

# **UGU – SOUTH COAST TOURISM (PTY) LTD**

## **DELEGATION POLICY**

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## Background

Provision have to be made for delegations that currently exist as well as that provided for in new Local Government legislation with specific reference to the Municipal Structures Act, the Municipal Systems Act and the Municipal Finance Management Bill.

In terms of the Section 12 Notice (Municipal Structures Act), the Municipality operates under a structure e.g. Collective Executive System (CES). In the case of the CES, the system allows for the exercise of executive authority through an Executive Committee in which the executive leadership of the company is vested.

The Local Government Municipal Systems Act informs us that each municipal entity should be a body corporate with its own identity.

Decisions are taken corporately by, or on behalf of the whole entity. Municipal entities are expressly empowered to arrange for their functions to be discharged by Committees, who may in turn arrange for them to be discharged by Sub-Committees. The Entity, Committee or Sub-Committee may also arrange for functions to be discharged by individual officers. All such arrangements are referred to as delegations and a “register, or manual of delegations” must be maintained by the municipality so as to have a record of all delegations made.

In terms of the Local Government Municipal Systems Act, municipal entities must develop a system of delegations that will maximise administrative and operational efficiency. To do otherwise would be to slow down the business and proceedings of the Entity to the point of inefficiency.

## Definitions and Abbreviations

In this document, unless the context otherwise indicates the following words have the meanings as indicated:

“Delegation” - The best definition of delegation is: “The assignment of decision-making responsibility to a subordinate, thereby authorising him/her to exercise his/her delegated authority. The subordinate is held responsible for the way in which he/she exercises his/her delegated authority but the person or institution that delegated the authority remains accountable.”

The Municipal Systems Act as well as the Municipal Finance Management Bill defines delegation as follows:

“...in relation to a duty, includes an instruction to perform the duty, and ‘delegate’ has a corresponding meaning.”

### 1. Powers of the Municipal Entity

The Chief Executive Officer will ensure that the delegation of functions or tasks to appropriate levels of staff is properly documented.

- 1.1 The Municipal Entity has all the powers assigned to it in terms of the Constitution as well as other relevant legislation. The Municipal Entity has the right to do anything reasonably necessary for, or incidental to, the effective exercise of its powers.
- 1.2 The executive and legislative authority of the Municipal Entity vests in the Board of Directors. The Board will take all the decisions of the Municipal Entity except:
  - i) on those matters that it has delegated to a delegated body; and
  - ii) Decisions on those matters that by law have been assigned to a director or employee of the Municipal Entity.
- 1.3 The Board will exercise executive and legislative authority within the Municipal area only.
- 1.4 All the powers of the Municipal Entity that have not been reserved for the Board, will be delegated to the Management.

## **2 Objectives of delegation**

2.1 The objectives will accomplish the following:

- i) Ensure maximum administrative and operational efficiency;
- ii) Provide for adequate checks and balances;
- iii) Delegate decision-making to the most effective level within the administration;
- iv) Involve employees in management decisions as far as practicable;
- v) Promote a sense of collective responsibility for performance;
- vi) Assign clear duties for the management and co-ordination of administrative components, systems and mechanisms;
- vii) Define in precise terms the duties of the Board; and
- viii) Determine the relationships amongst the Board and office-bearers and the administration, and the appropriate lines of accountability and reporting for each of them.
- ix) Roles and responsibilities of the Board the Chief Executive Officer

When discussing the process of delegation it is important to have an understanding of the roles and responsibilities of the below mentioned role-players in the conduct of local government business.

2.2 These specific roles and areas of responsibility are defined to ensure:

- i) Good relationships between these bodies and persons;
- ii) Appropriate lines of accountability and reporting;
- iii) That unnecessary overlapping of responsibilities and duplication of powers between these bodies and persons are prevented or kept to the minimum;
- iv) That any disputes are resolved amicably and timely; and
- v) That dynamic and productive interaction exists between these bodies and persons, and other tourism bodies and employees of the Entity.

2.3 The Board of Directors:

- i) Is the principal committee of the Entity;

- ii) It will receive reports from management;
- iii) It will receive reports with recommendations from the Departmental General Managers, through the office of the CEO, on all matters that must be handled by either the Board;
- iv) Will consider the matters raised in any report submitted to it and must either dispose of it in terms of its delegated or statutory powers, or must consider the matter;
- v) Will be responsible for supervision of the administration in terms resolutions and the law;

## 2.4 The Chair:

The two principle functions of the Chair are:

- i) To preside at meetings of the Board; and
- ii) Perform the duties, including any ceremonial functions, and exercise the powers delegated by the Council of the Municipal Entity or the Board.

## 2.5 Chief Executive Officer:

- i) In the first instance is answerable to the Board, and as the Accounting Officer to the Municipal Entity, is answerable to the Auditor General, and the Council of the Parent Municipality and the community at large;
- ii) As the Head of the Administration, she is responsible for the effective day-to-day running of the administration of the Municipal Entity;
- iii) She will have responsibility for the execution of resolutions taken by the Board and any delegated body;
- iv) Together with the General Managers, she will play a prominent role, with building, maintaining and enhancing sound relationships between the Board and the Administration;
- v) In consultation with the Chair, she will ensure that a proper and effective committee service responsible, for managing the agendas and minutes is in place for the Board;
- vi) She will receive reports with recommendations from the Departmental General Managers on all matters that must be handled by any committee or the Board in terms of these delegations;
- vii) She will drive the Tourism Strategy.

## 3 Principles, conditions and limitations on delegated powers

### 3.1 The Municipal Entity will ensure that a delegated power:

- i) Will not conflict with the Constitution or any other law;
- ii) Will be in writing under signature of the delegating authority;
- iii) Can at any time be withdrawn by the delegating authority in writing;
- iv) Can be reviewed when a new Board is elected; and
- v) Will be subject to the limitations and directions imposed by the delegating authority, if any.

- 3.2 When the Municipal Entity has delegated or assigned a delegation authority to an employee, that employee can act thereon through any employee under his/her control.
- 3.3 The following conditions and limitations shall apply to any power that has been delegated by a delegating authority or sub-delegated by a delegated body:
- i) The delegated body will give effect to the policies as approved from time to time by the Board;
  - ii) The delegated body can at any time decide not to exercise the delegated power, but to submit it to the delegating authority for decision. In such event the delegated body shall submit its report and recommendations on the matter to the delegating authority for consideration;
  - iii) The delegating authority can at any time instruct the delegated body not to act on a delegation, but to submit the matter to it for decision and execution. In such an event the delegated body will submit its report and recommendations on the matter to the delegating authority;
  - iv) The delegated body will not incur expenditure in the exercising of the delegated powers that had not been provided for in the existing Municipal Entity budget;
  - v) The delegated body will exercise its delegated powers in terms of the applicable law;
  - vi) A delegated body will report to the delegating authority at such intervals as the delegating authority will require, on all decisions taken in terms of that delegated or sub-delegated power since the last report; and
  - vii) A decision taken by a delegated body in the exercise of the Municipal Entity executive authority will be in writing.
- 3.4 The Municipal Entity will make it possible for a person, whose rights are affected by a decision taken by a delegated body, to appeal against that decision by giving written notice and the reasons for the appeal to the CEO. Notice of appeal shall be given within 21 days of the date of notification of the decision. The CEO shall promptly submit the appeal to the appropriate appeal authority that shall decide on the appeal in the manner and within the time set out in the Systems Act.
- 3.5 The withdrawal, amendment or lapse of a delegation or sub-delegation does not invalidate anything done as a consequence of a decision taken in terms of that delegation or sub-delegation before such withdrawal amendment or lapse took place.
- 3.6 Whenever it becomes necessary for the Municipal Entity to review these delegations, the CEO shall submit a report on the existing delegations with recommendations on any changes thereto that he considers necessary, to the Board.

#### **4 Powers reserved for the Board**

- 4.1 Functions and duties can only be made by the Board Directors and cannot be delegated:
- i) The approval and amendment of budgets;
  - ii) The raising of loans;

- iii) The approval or amendment of the Municipal Entity's Tourism Strategy;
- iv) Setting of Membership fees;
- v) Entering into Service Partnerships; and
- vi) Appointment of the CEO (Municipal Structures Act).

In addition the following are also reserved for the Board.

- i) The creation, upgrading and abolition of posts;
- ii) The appointment of Departmental General Managers;
- iii) The retrenchment of staff.

4.2 All matters not specifically excluded from delegations in terms of the above can be delegated to senior management.

## **5 Powers of the Municipal Entity**

The CEO will ensure that the delegation of functions or tasks to appropriate levels of staff is properly documented.

The Municipal Entity has the right to do anything reasonably necessary for, or incidental to, the effective exercise of its powers. It has all the powers assigned to it in terms of its Memorandum of Association and Articles of Association as well as other relevant legislation.

The executive and legislative authority of the Municipal Entity vests in the Board.

## **6 Objectives of Delegation**

The objectives will accomplish the following:

- i) Ensure maximum administrative and operational efficiency;
- ii) Provide for adequate checks and balances;
- iii) Delegate decision-making to the most effective level within the administration;
- iv) Involve employees in management decisions as far as practicable;
- v) Promote a sense of collective responsibility for performance;
- vi) Assign clear duties for the management and co-ordination of administrative components, systems and mechanisms;

## **7 Powers delegated to the Board of Directors**

The Board of Directors

- i) Deal appropriately with all audit reports;
- ii) Ensure effective management over the UGUSCT Insurances, including the appointment of insurance brokers if necessary;
- iii) Note the attendance at meetings, workshops, seminars, conferences, congresses and similar events held outside the area;
- iv) Determine signatories on the Municipal Entity's bank account, official orders and other official documents of the Municipal Entity.

## 8 Powers delegated to the Chief Executive Officer

8.1 In accordance with the provisions of relevant legislation, the UGUSCT will delegate the following statutory powers and duties to the CEO:

- i) To form and develop an economical, effective, efficient, accountable and performance driven administration for the Municipal Entity in accordance with the provisions of section 51 of the Systems Act;
- ii) To be the driver of the UGUSCT Strategic Plan;
- iii) To control and manage the effective utilisation and training of staff;
- iv) To maintain discipline of staff;
- v) To promote sound labour relations and compliance by the Municipal entity of applicable labour legislation conditions of service and;
- vi) To manage the communication between the Municipal Entity's administration and its Parent Municipality;
- vii) To ensure the decisions are made through the correct procedures and are properly carried out;
- viii) To implement national and provincial legislation applicable to the Municipal Entity;
- ix) To implement and enforce the Municipal Entity's credit control and debt collection policy and applicable by-laws;
- x) To establish effective administrative mechanisms, processes and procedures in accordance with the credit control and debt collection policies of the Municipal Entity;
- xi) To keep custody of all records and documents of the Municipal Entity, except where otherwise provided, in accordance with the provisions of section 109 of the Systems Act;
- xii) To ensure that every staff member and every relevant representative union has easy access to a copy of the staff systems and procedures of the Municipal Entity; and
- xiii) On written request by a staff member, to make a copy of or extract from the staff systems and procedures of the Municipal Entity, including any amendments, available to that staff member;
- xiv) To ensure that the purpose, contents and consequences of the staff systems and procedures of the Municipal Entity and the Code of Conduct for officials are explained to staff members, particularly those who cannot read etc.
- xv) To promptly submit an appeal received by him from a person whose rights are affected by a decision taken by a delegated body in terms of a delegated power or duty;
- xvi) To report on the existing delegations issued by the UGUSCT, and to make recommendations on any changes that may be deemed necessary;
- xvii) To ensure the UGUSCT is appropriately represented in the event of legal proceedings being taken by or against the Municipal Entity;
- xviii) To ensure there is sound systems in place in respect of the responsibility and accountability for all the Municipal Entity's income, expenditure, assets and liabilities, and the proper and diligent compliance with the provisions of the Municipal Finance Management Bill;
- xix) Within a policy framework determined by the Board:
  - a) Approve a staff establishment for the administration;

- b) Provide a job description for each post on the staff establishment;
- c) Align the remuneration and other conditions of service for each post on the staff establishment in accordance with applicable labour legislation; and
- d) Regularly evaluate the staff establishment and, if necessary, review the staff establishment and the remuneration and conditions of service; and
- e) Performance of the Strategic function for UGUSCT.

8.2 As Accounting Officer the following statutory powers, functions and duties are delegated to the CEO in terms of the Municipal Finance Management Bill 2000:

- i) Responsibility for:
  - a) All income and expenditure of the Municipal Entity;
  - b) All assets and the discharge of all liabilities of the Municipal Entity; and
  - c) Proper and diligent compliance with the Municipal Finance Management Act.
  - d) Ensuring that the Municipal Entity has and maintains:
  - e) Effective, efficient and transparent systems of financial and risk management and internal control;
    - i) A system of internal audit;
    - ii) An appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;
    - iii) A system for properly evaluating and prioritising all major capital projects prior to a final decision on the project.
- ii) Taking appropriate steps to:
  - a) Ensure there are complete and proper records of the financial affairs of the Municipal Entity in accordance with any prescribed norms and standards; and ensure
  - b) There is effective, efficient, economical and transparent use of the resources of the Municipal Entity;
  - c) There is effective and appropriate processes to:
  - d) Collect all money due to the Municipal Entity;
  - e) Prevent unauthorised expenditure;
  - f) Prevent losses resulting from possible criminal conduct; and
  - g) Manage available working capital efficiently and economically.
- iii) Without delay, report all losses as a result of suspected criminal conduct to the South African Police Service;
- iv) Ensure sound financial management, including the safeguarding and the maintenance of the assets, and the managing the liabilities, of the UGUSCT;
- v) Ensure compliance by the Municipal Entity with any tax, levy, duty, pension and audit commitments as may be required by legislation;
- vi) Setting all contractual obligations of, and paying all money owing by the Municipal Entity within the prescribed or agreed period;
- vii) On discovery of any unauthorised expenditure, must immediately report, in writing, particulars of the expenditure to the Chair of the Board for Local Government in the Province and the Auditor-General;

- 8.3 The CEO will take effective and appropriate disciplinary steps against any employee who:
- i) Contravenes or fails to comply with a provision of the Municipal Finance Management Bill, financial bylaws, policies or procedures of the Municipal Entity;
  - ii) Commits an act which undermines the financial management and internal control system of the Municipal Entity; or
  - iii) Makes or permits any unauthorised or fruitless expenditure.
  - iv) If such written assurance is not or cannot be given, render the transfer of the funds subject to conditions and remedial measures requiring the entity to establish and implement effective, efficient and transparent financial management and internal control systems;
  - v) Enforce compliance with any prescribed conditions if the Municipal Entity gives financial assistance to any entity or person;
  - vi) Take into account all relevant financial considerations, including issues of propriety, regularity and value for money, when policy proposals affecting his or her responsibilities are considered and bring those considerations to the attention of the UGUSCT;
  - vii) Ensure the submission by the Municipal Entity of all reports, returns, notices, explanations and motivations and other information to the Provincial Government, the National Treasury, the provincial treasury or the Auditor-General, as may be required by the Municipal Finance Management Bill;
  - viii) Comply, and take all reasonable steps to ensure compliance by the Municipal Entity with the provisions of the Municipal Finance Management Bill;
  - ix) Ensure that expenditure of the Municipal Entity is in accordance with the approved budget and that effective and appropriate steps are taken to prevent:
    - a) Overspending of the approved budget;
    - b) Under collection of revenue due to the Municipal Entity; and
    - c) Unauthorised and fruitless expenditure.
  - x) Within the prescribed period the CEO of UGUSCT will submit to the Chair:
    - a) Information in the format prescribed by the Provincial Government and/or other authority on actual revenue and expenditure for that month;
    - b) A projection of expected expenditure and revenue collection for the remainder of the current financial year;
    - c) When necessary, an explanation of any material variances; and
    - d) A summary of the steps that are taken to ensure that the projected expenditure and revenue remain within the approved budget.
  - xi) The CEO will ensure that the Board receives a report on the below items:
    - a) Under-collection of revenue due;
    - b) Shortfalls in budgeted revenue;
    - c) Overspending of the approved budget; and
    - d) Any appropriate steps to be taken.

- xii) Prepare financial statements for each financial year in accordance with generally recognised accounting practice and submit these to the Parent municipality and the Auditor-General for auditing within two months after the end of the financial year;
- xiii) Within two months of receiving the audit report from the Auditor-General, table in the Board an annual report on the activities of the UGUSCT for that financial year, a copy of the financial statements and the audit report. This will then be submitted to the Province as follows:
  - a) Copies of the annual report, the financial statements and the audit report;
  - b) Particulars of any corrective action taken in response to the findings of the audit report; and
  - c) Copy of the minutes of the meeting.

8.4 Following on from the above the UGUSCT will give due regard to some of the following powers, functions and duties being delegated to the CEO:

- i) Commence with any legal process, whether criminal or civil, and to defend or oppose any legal process, whether criminal or civil, against the UGUSCT;
- ii) Submit or oppose an appeal to a higher court or other body in respect of a judgement given by a lower court or body concerned;
- iii) Obtain the services of an attorney or advocate for any official purpose;
- iv) In consultation with the GM: Finance & HR, incur expenses to appoint investigators to obtain evidence in cases of alleged irregularities or misconduct;
- v) In consultation with the GM: Finance & HR to apply contractual penalty clauses in the event of late delivery of goods or services to the Board;
- vi) In consultation with the GM: Finance & HR and in line with the HR policies for the UGUSCT, grant study bursaries to employees;
- vii) Provided that the necessary funds are available, approve the attendance by officials at meetings, workshops, seminars, conferences, congresses and similar events and visits, which are in the interest of the UGUSCT. If the presence of the Board is necessary, the CEO in consultation with the Chair will do the nomination of which Board members that may attend;
- viii) Authority to sign the following documents:

o Chief Executive Officer:

- a) Documents to commence with any legal process, whether criminal or civil, on behalf of the Board and to defend or oppose any legal process, whether criminal or civil, against the Board.
  - b) Documents necessary to submit or oppose an appeal to a higher court or other body in respect of a judgement given by a lower court or body concerned;
  - c) Any other contract or document not specified in respect of any Departmental Manager;
- ix) Grant special leave to employees who are sportsmen and women, coaches and referees/umpires, for the purpose of participation in sports events and tournaments at provincial and national level;

- x) In consultation with the General Managers concerned:
  - a) Obtain the services of a consultant with regard to any matters under his or her control, where the consultant's fees and expenses do not exceed amounts prescribed in the Financial Standing Orders;
  - b) Create temporary posts in the event of the occurrence of bottlenecks or emergency situations;
  - c) Appoint and discharge employees, with the exception of General Managers, in compliance with the relevant legislation and with the right to grant further delegations to the GM: Finance & HR;
  - d) To apply disciplinary measures in terms of the conditions of service and the HR policies of the UGUSCT;

8.5 The UGUSCT may give consideration to some of the following powers and duties being delegated to the GM: Finance & HR:

- i) Appointment of officials as health and safety representatives in terms of the provisions of the relevant Occupational Health and Safety Act.
- ii) In line with the approved HR policies:
  - a) In the case of a new appointment, if such an appointee has been obliged to change his or her place of residence as a result of the appointment, to grant permission for the payment of removal costs in respect of the appointee's movable property: Provided that sufficient proof of such costs is furnished;
  - b) In consultation with the Departmental Manager concerned, recommend to the CEO for confirmation of appointments for probationary employees;
  - c) In consultation with the Departmental Manager concerned, recommend to the CEO in cases of dismissal with proper notice, any temporary employee, whether in a permanent or temporary post, if his or her services are no longer required, subject to the provisions of the labour legislation;
  - d) In consultation with the CEO recommend payment of Acting Allowance in appropriate cases;
  - e) In consultation with the CEO recommend termination of the services of an employee due to ill health, subject to the provisions of the labour legislation.

## **9 Powers delegated to the GM: Finance & HR**

The UGUSCT will give due regard to some of the following powers, functions and duties being delegated to the GM: Finance & HR:

- i) Authority to collect moneys owed to the UGUSCT in terms of a contract, legislation, court orders and decisions of the Board or any other legal basis.
- ii) In compliance with the limits prescribed in the Financial Standing Orders to approve virements/reallocation of funds where proper motivation has been received.

- iii) Authority to commence with a legal process in respect of recovering monies owed to the UGUSCT for whatever reason. This includes the power to instruct the attorneys and an advocate when necessary, to act on behalf of the UGUSCT in such cases.
- iv) Authority to arrange garnishee orders for deduction of monies, which an official owes to the UGUSCT.
- v) The authority to sign the following documents:
  - a) All documents concerning the collection of money owed to the UGUSCT;
  - b) In consultation with the Departmental Manager concerned, the authority to enforce the penalty clauses contained in contracts for the late delivery of goods and services to the UGUSCT.

## **10 Financial delegations**

- i) The Board will approve the annual budget of UGUSCT, to be submitted to the parent municipality in terms of section 87 of the MFMA.
- ii) The CEO in consultation with the Chair, may in terms of Board of Directors resolution 8.3 : 7.08.2008, approve expenditure to a maximum of R60 000, which does not form part of the budget.
- iii) This expenditure will thereafter be tabled at the next Board meeting for approval.

## **11 Acting Authority**

It is recorded herein that in instances when the CEO is away from the office for reasons related to leave, or on official company business, that the GM: Finance & Hr will be delegated to administer the business.