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## Unauthorised, Irregular, Fruitless & Wasteful Expenditure Policy

# Centlec (SoC) Ltd – Unauthorised, Irregular, Fruitless & Wasteful Expenditure Policy

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CENTLEC (SOC) LTD	
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**TABLE OF CONTENT**

<b>DEFINITIONS.....</b>	<b>3</b>
<b>SECTION 1: OBJECTIVES .....</b>	<b>4</b>
<b>SECTION 2: LEGISLATIVE CONTEXT.....</b>	<b>4</b>
<b>SECTION 3: POLICY PRINCIPLES .....</b>	<b>5</b>
<b>SECTION 4: IDENTIFICATION OF UIFW EXPENDITURE.....</b>	<b>5</b>
<b>SECTION 5: TREATMENT OF IRREGULAR OR FRUITLESS &amp; WASTEFUL EXPENDITURE.....</b>	<b>7</b>
<b>SECTION 6: CONSEQUENCES FOR UIFW EXPENDITURE .....</b>	<b>7</b>
<b>SECTION 7: DISCIPLINARY &amp; CRIMINAL CHARGES ARISING FROM ACT OF IRREGULAR EXPENDITURE .....</b>	<b>8</b>
<b>SECTION 8: RECOVERY OF UNAUTHORISED, IRREGULAR, FRUITLESS OR WASTEFUL EXPENDITURE .....</b>	<b>9</b>
<b>SECTION 9: ACCOUNTING ALLOCATION OF UIFW EXPENDITURE .....</b>	<b>10</b>
<b>SECTION 10: FINAL MISCONDUCT .....</b>	<b>10</b>
<b>SECTION 11: REPORTING .....</b>	<b>10</b>
<b>SECTION 12: REVIEW AND APPROVAL .....</b>	<b>11</b>

# Centlec (SoC) Ltd – Unauthorised, Irregular, Fruitless & Wasteful Expenditure Policy

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## DEFINITIONS:

**Fruitless and wasteful expenditure:** means expenditure that was made in vain and would have been Avoided had reasonable care been exercised.

**Irregular expenditure:** means expenditure incurred by the entity in contravention of Municipal Finance Management Act, Municipal Systems Act, Public Office-Bearers Act, 1998 and which has not been dealt with in terms of section 170 of this Act.

**Unauthorized expenditure:** means any expenditure incurred by the entity otherwise than in accordance the approved budget and includes overspending of the total amount appropriated in the entity's approved budget; and overspending of the total amount appropriated for a vote in the approved budget.

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# Centlec (SoC) Ltd – Unauthorised, Irregular, Fruitless & Wasteful Expenditure Policy

## SECTION 1: OBJECTIVES

- a) To provide for measures to identify any unauthorised, irregular expenditure or any fruitless and wasteful expenditure;
- b) To provide for frameworks to avoid any unauthorised, irregular expenditure or any fruitless and wasteful expenditure from being incurred;
- c) To provide for recovery of irregular expenditure or any fruitless and wasteful expenditure; and
- d) To provide for reporting on any unauthorised, irregular expenditure or any fruitless and wasteful expenditure.

## SECTION 2: LEGISLATIVE CONTEXT

Section 105(1)(b) of Municipal Finance Management Act, No 56 of 2003 (MFMA) provides that each official of a municipal entity exercising financial management responsibilities must take all reasonable steps within that official's area of responsibility to ensure that any irregular expenditure, fruitless and wasteful expenditure and other losses are prevented.

Section 102(1) further directs that on discovery of any irregular expenditure or any fruitless and wasteful expenditure, the board of directors of a municipal entity must promptly report, in writing, to the mayor and municipal manager of the entity's parent municipality and the Auditor-General:-

- a) particulars of the expenditure; and
- b) Any steps that have been taken to recover the expenditure; and to prevent a recurrence of the expenditure.

In terms of section 102(2) the board of directors of a municipal entity must promptly report to the South African Police Service any:-

- a) irregular expenditure that may constitute a criminal offence; and
- b) Other losses suffered by the municipal entity which resulted from suspected criminal conduct.

With regard to disclosure in term of financial management reporting, section 125(2) (d) states that the notes to the annual financial statements of a municipality or municipal entity must disclose particulars of:

# Centlec (SoC) Ltd – Unauthorised, Irregular, Fruitless & Wasteful Expenditure Policy

- i. any material losses and any material irregular or fruitless and wasteful expenditures including any material unauthorised expenditure that occurred during the financial year, and whether these are recoverable;
- ii. any criminal or disciplinary steps taken as a result of such losses or such unauthorised irregular or fruitless and wasteful expenditures; and
- iii. Any material losses recovered or written off.

## **SECTION 3: POLICY PRINCIPLES**

- The Board of directors shall order management to investigate allegations of unauthorised, irregular or fruitless and wasteful expenditure against any official/s who is employed full / part time by Centlec (SOC) Ltd.
- If the outcome of the investigation so warrants, disciplinary proceedings shall be instituted against the official(s) concerned in accordance with the provisions of Municipal Finance Management Act 56 of 2003 (MFMA).
- Where appropriate, recovery of irregular, fruitless and wasteful expenditure shall be instituted by the entity in accordance with MFMA.

## **SECTION 4: IDENTIFICATION OF UNATHORISED, IRREGULAR OR FRUITLESS AND WASTEFUL EXPENDITURE**

### **4.1 Unauthorised Expenditure**

Any expenditure incurred by the entity, for which no appropriation was made in terms of the approved budget, and / or in excess of the limits of the amount appropriated for in the entity's approved budget or different votes in an approved budget.

The board of directors may in emergency or other exceptional circumstances authorize unforeseeable and unavoidable expenditure for which no provision was made in an approved budget.

Such expenditure shall not exceed 1% percentage of the approved annual budget; and must be reported by the board of directors to the mayor and the municipal manager of Mangaung Metropolitan Municipality; and must be appropriated in an adjustments budget which must be passed within 60 days after the expenditure was incurred.

# Centlec (SoC) Ltd – Unauthorised, Irregular, Fruitless & Wasteful Expenditure Policy

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If the adjustment budget in which the unforeseeable and unavoidable expenditure was appropriated is not passed within 60 days after the expenditure was incurred, such expenditure shall be regarded as unauthorised.

Where the board of directors has approved a virement policy, shifts made in accordance with that policy may be allowed, and must be taken into account when reviewing such expenditure.

Any use of conditional grant funds for a purpose other than that specified in the relevant conditional grant framework is classified as unauthorised expenditure.

Valid expenditure decisions can only be made by the board and in terms of a budget or an adjustments budget and only the council of the parent municipality may authorize instances of unauthorised expenditure and it must do so through an adjustment budget.

Unauthorised expenditure on non-cash items e.g. depreciation, should be accounted for as such because they result from an under provision during the budget compilation process.

## **4.2 Irregular Expenditure**

Irregular expenditure is an expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with the requirements of MFMA, and which has not been condoned in terms of section 170;

Expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the Municipal Systems Act, and which has not been condoned in terms of that Act;

Expenditure incurred by a municipality in contravention of, or that is not in accordance with, a requirement of the Public Office-Bearers Act, 1998 (Act No. 20 of 1998); or expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the supply chain management policy of the municipality or entity or any of the municipality's by-laws giving effect to such policy, and which has not been condoned in terms of such policy or by-law, but excludes expenditure by a municipality which falls within the definition of "unauthorised expenditure"

# Centlec (SoC) Ltd – Unauthorised, Irregular, Fruitless & Wasteful Expenditure Policy

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## 4.3 Fruitless and Wasteful Expenditure

Fruitless and Wasteful Expenditure is any expenditure that is incurred for which no benefit is received by the company and would have been avoided had reasonable care been exercised.

### **SECTION 5: TREATMENT OF IRREGULAR OR FRUITLESS AND WASTEFUL EXPENDITURE**

- a) Where irregular or fruitless and wasteful expenditure is identified and discovered, it must be recorded in the appropriate internal register and the Accounting Officer must report it in writing to the board of directors in the next available meeting after the occurrence of the expenditure.
- b) The board of directors must then promptly report, in writing, to the Executive Mayor and Municipal Manager of Mangaung Metropolitan Municipality and the Auditor-General the particulars of the expenditure; and any steps that have been taken to recover the expenditure; and to prevent a recurrence of the expenditure.
- c) Where appropriate, the Accounting Officer (CEO) must take appropriate steps to recover the amount from the persons concerned.
- d) If the amount is irrecoverable, the Council of Mangaung Metropolitan Municipality may write-off debt in terms of Treasury Regulations,
- e) The amounts written off in terms of treasury regulations must be disclosed in the Annual Financial Statements of the entity.
- f) The Unauthorised, Irregular, Fruitless and Wasteful expenditure register must be updated accordingly according to the various outcomes of the above processes.

### **SECTION 6: CONSEQUENCES FOR UNAUTHORISED, IRREGULAR OR FRUITLESS AND WASTEFUL EXPENDITURE**

If the Accounting Officer (CEO) becomes aware that the executive committee or the board of directors has taken a decision which, if implemented, is likely to result in unauthorised, irregular or fruitless and wasteful expenditure, the Accounting Officer is not liable for any ensuing unauthorised, irregular or fruitless and wasteful expenditure provided that the Accounting Officer has informed the executive committee or the board of directors, in writing, that the expenditure is likely to be unauthorised, irregular or fruitless and wasteful expenditure.



# Centlec (SoC) Ltd – Unauthorised, Irregular, Fruitless & Wasteful Expenditure Policy

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The Accounting Officer (CEO) is liable for unauthorized, irregular, fruitless and wasteful expenditure deliberately or negligently incurred by the Accounting Officer.

If a member of the executive committee or the board of directors knowingly or after having been advised by the Accounting Officer (CEO) that the expenditure is likely to result in unauthorized, irregular or fruitless and wasteful expenditure, instructed an official of the entity to incur the expenditure; that member is liable for the expenditure.

Any member of the executive committee or the board of directors, or official of the entity, who deliberately or negligently committed, made or authorised an unauthorised, irregular or fruitless and wasteful expenditure, is liable for that expenditure.

Once the Accounting Officer (CEO) becomes aware of any allegation of irregular expenditure, such allegation may be referred to the entity's own Internal Audit Unit or any other appropriate investigative body for investigation, to determine whether or not grounds exist for a charge of financial misconduct to be laid against the official liable for the expenditure.

The board of directors of the entity must on discovery of any irregular or fruitless and wasteful expenditure incurred by the entity investigate the recoverability of such expenditure. After completing its investigation, the board of directors must decide whether or not the relevant expenditure is recoverable and if irrecoverable, certify that the expenditure is irrecoverable and submit a report to this effect to the Executive Mayor of the parent municipality or if recoverable, decided on steps to be taken to recover the expenditure.

<b>SECTION 7: DISCIPLINARY AND CRIMINAL CHARGES ARISING FROM ACT OF+987\][ IRREGULAR EXPENDITURE</b>
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## 1. Disciplinary charge

If after having followed a proper investigation, the council concluded that the official or political office bearer responsible for making, permitting or authorising irregular expenditure did not act in good faith, then entity must consider instituting disciplinary action and /or criminal charges against the liability person/s.

If the irregular expenditure falls within the ambit of the above description then the council, accounting officer must institute disciplinary action as follows:

# Centlec (SoC) Ltd – Unauthorised, Irregular, Fruitless & Wasteful Expenditure Policy

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- (i) Financial Misconduct in terms of section 171 of MFMA: in the case of an official that deliberately or negligently:
- Contravened a provision of the MFMA which resulted in irregular expenditure; or
  - Made, permitted or authorised as irregular expenditure (due to non-compliance with any of legislation mentioned in the definition of irregular expenditure)
- (ii) Breach of *Code of Conduct for Municipality Staff Members*: in the case of an official whose action in making, permitting or authorising an irregular expenditure constitute a breach of Code.

## 2. Criminal charges

If, after following a proper investigation, the council concluded that the official responsible for making, permitting or authorising an instance of irregular expenditure acted deliberately or negligently, then the council must institute disciplinary procedures and lay criminal charges against the liable official.

The Irregular expenditure was the result of breach of the definition of irregular expenditure it must be considered in terms of section 173 of MFMA.

## **SECTION 8: RECOVERY OF UNATHORISED, IRREGULAR, FRUITLESS OR WASTEFUL EXPENDITURE**

All instance of unauthorised, irregular, fruitless or wasteful expenditure must be recovered from liable official or political officer-bearer, unless the expenditure is certified by the municipal council, after investigation by a council committee, as irrecoverable and is written off by the council or unauthorised expenditure has been authorised by council in an adjustment budget. In other word the expenditure that is written off is therefore condoned.

Unauthorised, irregular, fruitless and wasteful expenditure resulting from breach of public Offer-bearers act is an exception in that the unauthorised, irregular, fruitless and wasteful expenditure must be recovered from the political Officer- bearer to who it was paid, who might not have been responsible for making, permitting or authorising the unauthorised, irregular, fruitless and wasteful expenditure

Once it has been established who is liable for the irregular expenditure, the accounting officer must in writing request that the official or political Office- bearer pay the amount within 30 days or in reasonable instalments. If the person fails to comply with the request, the matter must be recovered through the normal debt collection process of the entity.

# Centlec (SoC) Ltd – Unauthorised, Irregular, Fruitless & Wasteful Expenditure Policy

## **SECTION 9: ACCOUNTING ALLOCATION OF UNAUTHORISED, IRREGULAR OR FRUITLESS AND WASTEFUL EXPENDITURE**

If the unauthorised, irregular and fruitless and wasteful expenditure is found to be recoverable from the responsible official in full or in part, a debt must be recorded in the accounting records of the entity.

In cases where the debt or part thereof become irrecoverable after the initial recognitions, such irrecoverable amount shall be written off, and appropriate recordings be made in the accounting records of the entity.

Revenue from the recovery of unauthorised, irregular, fruitless and wasteful expenditure is based on legislated procedures including those set out in the MFMA and is recognised when the recovery thereof from the responsible persons or officials is virtually certain.”

## **SECTION 10: FINANCIAL MISCONDUCT**

Any official of the entity commits an act of financial misconduct if he / she deliberately or negligently makes or permits, or instructs another official of the entity to make, an unauthorised irregular or fruitless and wasteful expenditure.

## **SECTION 11: REPORTING**

Management information concerning the status of the disciplinary steps and or criminal proceedings instituted with respect to all unauthorised, irregular, fruitless and wasteful expenditure incurred by Centlec shall be provided to the CFO on a monthly basis. The information should preferably include the date of the incident, a description of the incident and the subsequent steps taken.

Any approval granted to write- off debt owed to Centlec, shall be provided by the Council on a monthly basis the expenditure that is written off is therefore condoned. This will be in the form of a decision by the Council of Mangaung Metropolitan Municipality.

## **SECTION 12: REVIEW AND APPROVAL**

Approved by the board of directors on: \_\_\_\_\_:

# Centlec (SoC) Ltd – Unauthorised, Irregular, Fruitless & Wasteful Expenditure Policy

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Signed: \_\_\_\_\_

Chairperson of the Board

Date: \_\_\_\_\_

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