

BAKGATLA BA MOSETLHA TRADITIONAL AUTHORITY GOVERNANCE FRAMEWORK



TRIBAL AUTHORITY



VOL. 1 OF 2018

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1. INTRODUCTION

- 1.1 The Bakgatla Ba Moseitlha (BBM) is a traditional community which practices its traditions, norms, customs and cultures as recognised by the Constitution and the applicable legislation of the Republic of South Africa.
- 1.2 This document is intended to detail the governance framework prevailing in the BBM and it is not conclusive precisely because not all customs, cultures and traditions are documented. It provides the parameters within which governance is practiced taking into account changing developments.

2. DEFINITIONS

- 2.1 **“Chairman”** means the chairperson of the Royal Council being *Kgosi*;
- 2.2 **“Chairperson of Oversight and Proceedings”** means the Deputy Chairperson as appointed by the Chairman of the Royal Council;
- 2.3 **“Community Authority”** refers to a community in a designated area who have been put under the administration of the BBM by proclamation in terms of the applicable legislation;
- 2.4 **“Deputy Chairperson”** means the person appointed by *Kgosi* on a full-time basis to perform functions of the Chairperson during Royal Council meetings;
- 2.5 **“Kgosana”** means the most senior hereditary ruler of a *Kgotla* of the Bakgatla Ba Moseitlha who has been recognised and installed in accordance with customs and customary laws of the BBM;
- 2.6 **“Kgosi”** means the Royal hereditary ruler of the Bakgatla Ba Moseitlha, from time to time, who is recognised as such according to the tradition, customs and customary laws of the BBM;
- 2.7 **“Kgotla”** means a clan or traditional and customary structure comprising of a Kgoro or more than one Kgoro headed by a Kgosana and recognised as such in terms of traditions, customs and customary laws of the BBM. The Bakgatla Ba Moseitlha is made up of 72 Makgotla and two community authorities a list of which is attached hereto marked **SCHEDULE 1**;

- 2.8 “**Office of Kgosi**” means Kgosi and Executives reporting to Kgosi tasked with the coordination, monitoring, evaluation, reporting, planning and advisory of all Bakgatla Ba Mose tlha Entities;
- 2.9 “**Portfolio Committees**” means the portfolio committees established in terms of section 5.2.4 of this Framework document;
- 2.10 “**BBMTAT**” means the Bakgatla Ba Mose tlha Traditional Authority Trust a trust duly registered in terms of the Trust Property Control Act for the benefit of the Bakgatla Ba Mose tlha under registration number IT 001216/2017(T);
- 2.11 “**Bakgatla Ba Mose tlha (BBM)**” means a *universitas personarum*, which practices its traditions, norms, customs and cultures a traditional community and is recognised as such by the Constitution and the applicable legislation of the Republic of South Africa.
- 2.12 “**Bakgatla Ba Mose tlha Entities**” means a BBM corporate entity, a traditional governance structure or any entity established by BBM performing a function(s) on behalf of BBM;
- 2.13 “**Tradition**” means the traditions, laws and customs, norms and practices of the members of the BBM;
- 2.14 “**Traditional Council**” means the traditional council of the BBM established in terms of the North West Traditional Leadership and Governance Act;
- 2.15 “**Traditional Council By-Laws**” means the by-laws of the BBM Traditional Council; and
- 2.16 “**Traditional Leader**” means Kgosi, Kgosana and/ or Regent or acting Kgosana.

3. APPLICATION AND INTERPRETATION

- 3.1 This BBM Governance Framework shall apply to all governance structures of the BBM subject to the customs and customary laws of the Bakgatla Ba Mose tlha, the Constitution of the Republic of South Africa and all applicable legislation.
- 3.2 Where there is inconsistency between the provisions of this Framework and the provisions of any legislation, the

said legislation shall take precedence to the extent of inconsistency.

4. LEGAL FRAMEWORK

This governance framework is subject to the traditions, practices, culture, customs and customary laws of the BBM and any applicable legislation.

5 BAKGATLA BA MOSETLHA GOVERNANCE STRUCTURES

5.1 Pitso ya Kgotha-Kgothe

- 5.1.1 *Pitso ya Kgotha-Kgothe* is the *Pitso* or general assembly of all bona fide members of Bakgatla Ba Mose tlha specifically called, convened and chaired by *Kgosi* in terms of the custom of the BBM and subject to the relevant provisions of the North West Traditional Leadership and Governance Act. It is the highest decision making body of the BBM;
- 5.1.2 All Bakgatla ba Mose tlha of 18 years of age and older are eligible to attend, participate in and vote at a *Pitso* on any subject or resolution before the said *Pitso*;
- 5.1.3 Decision of a *Pitso* are taken on a simple majority of votes of all members of the BBM present at such a *Pitso*;
- 5.1.4 Voting at a *Pitso* shall be by show of hands or by any means deemed appropriate and/or agreed upon at such a *Pitso*.
- 5.1.5 Agenda of a *Pitso* shall be publicised and circulated at least 21 calendar days before the date of the said *Pitso*;
- 5.1.6 Reports and/or resolutions to be tabled at the *Pitso* shall lie for inspection at the Bakgatla ba Mose tlha Tribal Office and be discussed and deliberated upon at Makgotla meetings immediately preceding the *Pitso* but not later than 21 days before such a *Pitso*.
- 5.1.7 *Pitso ya Kgotha-Kgothe* shall be called in accordance with the BBM customs and customary law subject to the provisions of the applicable legislation.

5.2 Royal Council of the Bakgatla Ba Moseitlha

- 5.2.1 The Bakgatla ba Moseitlha Royal Council is the joint sitting of *Lekgotla la Dikgosana* and the Traditional Council of the BBM chaired by Kgosi.
- 5.2.2 The Royal Council is the second highest decision making body of the BBM after the Pitso ya Kgotha-Kgothe.
- 5.2.3 The Royal Council is, according to the traditions of BBM, subject to the overall authority and directives of Kgosi.
- 5.2.4 The Royal Council shall establish Portfolio Committees in terms of the Royal Council By-Laws contained in **SCHEDULE 2** hereof to assist it to perform its oversight function optimally, efficiently and effectively;
- 5.2.5 Kgosi shall establish an Oversight and Proceedings Committee consisting of Chairpersons of Portfolio Committees as set out in **SCHEDULE 3**, the Office of Kgosi and the Secretary of Council.

5.3 Bakgatla Ba Moseitlha Traditional Council

- 5.3.1 A Traditional Council is a Council established in terms of Section 6(1) of the North-West Act as read with the Framework Act consisting of 24 members and chaired by Kgosi.
- 5.3.2 10 of the 24 members are elected democratically by members of the BBM whilst the remaining 14 are appointed by Kgosi in accordance with the Premier's notice¹. The Traditional Council By-Laws are set out in **SCHEDULE 4** hereof.

5.4 Lekgotla la Dikgosana

Lekgotla la Dikgosana or Council of Dikgosana is an assembly of Dikgosana of Makgotla of the BBM which is

¹ Notice issued by the Premier of the North-West Province on 23 June 2011 in terms of Section 6 of the North West Act.

subject to the Council of Dikgosana By-Laws as set out in **SCHEDULE 5** hereof.

5.5 Lekgotla

Lekgotla is a general meeting of a Kgotla or Kgoro called in terms of the customs and traditions of the BBM convened for the purpose of addressing issues affecting the Kgotla in particular and the BBM in general. Lekgotla is run in terms of Makgotla By-laws as contained in **SCHEDULE 5**.

6. RELATIONSHIP BETWEEN ROYAL COUNCIL AND BBM ENTITIES AND INSTITUTIONS

- 6.1 The relationship between the BBM and any BBM entity's Boards of Directors should be governed by the BBM Shareholder Compact. The BBM should monitor closely the extent to which the Board of Directors as a whole, and individual directors achieve the objectives and any specific performance targets set, and when necessary, effect any remedial action. It is the responsibility of the BBM, through the Office of Kgosi, to ensure that the BBM Shareholder Compact is complied with.
- 6.2 The BBM Royal Council or any other delegated entity or institution, eg. BBMDT is responsible for the appointment and removal of directors from the Board of Directors. The Board of Directors is responsible for and accountable to the entity; and they are also accountable to the BBM. Accordingly, the Board of Directors and each individual director should act in the best interests of the entity and the BBM.
- 6.3 The Board of Directors should keep the BBM sufficiently informed on the activities of the entity on a timely and regular basis. The Board of Directors should ensure that the BBM is furnished with sufficient and timely information concerning the date, location and agenda of general meetings as well as full and timely information regarding the issues to be decided at the meeting.

7. THE ROLE OF THE SECRETARIAT: INSTITUTIONAL GOVERNANCE

The role of the Secretariat: Institutional Governance is to:

- 7.1 coordinate and act as the first port of call in the interaction between the Royal Council and BBM entities and their officials and all other third parties engaging or wishing to

- engage with the Royal Council or any of the bodies that constitute the Royal Council;
- 7.2 provide members of the Royal Council, collectively and individually, with guidance as to their duties, responsibilities and powers;
 - 7.3 ensure that members of the Royal Council are aware of all laws and legislation relevant to or affecting the BBM, and reporting at any meetings of the Royal Council on such effects and impacts;
 - 7.4 provide members of the Royal Council with updates on ethics, legal and good governance issues on a regular basis;
 - 7.5 provide a central source of guidance and advice to the Royal Council;
 - 7.6 to keep the Chairman informed and to follow up on tasks issued by the Royal Council;
 - 7.7 conduct induction of new members of the Royal Council from time to time;
 - 7.8 prepare and co-ordinate the annual calendar of the meetings and events of the Royal Council, the Oversight and Proceedings Committee and the Portfolio Committees in consultation with the Office of Kgosi;
 - 7.9 prepare the annual Royal Council work plan;
 - 7.10 ensure proper and orderly conduct of the meetings of the Royal Council, the Oversight and Proceedings Committee and Portfolio Committees;
 - 7.11 dispatch information relevant to meetings timeously to all members of the Royal Council to enable them to prepare adequately for meetings;
 - 7.12 advise the Royal Council and the Portfolio Committees on matters of procedure, policy and substantive issues relating to the deliberations, decisions and resolutions;
 - 7.13 prepare an agenda and attach all relevant documentation for the meeting of the members of the Royal Council, the Oversight and Proceedings Committee and the Portfolio Committee and to submit them to Kgosi for review, approval and/or additions prior any meeting of the

Royal Council, the Oversight and Proceedings Committee or a Portfolio Committee;

7.14 prepare written resolutions prior to any meeting of the members of the Royal Council the Oversight and Proceedings Committee and the Portfolio Committees where such resolutions are required to be adopted and to submit them to the Oversight and Proceedings Committee for consideration, inputs and/or alterations;

7.15 distribute Minutes or their extracts as soon as possible after meetings to enable BBM Entities to implementing the decisions and recommendations of the Royal Council;

7.16 prepare meeting packs for the Royal Council, the Oversight and Proceedings Committee and the Portfolio Committees which shall include the following but not limited to:

7.16.1 notice of the meeting

7.16.2 an agenda;

7.16.3 Minutes of the previous meeting;

7.16.4 detailed reports of matters to be discussed in meeting;

7.16.5 power point presentations of reports referred to on clause 7.16.4;

7.16.6 rationale for resolutions of the Royal Council, the Oversight and Proceedings Committee and the Portfolio Committees;

7.16.7 any supporting documentation for the abovementioned reports; and

7.17 forward the meeting pack for the meeting to the members of the Royal Council, the Oversight and Proceedings Committee and the Portfolio Committee seven [7] days prior to the meeting;

7.18 subject to the BBM Royal Council Rules of Order, consider applications from the members of the public for permission to attend and observe the Royal Council meetings;

- 7.19 in consultation with the Chairperson of Oversight and Proceedings prepare and take Minutes of all the Royal Council, Oversight and Proceedings Committee and Portfolio Committee meetings;
- 7.20 report to *Kgosi* on any resolution passed by the Royal Council, the Oversight and Proceedings Committee and the Portfolio Committee no later than twenty-four (24) hours after it had been passed;
- 7.21 file original copies of resolutions in quadruplicate;
- 7.22 submit a written report to *Kgosi* on monthly basis on all the business conducted by the Royal Council, the Oversight and Proceedings Committee and a Portfolio Committee provided that the said report shall be submitted by not later than the first day of every succeeding month. The resolution of the Royal Council shall only be valid after they had been signed by the person appointed by the Royal Council.

8. BY-LAWS, REGULATIONS, POLICIES, PROCEDURES, AND RULES OF ORDER

- 8.1 The Royal Council is mandated to develop or cause to be developed by-laws, regulations, policies, procedures and standing rules of orders necessary and relevant for the efficient and effective regulation of the governance structures of the BBM.
- 8.2 The formulation, development, monitoring, assessment and review of BBM policies shall be subject to the guidelines set out in **SCHEDULE 21** hereof as amended from time to time.

9. DELEGATION OF AUTHORITY

The BBM Governance Structures may delegate any of their powers in terms of the BBM customs, traditions and customary law to the subordinate governance structure. The delegation of authority and power is set out in **SCHEDULE 7** hereof.

10. INTER-GOVERNMENTAL RELATIONS

The Royal Council shall develop or cause to be developed rules of engagement and or protocols on the relationship between the BBM governance structures and the three (3) spheres of government.

11. PROTOCOLS

- 11.1 The Royal Council shall develop or cause to be developed protocols on how the BBM governance structures relate amongst themselves; on how they relate with the BBM entities and on how they relate with members of the BBM in general.
- 11.2 The Royal Council may develop or cause to be developed any protocol that may be necessary for the efficient and effective functioning and operation of the BBM governance structures.

12. CODE OF CONDUCT AND BREACH OF THE CODE

- 12.1 All BBM governance structures are subject to the code of conduct contained in **SCHEDULE 8** hereof as amended from time to time.
- 12.2 Whenever there is reasonable suspicion that a member or official of any of the BBM governance structures has breached any provision of the code of conduct, such a person may be charged with such alleged breach and a suitable person may be appointed to conduct an enquiry of the alleged breach in line with the provisions of the code.

13. RULES OF ORDER

- 13.1 All BBM governance structures shall be subject to the BBM Governance Structures Rules of Order (Rules of Order) annexed hereto and referred to as **SCHEDULE 9**.
- 13.2 The Rules of Order shall be adapted to suit the specific needs and dynamics of each of the governance structures.
- 13.3 Where there is inconsistency between the provisions of the Rules of Order and the by-laws of a particular governance structure, the provision of the By-laws shall take precedence to the extent of the inconsistency

14. COMMENCEMENT AND FORCE AND EFFECT OF THE FRAMEWORK

This Framework shall commence on a date to be determined by Kgosi and will only be of force and effect once adopted by the Royal Council and ratified by Kgosi.

15. TRANSITIONAL ARRANGEMENTS

- 15.1 Anything done in terms of the by-laws or codes or procedure in place before this Framework came into effect shall be of force and effect to the extent that it is consistent with the Framework.
- 15.2 This Framework does not confer upon any person any right or duty or obligation which is inconsistent with the traditions, customs, customary laws of the BBM or any applicable legislation.
- 15.3 This Framework does not extend or renew any term of office of any member of the BBM governance structures or entities and shall apply, where applicable to the balance of the term of office remaining at the time the Framework comes into effect.

16. SHORT TITLE

This document shall be referred to the BBM Governance Framework (Framework).

Adopted by the Royal Council on this the _____ day of _____
2018

Deputy Chairperson

Witness

Ratified by Kgosi on this the _____ day of _____ 2018

Kgosi

**NB: This document is of no force or effect if it has not been ratified by
Kgosi as evidenced by his signature**

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SCHEDULE 1

LIST OF MAKGOTLA OF THE BBM

KGOTLA/ KGORO	VILLAGE
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CHAPTER 1

INTERPRETATION AND APPLICATION

1. DEFINITIONS

In these By-Laws, unless the context indicates otherwise:

- 1.1. **"Chairman"** means the chairperson of the Royal Council being *Kgosi*;
- 1.2. **"Chairperson of Oversight and Proceedings"** means the Deputy Chairperson appointed by *Kgosi*
- 1.3. **"Secretariat: Institutional Governance"** for purposes of these By-Laws, means a department within the Office of *Kgosi* tasked to provide secretariat functions and support services to Bakgatla Ba Moseitlha governance structures;
- 1.4. **"Deputy Chairperson"** means the person appointed by *Kgosi* on a full-time basis to perform functions of the Chairperson during Royal Council meetings;
- 1.5. **"Community Authority Representative"** means a person elected by a Community Authority falling under the administration of the Bakgatla Ba Moseitlha under the applicable Proclamation;
- 1.6. **"Kgosana"** means the most senior hereditary ruler of a *Kgotla* of the Bakgatla Ba Moseitlha who has been recognised and installed in accordance with tradition, customs and customary laws of the BBM;
- 1.7. **"Kgosi"** means the Royal hereditary ruler of the Bakgatla Ba Moseitlha, from time to time, who is recognised as such according to the tradition, customs and customary laws of the BBM;
- 1.8. **"Kgotla"** means a clan or traditional and customary structure comprising of a Kgoro or more than one Kgoro headed by a Kgosana and recognized as such in terms of traditions, customs and customary laws of the BBM. The Bakgatla Ba Moseitlha is made up of 72 Makgotla and two community authorities a list of which is attached hereto marked **SCHEDULE 1**;

- 1.9. **"Member"** means a bona fide member of the BBM Royal Council;

- 1.10. **“Office of Kgosi”** means Kgosi and Executives reporting to Kgosi tasked with the coordination, monitoring, evaluation, reporting, planning and advisory of all Bakgatla Ba Moseitlha Entities;
- 1.11. **“Oversight and Proceedings Committee”** means a committee of the Royal Council comprised of the Chairpersons of Portfolio Committees, Office of Kgosi and the Secretary of Council;
- 1.12. **“Pitso ya Kgotha-Kgothe”** means the Pitso or general assembly of all bona fide members of Bakgatla Ba Moseitlha specifically called, convened and chaired by Kgosi of the Bakgatla Ba Moseitlha;
- 1.13. **“Portfolio Committees”** means the portfolio committees established in terms of Chapter 2 of the General Provisions of these By-Laws;
- 1.14. **“Rrangwane wa Kgosi** means Kgosi’s eldest patriarchal uncle;
- 1.15. **“Bakgatla Ba Moseitlha”** means a *universitas personarum*, which practices its traditions, norms, customs and cultures as a traditional community and is recognised as such by the Constitution and the applicable legislation of the Republic of South Africa;
- 1.16. **“Bakgatla Ba Moseitlha Entities”** means a Bakgatla Ba Moseitlha corporate entity, a traditional governance structure or any entity established by Bakgatla Ba Moseitlha performing a function(s) on behalf of Bakgatla Ba Moseitlha;
- 1.17. **“Royal Council”** means the joint sitting of *Lekgotla la Dikgosana* and the Traditional Council of the Bakgatla Ba Moseitlha chaired by Kgosi as contemplated in the By-Laws of the Royal Council of the Bakgatla Ba Moseitlha;
- 1.18. **“Tradition”** means the traditions, laws and customs, norms and practices of the members of the Bakgatla Ba Moseitlha;
- 1.19. **“Traditional Council”** means the traditional council of the Bakgatla Ba Moseitlha established in terms of the applicable legislation;

- 1.20. **“Traditional Council By-Laws”** means the by-laws of the Bakgatla Ba Mose tlha Traditional Council; and
- 1.21. **“Traditional Leader”** means *Kgosi*, *Kgosana* and/ or Regent or acting *Kgosana*.

2. AUTHORITY AND APPLICATION OF THE BY-LAWS

- 2.1 These By-Laws apply, subject to the BBM Governance Framework and Rules of Order, to:

- 2.1.1 all members of the Royal Council;
- 2.1.2 all Bakgatla Ba Mose tlha Entities; and
- 2.1.3 The Bakgatla Ba Mose tlha and the public.

- 2.2 In the event that there is conflict between Lekgotla La Dikgosana By-Laws and the Traditional Council By-Laws the provisions of these By-Laws shall prevail.

- 2.3 The Office of *Kgosi* must supply a copy of the standing By-laws to every Member of the Royal Council and all Bakgatla Ba Mose tlha Entities.

3. PURPOSE OF THE BY-LAWS

The Purpose of these By-Laws is to:

- 3.1 regulate the proceedings of the Royal Council and Portfolio Committees as well as conduct of members of the Royal Council;
- 3.2 outline the powers, functions and roles and responsibilities of the Royal Council, the Oversight and Proceedings Committee and the Office of *Kgosi*;
- 3.3 delegate certain oversight powers previously reserved for the Royal Council, to the Oversight and Proceedings Committee in line with the Bakgatla Ba Mose tlha's system of governance;

CHAPTER 2

BBM ROYAL COUNCIL

4. NATURE OF THE ROYAL COUNCIL

The BBM Royal Council is the joint sitting of the Bakgatla Ba Moselelha Traditional Council (as set up in terms of the applicable legislation) and Lekgotla la Dikgosana (as set up in terms of the BBM traditions, customs and customary laws).

5. STATUS OF THE ROYAL COUNCIL

- 5.1 The Royal Council is the highest decision making governance structure of the Bakgatla ba Moselelha in between *Pitso ya Kgotha-Kgothe*.
- 5.2 The Royal Council is, according to the tradition of Bakgatla Ba Moselelha, subject to the overall authority and directives of *Kgosi*.

6. COMPOSITION OF THE ROYAL COUNCIL

- 6.1 The Royal Council shall consist of:
 - 6.1.1 *Kgosi* being the Chairman;
 - 6.1.2 All recognized *Dikgosana* or acting *Dikgosana* as contemplated in the By-Laws of Lekgotla la *Dikgosana* of the Bakgatla Ba Moselelha;
 - 6.1.3 All Traditional Councilor's as contemplated in the By-Laws of the Traditional Council of the Bakgatla Ba Moselelha;
 - 6.1.4 A Community Authority Representative duly elected by a Community Authority falling under the administration of the Bakgatla Ba Moselelha.
- 6.2 No Person shall be a member of the Royal Council if they are disqualified from serving or being appointed as a member of either of the *Lekgotla la Dikgosana* or Traditional Council, in terms of the relevant provisions of the By-Laws of *Lekgotla la Dikgosana* and or the By-Laws of the Traditional Council.

7. TERM OF OFFICE OF THE ROYAL COUNCIL

- 7.1 The term of office of the Royal Council shall be five (5) years in the case of the Traditional Council and a Community Authority Representative. In the case of Kgosana the term of office shall be for as long as a person remain a member of the Council of Dikgosana.
- 7.2 At every end of term of the Traditional Council, the Royal Council shall cease to function and reconvene immediately after the elections of the Traditional Council when the new Traditional Council has been elected.

8. VACANCIES

A vacancy in the Royal Council shall, subject of the relevant provisions of the relevant legislation, occur when a member:

- 8.1 Dies;
- 8.2 Resigns from his/her position as a Kgosana or Traditional Councillor or Community Authority Representative;
- 8.3 Is removed from his/her position as a Kgosana or Traditional Councillor or Community Authority Representative for any reason recognised in law including but not limited to:
 - 8.3.1 insanity;
 - 8.3.2 wrongfully being identified as a Kgosana;
 - 8.3.3 conviction of an offence which carries a sentence of imprisonment for more than 12 months without a fine;
 - 8.3.4 being found guilty of transgressing a customary rule, principle of code of conduct that warrants removal from the position of Kgosana or Traditional Councillor or Community Authority Representative.

9 FILLING OF VACANCIES IN ROYAL COUNCIL

Should a vacancy for any reason whatsoever occur the Royal Council, shall continue to function until the vacancy has been filled in terms of the relevant provisions of the By-Laws of *Lekgotla la Dikgosana*, and/or the By-Laws of the Traditional Council or procedure of the Community Authority.

10 POWERS AND FUNCTIONS OF THE ROYAL COUNCIL

- 10.1** The Royal Council shall perform the functions entrusted to it by these By-Laws and the tradition of the Bakgatla Ba Moseitlha.
- 10.2** The Royal Council is entrusted with the following functions:
- 10.2.1 oversight function of all the Bakgatla Ba Moseitlha's Entities;
 - 10.2.2 ensuring that all the Bakgatla ba Moseitlha's Entities are accountable to the Royal Council;
 - 10.2.3 development, approval and review of policy for Bakgatla Ba Moseitlha;
 - 10.2.4 identification of the needs of the Bakgatla Ba Moseitlha and review and evaluate the needs in order of priority;
 - 10.2.5 approval and review of Bakgatla Ba Moseitlha strategic plan;
 - 10.2.6 nomination and appointment of directors of the Bakgatla Ba Moseitlha's Entities;
 - 10.2.7 determining and prioritizing the high level strategic objectives and outcomes of the Bakgatla Ba Moseitlha's Entities for the ensuing financial year
 - 10.2.8 determining Bakgatla Ba Moseitlha's mandate and Bakgatla Ba Moseitlha Entities mandate, strategic plan, business plan and the overall performance of the Bakgatla Ba Moseitlha Entities;
 - 10.2.9 reviewing the Bakgatla Ba Moseitlha's Entities mandate, strategic plan and the business plan to determine the extent to which the Bakgatla Ba Moseitlha Entities achieve objectives and targets set for the preceding financial year;
 - 10.2.10 raising revenue;
 - 10.2.11 review and approval of the Bakgatla Ba Moseitlha's budget;

- 10.2. 12 establishing, for administrative purposes, a fund sufficient, in the Royal Council opinion, for the management and administration of the affairs of the Bakgatla Ba Moseitlha;
- 10.2.13 management of a fund of any contribution by members of the Bakgatla Ba Moseitlha;
- 10.2.14 consideration or variation of an itemized estimate of the budget of the Bakgatla Ba Moseitlha for the ensuing financial year;
- 10.2.15 consideration and approval, with or without amendment, of the financial statements, relating to the management, control and administration of the Bakgatla Ba Moseitlha; the appointment of an official to operate the Bakgatla Ba Moseitlha bank accounts;
- 10.2.16 approval of the strategy and policy of the management, administration and governance of the Bakgatla Ba Moseitlha and the Bakgatla Ba Moseitlha Entities; establishment of an Oversight and Proceedings Committee of the Royal Council;
- 10.2.17 establishing various Portfolio Committees for the Royal Council;
- 10.2.18 the consideration and resolving on any matter referred to the Royal Council by *Kgosi*, the Traditional Council or *Lekgotla la Dikgosana*;
- 10.2.19 resolve and issue resolutions relating to the following:
 - 10.2.19.1 donations exceeding R1 000.000.00 (one million rand);
 - 10.2.19.2 Bakgatla Ba Moseitlha governance;
 - 10.2.19.3 the burdening and use of BBM land;
 - 10.2.19.4 corporate structures advancing the interests of Bakgatla Ba Moseitlha;
 - 10.2.19.5 special budgets for national events and tragedies;

- 10.2.19.6 the approval of the Bakgatla Ba Mose tlha budget after consideration thereof by the Traditional Council in terms of the relevant provisions Traditional Council By-Laws;
- 10.2.19.7 the approval of land dispositions and acquisitions; and

- 10.3 To pass resolutions on any matters arising from the Royal Council functions contained from clause 5.1 to 10.17
- 10.4 The Royal Council is empowered to delegate the powers in this clause 10, excluding the powers set out in clauses 10.2.19 and further powers that the Royal Council may, from time to time deem fit to delegate.

11 POWERS, FUNCTIONS AND AUTHORITY OF THE CHAIRMAN OF THE ROYAL COUNCIL

- 11.1 The Chairman shall:
 - 11.1.1 provide general political guidance over the fiscal and financial affairs of the Bakgatla Ba Mose tlha;
 - 11.1.2 provide general political guidance, may monitor and, to the extent provided to oversee the exercise of responsibilities assigned to the Bakgatla Ba Mose tlha Entities, but may not interfere in the exercise of those responsibilities;
 - 11.1.3 take all reasonable steps to ensure that the Royal Council performs its functions within the limits of its approved budget;
 - 11.1.4 within 30 days of the end of each quarter, submit a report to the Royal Council on the implementation of the budget of the Bakgatla Ba Mose tlha Entities and the financial state of affairs of the Royal Council; and
 - 11.1.5 exercise the other powers and perform the other duties assigned to the Chairperson in terms of delegated authority by the Royal Council to the Chairperson.
- 11.2 *Kgosi* shall appoint a Deputy Chairperson and delegate above mentioned powers as he deems fit.

12 ADMINISTRATION

The Secretariat: Institutional Governance and where feasible, the RBA shall provide administrative support to Royal Council including but not limited to:

- 12.1** manage the day to day administration of Royal Council;
- 12.2** monitor, manage, co-ordinate and implement all the functions Royal Council;
- 12.3** Keep record of all proceedings and resolutions of Royal Council
- 12.4** Any other functions assigned to it by Kgosi or Royal Council.

13 REGULATIONS OF ROYAL COUNCIL

- 13.1** Royal Council may make regulations that are consistent with the By-laws, traditions, customs and customary laws of the BBM for regulating its proceedings or any matter within its powers.
- 13.2** Any regulations made by Royal Council shall be subject to approval by Kgosi who may refer it back for further consideration to incorporate or take into account certain circumstances or new developments or advice as may be given.

14 MEETINGS OF THE ROYAL COUNCIL

14.1 Number of meetings

- 14.1.1** The Royal Council shall convene ordinary meetings presided over by the Chairperson of Oversight and Proceedings at least four times a year at a time and place determined by *Kgosi*, of which at least fourteen days' notice must be given by *Kgosi*.
- 14.1.2** *Kgosi* through the Secretariat: Institutional Governance may call a special meeting, of which at least seven (7) days' notice must be given, for a specific purpose or purposes at which no other business other than that for which the meeting has been called may be discussed.

- 14.1.3 the Chairperson shall special meeting for the official opening and Kgosi shall address the Royal Council by reviewing Bakgatla Ba Mose tlha's performance in the previous financial year and setting goals for Bakgatla Ba Mose tlha in the ensuing financial year.

14.2 Quorum of meetings of Royal Council

- 14.2.1 A quorum at any meeting shall be fifty percent of the Members of the Royal Council provided that at such meeting each house shall have at least 50% representation.
- 14.2.2 If within half an hour from the time appointed for a meeting a quorum is not present, the meeting shall stand adjourned to the same day in the next week at the same time, and if at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the Members present shall form a quorum.
- 14.2.3 The Chairperson of Oversight and Proceedings may, with the consent of members of the Royal Council at which a quorum is present, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned as a result of a direction given in terms of this clause, notice of the adjourned meeting shall be given in the manner prescribed by clause 14.1.1 above but it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

14.3 Notice of meetings of Royal Council

- 14.3.1 An urgent report received from the Oversight and Proceedings Committee may be tabled and considered during the Royal Council meeting with the express permission of the Chairman.
- 14.3.2 In no circumstance shall Portfolio Committee report, either in written or oral, be allowed to be tabled at the Royal Council's meeting without first being considered by the Oversight and Proceedings Committee.

14.4 Decisions of the Royal Council

- 14.4.1 At any meeting of Members of the Royal Council a resolution put to the vote of the meeting shall be decided on a show of hands.
- 14.4.2 A declaration by the Chairperson of Oversight and Proceedings that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the minute book of the Royal Council, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, such resolution. No objection shall be raised as to the admissibility of any vote except at the meeting or adjourned meeting at which the vote objected to is or may be given or tendered and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection shall be referred to the Chairperson of Oversight and Proceedings, whose decision shall be final and conclusive.
- 14.4.3 In the case of an equality of votes, the Chairperson of Oversight and Proceedings shall be entitled to a second or casting vote.
- 14.4.4 At any meeting of the Members of the Royal Council each Member present in person or by proxy, shall have one vote.

14.5 Proxy

- 14.5.1 A proxy will be another Member of the Royal Council.
- 14.5.2 The form appointing a proxy shall be in writing under the hand of the appointer or of his agent duly authorised in writing. The proxy shall be entitled to vote, to attend and take part in the meeting he has been duly authorized to attend.
- 14.5.3 The form appointing the proxy shall be in the same format as the proxy form attached hereto as
SCHEDULE 13.
- 14.5.4 The form appointing a proxy shall be lodged with the Secretariat: Institutional Governance not less than 24 (twenty-four) hours (or such lesser period as the Members of the Royal Council may

- 14.5.5 unanimously determine in relation to any particular meeting) before the time for holding the meeting (including an adjourned meeting) at which the person named in the form proposes to vote, and in default the form of proxy shall not be treated as valid. No form appointing a proxy shall be valid after the expiration of 6 (six) months from the date when it was signed, except at an adjourned meeting unless otherwise specifically stated in the proxy itself.

14.6 Meetings open to the public

- 14.6.1 Any member of the public may approach the Secretariat: Institutional Governance requesting permission to attend and observe a meeting of the Royal Council or to make representation directly to the Royal Council.
- 14.6.2 The Secretariat: Institutional Governance may, in consultation with Kgosi and the Chairperson of Oversight and Proceedings, allow any member of the public audience with the Royal Council on condition that proper protocol process had been followed with Bakgatla Ba Mosetlha Entities and the Portfolio Committee.
- 14.6.3 The Secretariat: Institutional Governance shall allocate members of the public a designated place in the gallery where the meetings of the Royal Council are held.
- 14.6.4 The Chairperson of Oversight and Proceedings shall, before the Royal Council proceeds with its business, introduce any member of the public attending the meeting and state the purpose of their attendance.
- 14.6.5 A member of the public shall be required to leave the gallery as and when the Royal Council has to deliberate on matters confidential to the Royal Council and the member of the public shall not refuse to leave the gallery.
- 14.6.6 A member of the public allowed to attend the meeting of the Royal Council shall be removed from the meeting of the Royal Council if he or she behaves in a disorderly manner during the meeting proceeding.

14.7 Closing of meeting to the public

- 14.7.1 The Royal Council recognizing the need for transparency and accountable governance may with due regards for any provision to the contrary in these By-Laws or any law, resolve to close any part of a meeting for the public or the media.
- 14.7.2 A resolution in terms of clause 14.7.1 may be made only if:
 - 14.7.2.1 a proposal in that regard has been made in terms of these By-Laws;
 - 14.7.2.2 a matter in respect of which the proposal had been made is a matter which concerns highly confidential information;
 - 14.7.2.3 trade or confidential commercial information of any supplier or investment proposal of Bakgatla Ba Mosetlha or any other person offering to become a supplier is discussed;
 - 14.7.2.4 personal and private information of any Member is discussed;
 - 14.7.2.5 a strategy to defend or initiation of litigation is discussed;
 - 14.7.2.6 disciplinary proceedings of a Member is discussed;
 - 14.7.2.7 there is discussions of any other matter that may not be publicly disclosed in terms of the law; and
 - 14.7.2.8 to approve the Minutes of any part of the meeting which had been discussed and resolved in a closed meeting.

14.8 Procedure for closing meetings

- 14.8.1 A Member may propose that a matter be dealt with in a closed session.

- 14.8.2 The Chairperson of the meeting, if he/she does not reject the proposal, must subject the proposal to the vote immediately after the request, refer the matter to a closed session.
- 14.8.3 At the conclusion of a closed debate, the meeting automatically reverts to a meeting in public.

14.9 Minutes of meeting of Royal Council

- 14.9.1 The Office of *Kgosi* must, through the Secretariat: Institutional Governance, keep or cause to be kept, Minutes of the proceedings of every council and committee meeting.
- 14.9.2 The Minutes of a meeting must reflect:
 - 14.9.2.1 the names of the Members attending;
 - 14.9.2.2 the names of Members absent;
 - 14.9.2.3 the name of any Member who demanded that his /her vote against any particular decision be recorded in the Minutes;
 - 14.9.2.4 any adjournment of the meeting;
 - 14.9.2.5 any declaration of personal or pecuniary interest by a Member;
 - 14.9.2.6 any advice by the Office of *Kgosi* regarding possible unauthorized expenditure or resolution; and
 - 14.9.2.7 all the resolution taken.
- 14.9.3 The Minutes of a meeting must be delivered to all Members or be made electronically available to Members, with a notice of the next meeting.
- 14.9.4 Minutes delivered to Members are deemed read with a view to the approval.

- 14.9.5 No proposal regarding the Minutes except a proposal relating to the accuracy thereof may be allowed.
- 14.9.6 The Minutes of a meeting, if in order must be approved at the next meeting of the Royal Council.
- 14.9.7 Minutes are signed by the Chairperson of Oversight and Proceedings;
- 14.9.8 The Chairperson of the meeting must sign the Minutes upon approval, the Office of Kgosi must stamp the resolutions as official Minutes of the Royal Council; and
- 14.9.9 All resolutions of the Royal Council shall be signed by Kgosi and the Deputy Chairperson.

CHAPTER 3

COMMITTEES

15 ESTABLISHMENT OF COMMITTEES

15.1 Establishment of the Oversight and Proceedings Committee and Portfolio Committees

- 15.1 Kgosi shall establish an Oversight and Proceedings Committee consisting of Chairpersons of Portfolio Committees of the Royal Council, Office of Kgosi and Secretariat of the Royal Council.
- 15.2 The BBM Royal Council shall establish the following Portfolio Committees whose role will be to provide oversight over the different portfolios of the BBM and its entities:
 - 15.2.1 Education, Training and Skills Development Portfolio Committee;
 - 15.2.2 Land, Spatial Planning and Infrastructure development;
 - 15.2.3 Health and Social Development Portfolio Committee;
 - 15.2.4- Safety and Security Portfolio Committee
 - 15.2.5 Sports, Recreation and Youth Affairs Portfolio Committee;
 - 15.2.6 Agriculture and Environment Portfolio Committee;
 - 15.2.7 Heritage and History Portfolio Committee
 - 15.2.8 Finance and Economic Development Portfolio Committee
 - 15.2.9 Audit and Risk Committee
- 15.3 The composition, term of office and terms of reference shall be as set out in **SCHEDULE 3**

16 THE OVERSIGHT AND PROCEEDINGS COMMITTEE OF THE ROYAL COUNCIL

16.1 Term of office of the Oversight and Proceedings Committee

The term of office of the Oversight and Proceedings Committee shall be a continuous period of five (5) years running concurrently with the term of office of the Traditional Council

16.2 Composition of the Oversight and Proceedings Committee

16.2.1 Kgosi shall establish an Oversight and Proceedings Committee consisting of Chairpersons of Portfolio, Office of Kgosi and Secretary of Council.

16.2.2 Kgosi shall be the chairperson of the Oversight and Proceedings Committee and, if necessary, may designate a Deputy Chairperson for the Oversight and Proceedings Committee.

16.2.3 Members of the Oversight and Proceedings Committee are responsible for the powers and functions delegated to them by the Royal Council.

16.2.4 Members of the Oversight and Proceedings Committee are accountable collectively and individually to the Royal Council for the exercise of their powers and the performance of their functions.

16.2.5 The Chairperson of the Oversight and Proceedings Committee is accountable to the Royal Council.

16.2.6 Members of the Oversight and Proceedings Committee must:

16.2.6.1 act in accordance to these Rules and Orders; and

16.2.6.2 Provide the Royal Council with full and regular reports concerning matters under their control.

16.3 Powers and Duties of the Oversight and Proceedings Committee

The Oversight and Proceedings Committee has the power to:

- 16.3.1 preside over the meetings of the Portfolio Committees;
- 16.3.2 receive reports from Portfolio Committees and to forward the reports together with recommendations to the Royal Council when the matter cannot be disposed of by the Oversight and Proceedings Committee in terms of the delegated powers;
- 16.3.3 recommend to the Royal Council strategies, plans, programmes; services and investments and to address priority needs through an integrated plan and the estimates of revenue and expenditure taking into account any investment and development plans of the Bakgatla ba Mosetlha;
- 16.3.4 recommend or determine the best way, including partnership and other approaches, to deliver those strategies, plans, programmes; services and investments to the maximum benefit of the Bakgatla Ba Mosetlha;
- 16.3.5 interrogate reports received from various portfolio Committees before resolving on a matter;
- 16.3.6 resolve on recommendations made by the various Portfolio Committees subject to ratification by the Royal Council, and request the Portfolio Committees to revise their reports where necessary;
- 16.3.7 identify and develop criteria in terms of which progress in the implementation of the strategies, programmes and services referred to in clause 16.3.3 above can be evaluated, including key performance indicators that are specific to the Royal Council;
- 16.3.8 evaluate progress against key performance indicators;

- 16.3.9 review the performance of the Bakgatla Ba Moseitlha in order to improve:
 - 16.3.9.1 the financial, efficiency and effectiveness of the management of the Bakgatla Ba Moseitlha Entities; and
 - 16.3.9.2 the implementation of the Royal Council's By-Laws.
- 16.3.10 monitor the management of the Royal Council's administration in accordance with the directions of Kgosi;
- 16.3.11 oversee the provision of services to the Royal Bakgatla ba Moseitlha in a sustainable manner;
- 16.3.12 perform such duties and exercise such powers as the Royal Council may delegate to the Oversight and Proceedings Committee, from time to time;
- 16.3.13 report annually to the Royal Council on the involvement of Makgotla in the affairs of the Bakgatla Ba Moseitlha;
- 16.3.14 ensure that regard is given to public views and to report on the effect of consultation on the decisions of the Royal Council;
- 16.3.15 perform a ceremonial role as Royal Council may determine; and
- 16.3.16 report to the Royal Council on all decisions taken by the Oversight and Proceedings Committee.
- 16.3.17 As a Special Committee on BBM Accounts, the Oversight and Proceedings Committee shall:
 - 16.3.17.1.1 Exercise oversight over the BBM budget.
 - 16.3.17.1.2 Monitor performance of BBM Treasury.
 - 16.3.17.1.3 Evaluate quarterly reports from entities and departments.

- 16.3.17.1.4 Oversee internal Audit functions of BBM entities.
- 16.3.17.1.5 Liaise with the Audit Committees of different boards.
- 16.3.17.1.6 Liaise with external Auditors of the BBM.
- 16.3.17.1.7 Report to the Royal Council on performance of Committees and Entities.

16.4 Chairperson and Deputy Chairperson

- 16.4.1 At the first meeting of the Oversight and Proceedings Committee following the first sitting after the reconstitution of the Royal Council following the Traditional Council general elections, Kgosi shall elect a Deputy Chairperson from among the new members of the Oversight and Proceedings Committee.
- 16.4.2 The Oversight and Proceedings Committee may remove the Deputy Chairperson from office by resolution of a two thirds majority of the members of the Oversight and Proceedings Committee present at a meeting called for such purpose.
- 16.4.3 The Chairperson shall in his absence authorise the Deputy Chairperson to act in his stead to give effect the role and functions of the Chairperson as stipulated in these By-Laws.
- 16.4.4 The role and functions of the chairperson shall be to:
 - 16.4.4.1 ensure that the Oversight and Proceedings Committee meets quarterly;
 - 16.4.4.2 maintain order during meetings;
 - 16.4.4.3 make statements or announcements in meetings;
 - 16.4.4.4 ensure that the Oversight and Proceedings Committee adheres to the rules set out in these By-Laws;

- 16.4.4.5 ensure that the meetings are conducted in accordance with the By-Laws of the Oversight and Proceedings Committee;
- 16.4.4.6 preside over the resolution tabling process of the Oversight and Proceedings Committee;
- 16.4.4.7 liaise and meet with the Oversight and Proceedings Committee at least 21 days before any scheduled meeting to discuss and prepare the agenda of the forthcoming meeting and make inputs thereto;
- 16.4.4.8 review, edit and correct the draft Minutes of each and every meeting presided upon before such draft Minutes can be submitted to the Office of Kgosi for noting and before such Minutes are circulated to members of the Oversight and Proceedings Committee for formal approval at the next meeting; compile an agenda for the Royal Council, the Oversight and Proceedings Committee and the Portfolio Committees;
- 16.4.4.9 review draft agendas for the Royal Council, the Oversight and Proceedings Committee and the Portfolio Committees;
- 16.4.-4.10 review the draft resolutions of the meetings of the Royal Council, the Oversight and Proceedings Committee and the Portfolio Committees;
- 16.4.4.11 review, edit and correct Minutes of the meetings of the Royal Council, the Oversight Council and the Portfolio Committees prior to adoption at the next meeting.

16.5 Meetings of the Oversight and Proceedings Committee

16.5.1 Number of meetings

- 16.5.1.1 The Oversight and Proceedings Committee shall convene ordinary meetings presided over by the chairperson at least four times a year at a time and place determined by the chairperson, of which at least fourteen days' notice must be given by the chairperson.
- 16.5.1.2 The Chairman through the Secretariat: Institutional Governance may call a special meeting, of which at least seven (7) days' notice must be given, for a specific purpose or purposes at which no other business other than that for which the meeting has been called may be discussed.
- 16.5.1.3 At any meeting of the members of the Oversight and Proceedings Committee a resolution put to the vote of the meeting shall be decided on a show of hands.
- 16.5.1.4 A declaration by the Chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the minute book of the Oversight and Proceedings Committee, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, such resolution. No objection shall be raised as to the admissibility of any vote except at the meeting or adjourned meeting at which the vote objected to is or may be given or tendered and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection shall be referred to the chairperson, whose decision shall be final and conclusive.
- 16.5.1.5 In the case of an equality of votes, the chairman shall be entitled to a second or casting vote.

- 16.5. 1. 6 At any meeting of the members of the Oversight and Proceedings Committee each member present in person or by proxy, shall have one vote.

16.5.1 Proxy

- 16.5.1.1 A proxy will be another member of the Oversight and Proceedings Committee.
- 16.5.1.2 The form appointing a proxy shall be in writing under the hand of the appointer or of his agent duly authorised in writing. The proxy shall be entitled to vote, to attend and take part in the meeting he has been duly authorized to attend.
- 16.5.1.3 The form appointing the proxy shall be in the same format as the proxy form attached hereto as **SCHEDULE 13**.
- 16.5.1.4 The form appointing a proxy shall be lodged with the Secretariat: Institutional Governance not less than 24 (twenty -four) hours (or such lesser period as the members of the Oversight and Proceedings Committee may unanimously determine in relation to any particular meeting) before the time for holding the meeting (including an adjourned meeting) at which the person named in the form proposes to vote, and in default the form of proxy shall not be treated as valid. No form appointing a proxy shall be valid after the expiration of 6 (six) months from the date when it was signed, except at an adjourned meeting unless otherwise specifically stated in the proxy itself.
- 16.5.1.5 An urgent report received from a Portfolio Committee may be tabled and considered during the Oversight and Proceedings Committee meeting with the express permission of the Chairman.

16.5.2 Quorum of meetings of the Oversight and Proceedings Committee

- 16.5.2.1 A quorum at any meeting shall be fifty percent of the member of the Oversight and Proceedings Committee.
- 16.5.2.2 If within half an hour from the time appointed for a meeting a quorum is not present, the meeting shall stand adjourned to the same day in the next week at the same time, and if at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the members of the Oversight and Proceedings Committee present shall form a quorum.
- 16.5.2.3 The Chairman may, with the consent of members of the Oversight and Proceedings Committee at which a quorum is present, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned as a result of a direction given in terms of this clause, notice of the adjourned meeting shall be given in the manner prescribed by clause 16.5.1.2 above but it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

16.6 Dissolution of the Oversight and Proceedings Committee

The Oversight and Proceedings Committee may be dissolved by Kgosi on his own accord or following a resolution by Royal Council to that effect

16.7 Presiding at meetings

The Chairperson of Oversight and Proceedings or in his absence the must:

- 16.7.1 ensure that the meeting at which he presides, excluding the meetings of the Portfolio Committee which will be presided on by members of the Oversight and Proceedings Committee, is conducted in accordance with these By-Laws;
- 16.7.2 when requested to do so, interpret these By-Laws;
- 16.7.3 reject any motion, proposal or question which in his opinion;
- 16.7.4 may lead to the discussion of a matter already contained in the agenda for that meeting;
- 16.7.5 advances arguments, expresses opinions, incriminating, disparaging or improper suggestions;
- 16.7.6 contains threatening, abusive or insulting languages towards a member of the Royal Council or an employee of any Bakgatla Ba Mosetlha Entity which may cause distress due to any alleged, suspected or proven act or omission in the exercise of any of his/her duties;
- 16.7.7 may be contrary to these By-Laws, Tradition or any law, including various By-Laws of the Bakgatla Ba Mosetlha governance structures;
- 16.7.8 may have an impracticable result or cause uneconomical, inefficient or ineffective use of resources or will be incapable of execution; and
- 16.7.9 may result in unauthorized expenditure;
- 16.7.10 reject any motion, proposal or question which is not properly seconded;
- 16.7.11 call the attention of any Member at the meeting to stop:
 - 16.7.11.1 irrelevant, tedious and unbecoming language;
 - 16.7.11.2 any breach of the order by a Member.
 - 16.7.11.3 submit every motion and proposal made and seconded to the vote; and declare the result of the vote.

CHAPTER 4

GENERAL PROVISIONS

17. CONDUCT OF MEMBERS AT ROYAL COUNCIL MEETINGS AND THE CODE OF CONDUCT OF ROYAL COUNCIL

Subject to the Code of Conduct of BBM Governance Structures:

- 17.1 Whenever the Chairperson at the meeting speaks, any person speaking or offering to speak must sit down, and all persons in the meeting must remain silent so the Chairperson may be heard without interruptions;
- 17.2 A Member addressing the meeting must address the Chairperson of that meeting;
- 17.3 The following conduct by a Member during a meeting is deemed contrary to the provisions of the code of conduct:
 - 17.3.1 To make unnecessary tactless, incriminating, disparaging or improper suggestions or express such opinions;
 - 17.3.2 To threaten, abuse or to use insulting language towards any person attending the meeting which causes distress due to any alleged, suspected or proven act or omission in the exercise of any of his/her duties;
 - 17.3.3 To make or second a proposal that may be contrary to these By-Laws or any law, including the Traditions of the Bakgatla Ba Mosetlha;
 - 17.3.4 To make or second proposals that may have an impracticable result or cause uneconomical, inefficient or ineffective use of resources or will be incapable of execution;
 - 17.3.5 To make or second proposals that may result in unauthorized expenditure;
 - 17.3.6 To compel or attempt to compel Members by threats to partake in any action against their will;
 - 17.3.7 To breach these By-Laws; and
 - 17.3.8 To disregard the Chairman or the Chairperson or the Deputy Chairperson.

18 ROLE OF THE SECRETARIAT: INSTITUTIONAL GOVERNANCE

The role of the Secretariat: Institutional Governance shall be to:

- 18.1 coordinate and act as the first port of call in the interaction between the Royal Council and BBM entities and their officials and all other third parties engaging or wishing to engage with the Royal Council;
- 18.2 provide members of the Royal Council, collectively and individually, with guidance as to their duties, responsibilities and powers;
- 18.3 ensure that members of the Royal Council are aware of all laws and legislation relevant to or affecting the BBM, and reporting at any meetings of the Royal Council on such effects and impacts;
- 18.4 provide members of the Royal Council with updates on ethics, legal and good governance issues on a regular basis;
- 18.5 provide a central source of guidance and advice to the Royal Council;
- 18.6 to keep the Chairman informed and to follow up on tasks issued by the Royal Council;
- 18.7 conduct induction of new members of the Royal Council from time to time;
- 18.8 prepare and co-ordinate the annual calendar of the meetings and events of the Royal Council, the Oversight and Proceedings Committee and the Portfolio Committee in consultation with the Office of Kgosi’;
- 18.9 prepare the annual Royal Council work plan;
- 18.10 ensure proper and orderly conduct of the meetings of the Royal Council, the Oversight and Proceedings Committee and Portfolio Committees;
- 18.11 dispatch information relevant to meetings timeously to all members of the Royal Council to enable them to prepare adequately for meetings;

- 18.12 advise the Royal Council and the Portfolio Committees on matters of procedure, policy and substantive issues relating to the deliberations, decisions and resolutions;
- 18.13 prepare an agenda and attach all relevant documentation for the meeting of the members of the Royal Council, the Oversight and Proceedings Committee and the Portfolio Committee and to submit them to *Kgosi* for review, approval and/or additions prior any meeting of the Royal Council, the Oversight and Proceedings Committee or a Portfolio Committee;
- 18.14 prepare written resolutions prior to any meeting of the members of the Royal Council the Oversight and Proceedings Committee and the Portfolio Committee where such resolutions are required to be adopted and to submit them to the Proceedings Committee for consideration, inputs and/or alterations;
- 18.15 distribute Minutes or their extracts as soon as possible after meetings to enable BBM Entities to implementing the decisions and recommendations of the Royal Council;
- 18.16 prepare meeting packs for the Royal Council, the Oversight and Proceedings Committee and the Portfolio Committee which shall include the following but not limited to:
 - 18.16.1 notice of the meeting
 - 18.16.2 an agenda;
 - 18.16.3 Minutes of the previous meeting;
 - 18.16.4 detailed reports of matters to be discussed in meeting;
 - 18.16.5 power point presentations of reports referred to on clause 7.16.3 above;
 - 18.16.6 rationale for resolutions of the Royal Council, the Oversight and Proceedings Committee of the Portfolio Committee;
 - 18.16.7 any supporting documentation for the abovementioned reports; and

- 18.16.8 draft resolutions for deliberation by the Royal Council, the Oversight and Proceedings Committee of the Portfolio Committee.
- 18.16.9 forward the meeting pack for the meeting to the members of the Royal Council, the Oversight and Proceedings Committee and the Portfolio Committee fourteen [14] days prior to the meeting;
- 18.16.10 subject to 14.6.2 consider applications from the members of the public for permission to attend and observe the Royal Council meetings;
- 18.16.11 in consultation with the Chairperson of Oversight and Proceedings or the chairperson of the Oversight and Proceedings Committee for the Portfolio Committee prepare and take Minutes of all the Royal Council, Oversight and Proceedings Committee and Portfolio Committee meetings;
- 18.16.12 report to *Kgosi* on any resolution passed by the Royal Council, the Oversight and Proceedings Committee and the Portfolio Committee not later than twenty-four (24) hours after it had been passed;
- 18.16.13 file original copies of resolutions in quadruplicate;
- 18.16.14 submit a written report to *Kgosi* on monthly basis on all the business conducted by the Royal Council, the Oversight and Proceedings Committee and a Portfolio Committee provided that the said report shall be submitted by not later than the first day of every succeeding month. The resolution of the Royal Council shall only be valid after they had been signed by the person appointed by the Royal Council.

19 THE ROLE OF RRANGWANE WA KGOSI

- 19.1 *Rrangwane wa Kgosi* is the custodian of Traditional protocol in relation to *Kgosi*.
- 19.2 *Rrangwane wa Kgosi* shall:
 - 19.2.1 usher *Kgosi* to all the Bakgatla ba Mosetlha proceedings and public engagements;

- 19.2.2 formally introduce *Kgosi* in all the Bakgatla Ba Mose tlha proceedings and public engagements;
- 19.2.3 sit in all proceedings with *Kgosi*;
- 19.2.4 facilitate in all aspects of Bokgosana;
- 19.2.5 serve as *Kgosi*'s spokesperson at all the Bakgatla Ba Mose tlha debates or question and answers sessions in public engagements and formal sittings;
- 19.2.6 interject at all the Bakgatla Ba Mose tlha proceedings, public engagements and formal sittings where Traditional protocol is transgressed;
- 19.2.7 in the absence of *Kgosi*, give input on the order of proceedings in a guiding manner; and

20 AMENDMENT OF BY-LAWS

- 20.1 These By-Laws may be amended by resolution of a simple majority of votes of all members present at a meeting called for that purpose after the proposed amendment supported by the reasons for the proposed amendment has lain for inspection for 21 days before both houses making up the Royal Council.
- 20.2 Notwithstanding the provisions of clause 19.1 above, the amendment once adopted shall only commence and be of force and effect once approved by *Kgosi*.

21 COMMENCEMENT, FORCE AND EFFECT

These By-Laws shall commence and be of force and effect upon adoption by the Royal Council and approval by *Kgosi*.

22 SHORT TITLE

These By-Laws shall be referred to as the Royal Council By-Laws.

**ADOPTED AT GA MOSETLHA ON THIS THE _____ DAY OF _____
2015**

Chairperson

Deputy Chairperson

APPROVED ON THIS THE _____ DAY OF _____ 2015

KGOSI

SCHEDULE 3

ROYAL COUNCIL PORTFOLIO COMMITTEES

1. Establishment of Portfolio Committees

The BBM Royal Council hereby establishes the following Portfolio Committees in terms of clause 5.2.4 of the BBM Governance Framework read with the Royal Council By-laws:

- 1.1 Education, Training and Skills Development Portfolio Committee
- 1.2 Land, Spatial Planning and Infrastructure development
- 1.3 Health and Social Development Portfolio Committee
- 1.4 Safety and Security Portfolio Committee
- 1.5 Sports, Recreation and Youth Affairs Portfolio Committee
- 1.6 Agriculture and Environment Portfolio Committee
- 1.7 Heritage and History Portfolio Committee
- 1.8 Finance and Economic Development Portfolio
Committee
- 1.9 Audit and Risk Committee

2. Composition of the Portfolio Committees

- 2.1 All members of the Royal Council shall be spread evenly amongst all the Portfolio Committees and each Portfolio Committee shall comprise of at least one Traditional Councillor;
- 2.2 No member of the Royal Council shall belong to more than one Portfolio Committee;
- 2.3 The Executive Manager in the BBM entities shall be a permanent invitee of the relevant Portfolio Committee;
- 2.4 The Chairperson and Deputy Chairperson of a Portfolio Committee shall be appointed by Kgosi from amongst its members.
- 2.5 A Portfolio Committee may co-opt any non-members of the Council in an advisory capacity.

3. Terms of Reference of Portfolio Committees

- 3.1 The general terms of reference of the Portfolio Committees shall be to:
- 3.1.1 develop oversight guidelines for the RBA, its divisions and departments and BBM entities.
 - 3.1.2 develop standards for the performance of the Entities, their Boards and Oversight Management.
 - 3.1.3 oversee the development and implementation of by-laws, rules and policies of the BBM.
 - 3.1.4 facilitate public participation in the development of by-laws, rules and policies of the BBM.
 - 3.1.5 Review performance of the RBA, its divisions and departments and other BBM entities.
- 3.2 In addition to the general terms of reference each portfolio committee shall have duties relevant to the portfolio or a cluster of portfolios.

4. Term of Office of a Portfolio Committee

The terms of office of portfolio committees shall be for a period of 5 years running concurrently with the term of office of the Traditional Council.

5. Termination or Disqualification of Membership

Membership of the portfolio Committee shall terminate upon a member:

- 5.1 ceasing being a Councillor,
- 5.2 being removed by Kgosi,
- 5.3 being incapacitated due to ill-health,
- 5.4 a member resigning his position in the portfolio committee after approval by Kgosi,
- 5.5 a member being found guilty of misconduct.

6. Meetings of the Portfolio Committees

- 6.1 Portfolio Committees shall meet at least once every two weeks at a time and venue to be determined by the Chairperson of the Committee in consultation with the Secretary of Council;

- 6.2 The meeting of a Portfolio Committee shall be chaired by the Chairperson or his Deputy Chairperson;
- 6.3 Members of the Portfolio Committee must attend meetings regularly and any absence must be accompanied by a written apology stating the reason for non-attendance;
- 6.4 The Chairperson and/Deputy Chairperson shall cause an attendance register of all meetings to be kept.

7. Order of Business at Meetings of Portfolio Committees

The order of business at meetings of Portfolio Committees shall be as close as possible to the following:

- (i) Opening and Welcome
- (ii) Apologies
- (iii) Correspondence
- (iv) Adoption of the Agenda
- (v) Declaration of pecuniary interest
- (vi) Reports for noting
- (vii) Reading of Minutes of the previous meeting (viii)

Adoption of Minutes of previous meeting

- (ix) Matters arising from Minutes of previous meeting
- (x) New business
- (xi) Announcements
- (xii) Closure

8. Declaration of Personal and Pecuniary Interest

Any member who has an interest in any item under discussion must declare his interest by completing the form referred to as
“SCHEDULE 15”

9. Conduct of Member of the Portfolio Committees at Meetings

The Rules of order of the Royal Council shall apply to meetings of Portfolio Committees and all members of committees shall conduct themselves in line with the Code of Conduct of the Royal Council.

10. Minutes of the Meeting and Summary Evidence

- 10.1 Minutes of Portfolio Committees shall be recorded mechanically and in writing;
- 10.2 Recorded Minutes should be transcribed at least 7 days after the meeting and the mechanical recording should be kept as back up.

11. Powers of Portfolio Committees

Each Portfolio Committee shall in addition to their respective individual powers have the power to:

- 11.1 Summon any person to its meeting and/or cause certain documents to be made available at such a meeting.
- 11.2 Make recommendations to the Royal Council on any matter presented before it;
- 11.3 Assume any powers delegated to it by the Royal Council from time to time.

12. Portfolio Committees

12.1 Education, Training and Skill Development Portfolio Committee

Duties and functions of the Education committee shall be:

- 12.1.1 To develop and monitor policies on Education.
- 12.1.2 To perform oversight function on the Bakgatla ba Mosetlha Institute and Education in general around the BBM areas.
- 12.1.3 To liaise with Education Committees of other spheres of government and other players in the education sector.
- 12.1.4 To monitor performance and establishment of the Libraries in the BBM areas.
- 12.1.5 To develop mechanisms of improving the standard of Education in Ga Mosetlha.

12.2 Land, Spatial Planning and Infrastructure Portfolio Committee

This committee focuses on the following areas:

- 12.2.1 Oversight over the BBM Master Plan
- 12.2.2 monitor performance of the Land Unit.
- 12.2.3 Linking the BBM Master Plan with RLM Integrated Development Plans and Special Development Framework.
- 12.2.4 Monitor performance of the (BBM, RLM and BPDM) MOU Secretariat.
- 12.2.5 Approve Tender and Supply Chain Policies.
- 12.2.6 Monitor through the Traditional Council performance of the RBA Tender Board.
- 12.2.7 Monitor quality of Infrastructure and through the RBA ensure that local SMME's participate in the roll out of Infrastructure by being given preferential procurement opportunities and oversee their performance.
- 12.2.8 Ensure that local labour benefit from opportunities arising from Infrastructure Development.
- 12.2.9 Monitor performance of Enterprise development Unit of the RBH with regard to the above point.
- 12.2.10 Develop policies on mobility and public transport systems.

12.3 Health and Social Development Portfolio Committee

The duties and functions of the Health and Social Development Committee shall be:

- 12.3.1 To identify general needs of the Community in respect of Health and Social Development.
- 12.3.2 To develop Health programmers to alleviate the current problems relating to health.
- 12.3.3 To approve Health and Social Development and to monitor the performance of the HSDSD unit of the Office of Kgosi.
- 12.3.4 To promote and monitor health awareness campaigns.
- 12.3.5 To encourage collaborations with Business and Government Departments.

12.3.6 To promote HIV awareness and develop policies on prevention of further infections.

12.3.7 To promote Gender issues and provide through HSDSD the necessary family support.

12.4 Safety and Security Portfolio Committee

12.4.1 To develop Strategies and Policies for the establishment of law, order and peace.

12.4.2 To develop Cooperation Strategy with all law enforcement structures of the Government.

12.4.3 To monitor performance of the Security Department of the BBM.

12.4.4 To manage disaster in the BBM areas.

12.5 Sports, Recreation and Youth Affairs Portfolio Committee

Their duties shall be as follows:

12.5.1 Develop policies on the development of Sports, Arts, Culture and Youth.

12.5.2 Monitor the establishment of Youth Centres and their performances.

12.5.3 Monitor through RBS performances of Sport investment.

12.5.4 Ensure that Bakgatla ba Mosetlha youth is developed and benefit directly from the performances of the RBS.

12.5.5 Ensure that relationship with Governmental and non-Governmental Sports structures are established.

12.5.6 Ensure that policies, programmes and campaigns in sports, arts, culture and in youth affairs are aligned to the broader strategic objectives of the BBM in particular and the country in general

12.6 Agriculture and Environment Portfolio Committee

The Agriculture and Environment Committee shall perform the following duties:

- 12.6.1 provide crop and stock farming policies and strategies.
- 12.6.2 monitor performance of the RBED on agriculture development.
- 12.6.3 ensure smooth accessibility to land for agriculture purposes.
- 12.6.4 determine agricultural needs of the community.
- 12.6.5 develop commercial as well as subsistence farmers.
- 12.6.6 develop collaborations with agricultural sector structures.
- 12.6.7 monitor performances of the agriculture investment of the BBM.
- 12.6.8 ensure that local farmers benefit from direct and indirect spin offs of these investments mentioned above.
- 12.6.9 ensure that mechanisms are in place to protect and preserve BBM land.
- 12.6.10 ensure that mechanisms are in place to conserve and protect environment.

12.7 History and Heritage Portfolio Committee

They will perform the following duties:

- 12.7.1 develop policies on Arts, Culture and Heritage.
- 12.7.2 ensure that Bakgatla ba Mosetlha Arts, Culture and Heritage is conserved and upheld.
- 12.7.3 promote Art and Culture through the establishment of heritage centres.
- 12.7.4 ensure that a department of Arts and Culture is established and to monitor its performance.
- 12.7.5 ensure that historical museums are established.

12.8 Finance and Economic Development Portfolio Committee

- 12.8.1 The Committee shall consist of the chairperson of all seven portfolios Committee. KGOSI shall be the

chairperson of the Oversight and Proceedings Committee.

12.8.2 Duties and functions of the Oversight and Proceedings Committee shall be:

- 12.8.2.1 To perform oversight function on performance of all Portfolio Committees.
- 12.8.2.2 To provide strategic direction to all Portfolio Committees.
- 12.8.2.3 To evaluate and appraise the Portfolio Committees.
- 12.8.2.4 To act as a Public Accounts Committee of the Royal Council.
- 12.8.2.5 To liaise with all BBM entity heads on their mandates.

12.9 Risk and Audit Committee

The Risk and Audit Committee shall:

- 12.9.1 exercise a risk and audit function over BBM entities
- 12.9.2 Exercise oversight over the BBM budget.
- 12.9.3 Monitor performance of BBM Treasury.
- 12.9.4 Evaluate quarterly reports from entities and departments.
- 12.9.5 Oversee internal Audit functions of BBM entities.
- 12.9.6 Liaise with the Audit Committees of different boards.
- 12.9.7 Liaise with internal and external Auditors of the BBM.

12.10 Secretaries of Committees

- 12.10.1 The Office of Secretariat: Institutional Governance shall provide secretarial support to the Portfolio Committees.
- 12.10.2 The Office shall appoint Committee secretaries who shall perform all administrative functions of Portfolio Committees and report to the Council Secretary on such functions.

12.11 Duties of Secretary of Council

The duties of the Committee Secretaries shall include, to:

- 12.11.1 administer day to day activities of Portfolio Committees.
- 12.11.2 record proceedings of the Portfolio Committees.
- 12.11.3 file records of Portfolio Committees with the Manager Governance Structures and Chairperson of the Oversight and Proceedings Committee.
- 12.11.4 coordinate activities of the Portfolio Committees.
- 12.11.5 liaise with the Council Secretary on the travel and expenditure of Committee members.
- 12.11.6 dispatch notices and meeting packs of the Committee meetings.
- 12.11.7 arrange dates and venues for meetings.
- 12.11.8 To advice Chairpersons of Committees on resolutions/decisions of Committees.
- 12.11.9 To communicate the resolutions of the portfolio committees to the Oversight and Proceedings Committee and affected entities and departments for implementation.

SCHEDULE 4**BBM TRADITIONAL COUNCIL BY-LAWS**

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1. **PREAMBLE**

To provide for the composition, By-laws and rules of procedure of a broadly representative Traditional Council of the Bakgatla Ba Moseitlha, the roles and functions of the Traditional Council, the code of discipline of members of the Traditional Council; and to provide for all matters incidental thereto.

2. **DEFINITIONS**

2.1 In these By -Laws, unless the context indicates otherwise-

- 2.1.1 **"Bona fide member of the Bakgatla Ba Moseitlha"** means an indigenous member of the Bakgatla Ba Moseitlha or a person naturalized to be a Mokgatla;
- 2.1.2 **"By-Laws"** means these by-laws of the Traditional Council of the Bakgatla Ba Moseitlha, as amended from time to time;
- 2.1.3 **"Electoral Code"** means the Bakgatla Ba Moseitlha Traditional Council Electoral Code 2007, attached hereto as Annexure "A";
- 2.1.4 **"Incompetence"** means an act of not being able or qualified to perform a task entrusted upon a person in terms of these By-Laws;
- 2.1.5 **"Kgosana"** means the most senior hereditary ruler of a *Kgotla* of the Bakgatla Ba Moseitlha who has been recognised and installed in accordance with customs and customary laws of the BBM;
- 2.1.6 **"Kgosi"** means the Royal hereditary ruler of the Bakgatla Ba Moseitlha, from time to time, who is recognised as such according to the Tradition, customs and customary laws of the BBM;
- 2.1.7 **"North West Act"** means the North West Traditional Leadership and Governance Act 2 of 2005, as amended from time to time;
- 2.1.8 **"Pitso ya Kgotha-Kgothe"** means Pitso of all the *bona fide* members of the Bakgatla Ba Moseitlha;
- 2.1.9 **"Premier"** means the elected premier or the acting premier of the North-West Province, from time to time;

- 2.1.10 **“Regent”** means a person who, as the case may be, acts as Kgosi or Kgosana where either of them is unable, incapable or under-age to act as such;
- 2.1.11 **“Bakgatla Ba Moseitlha”** means a universitas personarum, which practices its traditions, norms, customs and cultures as a traditional community and is recognised as such by the Constitution and the applicable legislation of the Republic of South Africa.
- 2.1.12 **“Master Plan”** means the three-decade forward plan of the infrastructure plan of the Bakgatla Ba Moseitlha approved in 2007;
- 2.1.13 **“Royal Council”** means a joint sitting of the Traditional Council and the Council of Dikgosana of the Bakgatla Ba Moseitlha;
- 2.1.14 **“Traditional Council”** means the traditional council of the Bakgatla Ba Moseitlha established in terms of the North West Traditional Leadership and Governance Act;
- 2.1.15 **“Traditional Leader”** means Kgosi, Kgosana and/ or Regent; or acting Kgosana
- 2.1.16 **“Tradition”** means the traditions, laws and customs practices of the members of the Bakgatla ba Moseitlha Traditional Community.

3. STATUS OF TRADITIONAL COUNCIL

- 3.1 The Traditional Council is established by the North-West Act read in conjunction with the Traditional Leadership and Governance Framework Act 41 of 2003 and it is subject to the Traditions of Bakgatla Ba Moseitlha as amended from time to time by the Pitso ya Kgotha-Kgothe.
- 3.2 The Traditional Council shall perform functions subject to the overall supervision of the North West Provincial Government as contemplated in section 9 (2) of the North-West Act.
- 3.3 The Premier of the North-West Province shall take the necessary steps to ensure that the Traditional Council undertakes proper administration and good governance.

4. COMPOSITION OF THE TRADITIONAL COUNCIL

- 4.1 The Traditional Council shall consist of Eighteen [24] members constituted as follows:
 - 4.1.1 Eleven (14) members who make up 60% of the Council shall be selected by Kgosi as follows: (i) 4 members of the community; (ii) 4 members of the Royal family; (iii) 6 Dikgosana.
 - 4.1.2 The balance of seven (7) members who make up 40% of the Traditional Council shall be elected by the community.
- 4.2 a third of such members of the Council shall be women;
- 4.3 Kgosi shall be the chairperson of the Traditional Council.

5. TERM OF OFFICE OF TRADITIONAL COUNCILS

The members of the Traditional Council, with the exception of the chairperson, shall occupy office for an initial period of five (5) years and shall be eligible for re-election for another term of five (5) years. The members of the Traditional Council, with the exception of the chairperson, shall occupy office only for a period of two consecutive terms.

6. PERSONS WHO ARE ELIGIBLE TO SERVE IN THE TRADITIONAL COUNCIL

The following persons shall not be legible to serve or be appointed as members of the Traditional Council:

- 6.1 any person who is disqualified in terms of the traditions and customs of the Bakgatla Ba Moseitlha from occupying any office within the governing structures of the Bakgatla Ba Moseitlha;
- 6.2 any person who is not a bona fide member of the Bakgatla Ba Moseitlha and is or below the age of 25;
- 6.3 any person who is disqualified to hold office or becoming a member in terms of the North-West Act;
- 6.4 any person whose estate has been sequestered (provisionally or finally) and has not been rehabilitated;
- 6.5 any person who has been removed from an office of trust or from the BBM Traditional Council on account of misconduct;

18. DUTIES AND FUNCTIONS OF THE TRADITIONAL COUNCIL

- 9.1 The Traditional Council shall have the following duties and functions:
- 9.1.1 administer the affairs of the Bakgatla Ba Mosetlha according to the Traditions and perform such other functions conferred by the Traditions in line with statutory law and the constitution;
 - 9.1.2 promote the interest and advance the well-being of the members of the Bakgatla Ba Mosetlha;
 - 9.1.3 subject to the provisions of the North West Act, administer the finances of the traditional community;
 - 9.1.4 perform such roles and functions as may be delegated or assigned to it by or under any law;
 - 9.1.5 assist, support and guide Traditional Leaders in the performance of their functions;
 - 9.1.6 support the Rustenburg Local Municipality and the Bojanala Platinum District Municipality in the identification of community needs;
 - 9.1.7 facilitate and ensure involvement of the *bona fide* members of the Bakgatla Ba Mosetlha in the development or amendment of the integrated development plan with Rustenburg Local Municipality and the Bojanala Platinum District Municipality;
 -  9.1.8 participate in the development of policy and legislation at local level through public hearings and active participation in local structures;
 - 9.1.9 participate in developmental programmes of municipalities, provincial and national spheres of government;
 - 9.1.10 promote indigenous knowledge systems for sustainable development and disaster management;
 - 9.1.11 alerting any relevant municipality to any hazard or calamity that threatens the area of jurisdiction of the traditional council in question, or the well-being of people living in such area of jurisdiction, and contributing to disaster management in general;

- 9.1.12 share information and cooperate with other traditional councils within the North-West Province; and
 - 9.1.13 facilitate and co-ordinate the activities of the Bakgatla Ba Moseitlha makgotla in line with the Makgotla herein referred to as **Schedule 6**.
- 9.2 The Traditional Council shall continue to provide the following functions until the National Government or the Provincial Government allocates the function to the Traditional Council through legislative or other measures:
- 9.2.1 Arts and culture;
 - 9.2.2 Land Administration;
 - 9.2.3 Agriculture;
 - 9.2.4 Health;
 - 9.2.5 Welfare;
 - 9.2.6 Administration of Justice;
 - 9.2.7 Safety and Security;
 - 9.2.8 Registration of births, deaths and customary marriages;
 - 9.2.9 Economic development;
 - 9.2.10 Environment;
 - 9.2.11 Tourism;
 - 9.2.12 Disaster management;
 - 9.2.13 Management of natural resources; and
 - 9.2.14 Dissemination of information relating to government policies and programmes.
- 9.3 The Traditional Council shall further perform any functions allocated to it through intergovernmental agreements.

10 MEETINGS, QUORUM AND MINUTES OF THE TRADITIONAL COUNCIL

- 10.1 The Traditional Council shall convene an ordinary meeting at least once month at a date, time and venue appointed by Kgosi
- 10.2 Kgosi may, at the request of the Premier or his or her delegate, convene a meeting of the traditional council.
- 10.3 The Traditional Council shall convene special meetings as and when circumstances require.
- 10.4 The Traditional Council shall in conjunction with the Secretary of Council of the Bakgatla Ba Mosetlha:
 - 10.4.1 prepare an agenda and attach all relevant documentation for the meeting of the members of the Traditional Council and to submit them to Kgosi for approval and/or additions prior any meeting of the Traditional Council;
 - 10.4.2 prepare written resolutions prior any meeting of the members of the Traditional Council where such resolutions are required to be adopted and to submit them to Kgosi for consideration, inputs and/or alterations;
 - 10.4.3 forward the notice, agenda and all supporting documentation for the meeting to the members of the Traditional Council [7] days prior to the Traditional Council's meeting;
 - 10.4.4 to report to Kgosi on any resolution passed by the Traditional Council not later than twenty-four (24) hours after it had been passed;
 - 10.4.5 the resolutions of the Traditional Council shall only be valid after they had been signed by the Kgosi;
 - 10.4.6 to file original copies of resolutions in quadruplicate with the office of Kgosi;
 - 10.4.7 to submit a written report to Kgosi on monthly basis on all the business conducted by the Traditional Council provided that the said report shall be submitted by not later than 7 days after the said meeting.

- 10.5 The quorum for meetings of the Traditional Council shall be 51% of the total members of the Traditional Council. If within one hour of the time appointed for a meeting, a quorum is not present, then, subject to 10.6, the meeting shall stand adjourned to the same day in the next week, at the same time and place or, if that day be a public holiday, to the next succeeding day other than a public holiday, and if at that meeting a quorum is not present then the members of the Traditional Council present shall constitute a quorum, provided that notice of the adjourned meeting shall have been given to the members not present at the first meeting.
- 10.6 If a quorum is not present at a meeting of the Traditional Council as a result of a failure in telecommunications, then the provisions of 10.4.1 shall not apply, and the meeting shall be dissolved.
- 10.7 At the request of any member of the Traditional Council and by approval of Kgosi, meetings may be held by telephone conference call between members, some or all of whom are in different places, provided that each Councillor who participates is able to hear the other participating members addressing the meeting, and, if he so wishes, is able to address all of the other participating members simultaneously. The decisions of the members of the Traditional Council taken at such meetings shall be confirmed by telefax within 24 hours of the meeting and ratified at the next meeting of the members of the Traditional Council.
- 10.8 The chairperson, in the absence of the chairperson the deputy chairperson, of the Traditional Council shall preside as chairperson at every meeting of members of the Traditional Council.
- 10.9 The chairperson may, with the consent of members of the Traditional Council at which a quorum is present, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned as a result of a direction given in terms of this clause 10.9, notice of the adjourned meeting shall be given in the manner prescribed by such provision but, save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

- 10.10 At any meeting of members of the Traditional Council a resolution put to the vote of the meeting shall be decided on a show of hands.
- 10.11 A declaration by the chairperson that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the minute book of the Traditional Council, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, such resolution. No objection shall be raised as to the admissibility of any vote except at the meeting or adjourned meeting at which the vote objected to is or may be given or tendered and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection shall be referred to the chairperson of the meeting, whose decision shall be final and conclusive.
- 10.12 In the case of an equality of votes, the chairperson of the meeting at which the show of hands takes place the chairperson shall be entitled to a second or casting vote.
- 10.13 Minutes of meetings of the members of the Traditional Council shall be taken by a person appointed by the Office of Kgosi and shall be distributed to all the members of the Traditional Council, within seven days after any meeting. Such Minutes shall be confirmed at the next meeting of the members of the Traditional Council.

11. DISCIPLINARY PROCEEDINGS

- 11.1 Any member of the Traditional Council who commits any act which places the Bakgatla Ba Mosetlha or Kgosi into disrepute, shall be disciplined either by warning, dismissal from the Traditional Council including or any other punishment which the disciplinary committee may deem fit.
- 11.2 Kgosi shall, from time to time, appoint independent members of the Bakgatla Ba Mosetlha who shall constitute the temporary disciplinary committee.
- 11.3 The disciplinary committee shall act in consultation with Kgosi on any matter placed before it.
- 11.4 The disciplinary committee may at its discretion, appoint a commission of inquiry into an alleged misconduct of a member before disciplining the said member.

- 11.5 Any member found guilty of any wrongdoing shall have the right to appeal to the Office of Kgosi whose decision shall be final.
- 11.6 No member of the Traditional Council shall be dismissed without approval of the Kgosi.
- 11.7 In the event of any member being dismissed, Kgosi shall have the power to appoint any person to replace the said dismissed member as set out in clause 4.1.1 and 4.1.2 respectively.

12 VOTES BY MEMBERS

- 12.1 At any meeting of the members of the Traditional Council each member present in person or by proxy, shall have one vote.
- 12.2 K proxy will be another member of the Traditional Council.
- 12.3 The form appointing a proxy shall be in writing under the hand of the appointer or of his agent duly authorised in writing. The proxy shall be entitled to vote, to attend and take part in the meeting he has been duly authorized to attend.
- 12.4 The form appointing the proxy shall be in the same format as the proxy form referred to as **SCHEUDLE 13**.
- 12.5 The form appointing a proxy shall be lodged with the chairperson not less than 24 (twenty-four) hours (or such lesser period as the members of the Traditional Council may unanimously determine in relation to any particular meeting) before the time for holding the meeting (including an adjourned meeting) at which the person named in the form proposes to vote, and in default the form of proxy shall not be treated as valid. No form appointing a proxy shall be valid after the expiration of 6 (six) months from the date when it was signed, except at an adjourned meeting unless otherwise specifically stated in the proxy itself.

13. COMMERCIAL ASSETS

The BBM Traditional Council shall establish a trust which shall house all commercial assets of the BBM and shall delegate all incidental powers relating to the administration of the said commercial assets to the trust.

14. BUDGETARY PROCESS OF THE TRADITIONAL COMMUNITY

- 14.1 The budgetary process of the Bakgatla Ba Mosetlha shall be conducted as follows:
 - 14.1.1 The members of the Traditional Council shall conduct and compile a needs analysis in line with the Bakgatla Ba Mosetlha Master Plan in their respective

- 14.1.2 constituencies and regions made up of all the villages of the Bakgatla Ba Mosetlha;
- 14.1.3 The members of the Traditional Council in conjunction with Bakgatla Ba Mosetlha's Treasury and Business Department shall ensure that, on or before the last day of July each year a draft budget is prepared and submitted to Kgosi for inputs and submissions;
- 14.1.4 After Kgosi has made submissions and inputs to the draft budget, the members of the Traditional Council shall procure that on or before the last day of August each year the budget is tabled at a meeting of the members of the Traditional Council for interrogation and debate;
- 14.1.5 The Traditional Council shall note the draft budget on or before the last day of September each year;
- 14.1.6 The noted budget shall be referred to the Royal Council by members of the Traditional Council for approval, which approval shall take place by no later than the 15th day of October each year;
- 14.1.7 The members of the Traditional Council may, after the approval from the Royal Council and before the last day of October each year, submit the budget to the Premier for his or her approval;
- 14.1.8 The members of the Traditional Council may, after the approval from the Royal Council and before the last day of October each year, submit the budget to the Premier for his or her approval;
- 14.1.9 Once the budget for the preceding year is approved by the Royal Council, the Traditional Council shall together with the executives in the Office of Kgosi monitor the spending of the budget.

23 AMENDMENT

- 23.1 No amendment of any clause of these By-Laws shall be valid unless it has been adopted by a two-third majority of the members of the Traditional Council attending a meeting convened for the purpose of deciding on the amendment.
- 23.2 No amendment shall be of force and effect unless approved by Kgosi once adopted as stated in 16.1 above.

24 INDEMNITY

- 24.1 The members of the Traditional Council shall be indemnified out of the Traditional Council Fund assets against all claims and demands of

whatsoever nature that may be made upon them arising out of the exercise or purported exercise of any of the powers hereby conferred upon them, unless the loss in question is caused by their gross negligence, dishonesty or other willful misconduct or where such loss results from the members' failure to show the degree of care, diligence and skill which can reasonably be expected of persons who manage the affairs of others.

- 24.2 No members of the Traditional Council shall be liable for any act or dishonesty or other misconduct committed by any other member of members of the Traditional Council unless he was a party or accessory thereto.

25. COMMENCEMENT, FORCE AND EFFECT

These By-Laws including any amendments thereto, shall commence and be of force and effect once adopted by the Traditional Council and approved by Kgosi.

ADOPTED	DATE OF ADOPTION
APPROVED	DATE OF APPROVAL

ANNEXURE “A”

BAKGATLA BA MOSETLHA TRADITIONAL COUNCIL

ELECTORAL CODE

1. QUALIFICATION FOR MEMBERSHIP OF THE TRADITIONAL COUNCIL

- 1.1** No person shall become or remain a member of the Traditional Council unless he or she is a ***bona fide*** member of the Bakgatla Ba Mosetlha, is of or over the age of 25 (twenty- five) and is resident in Ga Mosetlha.
- 1.2** The following category of persons are disqualified from being members of the Traditional Council:
- (a) Persons who have been found guilty and dismissed for any misconduct or incompetence at their places of employment or by their organisations during his or her or her tenure of office as a member of the Traditional Council;
 - (b) Persons who have a criminal record involving violence or dishonesty or subversion;
 - (c) Employees of Bakgatla Ba Mosetlha or Bakgatla ba Mosetlha Administration or entities owned wholly by the Bakgatla Ba Mosetlha;
 - (d) Unrehabilitated insolvent;
 - (e) Persons declared to be of unsound mind;
 - (f) Persons previously disqualified from being members of the Bakgatla Ba Mosetlha Executive Council.

2. EXEMPTION

For the purpose of Clause 1.2 (b) above, no person shall be disqualified from being a member of the Traditional Council if he or she has been convicted of an offence “prior April 1994” committed with a political motive or has received amnesty from the Truth and Reconciliation Commission following the said conviction.

3. ELECTORAL COMMISSION

- 3.1** Within 10 (ten) days of the announcement of the date of elections, the Office of Kgosi shall appoint an Electoral Commission whose duty

shall in conjunction with Office of Kgosi be to conduct the process of elections from nominations up to the certification of results.

- 3.2 A representative from the North-West Province's House of Traditional Leaders may be invited to keep observation on the elections and to report to the House of Traditional Leaders.
- 3.3 A representative from the Office of the Premier of the North-West Province may be invited to keep observation on the elections and to report to the Premier.

4. NOMINATION OF CANDIDATES

- 4.1 Within thirty (30) working days after the date of announcement of the date of elections, all nominations for candidacy shall be submitted to the Office of Kgosi, Corporate Governance Department at The Tribal Office.
- 4.2 Nominations shall be made in every Kgotla at a Nominations Meeting called by the Electoral Commission.
- 4.3 The Electoral Commission shall be in charge of the nomination process and shall invite nominations of candidates.
- 4.4 The Electoral Commission shall determine a fair and democratic nomination process to be adopted in compliance with the provisions of Clauses (4.6), (4.7), (4.8) and (4.9) below.
- 4.5 Every nomination shall be in writing indicating the full names, identity number and the age of the nominated person as well as those of a person who nominated him or her, the area for which he or she is being nominated.
- 4.6 Every nomination shall be seconded by another person and shall bear the signatures of the person who is nominated, who nominated, who nominates and the person who seconds from the nomination.
- 4.7 The nominated candidate shall in the nomination document referred to above, confirm that he or she accepts the nomination and shall sign for his or her acceptance.
- 4.8 Every candidate shall reside in a Constituency for which he or she seeks to be elected.
- 4.9 Persons nominating and seconding nominations shall comply with all the qualifications criteria for membership provided in Clause 1.2 herein.

- 4.10** The Electoral Commission shall compile a list of all candidates and the area in which they stand as candidates and publish or cause to be published, the list of all candidates and the areas in which they stand for election by fixing same on the notice boards at Mosate, Tribal office, Village Notice Boards and any public place convenient to the Community.
- 4.11** The list shall lay for inspection by members of the community for 6 days and any person who wishes to object to any nomination may lodge a written objection with the Electoral Commission, detailing all grounds in support of the objection.
- 4.12** Within forty-eight (48) hours of receipt of the objection, the nominated person may reply in writing to the Electoral Commission who will forward the reply to the objecting person, failing which the objection may be upheld by the Electoral Commission.
- 4.13** Should no objection be lodged within the time specified above, Kgosi shall certify the nominations as confirmed after 5 days of publication of the list referred to above.

5. ELECTORAL CODE OF CONDUCT

- 5.1** Upon nomination and until the final results of elections are announced, all candidates shall observe the Electoral Code of Conduct set out in Schedule 1 hereof.
- 5.2** Any candidate who contravenes the Electoral Code of Conduct shall be summoned before an adjudicator appointed by the Electoral Commission and if found guilty, may be disqualified from being a candidate in the elections.

6. BALLOT PAPERS

After the confirmation of the nominations list referred to in Clause 4.2 above, the Electoral Commission shall prepare or cause to be prepared, ballot papers for each Constituency clearly indicating the following:

- (i) The name of the Constituency and the date of elections;
- (ii) The names of all candidates standing for election in that Constituency in their alphabetical order;
- (iii) A square-block next to each name on the right-hand side in which a voter will put a cross.

7. VOTING

7.1 Persons not entitled to vote

No person shall be entitled to vote in the election if that person

- (i) is not a ***bona fide*** member of the Bakgatla ba Moseitlha and
- (ii) is below the age of eighteen and/or
- (iii) is of unsound mind.

7.2 Voting Stations and Voting Time

- (i) Voting shall take place at places designated by the Electoral Commission.
- (ii) A voting station shall comprise of an election center representing that area of the voting station consisting of an area bounded by a circumference with a radius of 100 meters or more to enable a voter to cast his or her or her vote secretly.
- (iii) Voting shall take place from 07h00 to 18h00 on a polling day.

7.3 Polling Officers

The Electoral Commission shall appoint members of the Community of good standing as Polling Officers, one of whom shall be the presiding officer to conduct and monitor the process of elections, in a particular Constituency.

7.4 Polling

- (i) A voter, who is not disqualified in terms of Clause 1.2 above, who has been positively identified by Polling Officers of the Constituency in which he or she resides, as a fit and proper person to vote, after he or she had produced an identity document, shall be handed a ballot paper wherein he or she shall in privacy cast his or her or her vote by making a cross in the block next to the name of the candidate he or she votes for.
- (ii) Thereafter, a voter shall move from the screen and put the ballot paper inside the ballot box and proceed to exit.

- (iii) At the close of polling, the officials referred to in Clause 7.3 above shall close the polling box and proceed to the area designated for counting.

7.5 Counting

- (i) Counting of votes shall take place on the polling day after the close of polling but not later than a day after polling had been concluded.
- (ii) The following procedure shall be complied with:
 - (a) All candidates are entitled to be present during counting;
 - (b) Votes of each Constituency shall be counted separately;
 - (c) The candidate who scores the majority of votes shall represent his or her or her Region in the Traditional Council.
 - (d) In the event of a tie, the Electoral Commission shall conduct By-Election to be contested by the candidates with equal number of votes in order to determine the outright winner within fourteen (14) days of the main election.
- (iii) Votes shall be counted by the Electoral Commission Staff in the presence of Independent Observers and Candidates.
- (iv) After completion of the counting, an independent person referred to Clause 7.5 (c) (i) above shall loudly and in the presence of the candidates or their agents of the Constituency whose votes have been counted, announce the results by indicating the number of votes each candidate received and the name of the elected candidate into the Traditional Council.
- (v) Within fourteen (14) days from the date of elections, Kgosi will by notice to Dikgosana and by publication on the Notice Boards at Tribal office, announce all the elected members of the Traditional Council.
- (vi) All ballot papers shall be stored securely for a period of thirty days after counting; where after they shall be

- (vii) destroyed if no objection had been lodged against the election of any Candidate or the counting of votes.

ANNEXURE“B”

ELECTORAL CODE OF CONDUCT

1. Purpose of the Electoral Code of Conduct

The purpose of the Electoral Code of Conduct is to promote conditions that are conducive to free and fair elections, including:

- (a) tolerance of democratic activity; and
- (b) free campaigning and open public debate.

2. Promotion of the Electoral Code of Conduct

Every registered candidate bound by this or her Electoral Code of Conduct must:

- (a) promote the purpose of the Electoral Code of Conduct when conducting an election;
- (b) publicise the Electoral Code of Conduct widely in any election campaigns; and
- (c) promote and support efforts in terms of this or her Electoral Code to educate voters.

3. Compliance with the Electoral Code of Conduct and the electoral process

Every registered candidate must:

- (a) comply with this or her Electoral Code of Conduct;
- (b) instruct his or her supporters to comply with this or her Electoral Code of Conduct and any applicable electoral process;
- (c) take all reasonable steps to ensure compliance with the electoral code:

4. Public commitment

4.1 Every registered candidate must:

- (a) publicly state that everyone has the right:
 - (i) to freely express their traditional beliefs and opinions;

- (ii) to challenge and debate the traditional governance beliefs and opinions of others;
 - (iii) to canvass support for a candidate;
 - (iv) to hold public meetings; and
 - (v) to travel and to attend public meetings; and
 - (b) publicly condemn any action that may undermine the free and fair conduct of elections.
- 4.2 Every registered candidate must accept the result of an election or challenge the result by formally and in writing lodging a complaint with the Office of Kgosi.

5. Duty to co-operate

Every registered candidate must liaise with other candidates contesting an election and endeavour to ensure that they do not call a public meeting, march, demonstration, rally or any other public political event at the same time and place as that called by the Electoral Commission.

6. Role of the Electoral Commission

Every registered candidate must:

- (a) recognise the authority of the Electoral Commission in the conduct of an election;
- (b) assure voters of the Electoral Commission's impartiality;
- (c) give effect to any lawful direction, instruction or order of the Electoral Commission, or a member, employee or officer of the Electoral Commission, or the chief electoral officer;
- (d) establish and maintain effective lines of communication with:
 - (i) the Electoral Commission; and
 - (ii) other registered candidates contesting the election.
- (e) facilitate the access of members, employees and officers of the Electoral Commission, and the chief electoral officer, to public meetings, marches, demonstrations, rallies and other public events organised by the Electoral Commission;
- (f) co-operate in any investigation of the Electoral Commission;
- (g) take all reasonable steps to ensure:

- (i) the safety of members, employees and officers of the Electoral Commission, and the chief electoral officer, in the exercise of any power or the performance of any duty assigned by or under this or her Electoral Code of Conduct;
- (ii) that persons referred by in subparagraph (i) are not subjected to insult, hazard or threat by any representatives or supporters of that party or candidate; and
- (iii) that the candidate attends meetings of any committee or other forum convened by the Electoral Commission.

7. Role of media

Every registered every candidate: -

- (a) must respect the role of the media before, during and after an election conducted in terms of this or her Electoral Code of Conduct;
- (b) may not prevent access by members of the media to public meetings, marches, demonstrations and rallies; and
- (c) must take all reasonable steps to ensure that journalists are not subjected to harassment, intimidation, hazard, threat or physical assault by any of their supporters.

8. Prohibited conduct

8.1 No registered candidate may:

- (a) use language or act in a way that may provoke: -
 - (ii) violence during an election; or
 - (iii) the intimidation of candidates or supporters of other candidates, or voters;
- (b) publish false or defamatory allegations in connection with an election in respect of: -
 - (i) a candidate;
 - (ii) the Electoral Commission.
- (c) Discriminate on the grounds of race, ethnicity, sex, gender, class or religion in connection with an election.

8.2 No person may:

- (a) offer any inducement or reward to another person:

- (i) to attend or not to attend a public meeting, march, demonstration, rally or other public event;
 - (ii) to vote or not to vote, or to vote or not to vote in any particular way; or
 - (iii) to refuse a nomination as a candidate or to withdraw as a candidate; or
- (b) carry or display arms or weapons:
 - (i) at a public meeting; or
 - (ii) in any march, demonstration, rally or other public event.
- (c) unreasonably prevent any other person access to voters for the purpose of voter education, collecting signatures for nominations, or canvassing support for a candidate;
- (d) deface or unlawfully remove or destroy the billboards, placards, posters or any other election materials of the election process;
- (e) abuse a position of power privilege or influence, including parental, patriarchal, traditional or employment authority to influence the conduct or outcome of any election.

9. Additions to Electoral Code of Conduct

The Office of Kgosi may by written directive add further provisions to this
Electoral Code of Conduct.

SCHEDULE 5**BAKGATLA BA MOSETLHA - LEKGOTLA LA DIKGOSANA BY-LAWS**

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1. DEFINITIONS

- 1.1 **“Chairperson”** means Kgosi of the Bakgatla Ba Moselelha.
- 1.2 **“Kgosana”** means the most senior hereditary ruler of a *Kgotla* of the Bakgatla Ba Moselelha who has been recognised and installed in accordance with customs and customary laws of the BBM;
- 1.3 **“Kgotla”** means a clan or traditional and customary structure comprising of a Kgoro or more than one Kgoro headed by a Kgosana and recognized as such in terms of traditions, customs and customary laws of the BBM. The Bakgatla Ba Moselelha is made up of 70 Makgotla and two community authorities a list of which is attached hereto marked **SCHEDULE 1**;
- 1.4 **“Monnakgotla”** means any person who is elected and recognised as assistant or advisor in accordance with the traditions, customs and customary laws of the Bakgatla Ba Moselelha.
- 1.5 **“North West Traditional Leadership and Governance Act 2 of 2005 (the North West Act)”** means a provincial legislation passed for the purpose of regulating traditional leadership and governance.
- 1.6 **“Bakgatla ba Moselelha Traditional Community”** means a universitas personarum, which practices its traditions, norms, customs and cultures a traditional community and is recognised as such by the Constitution and the applicable legislation of the Republic of South Africa
- 1.7 **“Royal Council”** means the joint sitting of Lekgotla la Dikgosana and the Bakgatla Ba Moselelha Traditional Council as contemplated in the Bakgatla Ba Moselelha Governance Framework.
- 1.8 **“Traditional Council or Bakgatla Ba Moselelha Traditional Council”** means a traditional council subject to the traditions, customs and customary laws of the Bakgatla Ba Moselelha established in terms of Section 6 of the North West Traditional Leadership and Governance Act.

2. STATUS OF LEKGOTLA LA DIKGOSANA

- 2.1 Lekgotla la Dikgosana is subject to the traditions, customary laws and practices of the Bakgatla Ba Moseitlha, the Constitution of the republic of South Africa and applicable legislation.
- 2.2 Lekgotla la Dikgosana. subject to the authority and power of the Royal Council. entrusted with is with all traditional and customary matters of the Bakgatla ba Moseitlha including but not limited to overseeing the affairs of Makgotla and Dikgoro.

3. COMPOSITION OF LEKGOTLA LA DIKGOSANA

- 3.1 Lekgotla la Dikgosana shall consist of Dikgosana/Headmen of all Makgotla which make up the Bakgatla ba Moseitlha recognised as such in terms of the traditions. customary practices and laws of the Bakgatla Ba Moseitlha.
- 3.2 The number of members of Lekgotla la Dikgosana shall be adjusted accordingly depending on whether a Kgotla has been abolished or a new one established.

4. APPOINTMENT OF A KGOSANA

- 4.1 Bogosana of a Kgotla in Bakgatla Ba Moseitlha is in accordance with the customary law and customs of Bakgatla ba Moseitlha.
- 4.2 According to the customary law and customs of the Bakgatla ba Moseitlha Kgosana is a hereditary traditional leader of a Kgotla born of the family of Bogosana.
- 4.3 The heir to Bogosana is identified by the house of Bogosana who is then presented to a Kgotla as an heir to the throne of Bogosana. Once accepted by a Kgotla the Kgosana is presented to Kgosi.
- 4.4 Kgosi shall present the nominee Kgosana to the Premier of North West Province who will in turn issue the person so recognised as Kgosana with a certificate of recognition in terms of Section 19(4) of the North West Traditional Leadership and Governance Act 2 of 2005 (the North-West Act).

- 4.5 In terms of Section 19(5) of the North-West Act, the Premier shall issue a notice in the Government Gazette in and serve such notice on the House of Traditional Leaders for information in terms of which a Kgosana is recognised as such.

5. VACANCIES

Subject to Section 20 of the North-West Act, a vacancy occurs in Lekgotla la Dikgosana if a Kgosana:

- 5.1 Dies;
- 5.2 Resigns;
- 5.3 Is declared insane;
- 5.4 Is wrongfully identified as a Kgosana;
- 5.5 Is convicted of an offence which carries a sentence of imprisonment for more than 12 months without a fine;
- 5.6 Is found guilty of transgressing a customary rule, principle of code of conduct that warrants removal from the position of Kgosana;

6. FILLING OF VACANCIES IN LEKGOTLA LA DIKGOSANA

Where a vacancy occurs in Lekgotla la Dikgosana, Kgosi shall cause such vacancy to be filled in terms of the customs and customary laws of the Bakgatla Ba Moseleha subject to the provision of the applicable law.

7. APPOINTMENT OF AN ACTING KGOSANA

- 7.1 An Acting Kgosana may be appointed subject to all applicable legislation, codes and rules of order, where a Kgosana is unable to do so for a continuous period for the following reasons: (i) if the Kgosana is incapacitated due to ill-health; or (ii) the incumbent is not ready, provided after the 6 months period a Regent shall be appointed.
- 7.2 An Acting Kgosana shall be entitled to 40% of the benefits (remuneration) due to a Kgosana whilst the 60% will be due to the Kgosana during his 6 months' tenure.
- 7.3 Where the incumbent is not ready to assume his role as Kgosana within a period of 24 months, then the Acting

Kgosana shall be entitled to 100% of the benefits due to the Kgosana

- 7.4 A Kgotla or Kgoro may be represented by an Acting Kgosana or Monnakgotla in Lekgotla la Dikgosana and participate fully in the activities of Lekgotla la Dikgosana.

8. POWERS AND FUNCTIONS OF LEKGOTLA LA DIKGOSANA

Lekgotla la Dikgosana shall; subject to these By-laws, BBM Governance Framework or any applicable legislation

9. ADMINISTRATION

The Secretariat: Institutional Governance and where feasible, the RBA shall provide administrative support to Lekgotla la Dikgosana including but not limited to:

- 9.1 manage the day to day administration of Lekgotla la Dikgosana;
- 9.2 monitor, manage, co-ordinate and implement all the functions Lekgotla la Dikgosana;
- 9.3 Keep record of all proceedings and resolutions of Lekgotla la Dikgosana
- 9.4 Any other functions assigned to it by Kgosi or Royal council or Lekgotla la Dikgosana.

10. REGULATIONS OF LEKGOTLA LA DIKGOSANA

- 10.1 Lekgotla la Dikgosana may make regulations that are consistent with the By-laws, traditions, customs and customary laws of the BBM for regulating its proceedings or any matter within its powers.
- 10.2 any regulations made by Lekgotla la Dikgosana shall be subject to approval by Kgosi who may refer it back for further consideration to incorporate or take into account certain circumstances or new developments or advise as may be given.

11. MEETINGS OF LEKGOTLA LA DIKGOSANA

11.1 Number of meetings

Lekgotla la Dikgosana shall have a minimum of four meeting every months at a time, date and venue Monday 9h00 at Mosate. The said notice shall where possible include the agenda for the meeting.

11.2 Quorum of meetings of Lekgotla la Dikgosana

The quorum required for the meeting of Lekgotla la Dikgosana shall be a simple majority of all members present, i.e 50% of all members of Lekgotla la Dikgosana

11 3 Notice of meetings of Lekgotla la Dikgosana

11.3.1 The Chairperson shall cause the Secretariat: Institutional Governance to serve a notice of a meeting on every Kgosana. The notice must contain details of the date, time, venue and where possible agenda of the meeting.

11.3.2 The Chairperson may convene a special meeting of Lekgotla la Dikgosana, (i) where an urgent matter has come up which requires the attention and decision of Lekgotla la Dikgosana or (ii) where Kgosi so directs or (iii) where a petition by at least 25% of members of Lekgotla la Dikgosana so requires.

11.3.3 No business may be dealt with at a special meeting other than that specified in the notice thereof, except with the consent of Dikgosana present at the meeting.

11.4 Decisions of Lekgotla la Dikgosana

11.4.1 The decisions of Lekgotla la Dikgosana shall be taken on consensus by all members present at a meeting. In the absence of consensus amongst members, a decision of Lekgotla la Dikgosana shall be on a simple majority of votes cast by members present at a meeting.

11.4.2 The Chairperson, including the Chairperson of Oversight and Proceedings shall have a casting vote.

- 11.4.3 No proxy shall be allowed;
- 11.4.4 Only members of Lekgotla la Dikgosana shall participate in deliberations at meetings of Lekgotla la Dikgosana;
- 11.4.5 Participation of non-members at a meeting of Lekgotla la Dikgosana shall be at the invitation of the Chairperson or Kgosi where:
 - 11.4.5.1 the interests of a member of the community are not or cannot be adequately addressed by Lekgotla la Dikgosana or a Committee; or
 - 11.4.5.2 the essential information on the topic under discussion has to be obtained or technical or scientific issues have to be clarified

11.5 Meetings open to the public

Meetings of Lekgotla la Dikgosana shall not be open to the public unless a majority decision has been taken against opening the meeting to the public or unless the Chairperson directs otherwise.

11.6 Minutes of meetings of Lekgotla la Dikgosana

The Secretariat: Institutional Governance shall provide administrative and secretarial services and support to Lekgotla la Dikgosana and shall record the following:

- 11.6.1 the date, time and venue of the meeting;
- 11.6.2 the names of members present and apologies tendered;
- 11.6.3 the summary of proceedings and the discussion at the meeting which must contain in full every motion or amendment and any resolution or decision taken thereon, including the name of the mover and the seconder. Where a motion has been put to a vote, the minutes should record of votes for, against and abstentions in respect of the matter under discussion.

11.7 Procedure at meetings of Lekgotla la Dikgosana

Meeting procedures of Lekgotla la Dikgosana shall be in accordance with BBM Governance Structures Rules of Order with adaptations to suit the special circumstances of Lekgotla la Dikgosana.

12. EXECUTIVE COMMITTEE OF LEKGOTLA LA DIKGOSANA

The Executive Committee of Lekgotla la Dikgosana shall consist of 9 elected at a meeting called for that purpose and which shall be made up as follows:

- 12.1 a Chairperson who shall also be the Chairperson of Lekgotla la Dikgosana;
- 12.2 a Deputy Chairperson who shall also be the Deputy Chairperson of Lekgotla la Dikgosana;
- 12.3 seven additional members elected from amongst members.

13. MEETINGS OF THE EXECUTIVE COMMITTEE OF LEKGOTLA LA DIKGOSANA

13.1 Number of meetings

The Executive Committee shall meet at least once a month in between General Meetings of Lekgotla la Dikgosana.

132 Duties of the executive Committee

The executive Committee shall between ordinary meetings shall be responsible for the exercise of the powers, authority and performance of the functions of Lekgotla la Dikgosana as determined from time to time.

133 Quorum of meetings of the Executive Committee

A simple majority of members shall form a quorum of the meeting of the Executive Committee.

14. TERM OF OFFICE OF THE EXECUTIVE COMMITTEE OF LEKGOTLA LA DIKGOSANA

The term of office of the executive of Lekgotla la Dikgosana shall be an uninterrupted period of 5 years which shall run concurrently with the term of office of the BBM Traditional Council.

15. DISSOLUTION OF THE EXECUTIVE COMMITTEE

- 15.1 The Executive Committee of Lekgotla la Dikgosana may be dissolved by a two-thirds majority of members present at a meeting called for that purpose after the executive committee has been found to be incompetent or failed to act in the best interest of the BBM.
- 15.2 Kgosi may, in consultation with Lekgotla la Dikgosana, dissolve the Executive Committee of Lekgotla la Dikgosana if in his opinion, the Executive Committee is incompetent or acts against the best interest of the BBM.
- 15.3 In the event where the Executive Committee has been dissolved, Kgosi shall direct that a new Executive Committee be elected within one(1) month of the Executive Committee being dissolved. Where the dissolved Executive Committee had served more than three (3) years but less than four (4) years of their term, then Kgosi in consultation with Lekgotla la Dikgosana shall appoint an Interim Committee to act and perform the function of the executive Committee until the term of office of the dissolved committee comes to an end.

16. CONSULTATION WITH KGOSI

The Chairperson of Lekgotla la Dikgosana shall act in consultation with Kgosi and keep him informed of all deliberations and decisions of Lekgotla la Dikgosana.

17. CODE OF CONDUCT OF LEKGOTLA LA DIKGOSANA

The members of the Lekgotla la Dikgosana shall be subject to the Disciplinary Code of BBM Governance Structures. The Code of Conduct shall be adapted accordingly to suit the specific circumstances relevant to Lekgotla la Dikgosana.

18. REMUNERATION OF MEMBERS OF LEKGOTLA LA DIKGOSANA

Kgosi may in consultation with Lekgotla la Dikgosana determine a monthly remuneration for members of Lekgotla la Dikgosana payable for attending meetings of Lekgotla la Dikgosana.

19. AMENDMENT OF BY-LAWS

These by By-laws may be amended by a two-thirds majority of votes of members at a general meeting of Lekgotla la Dikgosana specially convened for that purpose.

20. COMMENCEMENT, FORCE AND EFFECT

These By-laws shall commence and be of force and effect once adopted by the General Meeting of Lekgotla la Dikgosana and approved by Kgosi

21. SHORT TITLE

These By-laws shall be referred to as Lekgotta la Dikgosana Bylaws.

ADOPTED:

Chairperson

Date

APPROVED:

KGOSI

DATE

SCHEDULE 6

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CHAPTER 1

INTERPRETATION AND APPLICATION

1. DEFINITIONS AND INTERPRETATION

- 1.1 Unless otherwise stated, in this and By-Laws and Annexures thereto, the following phrases shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings, namely:
- 1.1.1 **“Annual Lekgotla”** means an Annual General Meeting of a Kgotla convened to specifically deal with the business of a Kgotla including but not limited to the election of a Khuduthamaga, tabling and adoption of Annual Reports, Financial Statements and adoption of annual budgets.
 - 1.1.2 **“Bannakgotla”** means Warden identified by various DiKgoro or Kgoro falling under a Kgotla Transfer means the process outlined in Annexure M.
 - 1.1.3 **“Kgosana”** means the most senior hereditary ruler of a Kgotla of the Bakgatla Ba Mosetlha who has been recognised and installed in accordance with customs and customary laws of the BBM;
 - 1.1.4 **“Kgotha-Kgothe”** means the Bi-Annual General Meeting of the BBM convened by Kgosi in accordance with the traditions, customs and customary laws of the BBM subject to the applicable legislation.
 - 1.1.5 **“Kgotla”** means a clan or traditional and customary structure comprising of a Kgoro or more than one Kgoro headed by a Kgosana and recognized as such in terms of traditions, customs and customary laws of the BBM. The Bakgatla Ba Mosetlha is made up of 70 Makgotla and two community authorities a list of which is attached hereto marked **SCHEDULE 1**;
 - 1.1.6 **“Khuduthamaga”** means the Executive Committee of a Kgotla constituted in terms of these By-Laws subject to the traditions, customs and customary laws of the BBM.
 - 1.1.7 **“Kgoro”** means a group of extended families related by blood organized under the leadership of the most

elderly male descendant of that group of extended families recognised as such in terms of traditions, customs and customary laws of the BBM.

- .8 **“Lekgotla”** means a General Meeting of adult members of a Kgotla called by a Kgosana to address issues of importance to a Kgotla in terms of the traditions, customs and customary laws of the BBM.

- 1.1.9 “Mokgatla”** means any person who belongs to any Kgotla or Kgoro which makes up the Bakgatla Ba Moseitlha who recognises, accepts and subjects himself to the traditions, customs and customary laws of the BBM and pay allegiance to and respects the traditional leadership of the BBM. This includes direct and indirect descendants of the founding members of the BBM, any female married to a descendant of the founding members of the BBM and any children born of such a marriage, whether recognised in customary or civil law; any person born of a female whose father is not a Mokgatla but who accepts and submits himself to the traditions, customs and customary laws of the BBM and any person who successfully applies to be accepted as a Mokgatla who complies with all requirements set down from time to time.

- “North West Traditional Leadership and Governance Act 2 of 2005 (Act 2 of 2005 of the Act)”** means an Act passed by
10 the North West Provincial parliament for the purpose of providing a regulatory framework for the institution of traditional leadership as practiced by traditional communities;

1.1.11 **“Premier”** means the head of the Executive Committee of the Provincial government and the political leader of the North-West Province as defined in the relevant legislation.

- 1.1.12 **“Bakgatla Ba Moseitlha”** means a *universitas personarum*, which practices its traditions, norms, customs and cultures as a traditional community and is recognised as such by the Constitution and the applicable legislation of the Republic of South Africa;

- 1.1.13 **“Special Lekgotla”** means a General Meeting of a Kgotla convened specifically to address specific

urgent matter(s) called at the instance of Kgosi or Office of Kgosi, a Kgosana or Khuduthamaga to discuss matters relating to a Kgotla or Kgotha- Kgothe.

- 1.2 Clause headings are for convenience and are not to be used in its interpretation.
- 1.3 Words importing:
 - 1.3.1 any one gender includes the other two genders;
 - 1.3.2 the singular includes the plural and vice versa;
 - 1.3.3 natural persons include created entities (incorporated or unincorporated) and vice versa;
- 1.4 Where any term is defined within a particular clause other than this clause 1, that term shall bear the meaning ascribed to it in that clause wherever it is used in this agreement;
- 1.5 Where any number of days is to be calculated from a particular day, such number shall be calculated as excluding such particular day and commencing on the next day. If the last day of such number so calculated falls on a day which is not a business day, the last day shall be deemed to be the next succeeding day which is a business day;
- 1.6 The use of the word "including" followed by a specific example/s shall not be construed as limiting the meaning of the general wording preceding it.

2. APPLICATION

These By-Laws applies to all Makgotla of the BBM subject to the applicable legislation, traditions, customs and customary laws of the BBM. “

CHAPTER 2

KGOSANA

3. APPOINTMENT AND RECOGNITION OF A KGOSANA

Kgosana of a Kgotla shall be appointed in accordance with the customary law and customs of the BBM and the applicable law.

4. ROLE AND FUNCTION OF A KGOSANA

A Kgosana shall:

- 4.1 perform such functions as are entrusted to a Kgosana in terms of customary law and customs of the BBM.
- 4.2 perform such other functions as may be prescribed.
- 4.3 obey and execute the lawful instructions of Kgosi.
- 4.4 attempt to settle any dispute between any members of the Kgotla and shall refer such dispute to the tribal court where such attempts to settle such dispute are unsuccessful.

5. REMOVAL OF KGOSANA

- 5.1 Subject to the customs and customary laws of the BBM and the applicable law, a Kgosana may be removed from office on the grounds of -
 - 5.1.1 conviction of an offence with a sentence of imprisonment for more than 12 months without an option of a fine;
 - 5.1.2 mental infirmity which, based on acceptable medical evidence, makes it impossible for that Kgosana to function as such;
 - 5.1.3 wrongful identification and recognition; or
 - 5.1.4 a transgression of a customary rule, principle or code of conduct that warrants the removal.
- 5.2 Kgosi shall inform the Premier of the decision to withdraw the appointment of a Kgosana within a reasonable time and the reasons thereof and the Premier shall withdraw the certificate of recognition of such a Kgosana in terms of Section 20(3) of Act 2 of 2005.

- 5.3 Where a Kgosana has been removed in terms of 5.1 above, a successor shall be appointed in accordance with the BBM customary law and customs and the applicable law.

6. RECOGNITION OF AN ACTING KGOSANA

- 6.1 An acting Kgosana of a Kgotla shall be appointed in accordance with the customary law and customs of the BBM.
- 6.2 An Acting Kgosana appointed in terms of 5.1 above shall be confirmed by the issuance of a certificate of recognition by the Premier and by publication as provided for in section 21(5) of Act 2 of 2005.

7. RECOGNITION OF A DEPUTY KGOSANA

- 7.1 In terms of Section 22 (1) of Act 2 of 2005, a Kgosana may, after consultation with Kgosi, appoint a Deputy to act in his stead whenever that Kgosana —
- 7.1.1 becomes a full-time member of a municipal council;
 - 7.1.2 is elected as a member of a provincial legislature;
 - 7.1.3 is elected as a member of the National Assembly;
 - 7.1.4 is appointed as a permanent delegate in the National Council of Provinces; or
 - 7.1.5 is elected to, or appointed in, a full-time position in any house of traditional leaders.
- 7.2 The Premier shall recognise a person identified as contemplated in 6.1 as a Deputy Kgosana of a Kgotla by issuing a notice to that effect as prescribed by Act 20 2005.

CHAPTER 3

KGOTLA

8. ROLES OF A KGOTLA

Subject to the traditions, customs and customary laws of the BBM, the role and responsibility of a Kgotla is to:

- 8.1** keep a register of all family members belonging to a Kgoro of DiKgoro under a Kgotla;
- 8.2** facilitate the registration of births, marriages, divorces and deaths of members of a Kgotla and file same with the Bakgatla ba Mosetlha Administration;
- 8.3** co-ordinate the activities of Diphiri of a Kgotla;
- 8.4** keep a register of business sites which shall at all times reflect their occupants, regardless of whether they are Bakgatla ba Mosetlha or not;
- 8.5** keep a register of all residents within its area of jurisdiction including non-Bakgatla ba Mosetlha;
- 8.6** keep statistical data of employment rate and demographics in its area of jurisdiction.

9. COMPOSITION OF A KGOTLA

A Kgotla shall consist of:

- 9.1** a Kgosana who shall be a Chairman of that Kgotla;
- 9.2** A member of families of a Kgoro or DiKgoro falling under falling the said Kgotla.

10. MEMBERSHIP AND AFFILIATION

- 10.1** Membership of a Kgotla shall be by individual or family affiliation subject to the traditions, customs and customary laws of the BBM.
- 10.2** Notwithstanding 10.1 above membership of a Kgotla may be acquired by a female who is married to a member of Kgoro falling under Kgotla;

- 10.3** Membership of a Kgotla may also be acquired by transfer from one Kgotla to the other in accordance with the applicable procedures.

11. MEETINGS OF A KGOTLA

11.1 Types of meetings

There are three types of general meeting of a Kgotla and they are:

11.1.1 Lekgotla

Lekgotla is an ordinary general meeting of a Kgotla called in accordance with the traditions, customs and customary laws of the BBM held at a time date and venue agreed upon by a Kgotla. It is attended by adult members of a Kgotla and it generally deals with matters of importance to a Kgotla in particular and the BBM in general.

11.1.2 Special Lekgotla

A Special Lekgotla is a Special General Meeting of members of Kgotla called to address matters of importance to a Kgotla in particular and the BBM in general which is held in between ordinary general meetings. It is normally called to address issues which require urgent attention or special attention which issues cannot wait until the next ordinary general meeting.

11.1.3 Annual Lekgotla

Annual Lekgotla is the Annual General Meeting of a Kgotla held in accordance with the traditions, customs and customary laws of the BBM. It is called once a year and its main purpose is to take stock of the activities of a Kgotla in the preceding year and to review reports and budgets and do anything and everything incidental to an Annual General Meeting.

11.2 Meeting procedures

Meetings of a Kgotla are subject to the provisions of the BBM Governance Structures Rules of Order with

Bakgatla Ba Moseleha Traditional Authority Governance Framework
necessary and relevant adaptations to suit the
requirements of a Kgotla.

KHUDUTHAMAGA

12. ROLE OF A KHUDUTHAMAGA

The role of a Khuduthamaga is, without limiting its role as conferred upon it by custom and customary law, to:

- 12.1 in co-operation with a Kgosana provide leadership on traditional and customary issues affecting a Kgotla.
- 12.2 serve as a communication channel and co-operative partnership between a Kgotla and the Council of Dikgosana, the Royal Council and BBM entities.
- 12.3 create a harmonious relationship between members of Kgotla and the BBM governance structures and entities.
- 12.1 promote the participation of women, youth and people with disabilities in activities, initiatives, programmes and projects of the BBM governance structures and entities.
- 12.2 co-ordinate all the committees of a Kgotla in an integrated manner in order to improve the lives of members of a Kgotla
- 12.3 empower a Kgotla to contribute to a better functioning of the Bakgatla Ba Moseitlha Administration;
- 12.4 preside over a geographical jurisdiction as determined by the Royal Council from time to time.

13. COMPOSITION OF A KHUDUTHAMAGA YA KGOTLA

A Khuduthamaga shall consist of the following members:

- 13.1 A Kgosana who shall be the Chairperson
- 13.2 A Monnakgotla
- 13.3 Bakgomane from 4 Main Clans (Mosate, Mosadimogolo, Mmamarama, Mekwa)
- 13.4 Where there is more than one Kgoro in a Kgotla, the Chairperson of each Kgoro shall be an *ex officio* member of the Khuduthamaga.

14. ELIGIBILITY TO SERVE IN THE KHUDUTHAMAGA

Subject to the customs and customary laws of the BBM, any person who has been:

- 14.1 declared insane in terms of the applicable legislation;
- 14.2 convicted of an offence which carries a sentence of imprisonment for more than 12 months without an option of a fine;
- 14.3 found guilty of transgressing a customary rule, principle of code of conduct that warrants removal from the position of Khuduthamaga is not eligible to serve in a Khuduthamaga

15 TERM OF OFFICE OF A KHUDUTHAMAGA

- 15.1 The term of office of a Khuduthamaga, excluding a Kgosana and a Monnakgotla, shall be for a continuous period of five (5) years and such period shall run concurrently with that of the BBM Traditional Council or for as long as the Royal Council may decide.
- 15.2 Notwithstanding the provisions of 15.1 above, the maximum term of office for elected members of Khuduthamaga shall be limited to two (2) fine year terms.

16 VACATION OF SEAT BY A MEMBER OF A KHUDUTHAMAGA YA KGOTLA

- 16.1 A vacancy in the Khuduthamaga of a Kgotla shall, subject to the relevant provisions of the North-West Act, occur when a member:
 - 16.1.1 Dies;
 - 16.1.2 Resigns from his position;
 - 16.1.3 Is removed from his position for any reason recognised in law including but not limited to:
 - 16.1.3.1 insanity;
 - 16.1.3.2 conviction of an offence which carries a sentence of imprisonment for more than 12 months without a fine;

- 16.1.3.3 being found guilty of transgressing a customary rule, principle of code of conduct that warrants removal from the position of Khuduthamaga.

17 DISSOLUTION OF A KHUDUTHAMAGA

A Khuduthamaga may be dissolved by:

- 17.1 by Kgosi on recommendation from the Council of Dikgosana following an investigation of allegations of incompetence or impropriety by members of a Khuduthamaga;
- 17.2 by Kgosi following a resolution passed by a simple majority of votes of members present at a Special Lekgotla called specifically for that purpose.

18 CODE OF CONDUCT OF KHUDUTHAMAGA

A Khuduthamaga is subject to the Code of Conduct for BBM Governance Structures with necessary adaptations to suit the requirements of a Khuduthamaga.

CHAPTER 5 FINANCIAL

MATTERS

19 VOLUNTARY CONTRIBUTIONS

A Kgotla may, subject to applicable legislation, request members of the Kgotla or any section of the members of the Kgotla to make any voluntary contribution to the Kgotla account: Provided that no such voluntary contribution shall be binding, unless the majority of the members of such Kgotla or such section thereof, as the case may be, who attend any meeting convened for such purpose, have consented to the payment of such voluntary contribution: Provided further that the payment of any such voluntary contribution may only be made for purposes of financing any specific project or projects.

20 KGOTLA ACCOUNTS

A Kgosana shall cause to be opened for a Kgotla a trust account, into which shall be paid such amounts as shall accrue to a Kgotla from time to time and from which all expenditure incurred in connection with any matter specified within the duties and functions of a Kgotla concerned shall be met

21 AUDITING OF BOOKS AND ACCOUNTS OF A KGOTLA

- 21.1 The books and accounts of a Kgotla must be audited on an annual basis by a firm of auditors duly appointed the annual general meeting of a Kgotla.
- 21.2 The auditor shall as soon as possible after an audit of the books and accounts of a Kgotla transmit a copy of his/ her report on the books and accounts to such a Kgotla.

CHAPTER 6 GENERAL

MATTERS

22. DELEGATION

Kgosana may delegate any of his powers to Khuduthamaga in line with the applicable legislation, BBM traditions, customs and customary laws.

25 REGULATIONS

A Kgotsa shall be subject to Regulations as established by the Royal Council or Council of Dikgosana from time to time.

24. REVIEW AND AMENDMENTS

These By-Laws may be reviewed annually and any amendments effected arising from such a review shall be of force and effect once adopted by the Council of Dikgosana and approved by Kgosi.

25. SHORT TITLE AND COMMENCEMENT

These By-Laws shall be referred to as the BBM Makgotla By-Laws and shall come into operation once approved by Kgosi.

Reviewed by:	Date of review
Approved:	Date of Approval

SCHEDULE7 DELEGATION OF AUTHORITY

In terms of clause 9 of BBM Governance Structures Framework, Kgosi and BBM Governance Structures may delegate any of their powers in terms of the BBM customs, traditions and customary law to the subordinate governance structure.

1. PURPOSE OF DELEGATION OF POWERS / AUTHORITY

The primary purpose of delegation of powers is to:

- 1.1 To maximize administrative and operational efficiency of the BBMTA
- 1.2 To maintain and promote optimal governance structures
- 1.3 To ensure streamlined institutional capacity to enhance quality service delivery
- 1.4 To strengthen the oversight role of Council and maximize participation
- 1.5 To maintain and enhance sound governance in line with national best practice
- 1.6 To improve the quality and speed of decision making
- 1.7 To empower Councillors to consider and deal with community issues to refer to full council meetings
- 1.8 To instill confidence and develop a sense of ownership of decision making in Committees and other functionaries of Council.

2. PRINCIPLES OF DELEGATION OF POWERS

- 2.1 The delegation of authority may be confirmed, varied or revoked by the person or body making the delegation but no such variation or revocation of a delegation may detract from any rights that may have accrued as a result of that delegation.
- 2.2 The holder of a delegation has the right to, from time to time, defer a particular decision to the person making the delegation without revoking the entire delegation.
- 2.3 Delegations should be at all times be executed within 120 days

other regulations and should be granted with the view to maximizing the BBMTA's administrative and operational efficiency.

- 2.4 Delegations should provide for adequate checks and balances to ensure responsible and accountable decision-making.
- 2.5 The delegation should not compromise the principles of transparency, accountability and good governance.
- 2.6 Delegated powers should be reviewed at least once a year.

3. POWERS RETAINED BY KGOSI

KGOSI retains the power to;

- 3.1 Appoint Chairpersons of boards of directors of entities of the BBM
- 3.2 Approve the agenda of meetings of the Royal Council
- 3.3 Approve minutes of meetings of Royal Council
- 3.3 Approve resolutions of Royal Council
- 3.4 Appoint Deputy Chairpersons of Traditional Council and the Council of Dikgosana
- 3.5 Appoint Chairperson of the Tribal Court
- 3.6 Appoint members of the Traditional Council as per the relevant provisions of the North West Traditional Leadership and Governance Act.
- 3.7
- 3.8 Declare a date for elections of the Traditional Council.

4. POWERS DELEGATED BY KGOSI

4.1 Ceremonial powers

Bakgatla Ba Moseleha Traditional Authority Governance Framework
KGOSI may delegate the following ceremonial powers to any person recognised for the role in terms of BBM tradition and custom:

- 4.1.1 Opening projects, civic functions and events, and new buildings
- 4.1.2 Hosting and welcoming dignitaries

- 4.1.3 Advocating Council policy
- 4.1.4 Representing the Council at civic events
- 4.1.5 Leading campaigns initiated by the Office of Kgosi or Council
- 4.1.5 Representing the Council during disasters

4.2 Powers delegated to the Deputy Chairperson

The following powers vests in Kgosi and he may delegate them to the Deputy Chairperson, namely the power to:

- 4.2.1 To preside at meetings of the Council
- 4.2.2 To ensure that the Council meets at least quarterly
- 4.2.3 To maintain order during Council meetings
- 4.2.4 To ensure compliance with the Code of Conduct for Councillors
- 4.2.5 To ensure that Council meetings are conducted in accordance with the Standing Rules of the Council
- 4.2.6 To authorise an investigation of the alleged breach of the Code
- 4.2.7 Allow a Councillor to reply
- 4.2.8 Report the outcome of the investigation to Kgosi and Council
- 4.2.9 To ensure the development and regular update of Rules of Order of Council.
- 4.2.10 To maintain discipline amongst all councillors
- 4.2.11 To ensure the allocation of Councillors to the various committees
- 4.2.12 To approve the mechanisms to ensure the welfare and build capacity of Councillors
- 4.2.13 To submit reports and recommendations to Committees on matters falling within the terms of Reference of the respective Committees.

- 4.2.14 all powers incidental, relevant and necessary for efficient and effective functioning of the Royal Council.

4.3 Powers delegated to the CEO of the BBMTAT

KGOSI delegates to the CEO of BBMTAT the following powers, together with the sub-delegation of certain powers to Executives within the RSA, and this include the power to:

- 4.3.1 To settle any legal proceedings above a value of R100 000.00 but less than R1million.
- 4.3.2 To decide on the prosecution of an appeal against a judgment of any court of law or tribunal.
- 4.3.3 To accept and approve funding agreements from any sphere of government for installation or provision of services.
- 4.3.4 To accept and approve funding service level agreement from any sphere of government for internship programmes.
- 4.3.5 To authorise payment of medical or funeral expenses arising from an injury on duty.
- 4.3.6 To sign any document on behalf of the RSA in accordance with Council Policy.
- 4.3.7 To appoint any official as a delegate or representative at conferences, congresses, workshops, seminars, symposia etc.

5. POWERS OF KGOTHA-KGOTHE DELEGATED TO THE ROYAL COUNCIL —

PITSO YA KGOTHA-KGOTHE has delegated the following powers to the Royal Council, and the delegated powers include the power and authority of:

- 5.1 Oversight of the functioning of all the Bakgatla Ba Moseitlha's Entities;
- 5.2 ensuring that all the Bakgatla Ba Moseitlha's Entities are accountable to the Royal Council;

Bakgatla Ba Moseitlha Traditional Authority Governance Framework

5.3 development, approval and review of policy for Bakgatla Ba Moseitlha;

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- 5.4 identification of the needs of the Bakgatla Ba Mosetlha and review and evaluate the needs in order of priority;
- 5.5 approval and review of Bakgatla Ba Mosetlha strategic plan;
- 5.6 nomination and appointment of directors of the Bakgatla Ba Mosetlha's Entities;
- 5.7 determining and prioritising the high level strategic objectives and outcomes of the Bakgatla Ba Mosetlha's Entities for the ensuing financial year
- 5.8 determining Bakgatla Ba Mosetlha's mandate and Bakgatla Ba Mosetlha Entities mandate, strategic plan, business plan and the overall performance of the Bakgatla Ba Mosetlha Entities;
- 5.9 reviewing the Bakgatla Ba Mosetlha's Entities mandate, strategic plan and the business plan to determine the extent to which the Bakgatla Ba Mosetlha Entities achieve objectives and targets set for the preceding financial year;
- 5.10 raising revenue;
- 5.11 review and approval of the Bakgatla Ba Mosetlha's budget;
- 5.12 establishing, for administrative purposes, a fund sufficient, in the Royal Council opinion, for the management and administration of the affairs of the Bakgatla Ba Mosetlha;
- 5.13 management of a fund of any contribution by members of the Bakgatla Ba Mosetlha;
- 5.14 consideration or variation of an itemized estimate of the budget of the Bakgatla Ba Mosetlha for the ensuing financial year;
- 5.15 consideration and approval, with or without amendment, of the financial statements, relating to the management, control and administration of the Bakgatla Ba Mosetlha; the appointment of an official to operate the Bakgatla Ba Mosetlha bank accounts;
- 5.16 approval of the strategy and policy of the management, administration and governance of the Bakgatla Ba Mosetlha and the Bakgatla Ba Mosetlha Entities;

- establishment of an Executive Committee of the Royal Council;
- 5.17 establishing various Portfolio Committees for the Royal Council;
- 5.18 the consideration and resolving on any matter referred to the Royal Council by *Kgosi*, the Traditional Council or Lekgotla la *Dikgosana*;
- 5.19 resolve and issue resolutions relating to the following:
 - 5.19.1 donations exceeding R1 000.000.00 (one million rand);
 - 5.19.2 Bakgatla Ba Mosetlha governance;
 - 5.19.3 the burdening and use of BBM land;
 - 5.19.4 corporate structures advancing the interests of Bakgatla Ba Mosetlha;
 - 5.19.5 special budgets for national events and tragedies;
 - 5.19.6 the approval of the Bakgatla Ba Mosetlha budget after consideration thereof by the Traditional Council in terms of clause 11 of the Traditional Council By-Laws;
 - 5.19.7 the approval of land dispositions and acquisitions.

6. POWERS RETAINED BY THE ROYAL COUNCIL

In addition to the powers that the Royal Council has in terms of the traditions and custom of the BBM, it has over time developed a system in terms of which it assumed certain powers. Whilst certain powers should be delegated to the relevant entities and or functionaries in those entities, Council shall retain the following powers, the power to:

- 6.1 Approve a short and long term debt of up to R50 million.
- 6.2 Provide security for a debt or contractual obligations of up to R50 million.
- 6.3 Issue any guarantee for any commitment or debt of up to R50 million.

- 6.4 Establish a budget monitoring office.
- 6.5 Establish or participate in an entity whether trading or for no gain.
- 6.6 Determine the upper limits of the salary, allowances and other benefits of the CEO of the BBMTA and BBM entities.
- 6.7 Monitor and ensure that the BBMTA and BBM entities report to Council on all expenditure incurred by the relevant entity.
- 6.8 Approve a supply chain management policy.
- 6.9 Enter into Public Private Partnerships.
- 6.10 Consider the annual report of the BBMTA or any of BBM entities, whether wholly or partly owned.
- 6.11 Establish new entities i.e. for service delivery purpose
- 6.12 Within 2 months of the report being handed to Council, to adopt an oversight report containing the Council's comments on the annual report.
- 6.13 Ensure that any issue raised in the audited results is addressed.
- 6.14 Ensure that the BBMTA meets its financial obligations.
- 6.15 Recommend to Kgosi that a committee be dissolved.
- 6.16 Recommend to Kgosi and by extension to KGOTHA KGOTHE that BBM divest from any entity wholly or in part.
- 6.17 To dispose of, acquire or encumber any asset of the BBM of less than the value of R50million.

7. DELEGATED POWERS TO BBMTA ENTITIES

- 7.1 The Royal Council delegates its powers in relation to administration of the BBM to the BBMTA and its related functionaries.
- 7.2 The Royal Council delegates its powers in relation to the commercial interest of the BBM to the Bakgatla Ba Mosetlha Holdings and related commercial entities.

8. DELEGATION OF POWERS TO THE TRADITIONAL COUNCIL

The Royal Council delegates the following powers to the Traditional Council, the power to:

- 8.1 support municipalities in the identification of community needs;
- 8.2 facilitate and ensure involvement of its traditional community in the development or amendment of the integrated development plan of a municipality in whose area that community resides;
- 8.3 participate in the development of policy and legislation at local level through public hearings and active participation in local structures;
- 8.4 participate in developmental programmes of municipalities, provincial and national spheres of government;
- 8.5 promote indigenous knowledge systems for sustainable development and disaster management;
- 8.6 alerting any relevant municipality to any hazard or calamity that threatens the area of jurisdiction of the traditional council in question, or the well-being of people living in such area of jurisdiction, and contributing to disaster management in general; and
- 8.7 share information and cooperate with other traditional councils within the province.

Adopted	Date of Adoption
Approved	Date of Approval

SCHEDULES

CODE OF CONDUCT AND PROCEDURE

MEMBERS AND OFFICIALS OF THE GOVERNANCE STRUCTURES OF THE BAKGATLA BA MOSETLHA:

1. A member must:
 - 1.1 perform the functions allocated to him or her in good faith, diligently, honestly and in a transparent manner;
 - 1.2 fulfil his or her role in an efficient manner;
 - 1.3 conduct himself or herself in a proper and in the manner befitting the office;
 - 1.4 comply with any applicable legislation; by law, customs and Traditions;
 - 1.5 act in the best interest of the Bakgatla Ba Mosetlha;
 - 1.6 promote unity amongst members of the Bakgatla Ba Mosetlha;
 - 1.7 not embark on actions that would create division within or amongst members of the Bakgatla Ba Mosetlha and between the BBM and other traditional communities;
 - 1.8 promote nation building;
 - 1.9 not refuse to provide any service to a person based on political or ideological grounds;
 - 1.10 promote the ideals of co-operative governance, integrated development planning, sustainable development and service delivery;
 - 1.11 foster good relations with the organs of state with whom he or she interacts;
 - 1.12 promote the principles of a democratic and open society; and
 - 1.13 disclose gifts received.
 - 1.14 disclose to the Royal Council, or to any committee of which that member is a member, any direct or indirect personal or private business interest that that member. or

any spouse, partner or business associate of that member may have in any matter before the council or the committee: and

- 1.15 withdraw from the proceedings of the council or committee when that matter is considered by the council or committee. unless the council or committee decides that the member's director indirect interest in the matter is trivial or irrelevant.
- 1.16 A member who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the BBM entities, must disclose full particulars of the benefit of which the member is aware at the first meeting of the Royal Council at which it is possible for the member to make the disclosure.
2. This section does not apply to an interest or benefit which a member, or a spouse, partner, business associate or close family member, has or acquires in common with other members of the BBM.
3. A member may not use the position or privileges of a member or confidential information obtained as a member for private gain or to improperly benefit another person.
4. When elected or appointed, a member must within 60 days declare in writing to the Secretariat: Institutional Governance the following financial interests held by that member:
 - 4.1 shares and securities in any company:
 - 4.2 membership of any close corporation:
 - 4.3 interest in any trust:
 - 4.4 directorships:
 - 4.5 partnerships:
 - 4.6 other financial interests in an-- business undertaking:
 - 4.7 employment and remuneration:
 - 4.8 interest in property:
 - 4.9 pension: and
 - 4.10 subsidies, grants and sponsorships by any organisation.
5. Any change in the nature or detail of the financial interests of a member must be declared in writing to the Secretary: Institutional governance annually.
6. Gifts received by a member above a prescribed amount must also be declared

7. A member may not request, solicit or accept any reward, gift or favour for-
 - 7.1 voting or not voting in a particular manner on any matter before the Royal Council or before a committee of which that member is a member;
 - 7.2 persuading the Royal Council or any committee in regard to the exercise of any power, function or duty;
 - 7.3 making a representation to the Royal Council or any committee of the council; or
 - 7.4 disclosing privileged or confidential information.
8. A member may not without the permission of the Royal Council or a committee disclose any privileged or confidential information of the council or committee to any unauthorised person.
9. For the purpose of this item "privileged or confidential information" includes any information-
 - 9.1 determined by the Royal Council or committee to be privileged or confidential;
 - 9.2 discussed in closed session by the Royal Council or committee;
 - 9.3 disclosure of which would violate a person's right to privacy; or
 - 9.4 declared to be privileged, confidential or secret in terms of law.
10. This item does not derogate from the right of any person to access to information in terms of national legislation.
11. A member may not, except as provided by law-
 - 11.1 interfere in the management or administration of any department of the BBM entities unless mandated by the Royal Council;
 - 11.2 give or purport to give any instruction to any employee of the BBM entities except when authorised to do so;

- 11.3 obstruct or attempt to obstruct the implementation of any decision of the Royal Council or a committee by an employee of the BBM entities: or
 - 11.4 encourage or participate in any conduct which would cause or contribute to maladministration in the BBM entities.
- 12 A member may not use, take, acquire or benefit from any p r o p e r t y or asset owned, controlled or managed by the BBM entities to which that member has no right.

13 BREACH OF THE CODE

Any member of the governance structures who is suspected of violation of this disciplinary code or who commits an act or an omission recognised as misconduct under common law, shall be

subjected to the disciplinary process as outlined below.

14 THE DISCIPLINARY PROCEDURE

Proceedings before the committee must comply to the principles of natural justice and must include, but is not restricted to:

- 14.1 The member against whom an investigation is conducted, must be fully informed as to the fact that an inquiry is to be done;
- 14.2 The member must be informed as to the exact nature of the suspected breach of the code of conduct;
- 14.3 All relevant information regarding the said breach must be supplied to the members against whom the investigation is conducted;
- 14.4 Such information must be supplied to the member at a reasonable time before any investigation in order to enable the member to prepare for the investigation;
- 14.5 The member must be informed at a reasonable time before the investigation of the time and place where the investigation shall take place;
- 14.6 The member shall be entitled at the hearing to be assisted and represented by any person including a legal person of his/her choice;

- 14.7 The member or his/her legal representative shall have the right to cross examine any witness who may be called to testify at the investigation;

- 14.8 The member shall have the right to give evidence on his/her own behalf and to call witnesses to give evidence;
- 14.9 The member may also decide to remain silent;
- 14.10 The committee must make a final decision and formulate its recommendations to the council within a reasonable time and forward such decision to the member;
- 14.11 The member shall have the right to request the committee to be furnished with reasons which reasons shall be furnished within a reasonable time;
- 14.12 Notwithstanding the above the committee and member may agree on a procedure to be followed in any specific investigation and the investigation may be conducted by way of written submission;
- 14.13 The committee may investigate any breach of the code of conduct which includes the non-attendance of meetings or transgressions of those rules of conduct , but may not do so *mero motu* and must be instructed by the Deputy Chairperson.
- 14.14 An independent Chairperson shall be appointed by the Rules Committee to preside over a disciplinary matter;
- 14.15 The composition of the committee shall be agreed upon.

SCHEDULE 9

BBM GOVERNANCE STRUCTURES RULES OF ORDER

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1. DEFINITIONS

In these Rules of Order, unless the context otherwise indicates; -

- 1.1 "Chairman" means the chairperson of the Royal Council being *Kgosi* or, in the absence of *Kgosi*, the Deputy Chairperson;
- 1.2 "Committee" means any portfolio committee of the Royal Council or any other Committee that may be established by the Royal Council;
- 1.3 "Council" means the Royal Council of the Bakgatla Ba Mosetlha;
- 1.4 "Day" means any day of the week including Saturdays, Sundays and a public holiday;
- 1.5 "Deputy Chairperson" means the person appointed by *Kgosi* on a full-time basis to perform functions of the Chairperson during Royal Council meetings;
- 1.6 "**Kgosana**" means the most senior hereditary ruler of a *Kgotla* of the Bakgatla Ba Mosetlha who has been recognised and installed in accordance with customs and customary laws of the BBM;
- 1.7 "**Kgosi**" means the supreme hereditary ruler of the Bakgatla Ba Mosetlha, from time to time, who is recognised as such according to the Tradition, customs and customary laws of the BBM
- 1.8 "Meeting" means a meeting of the Royal Council called in line with applicable Rules of Order or by-laws;
- 1.9 "Member" means any person duly elected or accordingly appointed as a member of component structure of the Royal Council;
- 1.10 "Motion" means a motion introduced in writing in terms of these Rules of Order;
- 1.11 "Proposal" means any proposal with the exception of a motion, moved and seconded during a meeting;

- 1.12 "Quorum" means the total number of members required to have a valid meeting;

- 1.13 "Bakgatla Ba Moselelha" or "BBM" means a universitas personarum, which practices its traditions, norms, customs and cultures a traditional community and is recognised as such by the Constitution and the applicable legislation of the Republic of South Africa;
- 1.14 "Bakgatla Ba Moselelha Entities" means a Bakgatla Ba Moselelha corporate entity, a traditional governance structure or any entity established by Bakgatla Ba Moselelha performing a function(s) on behalf of Bakgatla Ba Moselelha;
- 1.15 "Serve" or "service" means delivery of a notice or document at the address for service chosen by the Member concerned;
- 1.16 "Royal Council" means the joint sitting of *Lekgotla la Dikgosana* and the Traditional Council of the Bakgatla Ba Moselelha chaired by *Kgosi* as contemplated in the Rules and Orders of the Royal Council of the Bakgatla Ba Moselelha;
- 1.17 "The report" means the report tabled to a meeting for a resolution/decision.
- 1.18 "Traditional Council" means the traditional council of the Bakgatla Ba Moselelha established in terms of Act 2 of 2005 read with Act 41 of 2003.

2. APPLICATION OF THE RULES

These Rules of Order are applicable to all the meetings of the Royal Council and its committees and any rules developed for

the Council of Dikgosana, and the Traditional Council shall conform to these Rules of Order.

3. STANDING OF THE ROYAL COUNCIL

The Royal Council is the second highest decision making body of the BBM after a *Pitso ya Kgotha-Kgothe*. The Royal Council is, according to the Tradition of Bakgatla Ba Moselelha, subject to the overall authority and directives of KGOSI.

4. MEETING OF THE ROYAL COUNCIL

4.1 Convening of meetings

- 4.1.1 Royal Council shall have at least 4 (four) meetings in a year;
- 4.1.2 Council Meetings shall be called at dates and times as pre-arranged through an approved schedule or as shall be arranged in terms hereof.

4.2 Notice of meetings

- 4.2.1 The notice, agenda and all other relevant documents (the documents) for all meetings shall be served on every member and any invitee;
- 4.2.2 Such documents shall be given at least 7 days before the meeting unless KGOSI or the Deputy Chairperson decides otherwise.

4.3 Business limited to notice

- 4.3.1 The notice of the meeting will be for business as specified in the agenda;
- 4.3.2 Unless with the expressed approval of KGOSI, no other business outside the agenda will be entertained at the said meeting.

4.4 Preparations of Agenda

- 4.4.1 the Secretary of Council of the BBM shall be responsible for the preparation of the Agenda in line with 4.2(b) above;
- 4.4.2 The signature of KGOSI shall be appended to the agenda before its distribution;
- 4.4.3 The format of the Agenda shall be as close as possible to SCHEDULE 10.

4.5 Order of business at meetings

The order of business at the Royal Council meeting, except the first meeting of the Supreme Council after

general election of Traditional Council members, shall be as follows, unless another order of business is decided upon:

- (i) Opening;
- (ii) Application for leave of absence;
- (iii) Official announcements by the Deputy Chairperson;
- (iv) Motions of sympathy and or congratulations by the Deputy Chairperson and or Members;
- (v) Reports by the Chairman or the Office of Kgosi;
- (vi) Disclosure of interest;
- (vii) Minutes of the previous meetings;
- (viii) Questions of which notice were given;
- (ix) Reports of the Executive Committee;
- (x) Reports of decisions taken under delegated powers; and
- (xi) Closing.

4.6 Urgent matters

The Deputy Chairperson in consultation with KGOSI will be the only person allowed to include or approve a new item in the agenda based on its urgency, unless if its reference to the next meeting would put the BBM in a disadvantageous position.

4.7 Signing of Agenda/Notice

The agenda for the meeting of the Royal Council shall be valid once adopted, approved and signed by KGOSI.

4.8 Responsibility of Minutes

The Secretary of Council shall cause the Minutes of the Royal Council to be recorded and kept safely in accordance with the Supreme Council Secretariat's

Procedure Manual.

4.9 Adoption of Minutes

The Minutes of the Royal Council meeting shall be adopted at the subsequent meeting of the Royal Council and shall be valid once signed by KGOSI.

4.10 Discussion on Minutes

4.10.1 Where a copy of the Minutes of a meeting has been served on every member, such Minutes shall be taken as read with a view to confirmation.

4.10.2 No proposal or discussion shall be allowed on the Minutes except as to its accuracy;

4.11 Signed Minutes

The Minutes of the Meeting of the Royal Council shall be valid once signed off by KGOSI within 7 days of adoption thereof by the subsequent meeting;

4.12 Attendance register

Every member attending a meeting shall sign his/her name in the attendance register kept for this purpose. The attendance register shall resemble as far as possible **SCHEDULE 12**.

4.13 Non-attendance

4.13.1 All members are encouraged to attend meetings. Failure to attend at least 75% of the meetings without a valid reason shall constitute misconduct;

4.13.2 Leave of absence may be granted if such an application for leave is done in writing and handed to the Secretary of Council before the said meeting;

4.13.3 Any verbal apology, on behalf of a member, must be followed up by a written apology within 7 days.

4.13.4 A member who has tendered an apology which is satisfactory and has been accepted by the meeting as such, may appoint another member as his/her proxy at such meeting. The proxy shall be as close as possible to **SCHEDULE 13**.

4.14 Adjourned meetings due to no quorum

- 4.14.1 If at the expiry of 30 Minutes after the hour at which a meeting is appointed to be held a quorum has not assembled, no meeting shall take place unless it is decided with the majority consent of the members present to allow further time not exceeding 15 Minutes in order to enable a quorum to assemble;
- 4.14.2 If after the expiry of the 15 Minutes contemplated in clause 4.14.1, a quorum was obtained by then, the meeting shall be adjourned;
- 4.14.3 The adjourned meeting on 4.14.2 above should be reconvened at any time after 5 official days and such meeting shall be deemed to have formed a quorum;
- 4.14.4 The meeting on 4.14.3 above shall be convened after consultation with KGOSI.

4.15 Lapsing of quorum

- 4.15.1 If, during any meeting, the attention of the Deputy Chairperson is called to the number of members present, such members shall be counted and if it is found that there is no quorum, the Deputy Chairperson shall adjourn the meeting for at least 5 Minutes and if after an interval of five Minutes there is still no quorum, the Deputy Chairperson shall forthwith adjourn the meeting until the quorum is retained;
- 4.15.2 Business not disposed of at a meeting adjourned in terms of clause 4.16.1 shall be dealt with at an adjourned meeting accordingly convened for this purpose;
- 4.15.3 No business shall be transacted at an adjourned meeting unless such is specified in the notice of the meeting which is adjourned.

4.16 Questions during meetings

4.16.1 A member may, at a meeting put a question-

4.16.1.1 on a matter arising out of or connected with any item of the report when such item has been called or during discussion thereon;

4.16.1.2 Concerning the general work of the Royal Council not arising out of or connected with any item of the report;

Provided that such an expected response should be presented in the following meeting;

4.16.2 Any question put in terms of this section, shall be answered through the Deputy Chairperson unless if it is hearsay which would not be allowed;

4.16.3 If, after the question has been replied to, a member is of the opinion that the reply to the question is not clear or unsatisfactory, he/she may with the consent of the Deputy Chairperson request elucidation thereof, and no additional questions shall be put without the consent of the Deputy Chairperson;

4.16.4 The Deputy Chairperson may disallow a question if he/she is of the opinion that it is out of order or not relevant.

4.17 Dress code

4.17.1 Dress code for all meetings shall be formal wear;

4.17.2 No member or Official shall be allowed to a meeting unless dressed in formal wear.

5 REPORTS

5.1 All reports should be submitted with recommendations for decision making;

5.2 Unless an item is submitted to the Royal Council for information only, every item relating to matters in respect of which there is no delegated powers, shall contain a

recommendation which may be adopted by the Royal Council;

5.3 Reports should also include, where powers have been delegated, items only submitted for noting;

5 When a recommendation has been adopted,
4 such recommendation shall become a resolution of the council;

5.5 After the matters in respect of which there is no delegated powers to be dealt with, the Deputy Chairperson shall permit debates on the matters delegated for clarity purposes.

6 LIAISON WITH THE MEDIA

All media statements for and on behalf of the Royal Council shall be issued by a person designated for that purpose by KGOSI.

7 MOTIONS

7.1 Subject to the provisions of these Roles of Order: -

7.1.1 every notice of motion shall be in writing and such notice shall be signed by the member submitting it;

7.1.2 the proposal introducing that motion has to be duly seconded;

7.1.3 a motion shall be given to the Secretary of Council who shall enter it in a book kept for that purpose which shall be open to inspection by any member;

7.1.4 notice of a motion shall not be specified in the notice/agenda for a meeting unless it is received at least seven (7) days prior to such a meeting or unless the matter needs urgent attention in which case such motion shall be included in the agenda immediately after submission;

7.1.5 a motion shall lapse if the member who submitted it is not present at the meeting when such motion is being tabled;

- 7.2 At the request of a member who gave notice of a motion, the Secretary of Council shall acknowledge receipt thereof in writing;

- 7.3 Every motion shall be relevant to the administration of or conditions in the BBM or shall deal with a matter in respect of which the Royal Council has jurisdiction;
- 7.4 A member submitting a motion shall move/read such motion and shall have the right of reply;
- 7.5 Every motion as contemplated in subsection 13(a), shall on receipt be dated and numbered and shall be entered by the Secretary of Council in the agenda in the order in which it is received, provided that a motion amending another shall be entered upon the agenda immediately after the latter motion irrespective of the time when notice of the motion to amend was given;
- 7.6 In dealing with motions -
 - 7.6.1 The Secretary of Council shall read out the number of every motion and the name of the mover;
 - 7.6.2 The Deputy Chairperson shall ascertain which motions are unopposed and these shall be passed without debate;
 - 7.6.3 The Deputy Chairperson shall also call the opposed motions as they appear on the paper for deliberations.
- 7.7 The Deputy Chairperson may disallow an irregular motion or proposal which in his/her opinion -
 - 7.7.1 might lead to the discussion of a matter already dealt with in the agenda or which has no bearing on the BBM as an institution; or
 - 7.7.2 advances arguments, expresses an opinion, or contains unnecessary factual, incriminating, disparaging or improper suggestions;
 - 7.7.3 in respect of which -
 - 7.7.3.1 the meeting has no jurisdiction; or
 - 7.7.3.2 a decision by a judicial or quasi-judicial body is pending; or
 - 7.7.3.3 which has not been duly seconded; or

7.7.3.4 which, if passed, would be contrary to the

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provisions of these Rules of Order or of any other law, or would be impractical;

Provided that if such motion or proposal, in the opinion of the meeting, justifies further investigation, it

shall be referred to the Office of Kgosi;

- 7.8 A motion or proposal may be withdrawn or amended by the mover with the consent of the Supreme Council which shall be given or refused without debate;
- 7.9 After consent for the withdrawal of a motion or proposal has been granted, no member shall speak upon such motion or proposal;
- 7.10 Subject to the provisions of an applicable legislation, when a motion or proposal is under debate at a meeting, no further proposal shall be received except the following:
- 7.10.1 to amend the motion or proposal;
 - 7.10.2 that the question be referred back for further consideration;
 - 7.10.3 that consideration of the question be postponed;
 - 7.10.4 that the meeting be adjourn;
 - 7.10.5 that the debate be adjourned;
 - 7.10.6 that the question be put to the vote;
 - 7.10.7 7 that the Royal Council do proceed to the next business;

Provided that such proposal shall only be deemed to have been submitted for decision, if it was duly seconded;

- 7.11 The Secretary of Council shall cause to be kept a record of Motions which shall be as close as possible to **SCHEDULE 19**.

8. PROCEDURE AND PROCEEDINGS AT MEETINGS OF THE ROYAL COUNCIL

8.1 Precedence of the Deputy Chairperson

- 8.1.1 The Deputy Chairperson has a responsibility of maintaining order in meetings.
- 8.1.2 All other members must show respect to the Deputy Chairperson;
- 8.1.3 Members must maintain silence when the Deputy Chairperson or any other person is on the platform;
- 8.1.4 The Deputy Chairperson has the right to interrupt another speaker who must discontinue speaking until the Deputy Chairperson has concluded his/her comment.

8.2 Indications of a wish to speak

A member who is willing to speak must raise his/her hand until noted and recognized by the Deputy Chairperson to speak.

8.3 Points of Order

For the purposes of this section-

- 8.3.1 "a point of order" means pointing out any deviation of or anything contrary to these Rules of Order or by-laws or any other law;
- 8.3.2 Any member, whether he/she has addressed the meeting on the matter under debate or not, may raise a point of order;
- 8.3.3 A member contemplated in subsection 8.3.2 shall be entitled to be heard forthwith;
- 8.3.4 The ruling of the Deputy Chairperson on a point of order shall be final and shall not be open for discussion.

8.4 Declaration of pecuniary interest

8.4.1 The Secretary of Council shall cause to be kept a register of members' interest in accordance with **SCHEDULE 15**;

8.4.2 A member wishing to declare a pecuniary interest shall do so forthwith after the item or motion in respect of which such interest exists, has been called;

8.4.3 A member must declare to the meeting any gift, donation, present or benefit received by such member from any person or body, excluding such gifts received from family and friends on special personal occasions, whenever the cumulative value of such gifts, donations, presents or benefits exceed the amount set down by the Royal Council from time to time in a financial year.

9 VOTING

9.1 Mode of voting

Any motion for the preferred way of voting shall be tabled in a meeting for an acceptable way forward.

9.2 Recording of vote

After the Deputy Chairperson has pronounced on a collective voting outcome, an individual member may request his/her vote to be recorded against the decision.

A member may elect to abstain from voting on any item in the agenda.

9.3 Casting vote of Deputy Chairperson

In the event of an equality of the voting outcome, the Deputy Chairperson may cast his/her vote on either side to enable a majority vote.

10 CONDUCT OF MEMBERS AT MEETINGS

10.1 Whenever the Chairperson at the meeting speaks, any person

Bakgatla Ba Mosetlha Traditional Authority Governance Framework
speaking or offering to speak must sit down, and " all persons in
the meeting must remain silent so the

Chairperson may be heard without interruptions;

- 10.2 A Member addressing the meeting must address the Chairperson of that meeting;
- 10.3 The following conduct by a Member during a meeting is deemed contrary to the provisions of the code of conduct and shall be dealt with in terms of the Code of Conduct attached hereto as **SCHEDULE 8:**
 - 10.3.1 To make unnecessary tactless, incriminating, disparaging or improper suggestions or express such opinions;
 - 10.3.2 To threaten, abuse or to use insulting language towards any person attending the meeting which causes distress due to any alleged, suspected or proven act or omission in the exercise of any of his/her duties;
 - 10.3.3 To make or second a proposal that may be contrary to these Rules and Orders or any law, including the Traditions of the Bakgatla Ba Mosetlha;
 - 10.3.4 To make or second proposals that may have an impracticable result or cause uneconomical, inefficient or ineffective use of resources or will be incapable of execution;
 - 10.3.5 To make or second proposals that may result in unauthorized expenditure;
 - 10.3.6 To compel or attempt to compel Members by threats to partake in any action against their will;
 - 10.3.7 To breach these Rules and Orders; and
 - 10.3.8 To disregard the Chairman or the Chairperson or the Deputy Chairperson.

11 VACANCIES

11.1 Reasons for the vacancy

A member may cease to be a member if anyone of the following eventualities happens;

- 11.1.1 Death;

11.1.2 Resignation;

11.1.3 Dismissal;

11.1.4 Withdrawal;

11.1.5 Illegibility.

11.1.6 Removal from office

11.2 Replacements / filling of vacancies

The normal replacement process depending on whether the member was voted or appointed would take place.

12. PORTFOLIO COMMITTEES OF THE ROYAL COUNCIL

12.1 The Royal Council shall establish the following Portfolio Committees to be operated in terms of SCHEDULE 3 hereof:

12.1.1 Education, Training and Skills Development Portfolio Committee

12.1.2 Land, Spatial Planning and Infrastructure development

12.1.3 Health and Social Development Portfolio Committee

12.1.4 Safety and Security Portfolio Committee

12.1.5 Sports, Recreation and Youth Affairs Portfolio Committee

12.1.6 Agriculture and Environment Portfolio Committee

12.1.7 Heritage and History Portfolio Committee

12.1.8 Finance and Economic Development Portfolio Committee

12.1.9 Audit and Risk Committee

12.2 The Royal Council may dissolve or establish one or more Portfolio Committees according to the structural needs of BBM.

- 12.3 Members will be allocated in these Committees accordingly and the Chairperson of the Committees shall be appointed by KGOSI.
- 12.4 The Royal Council shall be entitled to invite employees of the BBM entities, experts, advisors to serve in the Committee and such invitees shall not have voting rights.

13. REPRESENTATION AND COMPOSITION

The establishment of certain structures in the BBM shall take into account the need to address the question of gender equity, people with disabilities and the youth.

14. FREEDOM OF SPEECH

Members would enjoy freedom of speech in that they will be immune from litigation based on the speech, debate or comment made during the meeting. Rude, obscene, vulgar and disrespectful language, lies and unfounded accusations by members will not be allowed and no protection will be afforded a member who makes himself/herself guilty of such conduct. Such conduct shall further constitute misconduct in terms of theses and orders

15. PETITIONING OF A MEETING

- 15.1 The majority of Members may request KGOSI, through the Deputy Chairperson, in writing to convene a special meeting.
- 15.2 The Deputy Chairperson must, on the instruction of Kgosi convene a meeting at a time set out in the request unless with slight adjustment by the Kgosi (only with respect to the date and time).

16. CODE OF CONDUCT

- 16.1 All members of the Royal Council are subject to a code of conduct which regulates their conduct in and outside of Royal Council;
- 16.2 Non-adherence to the code amounts to misconduct and will be dealt with in terms of the Code of Conduct;

- 16.3 The Rules Committee shall maintain order with respect to

the rules in the line

With the powers accorded to it by these Rules of Order.

16.4 The Rules of Order Committee will be accountable to Kgosi,

17. THE APPLICABLE LANGUAGE(S)

The language of communication shall preferably be in Setswana and / or in English.

18. THE CEREMONIAL ROLE

18.1 KGOSI performs the primary ceremonial role as first citizen of the Nation;

18.2 KGOSI may delegate some ceremonial functions to any of the members of the Royal Council.

19. INTERPRETATION OF THE RULES

19.1 Any member may request that the ruling of the Deputy Chairperson as to the interpretation of the Rules of Order be recorded in the Minutes and a register of such rulings shall be kept by the Secretary of Council;

19.2 The Deputy Chairperson shall sign the entry in the register of each ruling given by him/her.

20. SCHEDULES

The Schedule hereto form part of these Rules of Order and where they are provided as a specimen, the actual document shall resemble as close as possible the said specimen.

21. COMMENCEMENT, FORCE AND EFFECT OF RULES OF ORDER

20.1 These Rules of Order replaces all other Rules of Order and or similar Rules that were operational before commencement of these Rules of Order;

20.2 These Rules of Order shall come into effect once adopted by the Royal Council and approved by KGOSI;

20.3 The commencement date of these Rules of Order shall be the

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date on which KGOSI has approved them by attesting his
signature thereon;

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- 20.4 These Rules of Order may be amended from time to time by following the procedure to be laid down by the Royal Council.

21 SHORT TITLE

These Rules shall be called the Bakgatla Ba Mosetlha Royal Council Rules of Order (BBM SC Rules of Order)

ADOPTED BY THE ROYAL COUNCIL ON THIS THE _____ DAY OF _____ 2015

DEPUTY CHAIRPERSON

SECRETARY OF COUNCIL

APPROVED BY KGOSI ON THIS THE _____ DAY OF _____ 2015
KGOSI

SCHEDULE 10

AGENDA OF THE BBM ROYAL COUNCIL

AGENDA OF MEETING OF THE BAKGATLA BA MOSELETLA ROYAL COUNCIL HELD
AT COUNCIL CHAMBERS ON THE

OF _____ 20__

1. Opening and welcome
2. Roll call
 - 2.1 Present
 - 2.2 Apologies
 - 2.3 Absent
3. Adoption of the Agenda
4. Proposals of condolences or congratulations
5. Declaration of pecuniary interest by members relating to any item
6. Minutes of the previous Meeting
7. Reports on matters arising from the previous Meeting
8. Motions or proposals deferred from previous meetings
9. Portfolio Committees and / or Constituency Reports
10. Petitions
11. New motions
12. Questions
13. Adoption of minutes
14. Introduction of Kgosi.
15. Address by KGOSI
16. Singing of the National Anthem.
17. Closure

DEPUTY

CHAIRPERSON

DATE DATE

SECRETARY OF COUNCIL

DATE

APPROVED BY KGOSI

t:W.i. The Agenda of the Meeting of the Royal Council shall be valid once approved by KGOS/ as signified by his signature.

but will not be allowed to vote should any vote be carried in respect of the said item/matter.

6. Reading and adoption of minutes of the previous meeting

The Secretary of Council confirmed that all members of council received the meeting pack including minutes of the previous meeting. The minutes were taken as read and were adopted without any alterations or amendments.

7. Reports on matters arising from the previous meeting

The following matters arose from the minutes of the previous meeting:

- a. Traditional Council
- b. Council of Dikgosana
- c. Portfolio Committees
- d. BBMTA
- e. Entities
- f. Tribal Court

8. Motions or proposals deferred from previous meetings

The following matters could not be finalised at the previous meeting and were deferred to this meeting:

1
2)

3)

9. Petitions

The Secretary of Council read out the petition that was received from the community of Luka. In terms of the said petition Council was given 7 days to address the issues raised therein.

After deliberations on the petition, Council resolved that the issues be
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referred to the BBMTA for resolution. The CEO of BBMTA was mandated to engage the petitioners and report at the next Council meeting.

10. New motions

Cir tabled a proposal that BBMTA be recapitalized with an amount of RSOm.

After lengthy deliberations, Council resolved that the matter be referred to the Finance and investment Portfolio Committee. The Portfolio Committee is mandated to report to the Traditional Council which will in turn report to the Royal Council.

11. Questions

The following questions were noted and Cir

_____ : ????

_____ : ????

—

12. Adoption of minutes

The Secretary of Council read out the minutes and after a few clarity seeking questions were answered, the minutes were adopted as the true reflection and record of what transpired in the meeting.

13. Address by KGOSI

Kgosi addressed the house.

14. Closure

The Deputy Chairperson thanked all members for attendance and for their fruitful participation and closed the meeting with a prayer at 15h00.

DEPUTY CHAIRPERSON

DATE

SECRETARY OF COUNCIL

DATE

APPROVED BY KGOSI

DATE

8: *These minutes shall be of force in effect until and unless approved by KGOSI as signified by his signature.*

SCHEDULE12

ATTENDANCE

REGISTER SPECIMEN

ROYAL COUNCIL MEETING

DATE:

TIME:

No.	Initials and Surname	Contact details	Signature
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			

SCHEDULE13 PROXY

FORM SPECIMEN

MEETING OF THE MEMBERS OF THE BAKGATLA BA MOSETLHAAL ROYAL COUNCIL HELD ON _____ 20 AT

I, _____ of _____ (Kgofla and Constituency)

being a member of the of the Bakgatla Ba Moseitlha Royal Council, hereby appoint

_____ of _____ (Kgofla and Constituency)

being a member of the of the ***[Insert either the Lekgotla la Dikgosana kgotsa the Traditional Council]***, as my proxy to vote for me and on my behalf at the abovementioned meeting of the members of the ***[Note: insert the relevant portfolio committee]*** Portfolio Committee and at any adjournment meeting thereof as follows:

	In favour of	Against
Resolution 1		
Resolution 2		
Resolution 3		

(Indicate instruction to proxy by way of a cross in space provided above) Unless otherwise instructed, my proxy may vote as he thinks fit.

Signed at _____ this _____ day of _____ 20____

(Signature)

[Name and Surname]

SCHEDULE 14 RESOLUTION

SPECIMEN

ROYAL COUNCIL RESOLUTION _____ 2013

We the members of the Royal Council gathered here in GA MOSETLHA on this the _____ day of _____ 2013 in a meeting duly convened in terms of the Governance Structures Rules of Order;

NOTING THAT:

- 1.1 The BBM is the remaining beneficiary of the BBMTA Trust, bearing registration number IT 001216/2017 ("Trust").
- 1.2 The Trust holds 8 preference shares in the following companies ("B Preference Shares"):
- 1.3 The trustees of the Trust has since resolved to distribute the Shares to the BBM in its capacity as the beneficiary of the Trust ("Distribution").
- 1.4 The BBM has resolved to accept the Distribution.
- 1.5 The BBM has further resolved to donate the Distribution to the following companies:
 - 1.5.1

CONGNISANT OF THE FOLLOWING, THAT: 2.1

2.2

2.3

2.4

HEREBY RESOLVE THAT:

- 3.1 The BBM hereby donates the Distribution to the following companies:
- 3.2 Kgosi Nchaupe Makapan or his authorised representative is authorised to do all the necessary to implement this resolution.

Adopted on this the _____ day of
2013

DEPUTY CHAIRPERSON

Approved on this the _____ day of
2013

KGOSI LERUO TSHEKEDI MOLOTLEGI

SCHEDULE15

DECLARATION OF INTEREST FORM SPECIMEN

MEMBERS DECLARATION OF INTEREST FORM

I have read the declaration of interest policy and agree to comply fully with its terms and conditions at all times during my term as a member of the Royal Council. If at any time following the submission of this form I become aware of any actual or potential conflicts of interest, or if the information provided below becomes inaccurate or incomplete, I will promptly notify the Secretary of Council in writing.

I, the undersigned (name and surname).....

ID no.

In my capacity as member of the Royal Council

Telephone

Hereby certify that the following information is complete and correct to the best of my knowledge:

1. Shares and financial interest:

Number of shares/ financial interest	Nature	Value	Name of entity

2. Immovable property:

Description	Extent	Area	Value

3. Directorship and partnerships:

Name of entity or partnership	Type of business	Remuneration

4. Remunerated work outside current directorship:

Name of entity or employer	Type of business/ work	Amount of Remuneration

5. Consultancy and retainers

Name of client	Nature	Type of business/ work	Value of any benefits receivable or received

6. Sponsorship

Source of sponsor	Description sponsor	Value of sponsor of

7. Gifts and hospitality from other sources

Description	Value of gift	Source of gift

SIGNATURE OF MEMBER

I, _____ hereby declare that I have an interest in the matter in the agenda for discussion and decision by Council.

Description of interest:

I am a shareholder in the company that provide the service or sells the product under discussion

I am a member of a CC which provides the service or sells the product under discussion

My spouse/partner/family member/friend/business partner is a

shareholder in the company that provides the service or sells the product

under discussion.

"

—s0CHEDULE16

Constituency work report specimen

NAME: _____ 

CONSTITUENCY:----- DATE: 

In my engagement with community within my constituency the following issues have been identified:

EDUCATION

The issue:.....

Solution:.....

Timelines:.....

HEALTH

The issue:.....

Solution:.....

Timelines:.....

ECONOMIC DEVELOPMENT

The issue:.....

Solution:

Timelines:.....

AGRICULTURE

The issue:.....

Solution:

Timelines:.....

COMMUNITY SAFETY

The issue:.....

Solution:.....

Timelines:.....

ENVIRONMENT

The issue:.....

Solution:

Timelines:.....

SPORTS, RECREATION ARTS AND CULTURE

The issue:.....

Solution:.....

Timelines:.....

WOMEN, YOUTH AND PEOPLE WITH DISABILITIES

The issue:.....

Solution:.....

Timelines:.....

SOCIAL WELFARE

The issue:.....

Solution:.....

Timelines:.....

Signature of Chairman

Member's Signature

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SCHEDULE 17

COMMITTEE REPORT SPECIMEN NAME OF

COMMITTEE:----- CHAIRPERSON OF

COMMITTEE: -----

DATE OF REPORT:_____

PERIOD OF REPORTING:-----

BACKGROUND.....

METHODOLOGY.....

FINDINGS.....

CONCLUSION.....

RECOMMENDATIONS.....

Committee Chairperson

Date

SCHEDULE18

GIFT REGISTER SPECIMEN

YEAR OF DISCLOSURE: — — — — —

SHARES AND OTHER FINANCIAL INTERESTS			
COMPANY NAME	NUMBER OF SHARES	NATURE OF SHARES	NOMINAL VALUE

GIFTS AND HOSPITALITY		
GIFT DESCRIPTION	SOURCE OF GIFT	VALUE OF GIFT

DIRECTORSHIPS AND PARTNERSHIPS	
DIRECTORSHIP	BUSINESS ACTIVITY

GIFTS AND HOSPITALITY		
GIFT DESCRIPTION	SOURCE OF GIFT	VALUE OF GIFT
BENEFITS		
BENEFIT DESCRIPTION	BENEFIT SOURCE	BENEFIT VALUE

CH 1

S EDULE 9

MOTION REGISTER

Motion number	Detail of the motion	Date of motion	Mover

RESOLUTION

[illegible]

³ This refers to the date on which Kgosi has approved the resolution by page 23 of 167

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relevant resolution.

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SCHEDULE 21

GUIDELINES ON FORMULATION, DEVELOPMENT, MONITORING AND EVALUATION



1. PREAMBLE

- 1.1 The objective of this document is to provide guidelines and recommendations for the formulation, development and review of BBM policies. The recommendations and guidelines contained herein should be viewed as providing general direction, rather than specific prescriptions for action, except if otherwise provided herein or in so far as specific actions are required by existing policies, institutional policies and regulations.
- 1.2 An appropriate amount of planning and effort should go into the development and review of a policy before it is presented for approval. The goal is to ensure that policies are consistent with the vision, mission and values of the BBM and are developed and maintained in a logical and consistent manner.
- 1.3 It is the responsibility of the relevant Portfolio Committee in conjunction with the Head of the entity concerned to ensure that appropriate policies are developed and subjected to the necessary periodic review.

2. THE PURPOSE OF BBM POLICIES

- 2.1 The implementation of new policies and revision of existing policies are meant to channel actions, behaviour, decisions and practices in directions that promote good strategy execution.
- 2.2 The BBM policies are intended to communicate the guiding and governing principles on which the activities of the BBM are based.
- 2.3 The BBM policies are intended to support the vision and mission of the BBM and should be applied with flexibility and judgment consistent with the goals, obligations and strategic priorities of the BBM.

2.4 BBM policies are meant to assist in -

2.4.1 providing guidance with regard to the execution of actions and provide persons working in the BBM entities with a framework as to the manner in which actions are to be executed;

2.4.2 promoting efficiency within the BBM entities

2.4.3 ensuring consistency in the performance of activities

2.4.4 ensuring compliance with legal and other requirements of the BBM entities

and it also serves as a tool for quality improvement within the entities.

3. CLARIFICATION OF TERMS

3.1 **"Policies"** are written statements or sets of statements that describe principles, requirements, and limitations and are characterized by indicating "what" needs to be done rather than how to do it. Such statements have the force of establishing rights, requirements and responsibilities.

3.2 **"Procedures"** are written documents providing specific "how to" information and will normally be developed by the office responsible for the administration of a policy. In cases where procedures establish rights, requirements and responsibilities.

3.3 **"Guidelines"** are written documents that further explain policies/procedures and are characterised by narrative descriptions and examples that serve as aids in interpreting and applying them. Unless otherwise stated, guidelines normally do not have the force of establishing rights, requirements and responsibilities.

4. CONSIDERATIONS IN THE DRAFTING AND REVISING OF BBM POLICIES

4.1 **General**

4.1.1 In the selection of a policy instrument, very careful consideration must be given to the context within which the particular policy will operate.

4.1.2 Notwithstanding the aforementioned, certain guidelines and prescriptions, stipulating at least the minimum requirements to be contained in BBM policies, will be prescribed herein, in order to ensure a greater degree of consistency and uniformity in all policies.

4.2. Recommended steps in the development of policies

4.2.1 When embarking on the development of a new policy or the review of an existing policy, it is recommended that the following steps be taken:

4.2.1.1 Identification of the issue/problem to be addressed

The issue or problem to be addressed should first be assessed and then it must be ascertained to whom the issue or problem should be presented.

4.2.1.2 Necessity for a new policy

In consultation with the appropriate individuals, consider whether a new policy is required to address the issue or problem. Consider whether the issue or problem can be addressed in other ways, for example by establishing clearer communication channels in terms of existing policies or by developing a policy or procedure at an appropriate level.

4.2.1.3 Consultation with the appropriate line

If after consultation with the appropriate individuals, it is established that a new

policy or policy revision is required, consult with the appropriate line manager to determine which structure within the BBM entities will have jurisdiction over the proposed policy development or revision, and what levels

of approval are required for its development, revision and dissemination.

4.2.1.4 Determination of assistance required

It should now be determined who will be affected by the proposed policy or revision and who should assist in the development of the proposed policy or revision. It is also important that those who will be affected by the proposed policy or revision should be consulted throughout the drafting process and their inputs and comments obtained.

4.2.1.5 Collect information from other interested and affected parties

Other affected and interested parties can be approached in

order to obtain ideas and insights into the manner in which they have addressed the problem or a specific portion of the problem in a policy.

However, care should be taken to guard against an entire policy being merely duplicated but should rather ensure that it is drafted to accommodate those whose needs it is intended to address.

4.2.1.6 Draft the policy in accordance with the guiding principles and proposed format contained herein.

As stated before, no hard and fast rules can¹⁶⁷ be prescribed for the drafting of a policy. It

is, however, recommended that the policy should contain at least the minimum requirements as set out and

should be presented in accordance with the format contained herein.

4.2.1.7 Distribute the policy draft/revision to the appropriate groups.

The proposed policy should be presented to the appropriate groups or individuals to be affected by the proposed policy or review. It is important that feedback, comments and suggestions should be obtained from such individuals or groups and that these, if appropriate, should be accommodated in the proposed policy by means of changes and revisions. The policy should then be redistributed to such individuals or groups, as appropriate, for final comment/review.

4.2.1.8 Submit the proposed policy or revision to appropriate line manager.

Upon final amendment of the policy and acceptance thereof by the appropriate groups or individuals, the proposed policy or revision should be submitted to the appropriate Head of entity for submission to the appropriate approval structures.

4.2.1.9 Distribution and implementation of the approved policy

After final approval by the appropriate structures, the next step will be to plan and implement broad communication and distribution of the new policy.

4.3 Guiding principles in the drafting of a policy

4.3.1 In drafting any policy, the following important guiding principles must be adhered to:

4.3.1.1 Any policy should be structured, drafted and presented in a way that .67

makes the policy **understandable** and easy to read and interpret.

4.3.1.2 The content of a policy should be concise, **to the point; action orientated** and should have a logical and coherent structure.

4.3.1.3 **Plain language** must be used that can be readily understood by the intended audience.

4.3.1.4 In a policy, content and language should be used in ways that **promote effective communication**.

4.3.1.5 In drafting the policy, it must be made clear whether any matter or action prescribed in the policy is **mandatory or discretionary** by using the words "must" or "may".

4.3.1.6 **Gender-neutral language** should be used, for example: "*chairperson*" rather than "*chairman*".

4.3.1.7 Policies should be written in the **present active tense** for example:
"*the BBM believes that*" .. "*the BBM therefore does this*".

4.3.1.8 In a policy, the **presentation or layout** should be used to promote effective communication.

4.3.1.9 The **format of policies** of the BBM entities should be the same and drafted in the same style, font and font size.

4.3.1.9 Provisions in a policy should be **numbered numerically**.

4.3.1.10 **Figures** should be used in the numbering of divisions and subdivisions.

4.3.1.11 Letters may be added to figures if a **revised policy** inserts a new paragraph between existing paragraphs that use figures, e.g. between paragraph 19 and paragraph 20, the paragraph inserted will be paragraph 19(a).

4.3.1.12 Policies should be drafted in **English, as well**

as in Setswana.

4.4 Scope of the policy

- 4.4.1 Each policy should state the BBM ENTITIES's position, course or general plan of action
- 4.4.2 on a particular issue and should include procedures for compliance.
- 4.4.3 The policies will:
 - 4.4.3.1 state the BBM ENTITIES's position on issues which affect members of the BBM;
 - 4.4.3.2 embody the BBM ENTITIES's governing principles that mandate and constrain actions, helping to ensure compliance with applicable laws and regulations;
 - 4.4.3.3 promote operational efficiency within the BBM ENTITIES;
 - 4.4.2.4 enhance the BBM ENTITIES's mission or reduce institutional risk;
 - 4.4.2.5 provide decision makers with limits, alternatives and guidelines;
 - 4.4.2.6 change infrequently, and set a course for the foreseeable future;
 - 4.4.2.7 be approved by the appropriate structure.

4.5. Elements of the policy

- 4.5.1 A policy of the BBM ENTITIES must contain the elements and conform to the proposed format as set out in clause 5.
- 4.5.2 A policy may also contain the following optional elements:
 - 4.5.2.1 Reference to other relevant policies and procedures

4.5.2.2 Examples to illustrate the working of the policy

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- 4.5.2.3 Where in the policy "hierarchy" the policy fits,
i.e. how it interacts with other policies
- 4.5.2.4. Enforcement mechanism and appeal process (if applicable)
- 4.2.5.5 Exceptions to and exemptions from the working of the policy.

5. PROPOSED FORMAT OF POLICIES OF THE BBM ENTITIES

5.1 Cover page:

To assure the effective management of the policy, the following information should

introduce the policy:

BAKGATLA BA MOSETLHA

POLICY/PROCEDURE

Document number:

Document name:

Co-ordinating Exco member:

Contact:

Status:

Approved by:

Date approved:

Date last amended:

Date for next review:

Related policies:

5.2 Policy

5.2.1 Title

A policy should be given a title to reflect its subject matter. The title of the policy should be written in plain language that would be understandable to the uninformed reader.

5.2.2 Preamble/Background

A preamble or background can be provided to give the reader insight into the existing situation necessitating the development and implementation of the policy. It can also be utilised to provide information on the development process of the policy and why the policy is structured as it is.

5.2.3 Purpose

The purpose section of the policy must contain an exposition of the reason

why the policy is required and the need it seeks to address.

5.2.4 Scope

This section should indicate to whom the policy will apply.

5.2.5 Definitions and terms

A definition is a provision giving a meaning to a word or expression or limiting or extending the meaning of a word or expression. Include

here any definitions of jargon used in the policy that are not otherwise fully explained in the text of the policy or to which a specific meaning

is to be attached.

5.2.6 Policy content and guidelines

This section should contain the actual policy and may include the optional elements contemplated in clause 4.5.2. This section should not contain the procedures for the implementation of the policy. The guidelines for the drafting of a policy contained in paragraph 4.3 hereof should be applied here.

5.2.7. The designated structure which has the authority to

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approve, adjust and review the policy

A section indicating who is responsible for the approval, adjustment and review of the policy

must be included and, if applicable, must also indicate how this body or person derives its/his/her authority, whether by delegation or otherwise.

5.2.8 Administration of the policy

A section should be included assigning the function of administration and enforcement of the policy to a person, body or committee. This should not be the same body responsible for the approval, adjustment and review of the policy.

5.2.9 Effective date of the policy

It should be clear from the policy when it will come into effect and whether it will have retroactive effect

5.2.10 Procedure

5.2.10.1 The procedures to be followed to ensure that the policy is adhered to and to guide the necessary actions/activities should be identified here. Each specific item should be framed in terms of

5.2.10.1.1 what the specific issue is to which the policy applies;

5.2.10.1.2 what the BBM ENTITIES's position / behavior / action is in response to the issue; and

5.2.10.1.3 what standards (i.e., minimum acceptable requirements) apply (if appropriate).

5.2.11 Appendices

5.2.11.1 Policies are often supported by documented procedures or guidelines. However, these are

not normally included in policy documentation. If there are documents that support the implementation of the policy, they can be named here.