

INSTRUCTION NOTE:

Please note the following:

- 1) No scratches are allowed
- 2) No deletions are allowed
- 3) Should you make a mistake, please print the page and complete it correctly
- 4) The Agreement must be completed in black ink or typed in.
- 5) If completed in ink, the writing must be legible
- 6) **For your convenience, we have made pages 2, 7, 12, 13 and 14 available in word to type over blank spaces, however all other pages of this Agreement must be initialled and submitted.**
- 7) An Incomplete or incorrectly completed Agreement will disqualify the application
- 8) Please do not temper with the body of the Agreement
- 9) Both the Signatory and Witness must initial all the pages of the Agreement except for the last page (page 13) which must only be signed in full and not be initialled.

COMPLETION NOTE

Please complete the document as follows:

- 1) **PAGE 2:** Insert the **Registered Name** of the Company and the **Trading Name (T/A)** of the Company. Insert the **SDL Number, Name of the Person** who signs the contract and the **Title of the Person. Initial** the bottom right of the page (both signatory and witness)
- 2) **PAGE 3:** **Initial** the bottom right of the page (both signatory and witness)
- 3) **PAGE 4:** **Initial** the bottom right of the page (both signatory and witness)
- 4) **PAGE 5:** **Initial** the bottom right of the page (both signatory and witness)
- 5) **PAGE 7:** 8.1 - Insert the **Amount** applied for (the amount must be the same as in the Application/Acceptance Form and should not exceed R18 000.00). **Initial** the bottom right of the page (both signatory and witness)
- 6) **PAGE 7:** 8.1 – Insert the **number of employees** (maximum of 2 learners) that will be trained or upskilled. **Initial** the bottom right of the page (both signatory and witness)
- 7) **PAGE 8:** **Initial** the bottom right of the page (both signatory and witness)
- 8) **PAGE 9:** **Initial** the bottom right of the page (both signatory and witness)
- 9) **PAGE 10:** **Initial** the bottom right of the page (both signatory and witness)
- 10) **PAGE 11:** **Initial** the bottom right of the page (both signatory and witness)
- 11) **PAGE 12:** Insert **Street Address** at 14.6.1. Insert **Postal Address** at 14.6.2. **Initial** the bottom right of the page (both signatory and witness)
- 12) **PAGE 13:** Complete the bottom part of the page **below the solid grey line** by inserting the **Place** where contract is signed, **Date** contract is signed, **Month** contract is signed and **Year** contract is signed (**Do not initial page 13**)
- 13) **PAGE 13:** The person whose name is on page 2 of the contract must **Sign** the contract, Insert **Full Names, Title** (Position) of the Person and **Name of Company (Do not initial page 13)**
- 14) **PAGE 13:** One **Witness to Sign** and state **Full Names (Do not initial page 13)**
- 15) **PAGE 14:** Insert **Company Contact Details**, Insert **Number of Learners** to be trained, Select the **type of Intervention** by ticking the relevant box, Insert the **Grant Amount** applied for, Select your **Region** by ticking the relevant box, Put the **Company Stamp** and **Initial** the bottom right of the page (both the signatory and witness).

AGREEMENT

Entered into by and between

WHOLESALE AND RETAIL SECTOR EDUCATION AND TRAINING AUTHORITY (W&RSETA)

(A schedule 3A National Public Entity established under section (9) of the Skills Development Act No. 97 of 1998, herein represented by Mr. Tom Mkhwanazi in his duly authorised capacity as the Wholesale & Retail SETA Chief Executive Officer)

(Herein referred to as the **W&RSETA**)

AND

T/A

(Registered Name and Trading Name (T/A) of a Company)

Levy Number: L _____

(Herein represented by _____ in his/her duly authorised capacity as the _____)

(Herein referred to as the **Employer**)

SME DISCRETIONARY GRANT 18/19

1. PARTIES

The Parties to this Agreement are:

- 1.1 **W&RSETA** (“Funder of Programmes”), a schedule 3A National Public Entity established under section (9) of the Skills Development Act No. 97 of 1998, herein represented by Mr. Tom Mkhwanazi in his duly authorised capacity as the Chief Executive Officer, and
- 1.2 **EMPLOYER** (“the Company”), is a Small Levy-Paying (or levy exempt) Company employing less than 50 employees or a Medium Levy-Paying (or levy exempt) Company employing less than 150 employees and operates within the Wholesale and Retail Sector and is registered with W&RSETA and has a valid Levy Number.

2. PURPOSE

- 2.1 The purpose of this Agreement is to formalize the relationship between the Parties and to facilitate the execution of the SME Discretionary Grant 18/19 Project in line with Grant Regulations as gazetted on the 3rd of December 2012.
- 2.2 It is noted that an Agreement has in principle been concluded between the parties however this Agreement aims to record the parties’ intentions and deliverables clearly in line with the Grant Regulations.

3. DEFINITIONS

- 3.1 In this Agreement, unless inconsistent with or otherwise indicated by the context, the following words shall have the meaning assigned to them in this clause and the related meaning shall have a corresponding meaning.
 - 3.1.1 **“Agreement”** means this Agreement signed by both parties;
 - 3.1.2 **“Business Day”** means any day which is not a Saturday, Sunday or public holiday recognized as such under the Public Holidays Act 36 of 1994;
 - 3.1.3 **“Deliverables”** mean any duty, obligation, service, task, action, products, information, documents, programme, advice, recommendation, report or disclosure required to be

rendered, undertaken, executed, delivered, furnished, provided, made, done and/or compiled by a Party in terms of this Agreement;

- 3.1.4 **“Effective Date”** means the date of the last Party to sign this Agreement, thus this Agreement becomes effective once all Parties have signed;
- 3.1.5 **“Force Majeure”** means any inability, on the part of any of the Parties, to perform any of its obligations in terms of this Agreement due to an event which was beyond its control, these events include, but are not limited to, war, civil war, armed conflict or terrorism, natural disasters such as violent storms, floods, earthquakes, destruction by lightning; explosions and fires;
- 3.1.6 **“Grant Regulation”** means a regulation issued in terms of the Skills Development Act (Act 97/1998) to govern how money allocated to the Seta is to be spend on skills development;
- 3.1.7 **“Parties”** means the parties to this Agreement;
- 3.1.8 **“Person under the control of the Stakeholder** means any person being an employee, partner, director, shareholder or legal person under the control of the Stakeholder, or a person acting on behalf of or with the knowledge of the Stakeholder;
- 3.1.9 **“PFMA”** means the Public Finance Management Act, (Act 1 of 1999), as amended, together with applicable regulations;
- 3.1.10 **“Operator”** means a person who processes personal information for a responsible Party in terms of a contract or mandate, without coming under the direct authority of that party;
- 3.1.11 **“Termination Date”** means the 13th December 2019;
- 3.1.12 **“W&RSETA”** means the Wholesale and Retail Sector Education and Training Authority established in terms of Section 9 of the Skills Development Act 97 of 1998.

4. INTERVENTION OFFERED BY THE W&RSETA

- 4.1 The rates indicated in clauses 8.3 and 8.4 of this Agreement which outline the Type of Learning Programme Interventions represent the maximum amount which will be made available by the W&RSETA. The amount applied for will be used to fund the selected intervention/s as selected by the Employer on the referred to clauses 8.3 and 8.4.
- 4.2 Any unclaimed funds will be written back for re-allocation to other skills development projects within the W&RSETA.

5. EMPLOYER'S OBLIGATIONS

- 5.1 The Employer agrees that this Agreement will be lodged with the W&RSETA's SME Support Unit at Head Office by **15 March 2019**. Submission of the signed Agreement and Applications/Acceptance Form to the following email address: smedg1819@wrseta.org.za will serve as confirmation that the employer accepts the allocated grant amount.
- 5.2 The Employer further agrees that failure to submit this Agreement duly signed by the authorized person by **15 March 2019** will render its allocation invalid.
- 5.3 The Employer further accepts that any subsequent requests for extensions and/or renewals after this date will not be considered.
- 5.4 The Employer further agrees and binds itself that ALL learners will be captured on the SETA Management System (Indicium) by no later than **22 March 2019** irrespective of the training intervention they are implementing.
- 5.5 The Employer further agrees and binds itself to submit the following documents to the following email address: smedg1819@wrseta.org.za by no later than **22 March 2019**:
- 5.5.1 Signed Learner Agreements for each participating learner;
- 5.5.2 Certified ID Copy of each participating learner;
- 5.5.3 Attendance Register for the Induction or Training done; and

- 5.5.4 The Implementation Plan with all the dates and milestones of the training.
- 5.6 The employer further agrees and binds itself that all training will be completed and the final tranche payment invoice/grant claim submitted to W&RSETA by no later than **29 November 2019**.
- 5.7 The Employer further agrees and binds itself to avail all learners on days scheduled for training, verification and monitoring purposes as indicated on the Implementation Plan.

6. THE W&RSETA'S OBLIGATIONS

- 6.1 The W&RSETA represents to the Employer that it shall:
 - 6.1.1 Disburse the Grants in accordance with the terms and conditions of this Agreement;
 - 6.1.2 Provide all reasonable and practical support requested by the Stakeholder through its relevant Regional Offices. Any support so provided by the W&RSETA shall not divest the Employer of any of its obligations under this Agreement;
 - 6.1.3 Monitor and evaluate the implementation of the programs through site visits; and
 - 6.1.4 Conduct verification of the learners through the site visits.
 - 6.1.5 Pay claims within 30 days upon receipt of compliant invoices and grant claim documentation.

7. DURATION

- 7.1 This Agreement shall be binding on the Parties from the effective date and shall continue to be so binding for the period until **13 December 2019**, which date represents the termination of the Agreement between the Parties.
- 7.2 This Agreement will automatically come to an end upon the stipulated termination date, stipulated above, which date will represent the termination of the Agreement between the parties.

7.3 Any extension or renewal of this Agreement by the Parties will be valid only if reduced in writing and signed by Parties and/or their duly authorized representatives.

7.4 Inactivity (non-movement) on the part of the Employer six months from the signing this Agreement, including failure to meet the deliverables and/or to submit the grant claim forms will render the contract moot and automatically cancelled upon expiry.

8 PAYMENT

8.1 The grant to be provided by W&RSETA amounts to R _____, to train or upskill _____ employee/s.

8.2 The W&RSETA acknowledges that the said amount will be paid out in two tranches of 50% of the allocated grant once the deliverables have been met.

8.3 The W&RSETA will make the two tranche payments for Skills Programmes and Single Unit Standards interventions once the following deliverables have been met:

GRANT PAYMENT STRUCTURE: SME Discretionary Grant 18/19				
INTERVENTION	TRANCHE 1		TRANCHE 2	
	% Payment	Deliverables	% Payment	Deliverables
Skills Programmes (18.1) and Single Unit Standards (18.1)	50%	<ul style="list-style-type: none"> • Invoice • Proof of Banking Details • Grant Claim Form • Implementation Plan • Attendance Register (for Induction or Training) • Signed Learner Agreements • Certified ID Copies • Signed Contract • Pre-initial Grant Disbursement Verification Form • Indicium Report 	50%	<ul style="list-style-type: none"> • Invoice • Proof of Banking Details • Grant Claim Form • Verification Register • Training Attendance Register • Monitoring report • 100% uploads • Indicium Report • External Moderation Report • Certificates • Closure Report • Pre-initial Grant Disbursement Verification Form • Reconciliation of Unspent funds (if applicable)

8.4 The W&RSETA will make the two tranche payments for Non-credit Bearing Short Courses and Industry/Franchise Specialized Training interventions once the following deliverables have been met:

GRANT PAYMENT STRUCTURE: SME Discretionary Grant 18/19				
INTERVENTION	TRANCHE 1		TRANCHE 2	
	% Payment	Deliverables	% Payment	Deliverables
Non Credit Bearing Short Courses (18.1) and Industry/Franchise Specialized Training (18.1)	50%	<ul style="list-style-type: none"> • Invoice • Proof of Banking Details • Grant Claim Form • Implementation Plan • Attendance Registers (for Induction or Training) • Signed Learner Agreements • Certified ID Copies • Signed Contract • Pre-initial Grant Disbursement Verification Form • Indicum Report 	50%	<ul style="list-style-type: none"> • Invoice • Proof of Banking Details • Grant Claim Form • Verification Register • Training Attendance Registers • Evaluation Form • Certificates • Closure Report • Pre-initial Grant Disbursement Verification Form • Reconciliation of Unspent funds (if applicable)

8.5 Payment of the grant monies in terms of this Agreement will be made in pre-determined tranches as per the deliverables agreed to in the payment structure schedule in this Agreement.

8.6 No payment will be made unless all Parties have satisfied the terms and conditions of this Agreement regarding the submission and completion of all the requisite documents and all deliverables agreed in terms hereof have been met.

8.7 No invoice will be accepted by the W&RSETA without a signed approval of submission by the SME Support Unit.

8.8 Non-submission of information and/or documents requested by the W&RSETA under clauses 8.3 and 8.4 as well as the compliant invoice, grant claim form and the monitoring register will result in the grant payments being delayed.

8.9 All learner terminations need to be communicated immediately to the W&RSETA regional office on an official company letter head;

8.10 The W&RSETA retains the right to recover all monies paid to the company that were not used for the purpose intended in the Agreement, however, were all tranche requirements have been met, the W&RSETA Agrees not to recover any payment made in compliance with the Management and Delivery tranche payment requirements. It should be noted that each case will be dealt with on its merits.

- 8.11 Payments to the Employer shall be made by the W&RSETA within a period of thirty (30) days on receipt of the invoice/s from the Employer, and such invoice/s shall be within the amounts and rates agreed to by the Parties in this Agreement.
- 8.12 The Employer shall ensure that all invoices submitted to the W&RSETA are sufficiently detailed and include such supporting documentation as is necessary for the W&RSETA to confirm the correctness of the amounts being invoiced *vis-à-vis* the specific deliverable.
- 8.13 The Payment of the grant amount will be made in accordance with the tranches depicted in clauses 8.3 and 8.4 titled as the Grant Payment Structure.

9. MANAGEMENT, COMMUNICATION AND REPORTING

- 9.1 Matters of mutual interest will be discussed and agreed between the Parties at meetings to be arranged and agreed from time to time including amongst others matters such as operational procedures, service levels and performance measurements.
- 9.2 The Employer shall report progress to the SME Support Department at Head Office or any other delegated person, who will be charged with monitoring its performance.
- 9.3 The Employer shall submit reports for completed services/deliverables to the SME Support Department at Head Office.
- 9.4 The W&RSETA will constantly review the performance of the Employer to ascertain whether the services rendered by the Training Providers meet the standard of performance agreed by the Parties in terms of this Agreement.
- 9.5 All queries will be addressed to the SME Support Department.

10. PROTECTION OF PRIVATE INFORMATION

- 10.1 **Security Measures.** Operator will establish and maintain security measures to secure the integrity and confidentiality of any personal information that it processes for the responsible party, and will follow the requirements in section 19 of the Protection of Personal Information Act 2013 (POPI).
- 10.2 **Indemnity.** Operator agrees to indemnify, defend, and hold responsible party harmless (and those related to responsible party and its personnel) from and against any claim, demand, loss, damage, cost, or liability (including legal costs) arising out of or relating to operator failing to comply with its obligations under this clause. If permissible under applicable law, legal costs will be on an attorney and own client basis.
- 10.3 **Minimum Standards.** The technical and organizational measures security measures must include, as a minimum standard of protection: information security management systems; physical security; access control; security and privacy enhancing technologies; awareness, training and security checks in relation to the personnel; incident and response management; business continuity; audit controls; and due diligence.

11. BREACH

- 11.1 If any Party commits breach of any term of this Agreement and fails to remedy such breach within twenty one (21) days after being given written notice to remedy the breach, the aggrieved Party shall be entitled to cancel this Agreement.
- 11.2 Further, if, as a result of “Force Majeure”, the Parties can no longer continue performing the obligation of the Agreement or it would be undesirable to continue with the Agreement, it shall be terminated.

12. NON VARIATION

- 12.1 No amendment or variation to this Agreement shall be of any force beyond the effective date and such request must be in writing and signed by the Employer and the SETA respectively.

13. GOOD FAITH

- 13.1 Parties shall display the highest degree of good faith towards each other in all matters pertaining to this Agreement.
- 13.2 Parties shall use their best endeavours to ensure that objectives of the Agreement are achieved.
- 13.3 The Parties agree that the application for and implementation of the Programme shall be used for the purpose for which it is intended and shall not be used for any other purposes that would constitute a contravention of any labour law or practices.

14. *DOMICILIUM CITANDI ET EXECUTANDI*

- 14.1 Any notice in terms of this Agreement shall be delivered to the physical addresses of the Parties, or shall be sent by registered post to the postal addresses or fax or email address of the Party to whom it is addressed.
- 14.2 Any notice will be deemed to have been received by the Party to whom it is addressed or delivered when receipt thereof is acknowledged by means of a signed delivery note or if it is confirmed by the other party in case of fax or email.
- 14.3 Any notice delivered by hand to the Party shall be deemed to have been delivered on the day of delivery. Any notice sent by registered post shall be deemed to have been received within seven (7) days from the date on which it was posted, and any notice sent by fax or email to a Party at the telefax numbers specified, shall be deemed to have been received within one (1) hour of transmission if it is transmitted during normal business hours and confirmed by the other party or by e-mail.
- 14.4 Either Party may from time to time decide to vary its *domicilium*, address, fax number or email address by giving written notice to the other Party.
- 14.5 The W&RSETA chooses for the purposes of this Agreement its *domicilium citandi et executandi* and address for any notices as follows:

14.5.1 Street Address 1303 Heuwel Avenue
Riverside Office Park
Hennops Building
CENTURION
0157

14.5.2 Postal Address: Private Bag X106
CENTURION
0046

14.6 The Employer chooses for the purposes of this Agreement its *domicilium citandi et executandi* and address for any notices as follows:

14.6.1 Street Address: _____

14.6.2 Postal Address: _____

15. GENERAL

15.1 No Party shall be bound by any express, implied or tacit term, representation, warranty, promise or the like, not recorded in writing in this Agreement and its annexures.

15.2 All previous agreements and arrangements, if any, made between the W&RSETA and the Employer with regard to the subject matter are hereby cancelled but without prejudice to any rights which have already accrued thereunder to any party.

15.3 Should any of the terms and conditions of this Agreement be held to be invalid, unlawful or unenforceable, such terms and conditions will be severable from the remaining terms and conditions which will continue to be valid and enforceable. If any term or condition is held to be invalid or is capable of amendment to render it valid, the Parties agree to negotiate an amendment to remove the invalidity.

Signed at _____ on this _____ day of _____ 201__

MR. TOM MKHWANAZI
CHIEF EXECUTIVE OFFICER
W&RSETA

Witness:

 Signature of Witness

 Name of Witness



Signed at _____ on this _____ day of _____ 201__

 (Signature)
Name of Signatory: _____
Capacity: _____
Company Name: _____

Witness:

 Signature of Witness

 Name of Witness

COMPANY DETAILS

Company SDL Number			
Company Registered Name			
Company Trading Name			
Details of Contact Person	Name:		E-mail:
	Tel:		Cell:
SLO/SDF/Training Provider Contact Details	Name:		E-mail:
	Tel:		Cell:

Number of Learners	Skills Development Intervention (tick relevant box)				Grant Amount Applied for
	Skills Programmes	<input type="checkbox"/>	Single Unit Standards	<input type="checkbox"/>	Non-Credit Bearing
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W&RSETA Regional Office	Eastern Cape	Free State	Gauteng North	Gauteng South	KwaZulu Natal	Limpopo	Mpumalanga	Northern Cape	North West	Western Cape
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Company Stamp (if applicable)

W&RSETA Stamp