

PERFORMANCE AGREEMENT

MADE AND ENTERED INTO BY AND BETWEEN:

THE MUNICIPALITY OF NDWEDWE,

AS REPRESENTED BY THE MUNICIPAL MANAGER S (56)

MR M.F. HADEBE

MUNICIPAL MANAGER

AND

MR D.H MZOLO

NAME OF DIRECTOR

(EMPLOYEE)

FOR THE FINANCIAL YEAR:

1 JULY 2021 - 30 JUNE 2022

PERFORMANCE AGREEMENT

ENTERED INTO AND BETWEEN:

The Municipality of Ndwedwe herein represented by Musawenkosi Hadebe in his capacity as Municipal Manager hereinafter referred to as the Employer or Reporting Officer) and Dumisani Mzolo Employee of the Municipality of Ndwedwe.

WHEREBY IT IS AGREED AS FOLLOWS:

1. INTRODUCTION

- 1.1 The Employer has entered into a contract of employment with the Employee in terms of section 57(1) (a) of the Local Government: Municipal Systems Acts 32 of 2000 ("the System Act"). The Employer and the Employee are hereinafter referred to as "the Parties".
- 1.2 Section 57(1) (b) of the Systems Act, read with the Contract of Employment concluded between the parties to conclude an annual performance Agreement.
- 1.3 The parties wish to ensure that they are clear about the goals to be achieved and secure the commitment of the Employee to a set of outcomes that will secure local government policy goals.
- 1.4 The parties wish to ensure that there is compliance with Sections 57(4A), 57(4B) and 57(5) of the Systems Act.

2. PURPOSE OF THIS AGREEMENT

The Purpose of this Agreement is to -

- 2.1 Comply with the provisions of Section 57(1)(b), 4(A), (4B) and (5) of the Systems Acts as well as the Contract of Employment entered into between the parties;
- 2.2 Specify objectives and targets established for the Employee and to communicate to the Employee the Employer's expectations of the Employee's performance expectations and accountabilities;

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- 2.3 Specify accountabilities as set out in the Performance Plan;
- 2.4 Monitor and measure performance against set targeted outputs;
- 2.5 Use the Performance Agreement and Performance Plan as the basis for assessing the suitability of the Employee for permanent employment and /or to assess whether the Employee has met the performance expectations applicable to his/her job;
- 2.6 Appropriately reward the Employee in accordance with the Employer's performance management policy in the event of outstanding performance; and
- 2.7 Give effect to the Employer's commitment to a performance-orientated relationship with the Employee in attaining equitable and improved service delivery.

3. COMMENCEMENT AND DURATION

- 3.1 This Agreement will commence on the 1 July 2021 and will remain in force until 30 June 2022 where after a new Performance Agreement, Performance Plan and Personal Development Plan shall be concluded between the parties for the next financial year or any portion thereof.
- 3.2 The parties will review the provisions of this Agreement during June each year. The parties will conclude a new Performance Agreement and Performance Plan that replaces this Agreement at least once a year by not later than the beginning of each successive financial year.
- 3.3 This Agreement will terminate on the termination of the Employee's contract of employment for any reason.
- 3.4 The content of this Agreement may be revised at anytime during the abovementioned period to determine the applicability of the matters agreed upon.
- 3.5 If at any time during the validity of this Agreement the work environment alters (whether as a result of government or council decisions or otherwise) to the extent that the contents of this Agreement are no longer appropriate, the contents shall immediately be revised.

4. PERFORMANCE OBJECTIVES

- 4.1 The Employee Performance Plan (Annexure A) sets out-
- 4.1.1 The performance objectives and targets that must be met the Employee; and
 - 4.1.2 The time frames within which those performance objectives and targets must be met.
- 4.2 The performance objectives and targets reflected in the performance plan (Annexure A) are set by the Employer in consultation with the Employee and based on the Integrated Development Plan and the Budget of the Employer, and shall include key objectives; key performance indicators; target dates and weighting
- 4.3 The key objectives describe the main tasks that need to be done. The key performance indicators provide the details of the evidence that must be provided to show that a key objective has been achieved. The target dates describe the timeframe in which the work must be achieved. The weightings show the relative importance of the key objectives to each other.
- 4.4 The Employee's performance will, in addition, be measured in terms of contributions to the goals and strategies set out in the Employer's Integrated Development Plan; and the attainment of the Municipality of an Unqualified Audit Opinion.
- 4.5 In instances where the Municipality attains a negative audit outcome and the Employee is responsible for unauthorised, irregular, fruitless or wasteful expenditure, a performance bonus will not be paid to the Employee.

5 PERFORMANCE MANAGEMENT SYSTEM

- 5.1 The Employee agrees to participate in the Performance Management System that the Employer adopts or introduces for the Employer, management, and municipal staff of the Employer.
- 5.2 The Employee accepts that the purpose of the Performance Management System will be to provide a comprehensive system with specific performance standards to assist the Employer, management, and municipal staff to perform to the standards required.
- 5.3 The Employer will consult the Employee about the specific performance standard that will be included in the Performance Management System as applicable to the Employee.

6 The Employee agrees to participate in the Performance Management and Development System that the Employer adopts.

- 6.1 The Employee undertakes to actively focus towards the promotion and implementation of KPA's (including special projects relevant to the employee's responsibilities) within the local government framework.
- 6.2 The criteria upon which the performance of the Employee shall be assessed shall consist of two components, both of which shall be contained in the Performance Agreement.
 - 6.2.1 The Employee must be assessed against both components, with a weighting of 80:20 allocated to the Key Performance Areas (KPA's) and the Competency Framework (CF) respectively.
 - 6.2.2 Each area of assessment will be weighted and will contribute a specific part to the total score.
 - 6.2.3 KPA's covering the main areas of work will account for 80% and the Competency Framework (CF) will account 20% of the final assessment.
- 6.3 The Employee's assessment will be based on his/her performance in terms of the outputs / outcomes (performance indicators) identified as per attached Performance Plan (Annexure 10), which are linked to the KPA's, and will constitute 80% of the overall assessment result as per the weightings agreed to between the Employer and Employee.

KEY PERFORMANCE AREAS (KPA'S)		WEIGHTING
Basic Service Delivery		80%
Municipal Institutional Development and Transformation		5%
Local Economic Development (LED)		5%
Municipal Financial Viability and Management		5%
Good Governance and Public Participation		5%
Total		100%

6.4 The Competency Framework (CF) will make the other 20% of the Employee's assessment score. The Competency Framework as contained in the Local Government Regulations on Appointment and Conditions of Employment of Senior Managers ,2014 must be used for this purpose. The Regulations state there is no hierarchial connotation to the structure and all competencies are essential to the role of a Senior Manager to influence high performance. All competencies must therefore be considered as measurable and critical in assessing the level of a Senior Manager's performance.

6.5 Competency framework structure

The competencies that appear in the competency framework are detailed below:

COMPETENCY FRAMEWORK FOR EMPLOYEE		
LEADING COMPETENCIES	DESCRIPTION	WEIGHT %
1. Strategic direction and Leadership	<ul style="list-style-type: none"> Impact and influence Institutional Performance Management Strategic Planning and Management Organisational Awareness 	10%
2. People Management	<ul style="list-style-type: none"> Human Capital Planning and Development Diversity Management Employee Relations Management Negotiation and Dispute Management 	10%
3. Financial Management	<ul style="list-style-type: none"> Budget Planning and Execution Financial Strategy and Delivery Financial Reporting and Monitoring 	10%
4. Change Leadership	<ul style="list-style-type: none"> Change vision and strategy Process Design and Improvement Change impact monitoring and evaluation 	10%

5. Governance Leadership	<ul style="list-style-type: none"> • Policy Formulation • Risk and Compliance Management • Cooperative Governance 	10%
CORE COMPETENCIES		WEIGHT
1. Moral competencies		10%
2. Planning and organising		10%
3. Analysis and innovation		10%
4. Knowledge and Information Management		10%
5. Communication		10%
TOTAL		100%

7. EVALUATING PERFORMANCE

7.1 The Performance Plan (Annexure 10) to this Agreement sets out-

7.1.1 The standards and procedures for evaluating Employee's performance; and

7.1.2 The intervals for the evaluation of the Employee's performance.

7.2 Despite the establishment of intervals for evaluation, the Employer may in addition review the Employee's performance at any stage while the contract of employment remains in force.

7.3 Personal growth and development needs identified during any performance review discussion must be documented in a Personal Development Plan as well as the actions agreed to and implementation must take place within set time frames.

7.4 The Employee's performance will be measured in terms of contributions to the goals and strategies set out in the Employer's IDP.

7.5 The annual performance appraisal will involve:

7.5.1 Assessment of the achievement of results as outlined in the performance plan:

(a) Each KPA should be assessed according to the extent to which the specified standards or performance indicators have been met and with due regard to ad hoc tasks that had to be performed under the KPA.

(b) An indicative rating on the five-point scale should be provided for each KPA.

- (c) The applicable assessment rating calculator must then be used to add the scores and calculate a final KPA score.

7.5.2 Assessment of the Competency Framework

- (a) Each Competency should be assessed according to the extent to which the specified standards have been met.
- (b) An indicative rating on the five-point scale should be provided for each competency.
- (c) The applicable assessment rating calculator must then be used to add the scores and calculate a final competency score.

7.5.3 Overall Rating

An overall rating is calculated by using the applicable assessment-rating calculator. Such overall rating represents the outcomes of the performance appraisal.

- 7.6 The assessment of the performance of the Employee will be based on the following rating scale for KPA's and the Competency Framework:

LEVEL	TERMINOLOGY	DESCRIPTION	RATING
5	Outstanding Performance	Performance far exceeds the standard expected of an employee at this level. The appraisal indicate that the Employee has achieved above fully effective results against all performance criteria and indicators as specified in the Performance Agreement and Performance Plan and maintained this in all areas of responsibility throughout the year.	
4	Performance significantly above expectations	Performance is significantly higher than the standard expected in the job. The appraisal indicates that the Employee has achieved above fully effective results against more than half of the performance criteria and indicators and fully achieved all others throughout the year.	
3	Fully effective	Performance fully meets the standards expected in all areas of the job. The appraisal indicates that the Employee has fully achieved effective results against all significant performance criteria and indicators as specified in the Performance Agreement and Performance Plan.	
2	Not fully effective	Performance is below the standard required for the job in key areas. Performance meets some of the standards expected for the job. The review / assessment indicate that the employee has achieved below fully effective results against	

LEVEL	TERMINOLOGY	DESCRIPTION	RATING
		more than half the key performance criteria and indicators as specified in the Performance Agreement and Performance Plan.	
1	Unacceptable Performance	Performance does not meet the standard expected for the job. The review / assessment indicates that the employee has achieved below fully effective results against almost all of the performance criteria and indicators as specified in the Performance Agreement and Performance Plan .The employee has failed to demonstrate the commitment or ability to bring performance up to the level expected in the job despite management efforts to encourage improvement.	

7.7 For purpose of evaluating the performance of the Municipal Manager (Section 54 employees), an evaluation panel constituted by the following persons will be established-

7.7.1 Executive Mayor or Mayor.

7.7.2 Chairperson of the Performance Audit Committee or the Audit Committee in the absence of a Performance Audit Committee.

7.7.3 Member of the Mayoral or Executive Committee or in respect of a plenary type Municipality, another member of a Council

7.7.4 Mayor and/ or Municipal Manager from another Municipality and Member of a ward committee as nominated by the Executive Mayor or Mayor

7.8 For purposes of evaluating the annual performance of Managers directly accountable to the Municipal Manager (Section 56 employees), an evaluation panel constituted by the following persons will be established-

7.8.1 Municipal Manager;

7.7.2 Chairperson of the Performance Audit Committee or the Audit Committee in the absence of a Performance Audit Committee;

7.7.3 Member of the Mayoral or Executive Committee or; in respect of a plenary type Municipality, another member of Council

7.7.4 Municipal Manager from another Municipality and

The Manager responsible for Human Resources of the Municipality must provide secretariat services to the Evaluation Panels referred to above.

8. SCHEDULE FOR PERFORMANCE REVIEWS

- 8.1 The performance of each Employee in relation to his/her performance agreement shall be reviewed on the following dates with the understanding that reviews in the first and third quarter may be verbal if performance is satisfactory:

First quarter	: July – September (2021)
Second quarter	: October – December (2021)
Third quarter	: January – March (2022)
Fourth quarter	: April – June (2022)

- 8.2 The Employer shall keep a record of the mid-year review and annual assessment meetings.
- 8.3 Performance feedback must be based on the Employer's assessment of the Employee's performance.
- 8.4 The Employer will be entitled to review and make reasonable changes to the provisions of the Performance Plan from time to time for operational reasons on agreement between both parties.
- 8.5 The Employer may amend the provisions of the Performance Plan whenever the Performance Management System is adopted, implemented, and /or amended as the case may be. In that case the Employee will be fully consulted before any such change is made.

9. DEVELOPMENTAL REQUIREMENTS

The Personal Development Plan (PDP) for addressing development gaps forms part of the Performance Agreement.

10. OBLIGATIONS OF THE EMPLOYER

10.1 The Employer shall:

- 10.1.1 Create an enabling environment to facilitate effective performance by the Employee;
- 10.1.2 Provide access to skills development and capacity building opportunities;
- 10.1.3 Work collaboratively with the Employee to solve problems and generate solutions to common problems that may impact on the performance of the Employee;
- 10.1.4 On the request of the Employee delegates such powers reasonably required by the Employee to enable him/ her to meet the performance objectives and targets established in term of this Agreement; and
- 10.1.5 Make available to the Employee such resources as the Employee may reasonably require from time to time to assist him/her to meet the performance objectives and targets established in terms of this Agreement.

11. CONSULTATION

11.1 The Employer agrees to consult the Employee timeously where the exercising of the powers will have amongst others-

- i. A direct effect on the performance of any of the Employee's functions;
- ii. Commit the Employee to implement or to give effect to a decision made by the Employer; and

11.1.4 A substantial financial effect on the Employer.

11.2 The employer agrees to inform the Employee of the outcome of any decisions taken pursuant to the exercise of powers contemplated in 11.1 as soon as is practicable to enable the Employee to take any necessary action without delay.

12 MANAGEMENT OF EVALUATION OUTCOMES

- 12.1 The evaluation of the Employee's performance will form the basis for rewarding outstanding performance or correcting unacceptable performance.
- 12.2 A performance bonus of 5% to 14% of inclusive annual remuneration package may be paid to the Employee in recognition of outstanding performance. In determining the performance bonus, the relevant percentage is based on the overall rating, calculated by using the applicable assessment –rating calculator; provided that –
- a) a score of 130% to 149% is awarded a performance bonus ranging from 5% to 9%; and
 - b) a score of 150% and above is awarded a performance bonus ranging from 10% to 14%
- 12.3 In the case of unacceptable performance, the Employer shall-
- 12.3.1 Provide systematic remedial of development support to assist the Employee to improve his or her performance; and
- 12.3.2 After appropriate performance and counselling and having provided the necessary guidance and/ or support as well as reasonable time for improvement in performance, and performance does not improve, the Employer may consider steps to terminate the contract of employment of the Employee on grounds of unfitness or incapacity to carry out his or her duties.

13. DISPUTE RESOLUTION

- 13.1 Any disputes about the nature of the Employee's performance agreement, whether it relates to key responsibilities, priorities, methods of assessment and/ or salary increment in the agreement must be mediated by –
- (a) In the case of the Municipal Manager, the MEC for Local Government in the Province within thirty (30) days of receipt of a formal dispute from the Employee; or any other person designated by the MEC; and
 - (b) In the case of the Managers directly accountable to the Municipal Manager, a member of the Municipal Council, provided that such member was not part of the

evaluation panel, within thirty days (30) of receipt of a formal dispute from the employee.

whose decision shall be final and binding on both parties.

14. GENERAL

- 14.1 The contents of the performance agreement must be made available to the public by the Employer in accordance with the Municipal Finance Management Act, 2003 and Section 46 of the Act.
- 14.2 Nothing in this agreement diminishes the obligations, duties, or accountabilities of the Employee in terms of his/ her employment contract, or the effects of existing or new regulations, circulars, policies, directives, or other instruments.
- 14.3 The performance assessment results of the Municipal Manager must be submitted to the MEC responsible for Local Government in the Province as well as the National Minister responsible for Local Government within fourteen days (14) after the conclusion of the assessment.

Thus done and signed at NDWENDE on this the 8 day of JULY (Month) 2024 (Year)

AS WITNESSES:

1. [Signature]

[Signature]
EMPLOYEE

2. [Signature] P.T.

AS WITNESSES:

1. [Signature]

[Signature]
EMPLOYER

2. [Signature] P.T.

CODE OF CONDUCT FOR MUNICIPAL STAFF MEMBERS

1. Definitions

In this Schedule “partner” means a person who permanently lives with another person in a manner as if married.

2. General conduct

A staff member of a municipality must at all times –

- (a) loyally execute the lawful policies of the municipal council;
- (b) perform the functions of office in good faith, diligently, honestly and in a transparent manner;
- (c) act in such a way that the spirit, purport and objects of section 50 of the Local Government: Municipal Systems Act, Act 32 of 2000 are promoted;
- (d) act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised; and
- (e) act impartially and treat all people, including other staff members, equally without favour or prejudice.

3. Commitment to serving the public interest

A staff member of a municipality is a public servant in a developmental local system, and must accordingly—

- (a) implement the provisions of section 50 (2); of the Local Government: Municipal Systems Act, Act 32 of 2000;
- (b) foster a culture of commitment to serving the public and a collective sense of responsibility for performance in terms of standards and targets;
- (c) promote and seek to implement the basic values and principles of public administration described in section 195 (1) of the Constitution;
- (d) obtain copies of or information about the municipality’s integrated development plan, and as far as possible within the ambit of the staff member’s job description, seek to implement the objectives set out in the integrated development plan, and achieve the performance targets set for each performance indicator;
- (e) participate in the overall performance management system for the municipality, as well as the staff member’s individual performance appraisal and reward system, if such exists, in order to maximize the ability of the municipality as a whole to achieve its objectives and improve the quality of life of its residents.

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- (3) This item does not derogate from a person's right of access to information in terms of national legislation.

7. **Undue influence**

A staff member of a municipality may not –

- (a) unduly influence or attempt to influence the council of the municipality, or a structure or functionary of the council, or a councilor, with a view to obtaining any appointment, promotion, privilege, advantage or benefit, or for a family member, friend or associate;
- (b) mislead or attempt to mislead the council, or a structure or functionary of the council, in its consideration of any matter; or
- (c) be involved in a business venture with a councilor without the prior written consent of the council of the municipality.

8. **Rewards, gifts and favors**

- (1) A staff member of a municipality may not request, solicit or accept any reward, gift or favour for –

- (a) persuading the council of the municipality, or any structure or functionary of the council, with regard to the exercise of any power or the performance of any duty;
- (b) making a representation to the council, or any structure or functionary of the council;
- (c) disclosing any privileged or confidential information; or
- (d) doing or not doing anything within that staff member's powers or duties.

- (2) A staff member must without delay report to a superior official or to the speaker of the council any offer which, if accepted by the staff member, would constitute a breach of sub item (1).

9. **Council property**

A staff member of a municipality may not use, take, acquire, or benefit from any property or asset owned, controlled or managed by the municipality to which that staff member has no right.

10. **Payment of arrears**

A staff member of a municipality may not be in arrears to the municipality for rates and service charges for a period longer than 3 months, and a municipality may deduct any outstanding amounts from a staff member's salary after this period.

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4. **Personal gain**

(1) A staff member of a municipality may not—

(a) use the position or privileges of a staff member, or confidential information obtained as a staff member, for private gain or to improperly benefit another person; or (b) take a decision on behalf of the municipality concerning a matter in which that staff member, or that staff member's spouse, partner or business associate, has a direct or indirect personal or private business interest.

(2) Except with the prior consent of the council of a municipality a staff member of the municipality may not –

(a) be a party to a contract for –

(i) the provision of goods or services to the municipality; or

(ii) the performance of any work for the municipality otherwise than as a staff member;

(b) obtain a financial interest in any business of the municipality; or

(c) be engaged in any business, trade or profession other than the work of the municipality.

5. **Disclosure of benefits**

(1) A staff member of a municipality who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose in writing full particulars of the benefit to the council.

(2) This item does not apply to a benefit which a staff member, or a spouse, partner, business associate or close family member, has or acquires in common with all other residents of the municipality.

6. **Unauthorized disclosure of information**

(1) A staff member of a municipality may not without permission disclose any privileged or confidential information obtained as a staff member of the municipality to an unauthorized person.

(2) For the purpose of this item "privileged or confidential information" includes any information –

(a) determined by the municipal council or any structure or functionary of the municipality to be privileged or confidential;

(b) discussed in closed session by the council or a committee of the council;

(c) disclosure of which would violate a person's right to privacy; or

(d) declared to be privileged, confidential or secret in terms of any law.

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11. **Participation in elections**

A staff member of a municipality may not participate in an election of the council of the municipality, other than in an official capacity or pursuant to any constitutional right.

12. **Sexual harassment**

A staff member of a municipality may not embark on any action amounting to sexual harassment.

13. **Reporting duty of staff members**

Whenever a staff member of a municipality has reasonable grounds for believing that there has been a breach of this Code, the staff member must without delay report the matter to a superior officer or to the speaker of the council.

14. **Breaches of Code**

Breaches of this Code must be dealt with in terms of the disciplinary procedures of the municipality envisaged in section 67(1)(h) of this Act

14 A. **Disciplinary steps**

(1) A breach of this Code is a ground for dismissal or other disciplinary steps against a staff member who has been found guilty of such a breach.

(2) Such other disciplinary steps may include –

- (a) suspension without pay for no longer than three months;
- (b) demotion;
- (c) transfer to another post;
- (d) reduction in salary, allowances or other benefits; or
- (e) an appropriate fine.


EMPLOYEE SIGNATURE

8/07/2021 DUMISANI .H.
PRINT NAME


EMPLOYER SIGNATURE

MUGANENKOSI F.
PRINT NAME

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