FIXED TERM CONTRACT OF

EMPLOYMENT

Made and entered into by and between:

THE COUNCIL OF ÉDUMBE
("The Municipality")

Herein represented by Mr. M.P. Khathide in his duly

Authorised capacity as the

Municipal Manager of ÉDUMBE MUNICIPALITY

and

Mr. V.B. Mbatha
ID 6611175449089
The Director: Corporate and Community Services

CONFIDENTIAL

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WHEREAS:

(a) The Municipal Council of éDumbe Municipality wishes to engage the services of an employee to perform the duties and functions of Municipal Manager at the said Municipality and

(b) The employee has accepted the offer of employment for the period contemplated below.

THE PARTIES AGREE AS FOLLOWS:

1. INTERPRETATION AND DEFINITIONS

In this agreement, unless the context indicates otherwise

1.1 An expression, which denotes any gender, includes the other genders, a natural person includes judicial person and vice versa, and the singular includes the plural and vice versa;

1.2 Clause headings are for convenience only and will not be used in its interpretation, and the following expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings-

"Agreement" means this agreement and all the Annexure here to;

"Employee" means Mr V.B. Mbatha

"MFMA" means the local Government: Municipal Finance Management Act, 2003 (Act No.56 of 2003)

"Municipality" means éDumbe Municipality established in terms of Structures Act;

"Parties" means the Municipality and the Employee

"Regulations" means the Local Government Performance Regulations for Municipal Managers and Managers Directly accountable to Municipal Managers 2006, promulgated in the Government Gazette in terms of Section 120 of the Systems Act, as Regulation Notice 805 on 01 August 2006.

"Structures Act" means the Local Government: Municipal Structures Act, 2000 (Act No.117 of 1998);

"Systems Act" means the Local Government; Municipal Systems Act, 2000 (Act No. 32 of 2000), and the Regulations promulgated in terms of the Act;

1.3 Words and expression defined in any sub-clause, for the purpose of the clause of which that sub-clause forms part, bear the meaning assigned to such words and expression in that sub-clause; and

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1.4 This agreement is governed by and construed in accordance with the laws of the republic of South Africa

2. PERIOD AND CONDITIONS OF EMPLOYMENT

2.1 The Municipality hereby employs the employee on a Fixed term agreement of five (5) years as contemplated in Regulation 2 (3) (a) and, the employee hereby accepts employment as **DIRECTOR – CORPORATE AND COMMUNITY SERVICES,** subject to the terms and conditions contained in this agreement, and subject to the Regulations, the Systems Act and the MFMA, provided that-

2.1.1 This agreement will commence on 12 February 2018 and terminate on 31 January 2023.

2.2 The agreement may be renewed or extended at the sole discretion of the Municipality, as contemplated in Section 57 (6) (c) of the Systems Act and Regulations

2.3 This agreement will be subject to-

2.3.1 The conclusion and signature of Performance Agreement between the Municipality and the employee, in a format substantially compliant with **Annexure "Ä"** within 60 days of the date of commencement of each subsequent financial year;

2.3.2 The submissions of original certificates to substantiate all academic and professional qualifications, as well as proof of previous employment, on or before the date of commencement of this agreement.

2.3.3 The code of conduct as stipulated in Schedule 2 of the Systems Act, attached as **Annexure "B"** and

2.3.4 The disclosure of financial interest is done first within sixty (60) days after appointment and on annual basis within one month after commencement of the financial year, which shall be lodged with the Chairperson of the Municipal Council.

2.3.5 It is specifically recorded that there is no expectations that this agreement will be renewed or prolonged beyond the period referred to in 2 (a) or (b), other than by agreement between the parties.

2.3.6 The failure to renew or extend the period referred to in 2 (a) or (b) above shall not constitute a dismissal of the employee and the employee shall not be entitled to any additional remuneration or compensation in respect of the conclusion of such period.

2.3.7 The parties specifically record that this agreement will come to an automatic end on expiry of the fixed period, and shall not be construed as termination based on the municipalities operational requirements, nor as unfair dismissal.

3. DUTIES

It is agreed that the employee will generally perform the duties contemplated in the Systems Act and the MFMA, provided that the Annual Performance Agreement contemplated in clause 2 (d) (i) may include further duties of the employee.

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4. PLACE OF WORK

The employee's ordinary place of work will include the Employer's area of jurisdiction, but he may be required to perform other duties or work at other places that may reasonably be required by the Employer.

5. HOURS OF WORK.

5.1 The employee will be required to work such hours and days in accordance with the operational needs and requirements of the municipality at any particular time, which may not be less than forty hours (40) per week from Monday to Friday.

5.2 It is material term and condition of the employee's employment that he at no additional cost to the municipality works such additional or overtime hours, including Saturdays, Sundays and Public holidays, as may be necessary to fulfil his job requirements.

5.3 The employee-

5.3.1 Must be punctual and diligent in the performance of his duties;

5.3.2 Must devote all of his time to the performance of his duties to the best of his ability; and

5.3.3 May not engage either directly or indirectly in any other form of business or remunerative work, without the prior written consent of the municipality.

6. REMUNERATION

6.1 The employee will be paid an inclusive annual remuneration package of **R 741 423** payable in twelve equal monthly instalments, which inclusive annual. Remuneration package consist of a-

6.1.1 Basic salary of at least 60% of the inclusive flexible remuneration package; and

6.1.2 Flexible portion, which may structured by the Employee as follows:

(i)**R444 853.80** as a basic salary
(ii)**R124 800.00** as a motor vehicle allowance, subject to clause 8
(iii)**R171 769.20** as housing allowance

6.1.3 The inclusive annual remuneration package of the employee is to be structured in line with the guidelines provided by the South African Service.

6.1.4 The employee's inclusive annual remuneration package shall be adjusted annually with the cost-of-living increases, which is not performance based.

6.1.5 Resolution 01/18/10.93-30/01/2018 Council approve the vertical adjustment of your remuneration packages in the 2018/19 financial year effective from 1 July 2018.

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7. PERFOMANCE BONUS

The employee may be eligible for a performance bonus on annual basis, as contemplated in the performance agreement attached hereto as Annexure "Ä" provided that, the performance bonus-

7.1 May not exceed 14% of the inclusive annual remuneration package of the employee;

7.2 Must be affordable and provided for in the Municipal budget;

7.3 May only be approved subsequent to the tabling and adoption of the annual report for the year under review; and

7.4 May only be approved subsequent to an evaluation of the employees performance

8. MOTOR VEHICLE

The employee must have a motor vehicle available for the proper performance of his functions and discharge of his functions and discharge of his duties, provided that-

8.1 The employee must ensure his own financing;
8.2 The choice of motor vehicle is exclusive discretion of the employee;
8.3 The vehicle must be suitable for official duties;
8.4 The employee will not be entitled to use any vehicle of the municipality for the performance of his official duties; and

9. MOBILE PHONE

The employee will be entitled to mobile telephone allowance for official purposes according to the policy of the municipality or in accordance with a decision of Council.

10. DEDUCTIONS FROM SALARY

The Municipality is entitled to make the following deductions from the salary of the employees, before it is paid to the employee-

10.1 PAYE due to the South African Revenue Services;
10.2 Unemployment insurance contributions
10.3 Any other deductions the employee has consented to in writing; and
10.4 Any other deductions ordered by a competent authority.

11. LEAVE

11.1ANNUAL LEAVE

11.1.1 Annual leave cycle is calculated from 01 January to 31 December
11.1.2 The employee is entitled to twenty four (24) working days leave per annum on full pay, provided that-

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(a) In the event that the employee is appointed after the commencement of an annual leave cycle, he will be entitled to annual vacation leave on a pro rata basis determined as a fraction of the entitlement;
(b) You must take at least ten (10) consecutive days leave within twelve-months period; and cycle, where after unused leave credits will be forfeited,

11.2 SICK LEAVE

11.2.1 The employee will be entitled to thirty-six (36) working days sick leave with full pay during a three-year (3) cycle; provided that in the event that the employee-

(a) Is absent from work for more than two (2) consecutive days or on more than two (2) occasions during an eight (8) week period; he will be required to produce medical certificate in order to qualify for paid sick leave; and
(b) In the reasonable opinion of the municipality, becomes permanently unable to perform his duties adequately by reason of medical incapacity; the municipality may terminate his employment.

11.3 FAMILY RESPONSIBILITY

11.3.1 You will be entitled to a maximum of five (5) working days family responsibility leave per calendar year; provided that such can leave can only be utilized if-

(a) Your child is born
(b) Your child, spouse or life partner is ill; or
(c) A spouse, life partner, parents, grandparents, child, grandchild or sibling dies.

11.3.2 The employer will require reasonable proof of an incident in respect of which family responsibility leave is granted.

11.4 STUDY LEAVE

11.4.1 You are entitled to twenty (20) working days leave per year, ten days of which must be examinations linked to formal qualifications and ten days to attend classes or lectures.

11.5 SPECIAL LEAVE

11.5.1 You will be granted special leave in accordance with the éDumbe Municipality policy.

11.5.2 Special leave may be granted for the followings;
(a) Collective bargaining
(b) Labour Relations requirements
(c) Participation in sport on provincial or national level
(d) Sabbaticals
(e) Treatment of substance abuse

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12. TERMINATION

12.1 The Employee may terminate this agreement by giving thirty (30) days written notice of termination to the municipality, provided that the municipality may, in its sole discretion, waive any part of notice period.

12.2 This agreement-

12.2.1 Will terminate-

(i)As contemplated in clause 2; or

(ii)Automatically on the date immediately before he assumes office as a member of the National Assembly, a provincial legislature or municipal council or appointed as a permanent delegate to the National Council of Provinces.

12.2.2 May be terminated-

(i)By either party in the event of material breach of a term or condition of the agreement, after having given the other party fourteen days written notice, calling upon it to rectify the breach and if such party fails to rectify the breach;

(ii)By the municipality on account of misconduct on the part of the employee as contemplated in the relevant disciplinary code and procedures of the Municipality;

(iii)Due to unacceptable performance in terms of the Performance Management System, after the relevant incapacity procedures have been complied with; or

(iv)Any other reason recognized in law

13. DOMICILIUM NOTICES

13.1The parties choose their domicilium citandi et executandi for all purpose of the giving of any notice, the payment of any sum, the serving of any process and for any other purpose arising from this agreement as follows:

The Municipality: éDumbe Municipality
No.10 Hoog Street
Paulpietersburg
3180

The Employee: Mr V.B. Mbatha
37 Oftebro Street
Eshowe, 3815

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13.2 Either party, upon written notice to other party, may vary its physical address or
facsimile number within the Republic of South Africa.

13.3 Any notice given by either party to the other party, which-

(a) Is delivered by hand during the normal business hours of the addressee at the addressee's domicilium will be deemed to have been received by the addressee at the time of delivery;

(b) Is posted by prepared registered post from an address within the Republic of South Africa to the addressee at the addressee's domicilium will be deemed to have been received by the addressee on the seventh day after the date of posting; or

(c) Is sent by facsimile during the normal business hours of the addressee to the addressee's domicilium will be deemed to have been received on the date and time of successful transmission thereof.

15. DISPUTE SETTLEMENT

Either party to the agreement may, in the event of any dispute arising out of the agreement, refer the dispute for arbitration by the SALGBC (South African Local Government Bargaining Council),provided that the agreement to refer dispute for arbitration does not either of the parties to refer any dispute between them to any Court for adjudication, which includes the Magistrate Court with jurisdiction, provided that seventy two hours notice must be given to the other party prior to such referral.

16. GENERAL

16.1 No addition to or variation or mutually agreed cancellation or novation of this agreement and no waiver of any right arising from this contract or its breach or termination will be of any force or effect unless reduced to writing and signed by or on behalf of both parties.

16.2 No grace, delay, relaxation, leniency or indulgence granted by either party to the other will be deemed to be an abandonment of any right by the former party contemplated in this agreement, and any such grace, delay, relaxation, leniency or indulgence will not prevent the former party from insisting on strict future compliance by the defaulting party with all the terms and conditions of this agreement.

16.3 Each clause of this agreement is severable from each of the other clauses and if any clause in this agreement is found to be void, invalid or unenforceable for any reason, the remaining clauses will remain in full force and effect.

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16.4 The employee will not at any time make any untrue statement in relation to the municipality or any of its entities, and in particular will not after termination of his employment under this agreement wrongly represent him as being employed by or connected in any respect with the Municipality.

17. In the implementation of his agreement, the parties undertake to observe the utmost good faith and they warrant in their dealings with each other they will not do anything that might prejudice or detract from the rights, assets or interests of each other.

18. Both the municipality and the employee acknowledge that the provisions of the Basic Conditions of Employment Act, 1997 (Act No.75 of 1997), are applicable to them and that such minimum conditions will apply where this agreement is silent.

ACCEPTANCE OF CONTRACT

I Vincent Bhekisisa Mbatha ID No, 661117 544 9089 acknowledge my appointment on the terms outlined above and that I fully understand the terms of a contract.

Signed at Paulpietersburg (éDumbe Municipality) in presence of the undersigned witness;

SIGNED AT Paulpietersburg ON THIS THE 08 DAY OF Feb 2018

EMPLOYER
MR. M.P. KHATHIDE
MUNICIPAL MANAGER

EMPLOYER
WITNESS

SIGNED AT E DUMBE ON THIS THE 8th DAY OF February 2018

EMPLOYEE
MR V.B. MBATHA

EMPLOYEE
WITNESS

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