

SERVICE LEVEL AGREEMENT

Memorandum of Agreement entered into by and between the

MOQHAKA LOCAL MUNICIPALITY

herein represented by **SIMON MNCEDISI MQWATHI** in his capacity as Municipal Manager and duly authorized thereto:

(hereinafter called the MUNICIPALITY)

and

CARBONCOR SA (PTY) LTD

duly registered in terms of the South African laws, herein represented by CONRAO CULLINAN 7112265142089 in his capacity as duly authorized Representative of the
(Full names and Identity number)

Company: **CARBONCOR SA (PTY) LTD** (hereinafter called the CONTRACTOR)

WHEREAS the CONTRACTOR was the successful tenderer of **Tender 3/2/3/2013** of the Municipality.

NOW THEREFORE the Parties agree that the CONTRACTOR will supply and deliver of medium cold asphalt as depicted on annexure "A" to this Service Level Agreement as and when ordered by the Municipality, further subject to the following conditions:

1. SERVICE LEVELS

That all the conditions/stipulations/specifications in the tender documentation and more specifically, but not limited to, the undermentioned:

1.1 Documents:

- (a) Department of Technical Services – Works. Specifications for (Supply and delivery of **medium cold asphalt** attached as annexure.

2. CESSION AND DELEGATION

Neither of the parties shall cede or delegate, whichever the case may be, any of the rights, obligations, share or interest of this agreement, that has been conferred upon it through this agreement, without the written consent of the other party, which consent shall not be unreasonably withheld.

mjm



3. JURISDICTION

- 3.1 The parties hereby explicitly agree that should any proceedings arise in terms of the provisions of this agreement, notwithstanding the fact that the amount concerned in such proceedings may exceed the normal jurisdiction of that Court, be subject to the jurisdiction of the Kroonstad's Magistrate's Court.
- 3.2 The parties agree that should any action originate from this agreement, such costs be based on an attorney and client scale.
- 3.3 The parties confirm that this agreement is concluded and finalised in Kroonstad.

4. DOMICILIUM CITANDI ET EXECUTANDI

The parties choose their *domicilium citandi et executandi* as follows: -

- 4.1 The Municipality : Moqhaka Municipality
Hill Street
Kroonstad
9499
- 4.2 **CARBONCOR SA PTY LTD**
25 PORTER AVENUE
MELROSE NORTH
JOHANNESBURG-
2196

5. PAYMENT

The CONTRACTOR will be paid 30 days after submitting an invoice, which invoice must be accompanied by the necessary supporting documents for auditing the invoice.

6. DELIVERY AND VOLUME, ETC

- 6.1 Delivery will be done within 30 working days from date of order at the premises of the MUNICIPALITY at no extra cost.
- 6.2 The MUNICIPALITY does not in any way guarantee the numbers of machinery/equipment which will be ordered.

msm 

7. NON COMPLIANCE

- 7.1 The MUNICIPALITY may forthwith with at least SEVEN (7) days written notice to the CONTRACTOR cancel this agreement if the CONTRACTOR -
- 7.1.1 after having been notified in writing of a breach in terms of this agreement, still fails to rectify such breach within a period of FOURTEEN (14) days after such notification;
 - 7.1.2 continues to commit a breach of any of the terms of this agreement, after having received written notice of the fact that such breach is being committed;
 - 7.1.3 becomes insolvent; or
 - 7.1.4 dissolves or ceases to function.
- 7.2 In the event of such cancellation the MUNICIPALITY will resume control of the rights mentioned herein, without prejudice to its right to recover any damages or any other indebtedness from the CONTRACTOR.
- 7.3 The MUNICIPALITY shall not be obliged to compensate the CONTRACTOR for anything out of its own funds in the event of a cancellation of the agreement in terms of sub-paragraph 6.1 above.
- 7.4 Should the CONTRACTOR fail to honour any of the obligations under this agreement, the MUNICIPALITY shall notwithstanding any earlier relinquishment, concession or condonation, be entitled, although not compelled to cancel this agreement forthwith, without any further or prior notification and without prejudice to any rights which the MUNICIPALITY may have in terms of this agreement, and to take immediate possession of the right envisaged in this agreement, and for that purpose take steps or institute such proceedings, as the MUNICIPALITY may deem necessary in its discretion and in any case without prejudice to the MUNICIPALITY'S right to collect or recover any claim in respect of damages that the MUNICIPALITY may sustain as a result of the CONTRACTOR'S breach of contract, including legal expenses based on attorney- and client scale.
- 7.5 Notwithstanding the preceding stipulations, the MUNICIPALITY shall have the right, at all times, to press upon the strict and faithful compliance of all the provisions of this agreement by the CONTRACTOR and to take steps or to institute proceedings in order to enforce the MUNICIPALITY'S rights in terms of this agreement, and in such event the CONTRACTOR shall, nevertheless, be liable for payment of all costs whatsoever, including legal costs based on an attorney- and client scale, which the MUNICIPALITY may have in the taking of such steps or institution of such proceedings.

8. WAIVER

- 8.1 No waiver of any of the terms of conditions of this agreement shall be binding for any binding for any purposes unless expressed in writing and signed by the party giving the same and any such waiver shall be effective only in the specific instance and for the purpose given.
- 8.2 No failure or delay on the part of any party in exercising any right, power or privilege, shall operate as a waiver, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

9. LIABILITY FOR INJURY OR DAMAGE

- 9.1 The MUNICIPALITY shall under no circumstances be held liable for any damage, loss and/or injury which the CONTRACTOR or indeed any person sustained, either directly or indirectly, as a result of this agreement and the CONTRACTOR indemnifies the MUNICIPALITY against the payment in respect of any damage, loss or injury obtaining in the execution of the TENDER.

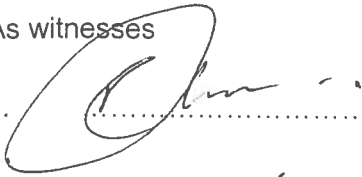
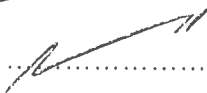
10. AGREEMENT IN TOTO

- 10.1 It is explicitly agreed that the document contains the agreement in toto between the parties and the CONTRACTOR hereby confirms that no proposals, guarantees, undertakings or promises, of whatever nature, which may have been given by the MUNICIPALITY, or his agents, or any other person, other than what is contained herein, will be enforceable or applicable. It is further agreed that the provisions of this agreement shall in no way be amended, other than to enter into a written agreement between the parties and no concession which the MUNICIPALITY may make toward the CONTRACTOR from time to time, shall in any way diminish or prejudice the MUNICIPALITY's rights in terms of this agreement.
- 10.2 Any communication affecting any provisions of this agreement shall be of no force and effect unless contained in writing.

in/ym 

Signed at KROONSTAD this 14th day of April 2014

As witnesses

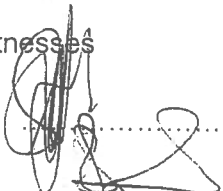

1. 
2. 


On behalf of Moqhaka
Municipality


Municipal Manager

Signed at KROONSTAD this 8th day of April 2014

As witnesses

1. 
2. 


On behalf of the Contractor



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SERVICE LEVEL AGREEMENT

Memorandum of Agreement entered into by and between the

MOQHAKA LOCAL MUNICIPALITY

herein represented by **SIMON MNCEDISI MQWATHI** in his capacity as Municipal Manager and duly authorized thereto:

(hereinafter called the MUNICIPALITY)

and

FERACOL PTY LTD

duly registered in terms of the South African laws, herein represented by Caroline Mackay in his capacity as duly authorized Representative of the 6312160179084
(Full names and Identity number)

Company: **FERACOL PTY LTD** (hereinafter called the CONTRACTOR)

WHEREAS the CONTRACTOR was the successful tenderer of **Tender 3/2/3/2013** of the Municipality.

NOW THEREFORE the Parties agree that the CONTRACTOR will supply and deliver of medium cold asphalt as depicted on annexure "A" to this Service Level Agreement as and when ordered by the Municipality, further subject to the following conditions:

1. SERVICE LEVELS

That all the conditions/stipulations/specifications in the tender documentation and more specifically, but not limited to, the undermentioned:

1.1 Documents:

- (a) Department of Technical Services – Works. Specifications for (Supply and delivery of **medium cold asphalt** attached as annexure.

2. CESSION AND DELEGATION

Neither of the parties shall cede or delegate, whichever the case may be, any of the rights, obligations, share or interest of this agreement, that has been conferred upon it through this agreement, without the written consent of the other party, which consent shall not be unreasonably withheld.

msm

3. JURISDICTION

- 3.1 The parties hereby explicitly agree that should any proceedings arise in terms of the provisions of this agreement, notwithstanding the fact that the amount concerned in such proceedings may exceed the normal jurisdiction of that Court, be subject to the jurisdiction of the Kroonstad's Magistrate's Court.
- 3.2 The parties agree that should any action originate from this agreement, such costs be based on an attorney and client scale.
- 3.3 The parties confirm that this agreement is concluded and finalised in Kroonstad.

4. DOMICILIUM CITANDI ET EXECUTANDI

The parties choose their *domicilium citandi et executandi* as follows: -

- | | | |
|-----|--------------------|---|
| 4.1 | The Municipality : | Moqhaka Municipality
Hill Street
Kroonstad
9499 |
| 4.2 | | FERACOL PTY LTD
183 Abraham van Wyk
Muldersdrift
Roodepoort |

5. PAYMENT

The CONTRACTOR will be paid 30 days after submitting an invoice, which invoice must be accompanied by the necessary supporting documents for auditing the invoice.

6. DELIVERY AND VOLUME, ETC

- 6.1 Delivery will be done within 30 working days from date of order at the premises of the MUNICIPALITY at no extra cost.
- 6.2 The MUNICIPALITY does not in any way guarantee the numbers of machinery/equipment which will be ordered.

Wesley

7. NON COMPLIANCE

- 7.1 The MUNICIPALITY may forthwith with at least SEVEN (7) days written notice to the CONTRACTOR cancel this agreement if the CONTRACTOR -
- 7.1.1 after having been notified in writing of a breach in terms of this agreement, still fails to rectify such breach within a period of FOURTEEN (14) days after such notification;
 - 7.1.2 continues to commit a breach of any of the terms of this agreement, after having received written notice of the fact that such breach is being committed;
 - 7.1.3 becomes insolvent; or
 - 7.1.4 dissolves or ceases to function.
- 7.2 In the event of such cancellation the MUNICIPALITY will resume control of the rights mentioned herein, without prejudice to its right to recover any damages or any other indebtedness from the CONTRACTOR.
- 7.3 The MUNICIPALITY shall not be obliged to compensate the CONTRACTOR for anything out of its own funds in the event of a cancellation of the agreement in terms of sub-paragraph 6.1 above.
- 7.4 Should the CONTRACTOR fail to honour any of the obligations under this agreement, the MUNICIPALITY shall notwithstanding any earlier relinquishment, concession or condonation, be entitled, although not compelled to cancel this agreement forthwith, without any further or prior notification and without prejudice to any rights which the MUNICIPALITY may have in terms of this agreement, and to take immediate possession of the right envisaged in this agreement, and for that purpose take steps or institute such proceedings, as the MUNICIPALITY may deem necessary in its discretion and in any case without prejudice to the MUNICIPALITY'S right to collect or recover any claim in respect of damages that the MUNICIPALITY may sustain as a result of the CONTRACTOR'S breach of contract, including legal expenses based on attorney- and client scale.
- 7.5 Notwithstanding the preceding stipulations, the MUNICIPALITY shall have the right, at all times, to press upon the strict and faithful compliance of all the provisions of this agreement by the CONTRACTOR and to take steps or to institute proceedings in order to enforce the MUNICIPALITY'S rights in terms of this agreement, and in such event the CONTRACTOR shall, nevertheless, be liable for payment of all costs whatsoever, including legal costs based on an attorney- and client scale, which the MUNICIPALITY may have in the taking of such steps or institution of such proceedings.



8. WAIVER

- 8.1 No waiver of any of the terms of conditions of this agreement shall be binding for any binding for any purposes unless expressed in writing and signed by the party giving the same and any such waiver shall be effective only in the specific instance and for the purpose given.
- 8.2 No failure or delay on the part of any party in exercising any right, power or privilege, shall operate as a waiver, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

9. LIABILITY FOR INJURY OR DAMAGE

- 9.1 The MUNICIPALITY shall under no circumstances be held liable for any damage, loss and/or injury which the CONTRACTOR or indeed any person sustained, either directly or indirectly, as a result of this agreement and the CONTRACTOR indemnifies the MUNICIPALITY against the payment in respect of any damage, loss or injury obtaining in the execution of the TENDER.

10. AGREEMENT IN TOTO

- 10.1 It is explicitly agreed that the document contains the agreement in toto between the parties and the CONTRACTOR hereby confirms that no proposals, guarantees, undertakings or promises, of whatever nature, which may have been given by the MUNICIPALITY, or his agents, or any other person, other than what is contained herein, will be enforceable or applicable. It is further agreed that the provisions of this agreement shall in no way be amended, other than to enter into a written agreement between the parties and no concession which the MUNICIPALITY may make toward the CONTRACTOR from time to time, shall in any way diminish or prejudice the MUNICIPALITY's rights in terms of this agreement.
- 10.2 Any communication affecting any provisions of this agreement shall be of no force and effect unless contained in writing.

W3m

Signed at KROONSTAD this day of 2014

As witnesses

1.

On behalf of Moqhaka
Municipality

2.

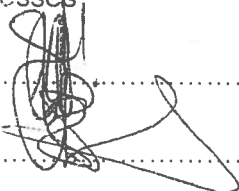

Municipal Manager

Signed at KROONSTAD this 9 day of April 2014

As witnesses

1. 

On behalf of the Contractor

2. 



SERVICE LEVEL AGREEMENT

Memorandum of Agreement entered into by and between the

MOQHAKA LOCAL MUNICIPALITY

herein represented by **SIMON MNCEDISI MQWATHI** in his capacity as Municipal Manager and duly authorized thereto:

(hereinafter called the MUNICIPALITY)

and

MATLA PRE-MIX CC

duly registered in terms of the South African laws, herein represented by DORFEN RICHTER 6101020007084 in his capacity as duly authorized Representative of the
(Full names and Identity number)

Company: **Matla Pre-Mix CC** (hereinafter called the CONTRACTOR)

WHEREAS the CONTRACTOR was the successful tenderer of **Tender 3/2/3/2013** of the Municipality.

NOW THEREFORE the Parties agree that the CONTRACTOR will supply and deliver of medium cold asphalt as depicted on annexure "A" to this Service Level Agreement as and when ordered by the Municipality, further subject to the following conditions:

1. SERVICE LEVELS

That all the conditions/stipulations/specifications in the tender documentation and more specifically, but not limited to, the undermentioned:

1.1 Documents:

- (a) Department of Technical Services – Works. Specifications for (Supply and delivery of **medium cold asphalt** attached as annexure.

2. CESSION AND DELEGATION

Neither of the parties shall cede or delegate, whichever the case may be, any of the rights, obligations, share or interest of this agreement, that has been conferred upon it through this agreement, without the written consent of the other party, which consent shall not be unreasonably withheld.

3. JURISDICTION

- 3.1 The parties hereby explicitly agree that should any proceedings arise in terms of the provisions of this agreement, notwithstanding the fact that the amount concerned in such proceedings may exceed the normal jurisdiction of that Court, be subject to the jurisdiction of the Kroonstad's Magistrate's Court.
- 3.2 The parties agree that should any action originate from this agreement, such costs be based on an attorney and client scale.
- 3.3 The parties confirm that this agreement is concluded and finalised in Kroonstad.

4. DOMICILIUM CITANDI ET EXECUTANDI

The parties choose their *domicilium citandi et executandi* as follows: -

- 4.1 The Municipality : Moqhaka Municipality
Hill Street
Kroonstad
9499
- 4.2 **Matla Pre-Mix CC**
VRISCHGEWAAGD 58
KROONSTAD.
9499

5. PAYMENT

The CONTRACTOR will be paid 30 days after submitting an invoice, which invoice must be accompanied by the necessary supporting documents for auditing the invoice.

6. DELIVERY AND VOLUME, ETC

- 6.1 Delivery will be done within 30 working days from date of order at the premises of the MUNICIPALITY at no extra cost. *Kroonstad depot only.*
- 6.2 The MUNICIPALITY does not in any way guarantee the numbers of machinery/equipment which will be ordered.

7. NON COMPLIANCE

- 7.1 The MUNICIPALITY may forthwith with at least SEVEN (7) days written notice to the CONTRACTOR cancel this agreement if the CONTRACTOR -
- 7.1.1 after having been notified in writing of a breach in terms of this agreement, still fails to rectify such breach within a period of FOURTEEN (14) days after such notification;
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- 7.5 Notwithstanding the preceding stipulations, the MUNICIPALITY shall have the right, at all times, to press upon the strict and faithful compliance of all the provisions of this agreement by the CONTRACTOR and to take steps or to institute proceedings in order to enforce the MUNICIPALITY'S rights in terms of this agreement, and in such event the CONTRACTOR shall, nevertheless, be liable for payment of all costs whatsoever, including legal costs based on an attorney- and client scale, which the MUNICIPALITY may have in the taking of such steps or institution of such proceedings.

8. WAIVER

- 8.1 No waiver of any of the terms or conditions of this agreement shall be binding for any binding for any purposes unless expressed in writing and signed by the party giving the same and any such waiver shall be effective only in the specific instance and for the purpose given.
- 8.2 No failure or delay on the part of any party in exercising any right, power or privilege, shall operate as a waiver, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

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- 10.1 It is explicitly agreed that the document contains the agreement in toto between the parties and the CONTRACTOR hereby confirms that no proposals, guarantees, undertakings or promises, of whatever nature, which may have been given by the MUNICIPALITY, or his agents, or any other person, other than what is contained herein, will be enforceable or applicable. It is further agreed that the provisions of this agreement shall in no way be amended, other than to enter into a written agreement between the parties and no concession which the MUNICIPALITY may make toward the CONTRACTOR from time to time, shall in any way diminish or prejudice the MUNICIPALITY's rights in terms of this agreement.
- 10.2 Any communication affecting any provisions of this agreement shall be of no force and effect unless contained in writing.

Signed at KROONSTAD this 03 day of June 2014

As witnesses

1.

On behalf of Moqhaka
Municipality

2.


Municipal Manager

Signed at KROONSTAD this 8th day of April 2014

As witnesses

1.

On behalf of the Contractor

2.

