



## **PERFORMANCE AGREEMENT**

**Made and entered into by and between:**

**NTINGA O.R. TAMBO DEVELOPMENT AGENCY SOC LTD**

[hereinafter referred to as the EMPLOYER and represented herein by the Chief Executive Officer]

**Dr. Nandipha Toyota Ndudane**

**AND**

**Loyiso Mbiko**

Herein after referred to as the EMPLOYEE

**for the**

**FINANCIAL YEAR: 01 JULY 2024 - 30 JUNE 2025**

**MADE AND ENTERED INTO BY AND BETWEEN:**

**NTINGA O.R. TAMBO DEVELOPMENT AGENCY SOC LTD** hereinafter referred to as the **EMPLOYER** represented by **Dr. Nandipha Toyota Ndudane**, in her duly authorised capacity as the **Chairperson of the Board of Directors** of Ntinga O.R. Tambo Development Agency SOC LTD.

**AND**

**Loyiso Mbiko**, hereinafter referred to as the **EMPLOYEE** in his capacity as the **Chief Executive Officer** duly appointed as the **Chief Executive Officer** of the Agency for the period 01 December 2021 to 30 November 2026.

**WHEREAS**

- a) The Employer has entered into an Agreement of Employment with the Employee in terms of section 57(1) (a) of the Local Government: Municipal Systems Act 32 of 2000. The Employer and the employee are hereinafter referred to as "Parties".
- b) Agreement of Employment concluded between the parties, requires the parties to conclude an annual Performance Agreement within sixty days of assumption of duty, and renew it annually within one month of the beginning of each financial year of the entity.
- c) The parties must ensure that they are clear about the goals to be achieved and secure the commitment of the Employee to a set of outcomes that will secure local government policy goals as defined in the Service Delivery and Budget Implementation Plan (SDBIP).
- d) The parties must ensure that there is compliance with Entity Performance Management Framework Policy and with Sections 57(1) (b), (4A), (4B) and (5) of the Local Government: Municipal System Act, 2000 as amended; and

**1. INTERPRETATION AND DEFINITIONS**

In this Agreement, unless the context indicates otherwise–

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

- b) 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—
- c) **“Agreement”** means this Performance Agreement and all the Appendices hereto;
  - d) **“Employee”** means Loyiso Mbiko, Chief Executive Officer
  - e) **“Entity”** means Ntinga O.R. Tambo Development Agency SOC Ltd
  - f) **“KPA”** means Key Performance Area;
  - g) **“KPI”** means Key Performance Indicator;
  - h) **“KRA”** means Key Responsible Area;
  - i) **“MEC”** means the Member of the Eastern Cape Executive Council responsible for local Government;
  - j) **“MFMA”** means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
  - k) **“Municipality”** means OR Tambo District, established in terms of the Municipal Structures Act 2000 (Act No. 117 of 1998);
  - l) **“Parties”** means Ntinga OR Tambo Development Agency SOC (Ltd) and the Employee;
  - m) **“Performance management system”** means a process used by Ntinga OR Tambo Development Agency SOC (Ltd) to evaluate organisational and its individual performance against the goals and objectives set out in its Strategy and the Shareholder’s IDP.
  - n) **“Structures Act”** means the Local Government: Municipal Structures Act, 2000 (Act No. 117 of 1998); and
  - o) **“Systems Act”** means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) as amended, and the Regulations promulgated in terms of the Act;
  - p) **“words and expressions”** 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 expressions in that sub-clause; and
  - q) **“Agreement”** this agreement is governed by and construed in accordance with the laws of the Republic of South Africa.

## **2. PURPOSE OF THIS AGREEMENT**

### **2. The purpose of this Agreement is to –**

- 2.1. Comply with the provisions of Section 57(1) (b), (4A), (4B) and (5) of the Municipal Systems Act as well as the Employment Contract entered into between the parties;
- 2.2. Communicate the Employer's performance expectations and accountabilities to the Employee, by specifying objectives and targets as defined in the Entity Strategy;
- 2.3. Specify accountabilities as set out in the Performance Plan, which must be in a format Substantially compliant with Appendix "A";
- 2.4. Monitor and measure performance against set targeted outputs;
- 2.5. Use this Agreement and the Performance Plan as the basis for assessing the performance of the Employee and to establish whether the Employee has met the performance expectations applicable to the position; and
- 2.6. Appropriately reward the Employee in accordance with the Employer's performance Management policy in the event of outstanding performance.

## **3. COMMENCEMENT AND DURATION**

- 3.1 Irrespective of the date of signature, this Agreement will commence on **01 July 2024** and will remain in force until **30 June 2025**, whereafter a new Agreement, Performance Plan and Personal Development Plan must be concluded between the parties for each of the following financial years or any portion thereof for the duration of the Agreement of Employment.
- 3.2 This Agreement will terminate on the termination of the Employee's employment for any reason whatsoever.
- 3.3 The content of this Agreement may be revised at any time during the abovementioned period to determine the applicability of the matters agreed upon.
- 3.4 If at any time during the validity of this Agreement the work environment alters, whether as a result of government, council or Ntinga O.R. Tambo Development Agency SOC Ltd decisions or otherwise, to the extent that the contents of this Agreement are no longer appropriate, the contents must immediately be revised;
- 3.5 Any significant amendments or deviations must take cognisance of the requirements of the Labour relations Act, 66 of 1995 in so far as unilateral amendment to the conditions of services are concerned.

#### **4. PERFORMANCE OBJECTIVES**

The Performance Plan must set out the–

- 4.1. the performance objectives and targets that the Employee must meet; and
- 4.2. The time frames for those performance objectives and targets must be met.
- 4.3. The performance objectives and targets reflected in the Performance Plan must be set by the Employer in consultation with the Employee, based on the Strategy, the Budget and SDBIP of the Employer; and include key objectives, performance indicators, target dates, and weightings.
- 4.4. It is agreed that the key objectives must describe the main tasks that must be performed by the Employee;
- 4.5. The key performance indicators should provide the details of the evidence that must be provided to indicate that a key objective has been achieved;
- 4.6. The target dates should describe the timeframe in which the work must be achieved;
- 4.7. The weightings should indicate the relative importance of the key objectives to each other; and lastly
- 4.8. The Employee's performance will, in addition, be measured in terms of contributions to the goals and strategies set out in the Employer's Strategy and SDBIP.

#### **5. PERFORMANCE MANAGEMENT SYSTEM**

- 5.1 The Employee agrees to participate in the performance management system that the Employer adopts or introduces for the Agency and accepts that the purpose of the performance management system is to provide a comprehensive system, with specific performance standards, to assist the Employer to perform to the standards required.
- 5.2 The Employer must consult the Employee about the specific performance standards that are included in the performance management system that are applicable to the Employee.
- 5.3 The Employee undertakes to actively focus on the promotion and implementation of the Key Performance Areas, including special projects relevant to the Employee's responsibilities, within the Strategy framework.
- 5.4 The Employee must be assessed on his performance in terms of the performance indicators identified in the attached Performance Plan and include the Key Performance Areas, and Core Managerial Competencies, with a weighting of 80:20 respectively.

5.5 The Key Performance Areas will make up 80% of the Employee's assessment score, and will contain the following areas of which all of them are compulsory and weights must be allocated to each of them according to the scale of core and functional responsibilities:

<b>KEY PERFORMANCE AREAS (80% OF TOTAL)</b>	<b>WEIGHTING</b>
<b>Goal 1:</b> Enhanced and enabled full value chain (up-stream and down-stream) for Agricultural produce, Markets, Abattoirs & Aquaculture	54%
<b>Goal 2:</b> Diversified partnerships that promote inclusive Socio-Economic development and Growth	19%
<b>Goal 3:</b> Promoted trade and investment opportunities in the district.	8%
<b>Goal 4:</b> Dynamic, Capable, Sustainable SOC (State Owned Company)	19%
Total	100%

Balanced Scorecard Perspective

<b>Balanced Scorecard Perspectives</b>	<b>2024/2025 DIVISIONAL WEIGHTS PER PERSPECTIVE</b>
<b>1. Financial Perspective</b>	52%
<b>2. Internal Business Processes</b>	12%
<b>3. Employee Perspective</b>	3%
<b>4. Customer Perspective</b>	33%
<b>TOTAL SCORE PER DIVISION</b>	<b>100%</b>

5.6 The Competency Assessment Criteria will make up the other 20% of the Employee's assessment score.

5.7 The Core Competency Requirements are deemed to be most critical for the Employee's specific job and should be selected as the compulsory between the Employer and Employee.

5.8 In addition, the employee shall be responsible for the 100% achievement of the targets set in the Agency's SDBIP. For ease of reference and assessment of the employee, all targets shall be allocated to the KPA's above.

**COMPETENCY ASSESSMENT CRITERIA: (20% OF TOTAL)**

COMPETENCIES	DESCRIPTION	WEIGHT
<b>CORE COMPETENCIES</b>		
Moral Competency	Able to identify moral triggers, apply reasoning that promotes honesty and integrity and consistently display behaviour that reflects moral competence.	2
Planning and Organising	Able to plan, prioritise and organise information and resources effectively to ensure the quality of service delivery and build efficient contingency plans to manage risk.	2
Analysis and Innovation	Able to critically analyse information, challenges and trends to establish and implement fact-based solutions that are innovative to improve institutional processes in order to achieve key strategic objectives.	2
Knowledge and Information Management	Able to promote the generation and sharing of knowledge and information through various processes and media, in order to enhance the collective knowledge base of government.	2
Communication	Able to share information, knowledge and ideas in a clear, focused and concise manner appropriate for the audience in order to effectively convey, persuade and influence stakeholders to achieve the desired outcome.	2
Results and Quality Focus	Able to maintain high quality standards, focus on achieving results and objectives while consistently striving to	2

COMPETENCIES	DESCRIPTION	WEIGHT
	exceed expectations and encourage others to meet quality standards. Further, to actively monitor and ensure results and quality against identified objectives.	
<b>LEADING COMPETENCIES</b>		
Strategic Direction and Leadership	Provide and direct a vision of the institution, and inspire and deploy others to deliver on the strategic institutional mandate.	2
People Management and Empowerment	Effectively manage, inspire and encourage people, respect diversity, optimise talent and build and nurture relationships in order to achieve institutional objectives.	2
Program and Project Management	Able to understand program and project management methodology, plan, manage, monitor and evaluate specific activities in order to deliver on set objectives.	-
Financial Management	Able to compile, plan and manage budgets, control cash flow, institute financial risk management, and administer procurement processes in accordance with recognised financial practices. Further to ensure that all financial transactions are managed in an ethical manner.	-
Change Leadership	Able to direct and initiate institutional transformation on all levels in order to successfully drive and implement new initiatives and deliver professional and quality services to the community.	2



COMPETENCIES	DESCRIPTION	WEIGHT
Governance Leadership	Able to promote, direct and apply professionalism in managing risk and compliance requirements and apply a thorough understanding of governance practices and obligations. Further, able to direct the conceptualisation of relevant policies and enhance cooperative governance relationships.	2
<b>TOTAL PERCENTAGE</b>		<b>20%</b>

5.9 Final Assessment scores shall be given according to each Key Performance Area either by working out a mean or by giving one final score to each KPA.

5.10 Final Assessment scores shall be awarded according to each Competency either by working out a mean or by giving one final score to each.

## 6. EVALUATING PERFORMANCE

6.1 The Performance Plan, attached hereto as **Appendix "A"**, must set out the: -

- a) the standards and procedures for evaluating the Employee's performance; and
- ii) the intervals for the evaluation of the Employee's performance.

6.2 Despite the establishment of agreed intervals for evaluation, the Employer may in addition, review the Employee's performance at any stage during the validity of the Agreement of Employment.

6.3 Personal growth and development needs identified during any performance review discussion, as well as the actions and time frames agreed to, must be documented in a Personal Development Plan.

6.4 The Employee's performance will be measured in terms of contributions to the goals and strategies contemplated in the Employer's SDBIP.

6.5 The annual performance appraisal must involve:

- a) an assessment of the achievement of results as outlined in the performance plan;
- b) an assessment of each Key Performance Area according to the extent to which the Specified standards or performance indicators have been met and with due regard to *ad hoc* tasks that had to be performed;

- c) a rating on the five-point scale for each Key Performance Area; and
- d) the use of the applicable assessment rating calculator to add the scores and calculate a final Key Performance Area score.

6.6 The Core Competency Criteria must be assessed–

- a) according to the extent to which the specified standards have been met;
- b) with an indicative rating on the five-point scale for each criteria; and
- c) by using the applicable assessment rating calculator to add the scores and calculating a final score.

6.7 An overall rating is calculated by using the applicable assessment rating calculator, which represents the outcome of the performance appraisal, provided that the performance assessment of the Employee will be based on the following rating scale for both Key Performance Indicators and Core Competency Criteria:

NO	PERFORMANCE RATING	TARGET ACHIEVEMENT CRITERIA	DESCRIPTION	DEFINITION	PERFORMANCE BONUS ALLOCATION															
1.	0-1.9	<b>0-50%</b> <table border="1"> <tr> <td>0-10%</td> <td>=</td> <td>0.000</td> </tr> <tr> <td>11-20%</td> <td>=</td> <td>0.475</td> </tr> <tr> <td>21-30%</td> <td>=</td> <td>0.950</td> </tr> <tr> <td>31-40%</td> <td>=</td> <td>1.425</td> </tr> <tr> <td>41-50%</td> <td>=</td> <td>1.900</td> </tr> </table>	0-10%	=	0.000	11-20%	=	0.475	21-30%	=	0.950	31-40%	=	1.425	41-50%	=	1.900	Poor performer	<p>Target has not been achieved by a significant margin. No or negligible progress has been made towards achieving the target and performance must improve substantially within a reasonable period of time, failing which, <b>disciplinary procedures for poor performance should be preferred against the employee;</b></p> <p><b>If on probation, probation period should be extended by at least three (3) months)</b></p>	N/A
0-10%	=	0.000																		
11-20%	=	0.475																		
21-30%	=	0.950																		
31-40%	=	1.425																		
41-50%	=	1.900																		
2.	2.0-2.9	<b>51-99%</b> <table border="1"> <tr> <td>51-60%</td> <td>=</td> <td>2.000</td> </tr> <tr> <td>61-70%</td> <td>=</td> <td>2.225</td> </tr> <tr> <td>71-80%</td> <td>=</td> <td>2.475</td> </tr> <tr> <td>81-90%</td> <td>=</td> <td>2.700</td> </tr> <tr> <td>91-99%</td> <td>=</td> <td>2.900</td> </tr> </table>	51-60%	=	2.000	61-70%	=	2.225	71-80%	=	2.475	81-90%	=	2.700	91-99%	=	2.900	Average performer	<p>Target has been partially achieved; performance is notably less than expected. The</p>	N/A
51-60%	=	2.000																		
61-70%	=	2.225																		
71-80%	=	2.475																		
81-90%	=	2.700																		
91-99%	=	2.900																		

				<p>need for further development and improvement clearly recognized.</p> <p><b>Performance Enhancement plan should be implemented for a rating below 2.5</b></p> <p><b>If on probation, probation period should be extended by at least three (3) months)</b></p>																										
3.	3.0-3.9	<p><b>100-129%</b></p> <table border="1"> <tr> <td>100%</td> <td>=</td> <td>3.000</td> </tr> <tr> <td>101-109%</td> <td>=</td> <td>3.225</td> </tr> <tr> <td>110-119%</td> <td>=</td> <td>3.450</td> </tr> <tr> <td>120%-128%</td> <td>=</td> <td>3.675</td> </tr> <tr> <td>129%</td> <td>=</td> <td>3.900</td> </tr> </table>	100%	=	3.000	101-109%	=	3.225	110-119%	=	3.450	120%-128%	=	3.675	129%	=	3.900	Performer	<p>Target has been achieved , performance clearly meets all the requirements in terms of quality and quantity of work; perfect contributor to the company's success;</p>	N/A										
100%	=	3.000																												
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4.	4.0-4.9	<p><b>130-149%</b></p> <table border="1"> <tr> <td>130%-133%</td> <td>=</td> <td>4.000</td> </tr> <tr> <td>134%-137%</td> <td>=</td> <td>4.225</td> </tr> <tr> <td>138%-141%</td> <td>=</td> <td>4.450</td> </tr> <tr> <td>142%-145%</td> <td>=</td> <td>4.675</td> </tr> <tr> <td>146%-149%</td> <td>=</td> <td>4.900</td> </tr> </table>	130%-133%	=	4.000	134%-137%	=	4.225	138%-141%	=	4.450	142%-145%	=	4.675	146%-149%	=	4.900	Good performer	<p>Target has been exceeded, performance is regularly above expected levels and is sustained with quality and quantity of work, consideration should be made for a grade</p>	<table border="1"> <tr> <td>130%-133%</td> <td>5</td> </tr> <tr> <td>134%-137%</td> <td>6</td> </tr> <tr> <td>138%-141%</td> <td>7</td> </tr> <tr> <td>142%-145%</td> <td>8</td> </tr> <tr> <td>146%-149%</td> <td>9</td> </tr> </table>	130%-133%	5	134%-137%	6	138%-141%	7	142%-145%	8	146%-149%	9
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				<b>increase and performance bonus of 5%-9% respectively</b>																										
5.	5	<b>150% and above</b> <table border="1"> <tr><td>150%-153%</td><td>=</td><td></td></tr> <tr><td>154%-157%</td><td>=</td><td></td></tr> <tr><td>158%-161%</td><td>=</td><td></td></tr> <tr><td>162%-165%</td><td>=</td><td></td></tr> <tr><td>166%</td><td>=</td><td></td></tr> </table>	150%-153%	=		154%-157%	=		158%-161%	=		162%-165%	=		166%	=		Exceptional performer	<p>Target has been exceeded by a significant margin; performance levels and accomplishments far exceed expectations; the employee truly stands out and consistently demonstrate exceptional performance recognized by others.</p> <p><b>consideration should be made for a grade increase as well as performance bonus of 10%-14% respectively</b></p>	<table border="1"> <tr><td>150%-153%</td><td>10</td></tr> <tr><td>154%-157%</td><td>11</td></tr> <tr><td>158%-161%</td><td>12</td></tr> <tr><td>162%-165%</td><td>13</td></tr> <tr><td>166%</td><td>14</td></tr> </table>	150%-153%	10	154%-157%	11	158%-161%	12	162%-165%	13	166%	14
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## 7. EVALUATION PANEL

The performance of the Employee must be evaluated by an evaluation panel constituted as follows:

<b>PERFORMANCE REVIEW PERIOD</b>	<b>PANEL</b>
<b>1<sup>st</sup> and 3<sup>rd</sup> Quarter</b>	1. Chairperson: Board of Directors 2. Head: Corporate Services (HR Support)
<b>Mid Term and Annual Assessment</b>	1. Chairperson: Board of Directors 2. All Chairpersons of Board Committees. 3. Shareholder Representative (observer status) 4. Head: Corporate Services (HR Support)

## 8. SCHEDULE OF PERFORMANCE REVIEWS

- 8.1 The performance of each Employee in relation to his or her performance agreement must be reviewed during–
- (a) July to September for the First quarter – informal assessment by the immediate Supervisor, to be conducted in quarter 2;
  - (b) Mid-term Assessment – formal half year assessment by the evaluation panel, to be conducted in quarter 3;
  - (c) January to March for the Third quarter - informal assessment by the immediate Supervisor, to be conducted in quarter 4;
  - (d) Annual Assessment - formal Annual assessment by the evaluation panel, to be conducted in quarter 3 of the following financial year;
- 8.2 All performance reviews must be recorded, and the Employer must keep a record of all performance assessment meetings, and feedback must be based on the Employer's assessment of the Employee's performance.
- 8.3 The Employer may amend the provisions of the Performance Plan whenever the performance management system is adopted, implemented or amended, provided that the Employee must be consulted before any such change is made.
- 8.4 The work performance and performance review will not be confined and limited to the performance plan, any discretionary and incidental work outside the performance plan shall be performed and evaluated accordingly.

## **9. OBLIGATIONS OF THE EMPLOYER**

The Employer must–

- a) Create an enabling environment to facilitate effective performance by the Employee;
- b) Provide access to skills development and capacity building opportunities;
- c) Work collaboratively with the Employee to solve problems and generate solutions to common problems that may impact on the performance of the Employee;
- d) On the request of the Employee, delegate such powers reasonably required by the Employee to enable him or her to meet the performance objectives and targets established in this Agreement; and
- e) Make available to the Employee such resources as the Employee may reasonably require from time to time to assist him or her to meet the performance objectives and targets established in this Agreement.

## **10. CONSULTATIONS**

10.1 The Employer agrees to consult the Employee timeously where the exercising of the powers will:

- a) have a direct effect on the performance of any of the Employee's functions;
- b) commit the Employee to implement or to give effect to a decision made by the Employer; and
- c) have a substantial financial effect on the Employee.

10.2 The Employer agrees to inform the Employee of the outcome of any decisions taken pursuant to the exercise of powers contemplated in sub-clause (10.1) above, as soon as is practicable to enable the Employee to take any necessary action without delay.

## **11. MANAGEMENT OF EVALUATION OUTCOMES**

11.1 The evaluation of the Employee's performance will form the basis for rewarding exceptional performance or correcting Poor performance.

- 11.2 A performance bonus of between 5% and 14% of the inclusive annual remuneration package may be paid to the Employee in recognition of exceptional performance, as per regulation 32(2) of the Regulations.
- 11.3 In the case of poor performance, the Employer–
- (a) must provide systematic remedial or developmental support to assist the Employee to improve his or her performance; and
  - (b) may, after appropriate performance counselling and having provided the necessary guidance and support as well as reasonable time for improvement in performance, consider steps to terminate the contract of employment of the Employee on grounds of unfitness or incapacity to carry out his or her duties.
- 11.4 Only employees achieving performance at levels four and five in terms of the table given above shall qualify for consideration for payment of performance bonus.

## **12. SUB-STANDARD / POOR PERFORMANCE MANAGEMENT**

- a) All endeavours shall be made to provide support in the form of guidance, training and counselling to the employee when displaying signs of sub-standard performance.
- b) The employee shall be given adequate period ranging from two months to six months to improve performance.
- c) Unequivocal performance targets with a succinct action plan shall be drawn up for the employee with clear results to be achieved.
- d) The time needed for an employee to improve performance shall be a maximum of four months.

## **13. DISPUTE RESOLUTION**

- a) Any disputes about the nature or content of the Employee's Performance Agreement, whether it relates to key responsibilities, priorities, methods of assessment and or salary increment in the agreement, must be mediated by the Board of Directors, within thirty days of receipt of a formal dispute from the Employee, whose decision shall be final and binding to both parties.
- b) Any disputes about the outcome of the Employee's performance evaluation, must be mediated by a panel of Board members provided that such Board members were not part of the evaluation panel, whose decision shall be final and binding on both parties.



**14. GENERAL**

- a) The Employer must make the contents of this Agreement and the outcome of any review conducted in terms of the Performance Plan available to the public.
- b) Nothing in this agreement diminishes the obligations, duties or accountabilities of the Employee in terms of his or her Agreement of Employment, or the effects of existing or new regulations, circulars, policies, directives or other instruments.
- c) The performance assessment results of the Employee must be submitted to the Board.
- d) The employee is required to complete the Financial Disclosure Form as per Item 5 of the Code of Conduct for municipal staff members, which is attached to this agreement as Appendix "C".

SIGNED AT MTIATHA ON THIS 31 DAY OF JULY 2024

**AS WITNESSES:**

1.  .....

2.  .....



**SIGNATURE: EMPLOYER REPRESENTATIVE**

**AS WITNESSES:**

1.  .....

2.  .....



**SIGNATURE: EMPLOYEE**