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**SERVICE LEVEL AGREEMENT**

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between

**PIKITUP JOHANNESBURG (SOC) LIMITED**  
**("the Employer")**

and

.....  
**("the Service Provider")**

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**PARTIES:**

This Agreement is made between:

- (i) **PIKITUP JOHANNESBURG (SOC) LIMITED** a wholly owned municipal entity of the City of Johannesburg incorporated under the Companies Act (71 Of 2008), read with the Municipal Systems Act (32 of 2000), with registration number 2000/029899/07 (the “**Employer**”); and
- (ii) ..... a company registered in accordance with the laws of the Republic of South Africa with registration number ..... (the “**Service Provider**”).

**WHEREAS**

- A. The Employer is a non-profit company that is mandated to provide municipal waste management and minimisation services in the Johannesburg Metropolitan area.
- B. The Service Provider is an expert in the provision of training services through the use of a wide variety of technological and management practices.
- C. In reliance on the Service Provider’s expertise, the Employer wishes to procure the services in its business operations.
- D. The Service Provider is willing and able to provide these services to the Employer and the Employer has agreed to take and pay for the services, subject to the terms and conditions of this agreement.

## IT IS AGREED AS FOLLOWS:

### 1. DEFINITIONS AND INTERPRETATION

#### Definitions

For the purposes of this Agreement and the preamble above, unless the context requires otherwise:

- 1.1.1 **Agreement** means this agreement, as amended, replaced or re-stated from time to time, and the bid document and annexures hereto.
- 1.1.2 **Applicable Law** means any of the following, from time to time, to the extent it applies to a Party or the Services (including, the performance, delivery, receipt or use of the Services, as applicable and wherever occurring): (a) any statute, regulation, policy, by-law, ordinance or subordinate legislation (including treaties, multinational conventions and the like having the force of law); (b) the common law; (c) any binding court order, judgment or decree; (d) any applicable industry code, policy or standard enforceable by law; or (e) any applicable direction, policy or order that is given by a regulator;
- 1.1.3 **Business Day** means a calendar day, other than a Saturday, Sunday, or public holiday in South Africa;
- 1.1.4 **Commercially Reasonable Efforts** means taking such steps and performing in such a manner as a well-managed company would undertake where such company was acting in a prudent and reasonable manner to achieve the particular result for its own benefit provided always that such steps are within the reasonable control of the Party;
- 1.1.5 **Confidential Information means** all information relating to the Services and the Employer (including all information relating to the Employer's business, products, services, affairs and/or finances which is not readily available, in the ordinary course of business, to third parties) and any other information which, by its nature, would reasonably be considered to be confidential;
- 1.1.6 **Employer's Representative** means Pikitup employee designated to supervise the

Services;

- 1.1.7 **Force Majeure Event** shall have the meaning ascribed thereto in clause 17;
- 1.1.8 **Insolvency Event** means, in relation to either Party, the occurrence of any of the following events or circumstances:
- 1.1.8.1 an order or declaration is made or a resolution is passed for the administration, custodianship, curatorship, bankruptcy, liquidation, winding-up, any form of compromise, business rescue or dissolution, (and whether provisional or final) of it or its estate;
- 1.1.8.2 a Party is unable (or admits inability) to pay its debts generally as they fall due or is (or admits to being) otherwise insolvent or stops, suspends or threatens to stop or suspend payment of all or a material part of its debts or proposes or seeks to make or makes a general assignment or any arrangement or composition with or for the benefit of its creditors or a moratorium is agreed or declared in respect of or affecting all or a material part of its indebtedness;
- 1.1.8.3 any receiver, administrative receiver, any form of administrator, compulsory manager, curator, trustee in bankruptcy, liquidator, business rescue practitioner or the like (whether provisional or final) is appointed in respect of it or any material part of a Party's assets or it requests any such appointment; or
- 1.1.8.4 an order is made placing a Party under supervision for business rescue proceedings as contemplated in section 131(1) of the Companies Act No. 71 of 2008;
- 1.1.11 **Parties** means the Service Provider and the Employer and **Party** shall mean either of them as the context requires;
- 1.1.12 **Performance Standards** means the performance and service levels, as set out in Annexure C and as may be amended by agreement between the Parties from time to time;
- 1.1.13 **Services** means the services set out in Annexure A;

- 1.1.14 **Signature Date** means the date of signature of this Agreement by the Party signing it last in time;
- 1.1.15 **Term** shall have the meaning ascribed thereto in clause 4; and
- 1.1.16 **VAT** means value-added tax as may be levied in terms of the Value-Added Tax Act, No. 89 of 1991, to the extent applicable;

## 1.2 Interpretation

- 1.2.1 In addition to the definitions in clause 0, unless the context requires otherwise:
- 1.2.1.1 the singular shall include the plural and vice versa;
- 1.2.1.2 a reference to any one gender, whether masculine, feminine or neuter, includes the other two;
- 1.2.1.3 all the headings and sub-headings in this Agreement are for convenience only and are not to be taken into account for the purposes of interpreting it;
- 1.2.1.4 when any number of days is prescribed in this Agreement, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day is not a Business Day, in which case the last day shall be the next succeeding day which is a Business Day;
- 1.2.1.5 expressions defined in this Agreement shall bear the same meanings in the schedules and annexures to this Agreement which do not themselves contain their own conflicting definitions;
- 1.2.1.6 if any term is defined within the context of any particular clause in this Agreement, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this Agreement, notwithstanding that that term has not been defined in this interpretation clause;
- 1.2.1.7 the rule of construction that a contract shall be interpreted against the Party responsible for the drafting or preparation of the contract, shall not apply; and

- 1.2.1.8 the words “include”, “including” and “in particular” shall be construed as being by way of example or emphasis only and shall not be construed, nor shall they take effect, as limiting the generality of any preceding word/s.

## 2. APPOINTMENT

The Employer hereby appoints the Service Provider to provide the Services to the Employer on a non-exclusive basis, and the Service Provider hereby accepts such appointment on the terms and conditions set out herein.

## 3. RELATIONSHIP OF THE PARTIES

- 3.1 For the avoidance of any doubt, the Parties record and agree that, pursuant to the implementation of this Agreement, the Parties shall at all times act as independent contractors to one another. Neither Party is an agent of the other or has any authority to represent the other as to any matters, except as expressly authorised in this Agreement.
- 3.2 Nothing contained in this Agreement shall be construed as creating a company, joint venture, partnership or association of any kind between the Parties; nor is anything contained in this Agreement to be construed as creating or requiring any continuing relationship or commitment on a Party's or its affiliates' behalf with regard to the other Party and its affiliates other than as specifically set out herein.
- 3.3 Unless expressly authorised by this Agreement, neither of the Parties (nor their respective agents) shall have the authority or right, nor shall any Party hold itself out as having the authority or right, to assume, create or undertake any obligation of any kind whatsoever, express or implied, on behalf of or in the name of the other Party.

## 4. COMMENCEMENT AND DURATION

- 4.1 Subject to clause 4.2 below, this Agreement shall be deemed to have commenced on the Signature Date and shall endure for a period of **three(3) years** (the “Term”) until it terminates automatically.



- 4.2 Notwithstanding the provisions of clause 4.1 above, this Agreement may be terminated at any time during the Term or any period extended by the Employer by either Party in accordance with the provisions of clause 19.

## **5. THE SERVICES**

- 5.1 The Service Provider agrees to provide the Services to the Employer as defined in Annexure A *Services*.
- 5.2 The Service Provider shall be responsible for performing the Services in accordance with this Agreement and the Performance Standards detailed in Annexure C *Performance Standards*. The Service Provider undertakes that, in providing the Services, it will employ the necessary diligence, skill and expertise to comply with such Performance Standards.

## **6. PERFORMANCE REVIEWS**

- 6.1 The Service Provider shall participate in all meetings and service review sessions reasonably requested by the Employer upon reasonable notice to address performance issues related to this Agreement.
- 6.2 The Employer's Representative shall convene monthly meetings with the Service Provider to discuss performance of Services detailed in Annexure A.
- 6.3 The outcome of the performance review meetings referred to in clause 6.1 above shall be documented and forwarded to the Legal Department by the Employer's Representative.

## **7. GENERAL OBLIGATIONS OF THE EMPLOYER**

- 7.1 The Employer shall, for the duration of this Agreement, provide to the Service Provider such information and documentation as reasonably requested by the Service Provider so as to allow the Service Provider to fulfil its obligations in terms of this Agreement.
- 7.2 The Employer's use of the Services shall comply with all material Applicable Law.
- 7.3 In addition, and without derogating from the generality of this clause 6, the Employer shall

for the duration of the Term (and during any extension of such Term, if applicable):

- 7.3.1 co-operate with the Service Provider in all matters relating to the Services; and
- 7.3.2 provide, in a timely manner, such input and other information as the Service Provider may reasonably require, and ensure that it is accurate in all material respects.
- 7.4 In addition, the Employer shall be responsible for and undertakes to pay the Charges as set out in Annexure B hereto.

## **8. GENERAL OBLIGATIONS OF THE SERVICE PROVIDER**

- 8.1 The Service Provider shall:
  - 8.1.1 Perform the Services with due care, skill, professionalism, and diligence as would be expected of a reasonable service provider in the position of the Service Provider;
  - 8.1.2 co-operate with the Employer in all matters relating to the Services;
  - 8.1.3 provide the Services in accordance with the Performance Standards;
  - 8.1.4 strictly and punctually comply with all reasonable requests submitted by the Employer in relation to the Services at any time;
  - 8.1.5 work with the Employer to integrate its Services with other service providers, so appointed by the Employer, in order to achieve the main business objects as set out in the Employer's Memorandum of Incorporation;
  - 8.1.6 comply with all Applicable Laws in relation to the provision of the Services and conduct itself in a courteous and business-like manner always considering the image and reputation of the Employer; and
  - 8.1.7 subject to clause 11 respect the confidentiality of the Employer.

## 9. CHARGES

9.1 As consideration for the provision of the Services, the Service Provider shall be entitled to the Charges in accordance with Annexure B.

9.2 The Service Provider shall use Commercially Reasonable Efforts to procure the services of any third party that it elects to use at reasonable rates, bearing in mind criterion such as quality of service, synergies and reliability.

Within 10 (ten) Business Days after the end of each calendar month, the Service Provider shall deliver its invoices in respect of the Charges to the Employer, which invoices shall set out in sufficient detail what services were provided in any given month and the amount charged for each. Within 30 (thirty) days of the receipt of such invoice, the Employer shall make payment of the amount specified therein to the Service Provider, for the method of payment and payment regime refer to Annexure "B"

9.3 All payments shall be made by electronic transfer into the Service Provider's bank account.

## 10. SERVICE PROVIDER'S WARRANTY ON ADHERENCE TO ANTI-BRIBERY AND SANCTIONS LAWS OR POLICIES

10.1 No Party to this Agreement shall engage in any activities in relation to the Services, which would be in contravention of any Applicable Law relating to anti-fraud and corruption.

10.2 The Service Provider hereby warrants that, for the duration of this Agreement, it will comply (and will procure that all its employees, directors, officers or agents comply) with all laws, regulations or policies relating to economic sanctions, trade sanctions and/or export controls and the prevention and combating of bribery, corruption and money laundering ("**Anti-Corruption and Sanctions Regulations**"), to which it or the Employer is subject.

10.3 The Service Provider further warrants that it has, and will for the duration of this Agreement have, an adequate anti-corruption programme in place to enable compliance with the Anti-Corruption and Sanctions Regulations.

10.4 The Service Provider undertakes not to, and will procure that all its members/employees, directors, officers or agents, do not:

- 10.4.1 pay, promise to pay or offer to pay, or authorise the payment of any commission, success fee, bribe, pay off or kickback related to the performance of its obligations that violates any Anti-Corruption and Sanctions Regulations or enter into any agreement pursuant to which any such commission, success fee, bribe, pay off or kickback may or will at any time be paid; or
- 10.4.2 offer, promise or give any undue pecuniary or other advantage, whether directly or indirectly to any public official, with the intent of influencing the actions or decisions of such official in performance of his/her official duties, with the purpose of obtaining or retaining business or other improper benefit or advantage.
- 10.5 Any breach by the Service Provider of the provisions of this clause will be a material breach of this Agreement and entitle the Employer to cancel this Agreement immediately on notice to the Service Provider.

## **11. CONFIDENTIALITY**

- 11.1 The Service Provider agrees and undertakes to use the Confidential Information only for the purpose of rendering the Services in terms of this Agreement and for no other purpose whatsoever and not to disclose such Confidential Information to any third party without the consent of the Employer. To this end the Service Provider shall be entitled to disclose the Confidential Information to its employees, directors or subcontractors to the extent necessary for the performance of the Services, provided such persons are subject to confidentiality undertakings which are no less stringent than those applicable to the Service Provider under this Agreement.
- 11.2 The rights and obligations contained in this clause 11 shall endure for the duration of this Agreement and after the Termination.

## **12. SERVICE REQUIREMENTS AND DUE DILIGENCE**

- 12.1 The Service Provider warrants that:
- 12.1.1 when producing the Service it has taken account of and effectively incorporated all elements of the Service as required in the bid document; and the Service Provider acknowledges that the Employer is entering into the agreement in reliance on the

warranties provided by the Service Provider in this clause 112.1;

12.2 The Service Provider acknowledges and confirms that:

12.2.1 it has had an opportunity to carry out a thorough due diligence exercise in relation to the Service and has asked the Employer all the questions it considers to be relevant for the purpose of establishing whether it is able to provide the Services in accordance with the terms of this agreement;

12.2.2 it has received all information necessary to enable it to determine whether it is able to provide the Services in accordance with the terms of this agreement;

12.2.3 it has made and shall make its own enquiries to satisfy itself as to the accuracy and adequacy of any information supplied to it by or on behalf of the Employer and has raised all relevant due diligence questions with the Employer before entering into this agreement; and

12.2.4 it has entered into this agreement in reliance on its own due diligence.

### 13. MATERIALITY OF WARRANTIES AND REPRESENTATIONS

13.1 Each of the warranties and representations given by the Parties shall:

13.1.1 be a separate warranty and will in no way be limited or restricted by inference from the terms of any other warranty or by any other word/s in this Agreement;

13.1.2 continue and remain in force notwithstanding the completion of the transactions contemplated in the Agreement; and

13.1.3 be deemed to be material and to be a material representation inducing the Parties to enter into this Agreement.

13.1.4 It is recorded and agreed that each Party has entered into this Agreement on the strength of the warranties and undertakings it has received from the other Party and on the basis that such warranties and undertaking will, unless otherwise specifically stated, be correct

on the Signature Date.

- 13.1.5 A breach by either Party of any warranty, representation or other provision of any express or implied warranty or representation contained elsewhere in this Agreement, shall be a material breach of this Agreement which shall confer on the other Party the right, in its sole discretion, to utilise any remedy it may have in law or created in this Agreement for the enforcement of its rights, including termination in terms of clause 19.

**14. COMPLIANCE WITH POPI ACT, No. 4 OF 2013**

- 14.1 The Parties acknowledge their respective obligations to comply with the substantive provisions of the Protection of Personal Information Act, No. 4 of 2013 (POPI Act), which in essence comprises of both Parties allowing the other Party access to records on the condition that the identifiable person (or his or her guardian or curator) to whom the records relates has furnished prior written consent for the disclosure of the records.
- 14.2 Each Party understands and acknowledges that the restrictions and obligations accepted by that other Party pursuant to this Agreement are reasonable and necessary in order to protect the interests of the other Party, its employees and claimants and that party's failure to comply with this Agreement in any respect could cause irreparable harm to the other Party, its employees and claimants for which there may be no adequate legal remedy.
- 14.3 Each Party therefore understands and agrees, notwithstanding any contrary provision in any other agreement between the Parties, that each Party retains its full rights to pursue legal or equitable remedies in the event of any breach or threatened breach of this Agreement, and may prevent the other Party, any of its agents or subcontractors, or any third party who has received records from that Party from violating this Agreement by any legal means available. Each Party further understands that violation of this Agreement may subject that Party to applicable legal penalties, including those provided under POPI Act and termination of any agreements entered into between the Parties.
- 14.4 Within thirty (30) days after the termination of this Agreement, for whatever reason, the receiving Party of either party's personal information shall return same or at the discretion of the disclosing Party of such personal information, destroy such personal information, and shall not retain copies, samples or excerpts thereof.

- 14.5. In cases where the disclosing Party has elected for the personal information be destroyed, as provided for in clause 14.4 above, the receiving Party shall, within ten (10) days of receiving the instruction to destroy the personal information, send an affidavit confirming the destruction of personal information.

## 15. LIMITATION OF LIABILITY

15.1 Nothing in this Agreement shall limit or exclude a Party's liability:

- 15.1.1 for death or personal injury of any person or physical loss or damage to any property caused by its negligence, or the negligence of its employees, agents or subcontractors; and
- 15.1.2 for deliberate default, fraud, fraudulent misrepresentation or reckless misconduct.

15.2 Subject to clause 15.1, under no circumstances shall a Party be liable to the other for any of the following, whether in contract, delict (including negligence) or otherwise:

- 15.2.1 loss of revenue or anticipated revenue;
- 15.2.2 loss of savings or anticipated savings;
- 15.2.3 loss of business opportunity;
- 15.2.4 loss of profits or anticipated profits;
- 15.2.5 wasted expenditure; or
- 15.2.6 any indirect or consequential losses.

15.3 Subject to clause 15.1, the Service Provider's maximum aggregate liability in contract, delict (including negligence) or otherwise, however arising, under or in connection with this Agreement shall be limited to the amount of twice the Charges paid under or pursuant to this Agreement (the "**Cap**").

## 16. INDEMNITY

The Service Provider hereby indemnifies the Employer, its directors, servants, employees, agents, advisors, representatives, contractors and any other person for whom the Employer may be liable in law harmless against any and all loss, liability, damage, injury, costs (including attorney-own-client costs), claim, fine, penalty, interest or expense of whatsoever nature or howsoever arising which may be incurred or sustained by, or imposed on the Employer by reason of or pursuant to: (a) a breach by the Service Provider (or any of its employees agents, contractors and/or consultants) of any of the provisions of this Agreement; and (b) a breach by the Service Provider (or any of its employees, agents, contractors and/or consultants) of any Applicable Law which relates to the Service Providers obligations in terms of this Agreement.

## 17. FORCE MAJEURE

17.1 Neither Party shall be liable for any default or delay in the performance of its obligations under this Agreement if and to the extent that a Force Majeure Event occurs. In such event, subject to the provisions of this clause the non-performing Party is excused from further performance for as long as such circumstances prevail and the Party continues to use its Commercially Reasonable Efforts to mitigate the effect of the Force Majeure Event and recommence performance of the Services, as soon as possible.

17.2 A **Force Majeure Event** is any event or circumstance or combination of events and circumstances which fulfils all of the following 3 (three) criteria:

17.2.1 is beyond the reasonable control of the Party affected by that event or circumstance or both;

17.2.2 wholly or partially prevents the performance by the affected Party of any of its obligations under this Agreement; and

17.2.3 cannot be prevented, overcome or remedied by the exercise by the affected Party of a standard of care and diligence consistent with that of a service provider experienced in projects or activities of a similar nature to the Services (as the case may be).



- 17.3 If a Force Majeure Event occurs, in relation to the Service Provider's obligations to provide the Services, the Service Provider must immediately notify the Employer in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the Agreement.

## 18. DISPUTE RESOLUTION

### 18.1 General Dispute Resolution

- 18.1.1 Any dispute ("**a dispute**") between the Parties arising in connection with this Agreement or the subject matter hereof shall be submitted to and determined by binding arbitration in terms of this clause 18 ,for the purpose hereof the term "dispute" shall be interpreted in the widest sense and shall include any dispute or difference in connection with or in respect of the conclusion or existence of this Agreement, the carrying into effect of this Agreement, the interpretation or application of the provisions of this Agreement, the Parties' respective rights and/or obligations in terms of and/or arising out of this Agreement and/or the validity, enforceability, rectification, termination or cancellation, whether in whole or in part, of this Agreement.

- 18.1.2 The Parties shall use Commercially Reasonable Efforts to resolve amicably by direct informal negotiation any disagreement or dispute arising between them out of or in connection with this Agreement.

If, after 10 (ten) days from the commencement of such informal negotiation, the Parties have been unable amicably to resolve any disagreement or dispute arising out of or in connection with this Agreement, including any question regarding its existence or validity, either Party (the "**Referring Party**") shall be entitled, by notice in writing to the other Party, to refer a dispute to arbitration in accordance with the rules of the Association of Arbitrators (Southern Africa). Such arbitration shall be held in Johannesburg.

- 18.1.3 The number of arbitrators in respect of a dispute shall be 1 (one) and the appointment of the arbitrator shall be agreed upon between the Parties, but failing agreement between

the Parties, the appointment shall be made by the Chairman of the Association of Arbitrators at the time of referral.

- 18.1.4 The arbitrator shall have the powers conferred upon an arbitrator under the Arbitration Act, 1965, as amended, or re-enacted in some other form from time to time, but shall not be obliged to follow the procedures described in that Act and shall be entitled to decide on such procedures as he may consider desirable for the speedy determination of the dispute, and in particular he shall have the sole and absolute discretion to determine whether and to what extent it shall be necessary to file pleadings, make discovery of documents or hear oral evidence.
- 18.1.5 The decision of the arbitrator shall be final and binding on the Parties.
- 18.1.6 The language of the arbitration shall be English.
- 18.1.7 Nothing in this clause 18 shall preclude either Party from obtaining urgent or interim relief from the High Court of South Africa or any other competent organ of state created for the specific purpose of regulating the business or industry activities in which the Parties are engaged. To this end, the Parties submit to the non-exclusive jurisdiction of the Gauteng Local Division, High Court, Johannesburg.

## **19. TERMINATION**

- 19.1 Notwithstanding any other provision of this Agreement and subject to clause 19.2 below the Employer may at any time and at its sole discretion terminate this Agreement by giving 30 days written notice to the Service Provider.
- 9.2 Pikitup shall not be entitled to terminate this Agreement in terms of clause 19.1 within the first (3) three months of the Signature Date.
- 19.3 The Service Provider is not entitled to any compensation as a result of this clause 19 including any consequential costs, losses or damages.

## 20. NOTICES

20.1 The Parties choose as their *domicilia citandi et executandi* for all purposes under this Agreement, whether in respect of court process, notices or other documents or communications of whatsoever nature, the following addresses

20.1.1 Employer: Pikitup Johannesburg SOC Limited

Physical Address: 66 Jorissen Street

Braamfontein

2017

E-mail:

Attention:

20.1.2 Service Provider:

Physical Address:

E-mail:

Attention:

20.2 Any notice or communication required or permitted to be given in terms of this Agreement shall be valid and effective only if in writing but it shall be competent to give notice by email.

20.3 Any Party may by notice to the other Party change the physical address chosen as its *domicilium citandi et executandi vis-à-vis* that Party to another physical address the relevant jurisdiction or its email address, provided that the change shall become effective *vis-à-vis* that addressee on the 10<sup>th</sup> (tenth) Business Day from the receipt of the notice by the addressee.

20.4 Any notice to a Party:

20.4.1 sent by prepaid registered post (by airmail if appropriate) in a correctly addressed envelope to it at an address chosen as its *domicilium* to which post is delivered shall be deemed to have been received on the 10th (tenth) Business Day after posting (unless the contrary is proved); or

20.4.2 delivered by hand to a responsible person during ordinary business hours at the physical address chosen as its *domicilium citandi et executandi* shall be deemed to have been received on the day of delivery.

20.5 Notwithstanding anything to the contrary herein contained a written notice or communication (including by email) actually received by a Party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen *domicilium citandi et executandi*.

## 21. SUBCONTRACTING, CESSION AND ASSIGNMENT

21.1 The Service Provider shall not be entitled to sub-contract or assign more than 25% of its rights and obligations under this Agreement to any third party unless:

21.1.1 the Service Provider has obtained the prior written consent of the Employer;

21.1.2 the third party is qualified to provide the Services; and

21.1.3 the Service Provider remains responsible for the performance of the Services in accordance with the provisions of this Agreement.

## 22. GOVERNING LAW AND SUBMISSION TO JURISDICTION

22.1 This Agreement is governed by, and all disputes, claims, controversies, or disagreements of whatever nature arising out of or in connection with this Agreement, including any question regarding its existence, validity, interpretation, termination or enforceability, shall be resolved in accordance with the laws of South Africa.

22.2 Subject to clause 20, the Parties hereby consent to the non-exclusive jurisdiction of the High Court of South Africa Gauteng Local Division, Johannesburg in respect of all matters and proceedings arising out of, pursuant to or in connection with this Agreement.

## 23. **WHOLE AGREEMENT, NO AMENDMENT**

- 23.1 No amendment or consensual cancellation of this Agreement or any provision or term thereof or of any agreement or other document issued or executed pursuant to or in terms of this Agreement and no settlement of any disputes arising under this Agreement and no extension of time, waiver, or relaxation or suspension of or agreement not to enforce or to suspend or postpone the enforcement of any of the provisions or terms of this Agreement or of any agreement or other document issued pursuant to or in terms of this Agreement shall be binding unless recorded in a written document signed by the Parties (or in the case of an extension of time, waiver, relaxation or suspension, signed by the Party granting such extension, waiver, relaxation or suspension). Any such extension, waiver, relaxation or suspension which is so given or made shall be construed strictly as relating only to the matter in respect whereof it was made or given.
- 23.2 No oral *pactum de non petendo* shall be of any force or effect.
- 23.3 No extension of time or waiver or relaxation of any of the provisions or terms of this Agreement or any agreement, or other document issued or executed pursuant to or in terms of this Agreement, shall operate as an estoppel against any Party in respect of its rights under this Agreement, nor shall it operate so as to preclude such Party thereafter from exercising its rights strictly in accordance with this Agreement.
- 23.4 To the extent permissible under Applicable Law, no Party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein, whether it induced the contract and/or whether it was negligent or not.

## 24. **SEVERABILITY**

Any provision in this Agreement which is or may become illegal, invalid or unenforceable in any jurisdiction affected by this Agreement shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be treated *pro non scripto* and severed from the balance of this Agreement, without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

## 25. **STIPULATIO ALTERI**

No part of this Agreement shall constitute a *stipulatio alteri* in favour of any person who is not a Party to the Agreement unless the provision in question expressly provides that it does constitute a *stipulatio alteri*.

**26. EXECUTION IN COUNTERPARTS**

This Agreement may be executed in two counterparts, each of which shall be deemed to be an original, and all of which together shall constitute one and the same agreement as at the date of signature of the Party that signs its counterpart last in time.

**27. COSTS**

Each Party will bear its own costs in relation to the drafting and finalisation of this Agreement (including but not limited to attorneys' fees, financial advisers' fees, expenses, etc.) and attendances incidental thereto.

SIGNED at \_\_\_\_\_ on this the \_\_\_\_\_ day of \_\_\_\_\_ 2022

For and on behalf of

**PIKITUP JOHANNESBURG (SOC) LIMITED**

AGREEMENT FOR THE PROVISION OF TRAINING SERVICES

\_\_\_\_\_

Signatory:

Capacity:

Who warrants her authority hereto

SIGNED at \_\_\_\_\_ on this the \_\_\_\_\_ day of \_\_\_\_\_ 2022

For and on behalf of

**SERVICE PROVIDER**

\_\_\_\_\_

Signatory:

Capacity:

Who warrants his/her authority hereto

## ANNEXURE ( A) SERVICES

The Service Provider should provide the following services:

- 1.1 **Company accreditation** - Training Service Providers must be accredited by an Education and Training Quality Assurance Body (ETQA) and proof thereof must accompany the proposal (accreditation number, accreditation date and accreditation expiry date must be attached). Bid proposals will be rejected if proof of company accreditation is not attached.
- 1.2 **Programme accreditation** - Proof of Sector Education and Training Authority (SETA) accredited programmes must be attached. It is the responsibility of the bidder to attach proof (in the form of a document) from a relevant SETA if there are no registered unit standards available for a programme.
- 1.3 **Facilitator accreditation** - Proof of Facilitator(s) accreditation to facilitate the relevant unit standard(s) must be attached.
- 1.4 **Programme content** - A course outline must be attached together with the Unit Standard ID, the NQF level, credits, duration and the target group for the specific learning intervention.
- 1.5 **Training equipment** - All training equipment must be supplied by the training service provider (E.g. laptops, data projectors, flip chart paper, permanent markers and white board markers). The number of laptops and data projectors to your avail must be indicated.
- 1.6 **Training venues** - Learning must be delivered in-house on site or outside Pikitup as per arrangement.

## 2. Training Needs

The service providers should have capacity, demonstrable experience and competencies in presenting one or more of the following skills programmes:



<b>HUMAN RESOURCES</b>	<b>TICK</b>	<b>OPERATIONS</b>	<b>TICK</b>	<b>FINANCE</b>	<b>TICK</b>	<b>COMPUTER AND OFFICE ADMINISTRATION</b>	<b>TICK</b>
Negotiation Skills		Handyman training		Cost and Capital Planning		Basic/intermediate and advanced computer training (MS Office)	
Disciplinary Hearing Procedures		Yellow Plant Operator		Municipal Accounting		Microsoft Project Management	
Employee Relations		Mechanical Engineering		Asset Management		Minute Writing	
Mediation Skills		Grab Operator		Supply Chain Management		Business Writing Skills	
Recruitment		Composting		Finance for Non-Financial Managers		Report Writing Skills	
On-boarding				Budget Management		Office Admin and Secretarial	
Case Management Techniques				Financial Management		Time Management	
Industrial Relations				BEE		Record Management	
Skills Audit				Logistic Management		Business Etiquette	
Employment Equity						Effective Speaking and Presentation	

Human Resources Management						Customer Services	
Career progression						Team Leading	
Productivity Management						Customer Relations	
Skills Audit and Data Management Training						Interpersonal Skills	
<b>LEGISLATIVE TRAINING</b>	<b>TICK</b>	<b>WELLNESS PROGRAMMED</b>	<b>TICK</b>	<b>GENERAL EDUCATION AND TRAINING PROGRAMMES</b>	<b>TICK</b>	<b>MANAGEMENT PROGRAMMES</b>	<b>TICK</b>
Municipal Financial Management Act		Incapacity Management		Adult Education and Training (ABET)		Leadership Development	
Skills Development Levy Act		Employee Assistance Programme(EAP) related programmes		Grade 12/ Matric		Management Development	
Skills Development Act		EAP standard procedures		Recognition of Prior Learning		Mentorship	
Employee Equity Act		Primary and Occupation Health Care				Professional Coaching	
Basic Condition of Employment Act		Trauma debriefing				Project Management	
POPI Act		HIV and Aids (Awareness)				Supervisory and Basic Management	

AARTO		Employee wellness				Strategic Management	
Labour Relations Act		Basic Life Support				Business Management	
Health and Safety Act		Debt Management				Change Management	
Systems Act		Basic Hygiene				Contract Management	
		Supervisory training(EAP and occupational health related)				Performance Management	
		Mental Health and resilience building				Accountability Skills	
		Health Promotion				Conflict Management	
		Advanced Counselling Skills				Monitoring and Evaluation	
		Clinical Management Skills for health Occupation and Health Nurse practitioners				Policy Development	
		Clinical Risk Assessment				Critical and innovative thinking	
		Health and Safety risk assessment				Cross functional awareness	

		Medical Surveillance				Communication and Collaboration skills	
						Integrated Management System	
						Learnership and Internship Management	
						Interpersonal Skills	
						Marketing Management Skills	
						Business Sense Appreciation	
						Emotional Intelligence	
						Communication and collaboration Skills	
						Team Building and Group Dynamics	
						Business Consulting	
						Relationship Management	
						Monitoring and Evaluation	

<b>FLEET</b>	<b>TICK</b>	<b>SECURITY</b>	<b>TICK</b>	<b>INFORMATION TECHNOLOGY</b>	<b>TICK</b>	<b>WASTE MANAGEMENT</b>	<b>TICK</b>
Fleet Asset Management		General Security Management		Cobit Foundation		Waste Minimisation	
Road Safety		Access Control		Microsoft Certified Solution Expert (MCSE)		Separation at Source	
Driver evaluation and selection		Patrol Techniques (How to conduct adequate and effective patrol)		Microsoft Certified Solution Expert (MCSD)		Co-operatives Management	
Operator induction and training		Use of security electronic systems (x-ray machine, metal detectors and surveillance monitoring)		ITIL Foundation			
Landfill driver and operator		Demonstrate understanding of CCTV		Advanced GIS and Map Reading			
Compactor offloading		Specialist security practices		Data Management			

Fleet Management		Further Education & training certificate: Electronic Security Installation Practice		Mobile Machines Techniques			
Accident and incident investigation and reporting		National Certificate: General Security Practices		AI- Artificial intelligence			
Basic, advanced and refresher Driver Training		Conduct electronic surveillance operations		Service Desk			
Driver and Operator Training and Development Program		Security Risk Assessment		Coding and web development			
		Crime prevention within a victim empowerment context-including GBV					
		How to conduct preliminary investigations					
		Identify, handle and define security related conflict					

WASTE MANAGEMENT	TICK	HEALTH AND SAFETY	TICK	RISK AND COMPLIANCE	TICK		
Waste Classification and Management		Basic First Aid		Risk Management (managing physical risk and assessment)			
Environmental Practice Level 1-5		Incident Investigation		Corporate Governance			
Environmental Law for managers		Fire Fighting		Ethics Management			
		Disaster Management		Internal controls, control self-assessment and methods of internal controls ratings			
		SAMTRAC		Business risk assessment			
		Company Procedures Specific to the Job		Internal controls, control self-assessment and methods of internal controls ratings			
		-OHSAS 18001 Safety Management System		Incident management risk and compliance champions training			
		-ISO14001 Management System		Risk Management process			

		-SHEQ Monitoring		Fraud risk and fraud risk Management			
		-Hazard Identification and Risk Assessment		Risk Governance			
		Safety and Security		Employee Risk appetite and tolerance concept (RAT)			
				Application integration with strategy and performance (COSO)			

DRAFT



**THE CHARGES**

YOUR COMPANY SHALL BE REQUIRED TO PROVIDE QUOTATION TOGETHER WITH OTHER ACCREDITED  
TRAINING PROVIDERS ON THE PANEL FOR THAT SPECIFIC TRAINING REQUIREMENT

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**PERFORMANCE STANDARDS**

The Service Provider must:

1. Within 5 days of the receipt of the purchase order submit methodology and implementation plan of the training programmes to be offered to the Employer's Representative.
2. Submit the attendance registers and evaluation forms of each training condition within 5 days of the conclusion of such training.
3. Maintain professional conduct during the rendering of the service;
4. Prepare progress reports of the Learners and submit it monthly to the Employer's Representative;
5. Provide Learners' support, training material and stationery for all training interventions within two days of commencement of learning;
6. Submit a close up report of the work done within 5 days of the completion of each training intervention.
7. Issue Certificates of Competency within three months from the completion of training programmes.

**PENALTIES**

Any delays in registration of the Learners, Learners' support/ training material and stationery for all training interventions, delivering of stationery, commencement of classes, submission of monthly reports, and issuing of certificate of competency, submission a close up report of the work done, shall attract a penalty as follows:

- (a) If the Service Provider delays in registering the Learners with the relevant institution for the purpose of writing exam, the Employer shall impose a penalty of 30% of the invoice price payable.
- (b) In the event of delays in the delivery of the stationery or training material in excess of 5 days of the date of class commencement, the Employer shall be entitled to impose a penalty of 20% of the invoice price payable for the delays.
- (c) The penalty applicable to delays in commencement of classes or training shall be calculated on the invoice price in the month in question as follows:
  - if the delay is between 4 and 24 hours from the time table - 5% penalty;
  - if the delay is between 24 and 26 hours from the time table - 10% penalty;
  - if the delay is between 26 and 36 hours from the time table- 20% penalty;
  - if the delay is in excess of 36 hours from the time table – the Employer will be entitled to proceed in terms of clause 19.2.2 of this Contract.
- (d) The penalty applicable to delays in submission of reports or competency certificate shall be calculated on the invoice price in the month in question as follows:
  - if the delay is between 6 and 10 days from the date of release - 5% penalty;
  - if the delay is between 11 and 15 days from the date of release - 10% penalty;
  - if the delay is between 16 and 20 days from the date of release- 20% penalty;
  - if the delay is in excess of 24 days from the time table – the Employer will be entitled to proceed in terms of clause 19.2.2 of this Contract.
- (e) In the event the Service Provider fails to submit the each Learner's competency certificate or final exam result within six days from the date being available, the Employer shall impose a penalty of 20% of the invoice price.