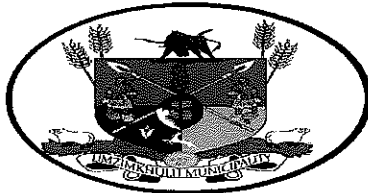


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## BUDGET & TREASURY DEPARTMENT

PROVINCE OF KWAZULU-NATAL  
KZN 435

ITEM NO	DETAILS REQUIRED	DETAILS PROVIDED
1	Project Name	Honey Sucking and Sewer Line Unblocking
2	The Service provider / provider /Contractor	Shemuntu & Son's
3	Contract Number	8-2-1- <del>202</del> 203
4	Contractor's Active Postal Address	69 Cole Street Creighton
5	Commencement Date	13-05-19
	Termination Date	12-05-2022
6	.1 Contractor's Active Fax No.	0862180042
	.2 Telephone Numbers	0734655883
	.3 Contractor's E-mail Address	lukhozi@icloud.com
30	Contract Amount	R5 200.00 Rands only ( RATE ) @ 15 %
8	Annexures	(a) Tender Document ; (b) Appointment Letter; (c) Acceptance Letter;

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## BUDGET & TREASURY DEPARTMENT

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### Agreement Overview

This Honey sucking and sewer line unblocking Agreement represent the service level agreement ( " SLA OR Agreement " ) under the bid number ULM –IFR 019 /19 between SHEMUNTU & SON'S ( PTY ) ( LTD ) herein represented by Mr Mondli Lukhozi in his capacity as the Director of the company. and UMzimkhulu Local Municipality / Client represented by Mr. ZS Sikhosana in his capacity as the municipal Manager.

This Honey sucking and sewer line unblocking agreement shall be effective as of 13 May 2019 - 12 May 2022 (3 years). The Service provider / provider (SHEMUNTU & SON'S (PTY) (LTD) and the municipality / Client are hereinafter referred to collectively as the "parties" and individually as a "party".

### Background of the agreement

- A. Concurrently with the execution of this agreement , Service provider / provider and the Municipality / Client have entered into that Honey sucking and sewer line unblocking agreement under the terms that the Service provider / provider will provide Honey sucking and sewer line unblocking for the municipality / Client , the parties have agreed to enter into Honey sucking and sewer line unblocking agreement under the terms of which the Service provider / provider , under the auspices of Honey sucking and sewer line unblocking , shall provide certain honey sucking and unblocking services for a period of at least 3 years .

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties, intending to be legally bound, hereby agree as follows:

*J.M.*  
*Sy*  
*Du*

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Private Bag 53  
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1. Nature of Services. The Municipality / Client engages , and the Service provider / provider agrees to use its contacts and expertise and experience in assisting the Municipality / Client to provide with skills and experience in the field of honey sucking and unblocking of sewer lines . Without limiting the generality of the foregoing, Service provider / provider agrees to actively pursue the works on providing the Municipality / Client with Honey sucking and sewer line unblocking as it may be required by the Municipality / Client. In this regard, Service provider / provider agrees to use its best efforts to transition its skills and expertise to provide the best service to the, municipality / Client. The activities of Service provider / provider referred to in this Section 1 are referred to as " Services"
2. Designation of Service provider / provider The Service provider / provider is hereby designated as the person who will perform the services of honey sucking and unblocking of sewer lines for the municipality Client
3. Term and termination.
  - a) This agreement shall become effective as of the date first above written, and shall remain in full force and effect until is mutual terminated by the parties or its term of existence cease to exist. If either of the parties decide to terminate the contract shall give the other at least 30 days' notice on its intention to do so.
  - b) Whereas the Client ( UMzimkhulu local Municipality ) has a project for the honey sucking and sewer line unblocking
  - c) And whereas The Client is willing to provide honey sucking and sewer line unblocking for the client and for the purposes mentioned above
  - d) And whereas for the purpose The Client desires to appoint a provider to honey sucking and sewer line unblocking services

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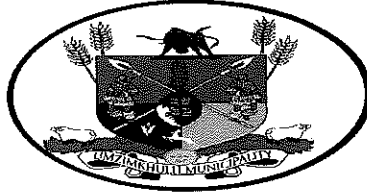
PROVINCE OF KWAZULU-NATAL  
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- e) And whereas the Provider express their desire to enter into an agreement with the Client for the job full described in Schedule – A which shall be part of this agreement as an annexure ( as it is in the terms of reference for the bid that was accepted by the municipality from the provider )
- f) This agreement may be terminated by either party upon the breach of a material term hereof by the other party, which breach remains uncured for seven (30) days after the date that the non-breaching party has served written notice on the other party, which notice shall set forth the basis of such breach and the non- breaching party's intent to terminate the agreement.
- g) Upon expiration or termination of this agreement , each party shall be released from all obligations and liabilities hereunder except those arising under section 4 ( relation to confidentiality ) , below
4. Compensation and Reimbursement. And terms of this Agreement
- Compensation shall be in accordance with the Service provider / provider s responding bid that was accepted by the municipality / Client as that information kept the TOR contained in the tender responding documents ( tender document and if needs be shall be attached as "ANNEXURE A" to this agreement ) at all times shall be guarding document whenever there are disputes in terms of the obligations of the parties to this Agreement
  - Terms of this agreement shall be those described in the terms of reference as it is contained in tender document and they may only vary if they are in writing and the parties agree to such variations

### 5. Providing Service

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- a) During the term of this Agreement and any extension hereof , the provider shall supply the service as set out in Schedule –A ( " Service") to the Client and the Client shall buy from the Provider such stationery
- b) The specification of the service to be provided is the one described in the terms of reference / acceptable bid from the provider

### 6. Providing Services

- a) The time frame and response period when a call for service is given for shall be the ones specified in the terms of reference ( Attached as Annexure "A") to this contract.
- b) The Provider shall forthwith give notice to the Client of any unlikely delay in providing or whenever there are delays foreseeable of which it becomes aware and shall provide the Client with prompt and reasonable notice of the reasonable that is not more than 1 ( one ) day from the date when the services are requested
- c) If the provider is late with the delivery of service , the Client shall have the right to cancel the agreement at any time before delivery of service

### 7. The provider warrant that the service shall

- a) Conform to the technical and quality standard and specifications as set out in schedule A.
- b) Be safe ,
- c) Correspond strictly with any and all representations, descriptions, specifications

the provider shall indemnify and hold the Client harmless from against all claims , actions , damages , losses , liabilities ( including , without limitation, product liability

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## BUDGET & TREASURY DEPARTMENT

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claims ) and other expenses ( including lawyer's and other legal fees) which the Client may suffer or incur as a result of the delivery of the service or breach of the obligations set out in this agreement by the provider .

8. Confidential Relationship Created by this Agreement. Service provider / provider acknowledges and agrees that this Agreement creates a relationship of confidence and trust on the part of Service provider / provider as its conducts honey sucking and unblocking of sewer lines to the municipal and other work for the benefit of the Municipality / Client.
9. Independent contractor : in performing the services , Service provider / provider shall act as an independent contractor and not as an agent or employee of the municipality / Client
10. Assignment : the municipality / Client assignment has specifically contracted for the services of Service provider / provider and specifically , and therefore , Service provider / provider may not assign or delegate its obligation under this Agreement, either in whole or in part, without the prior consent of the municipality / Client
11. Notices : all notices or other communications hereunder are deemed given when made in writing and (a) delivered in person (b) delivered to an agent such as overnight or similar delivery service or ( c) deposited in the Republic of South Africa mail, certified postage prepaid and addressed as follows :

If to the municipality / Client , to

The Municipal Manager  
169 Main Street

Jim Syde

169 Main Street  
Private Bag 53  
Umzimkhulu  
3297



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PROVINCE OF KWAZULU-NATAL  
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Umzimkhulu  
Kwazulu Natal  
South Africa  
Tell no : 0392595000  
Fax no : 03925904230

If to the Service provider / provider

69 Cole Street  
Creighton

12. Applicable laws; this Agreement shall constitute a contract under the laws of the Republic of South Africa and shall be governed and construed in accordance with such laws relevant for these services to be provided by the Service provider / provider . Any suit brought hereunder shall be brought in the courts in the ( within the Jurisdiction ) where the municipality / Client is situated , and such provision shall be deemed to conform to the applicable laws so as to be valid and enforceable, or if it cannot be so amended without materially altering the intention of the parties hereto, it shall be stricken and remainder of this Agreement shall remain in full force and effect

13. Force Majeure ; Service provider / provider shall be excused for failure to provide services hereunder to the extent that such failure is directly or indirectly caused by an occurrence commonly known as "force majeure" including without limitation , delays arising out of the act of God, acts of public enemy, riots , embargoes, strikes or other concerted acts of workers ( with of Service provider / provider or other persons) casualties or accidents, delivery of materials , transportation or shortage of ships , cars , trucks , fuel , power, labor, or

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materials, or any other causes, circumstances or contingencies that are beyond the control of the Service provider / provider s; provided, however, that Service provider / provider shall use its best efforts to resume performance by Service provider / provider, this Agreement shall continue in full force for the remainder of the term and any renewals thereof

### 14. Payments;

- The method and conditions of payment to be made to the provider under this contract shall be specified in SCC.
- The provider shall furnish the Client with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.
- Payments shall be made promptly by the Client, but in no case later than thirty (30) days after submission of an invoice or claim by the provider.

- Payment will be made in Rand unless otherwise stipulated in SCC

Subject with full compliance by the Contractor with the provisions of this contract, Umzimkhulu Municipality / Client will, in accordance with the provisions of this contract, pay to the Service provider / provider for all works satisfactorily completed to date:

- Umzimkhulu Municipality / Client shall pay any sums due within 30 days subject to Umzimkhulu Municipality / Client being satisfied with the following:

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- Receipt of claim between the 15<sup>th</sup> and 20<sup>th</sup> of every month unless stated otherwise by the Municipality / Client.
- Monthly Report shall be attached to the payment certificate failing which the claim will be deemed invalid;
- Receipt of itemized invoice reflecting also the Date; Municipal VAT No: 4300156819.; Contractor's VAT No and Service provider / provider 's signature;
- Invoice to clearly state TAX INVOICE;
- All invoices should be addressed to the Municipal Manager, Umzimkhulu Municipality / Client, P.O. Box 53, Umzimkhulu, 32930 and shall quote the Project Name and Number.

### 15. Prices :

- Prices charged by the provider for goods delivered and services performed under the contract shall not vary from the prices quoted by the provider in his bid, with the exception of any price adjustments authorized in SCC or in the Client's request for bid validity extension, as the case may be.

### 16. Contracts Amendments

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

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### 17. Delays in Service provider / provider 's Performance

- Delivery of the goods and performance of services shall be made by the Service provider / provider in accordance with the time schedule prescribed by the Client in the contract.
- 
- If at any time during performance of the contract, the Service provider / provider or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the provider shall promptly notify the Client in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the provider's notice, the municipality / Client shall evaluate the situation and may at his discretion extend the provider's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.

### 18. Penalties

- if the provider fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the Client shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or

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performance. The Client may also consider termination of the contract

### 19. Termination for default

- - The Client, without prejudice to any other remedy for breach of contract, by written notice of default sent to the provider, may terminate this contract in whole or in part:
    - a. if the provider fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the municipality / Client
    - b. if the Provider fails to perform any other obligation(s) under the contract; or
    - c. if the provider, in the judgment of the Client, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.
    - d. In the event the municipality / Client terminates the contract in whole or in part, the municipality / Client may procure, upon such terms and in such manner as it deems appropriate, goods, works or services similar to those undelivered, and the Service provider / provider shall be liable to the municipality / Client for any excess costs for such similar goods, works or services. However, the Service provider / provider shall continue performance of the contract to the extent not terminated

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### 20. Termination for Insolvency

- The Client may at any time terminate the contract by giving written notice to the provider if the provider becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the provider, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the Client.
- This agreement shall terminate on occurrence of any of the following events:
- In the event that the Service provider / provider breaches any term of this Agreement and has failed to correct its breach within the time provided therefore, then and in that event the customer may proceed to cancel and terminate the agreement.
- In the event of termination of this Agreement for any reason whatsoever, irrespective of whether it is by agreement, breach or expiry of time. This agreement shall be considered as terminated;

Notwithstanding termination clauses above; this agreement may be terminated at any time by each party on written notice with immediate effect in the event that;

1. Proceedings in bankruptcy or insolvency are instituted by or against the other party or a receiver, trustee, administrator or liquidation is appointed in respect of any part or the other party's assets or any similar relief is granted under any applicable bankruptcy or equivalent law;

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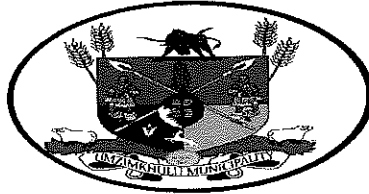
2. One party ( the defaulting party) shall be in breach , non – observer or non-performance of any of its obligation in this agreement and does not remedy the same within 30 days of notice of such failure or breach being served upon it by the other party ( the non-defaulting party )

### 21. Settlement of Disputes

- If any dispute or difference of any kind whatsoever arises between the Client and the provider in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Client or the provider may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.
- Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.
- Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.
- Notwithstanding any reference to mediation and/or court proceedings herein,
  - a) the parties shall continue to perform their respective obligations under the contract unless they otherwise

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## BUDGET & TREASURY DEPARTMENT

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agree; and

b) the Client shall pay the provider any monies due the provider.

### 22. Breach

- If the Service provider / provider commits;
- Commits a material breach of this Agreement and fail to remedy the breach within 10 (ten) Business Days after receipt from the customer of written notice calling upon it to do so;
- Commits or attends to commit an act of insolvency;
- Goes into liquidation whether provisionally or finally;
- Delegate, cedes or subcontracts this Agreement or part thereof in contravention of the provisions hereof;
- Offers, promises or gives a bribe or other gift or remuneration to any officer or employee in the service of the ULM in connection with the execution of this Agreement;
- Abandons or otherwise repudiates any of its obligation in terms of this Agreement;
- Consistently fails to observe any material provision of this Agreement;
- Then the customer shall be entitled in addition to its step-in-rights to without prejudice to any other right it may have in law or in terms of this Agreement to enforce specific

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performance of the terms of this Agreement or to cancel this Agreement forthwith on notice to the Service provider / provider and in either event recover such damages as it may have sustained.

The customer;

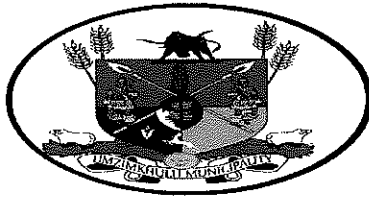
- Commits a material breach of this Agreement and fails to remedy the breach within 10 (ten) Business Days of receipt from the Service provider / provider calling upon it to do so or;
- Commits a breach of any payment obligation in terms of this Agreement and fails to make payment within 30 (thirty) Business Days after receipt from the Service provider / provider of notice calling upon it do so, then Service provider / provider will be entitled, in addition to and without prejudice to any other right it may have in law to enforce specific performance in the terms of this Agreement or to cancel the Agreement forthwith and in either event to recover such damages as it may have sustained

### 23. General

No act of relaxation on the part of the customer in regard to the carrying out of any of the Service provider / provider s obligations in terms of this Agreement shall prejudice or be deemed to be a waiver of any of the customers rights

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## BUDGET & TREASURY DEPARTMENT

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and terms hereof.

- No act of relaxation on the party of the Service provider / provider in regard to the carrying out of any of the customer's obligations in terms of this Agreement shall prejudice or be deemed to be a waiver of any of the Service provider / provider's rights in terms hereof.
- This agreement constitutes the entire contract between the parties to this Agreement and neither of them may rely on any representation, undertaking, term or condition that is not included in this Agreement.
- No agreement to vary, add or cancel this Agreement shall be of any force or effect unless reduced to writing and signed on behalf of the parties.
- The service shall report to the ULM Corporate service manager on monthly basis. Unless otherwise indicated in the bidding documents, the Client shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.

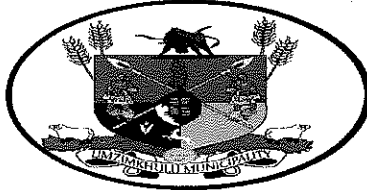
SIGNED BY THE CUSTOMER" ULM" AT UMZIMKHULU THIS 14 DAY OF

May 2019

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## BUDGET & TREASURY DEPARTMENT

PROVINCE OF KWAZULU-NATAL  
KZN 435

Z.S. SIKHOSANA

Name

In his capacity as the ULM Municipal Manager

Witness

1. MTHOBISI MBIKO

Name

Signature

Witness

2. S. DLOMO

Name

Signature

SIGNED BY THE SERVICE PROVIDER AT IKOLO THIS 13 DAY  
OF MAY 2019

The Director

Mondli JOSEPH KOZI

Name

Witness

1. \_\_\_\_\_

Name

\_\_\_\_\_

Signature

Witness

2. \_\_\_\_\_

Name

\_\_\_\_\_

Signature