION OF VIREMENTS

- 5.1 A transfer of funds from one line item to another under this Policy may, subject to the provisions of this Policy, be authorised as follows:
 - a) If the amount does not exceed R1 000 000.00 the transfer may be authorised by the Chief Financial Officer of the Municipality or the Accounting Officer of the Municipality after consultation with the Chief Financial Officer;
 - b) If the amount exceeds R1 000 000.00 but does not exceed R5 000 000.00 the transfer may be authorised by the Accounting Officer after consultation with the Chief Financial Officer;
 - c) The Mayor may authorise expenses in an emergency or other exceptional circumstances and the adjustment budget must be passed during the adjustment period after the expenses were incurred.

- d) Notwithstanding the provisions of 5.1.a, a transfer of funds between cost or functional centres within a particular Vote/Department may not be authorised by the Chief Financial Officer but may only be authorised by:
- a) The Accounting Officer, if the amount does not exceed the amount of
R5 000 000.00

6. RESTRICTIONS ON AMOUNT OF VIREMENTS

- 6.1 Notwithstanding the provisions of section 5:
- 6.1.1 The total amount transferred from and to line items within a particular vote in any financial year may not exceed 40 % of the amount allocated to that vote;
- 6.1.2 The total amount transferred from and to line items in the entire budget in any financial year may not exceed 25 % of the total operating budget for that year;
- 6.2 A transfer which exceeds, or which would result in the exceeding of any of the limits referred to in 6.1 above may, however, be performed if the Council by resolution approves thereof.
- 6.3 No transfer of funds shall be made if such transfer would constitute a transgression or contravention of any statute, regulation or other law, any policy, directive or guideline binding upon the Municipality, or the avoidance by the Municipality of any obligation imposed upon it by contract or any other cause.

7. MANAGEABLE GROUPS OF REVENUE

All manageable revenue which is budgeted for under a department is the responsibility of each Head Of Department to ensure that it is collected.

Must report to the Chief Financial Officer and budget office any deviations that they become aware of which might affect the budgeted estimates.

Head Of Department's are responsible for all grants and donations which are budgeted for under their departments. They must report any deviations to the Chief Financial Officer or the budget office in writing. They must seek reasons for deviations from the responsible donor or the transferring sector departments.

If Head Of Department's become aware that budgeted revenue will not materialise or will not be collected, they must inform the Chief Financial Officer or the Budget Office to ensure that revenue will be adjusted downwards in the Adjustments Budget.

8. NON-MANAGEABLE GROUPS OF REVENUE AND EXPENDITURE

No funds Transfers can be made on these groups:-

- a) Depreciation,
- b) Finance Charges,
- c) Departmental Charges,
- d) Investment Income and
- e) Employee Related Costs

9. OPERATING BUDGET VIREMENTS

- 9.1 Operating budget virements can only be done on General Expenses, Contracted Services and Repairs and Maintenance items.

Funds transfer can take place within these groups provided the total approved budget allocation per vote is not exceeded. In order for an account to transfer funds from one item to another, there must be identified savings within the limitations of the approved budget for that group. These must be clearly stated in the formal funding requests submitted to the Chief Financial Officer and the Budget Office. Funds may not be transferred to new line items of the operating budget.

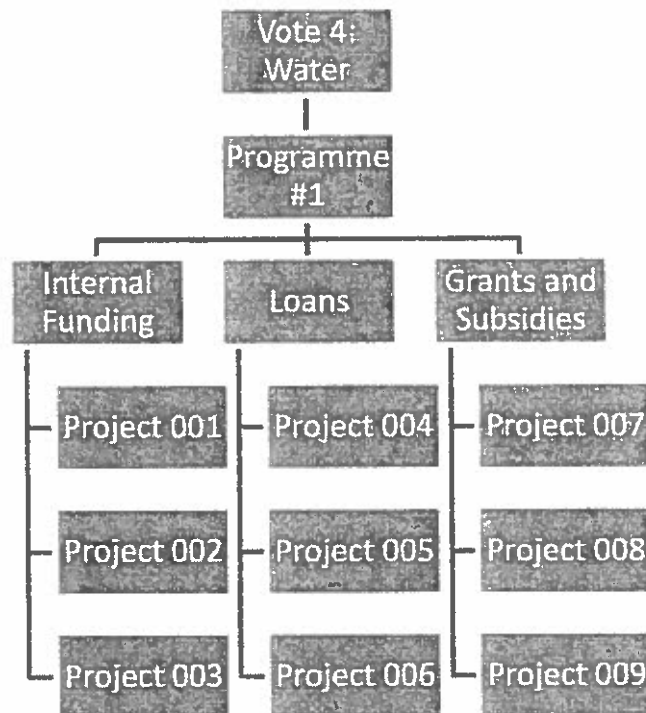
- 9.2 All requests for the transfer of funds must be in writing using the prescribed request forms in Appendix A and B, and must be properly authorised by the Manager and General Manager responsible for that vote and the Chief Financial Officer as per the set limits.

- 9.3 The prescribed request form shall include, but not limited to, provisions for the following:
- a) The name of the department concerned;
 - b) Descriptions of the line items from and to which the transfer is to be made;
 - c) The amount of the proposed transfer;
 - d) The cause of the saving in the line item from which the transfer is to be made;
 - e) The justification for the transfer;
 - f) A description of any consequences that such transfer may have for the Integrated Development Plan or the Service Delivery and Budget Implementation Plan.

- 9.4 Each Head Of Department is responsible for his/her own operational budget and must ensure that all expenditure is contained to the approved allocations by Council.

- 9.5 Movement of funds from different sectors and categories will be attended to in the normal Adjustments Budget process annually in February.

10. **CAPITAL BUDGET VIREMENTS**



- 10.1 Virements on the Capital budget allocations can be done from one project to another within the same vote and source of funding, i.e. from Water, CRR to Water CRR. Virements cannot be done to a new project which was not part of the approved capital budget. Any other transfer of funds or requests for new allocations must be done through an adjustments budget and approved by Council.
- 10.2 Virements can be done on conditional grant funded projects; provided that there is a written agreement by the said funder.
- 10.3 All requests must be in writing on the prescribed form in Appendix B and must be properly authorised by the responsible Manager, General Manager and the Chief Financial Officer.

11. **REVIEW OF POLICY**

This Policy will be reviewed once annually during the Annual Budget Process.

12. **COMPLIANCE AND ENFORCEMENT**

- a. Violation of or non-compliance with this Policy may give a just cause of disciplinary steps to be taken.

- b. It will be the responsibility of Accounting Officer to enforce compliance with this Policy.

13. EFFECTIVE DATE

This Policy shall come to effect upon approval by Council of Ugu District Municipality.

14. POLICY ADOPTION

This Policy has been considered and approved by the **COUNCIL OF UGU DISTRICT MUNICIPLAITY** as follows:

Resolution No:.....

Approval Date:.....

UGU DISTRICT MUNICIPALITY
“The Municipality”



FREE WATER SERVICES POLICY

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10. POLICY ADOPTION

1. DEFINITIONS

“Accounting Officer” is the Accounting Officer of the Municipality;

“Basic water supply” means the minimum standards of water supply services necessary for the reliable supply of water to households to support life and personal hygiene;

“Basic sanitation” means the prescribed minimum standard of services necessary for the safe, hygienic and adequate collection, removal, disposal or purification of human excreta, domestic waste-water and sewage from households, including informal households;

“Chief Financial Officer” means the Chief Financial Officer of the Municipality;

“Council” means the Council of the Ugu Municipality;

“Household” means all the people who permanently reside in the dwelling;

“Indigent person” means a person who meets criteria on qualification for indigent support;

“Municipality” means Ugu Local Municipality.

2. THE LEGAL CONTEXT

- 2.1 This Policy is informed by the following legislations:
- Municipal Finance Management Act, No 56 of 2003
 - Water Services Act, No 108 of 1997
 - Municipal Systems Act, No. 32 of 2000, section 74.

3. OBJECTIVE OF THE POLICY

- 3.1 The Ugu District Municipality fully supports the National Government’s Policy on providing free basic services to the poorer of the community. In that regard it will fully co-operate in implementing the Policy.
- 3.2 However, being committed to the fundamental principle set out in paragraph 4 above, the financial implication must determine the extent to which water can be provided free to certain consumers. In conjunction with the Provincial Support Units established by the Department of Water Affairs and that Department, the Ugu District Municipality will progressively introduce the Policy to its area. Full advantage will be taken of subsidies and grants made available by other spheres of government to enable the Ugu District Municipality to implement a policy of free basic water without violin the fundamental principle. In line with the principles of transparency inherent in paragraph 7.1, the people of the area will be informed and consulted on the implementation of the Policy

as it unfolds. There are two inter-related long term objectives which will guide the Ugu Municipality in regards to the provision of free basic services and these are:

- a) The elimination of poverty in the Ugu District area, and
- b) The equal treatment of all persons in the area

Whilst the historic imbalances between the citizens of South Africa are a fact, resulting in a mass of poor people badly provided with basic services, this should not be seen as normal and everlasting. Initially therefore, different levels of service must be provided at affordable or no cost, but the Policy is accepted that, over time, realistically computed, these distinction should be eliminated and everyone should be treated equally.

4. PURPOSE

- 4.1 The primary purpose of ~~the basic water services~~ this Policy is to assist in promoting sustainable access to basic water supply and sanitation to all households.

5. ADMINISTRATION OF FREE BASIC WATER SERVICES

- 5.1 In recognition of the primary importance of having a clean and adequate water supply, the South African Government in 2000 introduced the Free Basic Water Policy, which allows for households to get 6 000 litres (6kl) of water per month at no cost. Such service is dependent on the Municipality receiving equitable share from National Treasury and as determined by Council from time to time.

5.2 Free basic water

5.2.1 Private Connections:

Commercial, Government, Bulk users and industrial users, and other categories be retained with no Free Basic Water allocation, except for users classified in paragraph 5.2.2 below .All households who fall in the group who qualify for free basic water in terms of ~~Ugu District~~ the Municipality will receive a free water usage of 200 litres per day, based on the quota allocation and number of days in a meter reading period. The customer will forfeit this benefit should the consumption exceed the allocation per quota per month depending on the number of days.

5.2.2 Qualification Criteria:

- a) Indigents households
- b) Rural communities where water is supplied by stand pipes
- c) Informal settlements where water is supplied by stand pipes
- d) People served from springs and borehole water in rural areas
- e) Rain water harvesting schemes

- f) The Authority or the Authorised Provider may convey any water required as a temporary measure by tanker to any place where such temporary supply of water is required, subject to such conditions and period, which shall not exceed three months, as may be prescribed by it.

6. FREE BASIC SANITATION

6.1 Free basic sanitation shall be provided to the following

- a) Indigents households
- b) Rural communities where there is no sanitation infrastructure
- c) Informal settlements

7. EFFECTIVE DATE

The policy shall come to effect upon approval by Council.

8. POLICY ADOPTION

This revised Policy replaces the current Policy; it has been considered and approved by the **COUNCIL OF UGU DISTRICT MUNICIPALITY** as follows:

Resolution No:.....

Approval Date:.....