



**MAINTENANCE AGREEMENT ENTERED  
INTO BY AND BETWEEN:**

**SEDIBENG DISTRICT MUNICIPALITY** herein represented by **MOTSWALEDI MAKHUTLE** in his capacity as the **Acting Municipal Manager**, duly authorized thereto (hereinafter referred to as “the Customer”);

**AND**

**VPN TECHNOLOGIES, CC** Registration number **CK1999/012869/23** herein represented by **JACO LANGE** in his capacity as **Managing Member**, duly authorized thereto as per letter attached hereto as Annexure “A” (hereinafter referred to as “the Service Provider”).

**WHEREAS** the Customer requires to ensure an uninterrupted IT networking support;

**AND WHEREAS** the Service Provider is willing and able to provide the required maintenance and support to ensure that the Customer’s IT network and internet services operates optimally.

**NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:**

1.

**PURPOSE**

The Customer hereby engages the Service Provider to provide maintenance and support as more fully set out in clause (4) below.

2.

M. J. Lange

## DURATION

- 2.1 This agreement shall commence on the date of the last party signing and shall endure for a period of 3 (three) years. Before expiry of this agreement, the agreement will be renewed subject to clause 2.2 unless written cancellation by one of the parties with a notice period of three months.
- 2.2 The agreement shall be reviewed upon termination of the period of 3 (three) years and shall be extended for a further period to be agreed upon by the Parties, subject to the outcome of a performance appraisal to be conducted three months before the expiry of the initial period. The renewal shall further be subject to the provisions of the Local Government: Municipal Finance Management Act and to the Customer's Supply Chain Management Policy and Procedures.

3.

## PAYMENTS

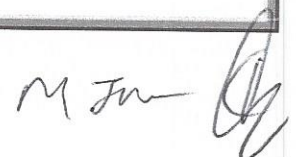
- 3.1 The Parties record that the payments for each month vary based on data consumption for that month, the current estimated monthly cost being the amount of R 33 500, and will be amended in writing with consent.
- 3.1.1 The Customer shall pay to the Service Provider the amount of R600-00 (Six Hundred Rand) per hour and the amount of R150-00 for every fifteen-minute period after the first hour for on-site technical support rendered.
- 3.1.2 The fees payable for the services rendered shall be subject to an annual escalation in accordance with the inflation rate.
- 3.2 Payment for services rendered shall be effected within a period of thirty (30) days of presentation of an invoice to a duly authorized employee of the Customer who shall certify that the amount claimed and the services that are reflected as having been rendered are true and correct.
- 3.3 Payment for the services rendered shall be effected by the Customer directly into the bank account of the Service Provider, which has the following details:

|                |   |                     |
|----------------|---|---------------------|
| Bank Name      | : | ABSA                |
| Branch Name    | : | Menlyn Park         |
| Branch Code    | : | 335 645             |
| Account Name   | : | VPN Technologies CC |
| Account Number | : | 4059139721          |

4.

## MANGEMENT OF THE AGREEMENT

- 4.1 The parties shall form a committee which will be responsible for the management of this agreement so as to ensure the smooth and satisfactory delivery of the services that form the basis hereof.
- 4.2 The committee shall be composed of the following:
- 4.2.1 The official appointed by the Customer who shall act as manager on behalf of the Customer;
  - 4.2.2 Such other additional members appointed by Customer as it may deem necessary for the successful implementation of the agreement;
  - 4.2.3 A representative appointed by the Service Provider, who shall manage the agreement on the Service Provider's behalf and shall have authority to take decisions and to bind the Service Provider in all matters relating to this agreement; and
  - 4.2.4 Such other additional people as the Service Provider may deem necessary to execute its functions in terms of this agreement.
- 4.3 The functions of the committee shall be as follows:
- 4.3.1 To facilitate communication between the parties;
  - 4.3.2 To review the progress on the implementation of the term of this agreement;
  - 4.3.3 To manage and resolve potential disputes;
  - 4.3.4 To achieve agreement on objectives within agreed scope, time, cost and quality;
  - 4.3.5 To provide advice and consent on scope variation;
  - 4.3.8 The committee shall determine an appropriate set of meetings to be held and the frequency thereof.



4.4 Service targets and performance metrics include:

| <b>Critical success factor</b>     | <b>Key result area</b>               | <b>Key performance area</b>   | <b>Parameter</b>   |
|------------------------------------|--------------------------------------|---|--|
| <b>Financial performance</b>       | Financial management, budget control | Timely submission of quotations and invoices.                       | 2 days from request/before end of business on 14/29 day of month.    |
| <b>Regulatory performance</b>      | Compliance to legislation            | Compliance to applicable acts, regulations, policies and procedures | Alignment to current legislative framework.                          |
| <b>Process performance</b>         | Effective governance                 | Turnaround time on process calls logged                             | First response within 2 hours, follow-up within 4 hours.             |
| <b>System availability</b>         | Effective governance                 | Turnaround time on system availability calls logged                 | First response within 2 hours, follow-up within 4 hours.             |
| <b>System integrity</b>            | Effective governance                 | Effectiveness of firewall/access control                            | First response within 2 hours, follow-up within 4 hours.             |
| <b>Failure rates</b>               | Effective governance                 | System down time  | Less than 2 incidents per month.                                     |
| <b>Work completion/outstanding</b> | Effective governance                 | Turnaround time on ticket completion                                | System down errors: 2 hours.<br>Normal maintenance: 8 working hours. |
| <b>Customer satisfaction</b>       | Accountability to SDM                | Satisfaction of service provided                                    | Score 1 (extremely poor) – 5 (excellent).                            |

*M. J. M.*

5.


**RESPONSIBILITIES OF SEDIBENG**

- 5.1 To remunerate the Service Provider for services rendered as set out in clause 6 below.
- 5.2 To provide all reasonable support to the Service Provider necessarily required for the successful implementation of the project.
- 5.3 To ensure that the Service Provider has timely and adequate access to all information, documentation and other resources available to the Customer which are reasonably required for the rendering of the services;
- 5.4 To cooperate with the Service Provider at all times for purposes of facilitating a timeous and efficient delivery of the services;
- 5.5 To designate an official for the purposes of management of this agreement. The designated official will be responsible for communicating with the Service Provider and the performance of the Customer's contractual obligations under this agreement.

6.

**RESPONSIBILITIES OF SERVICE PROVIDER**

- 6.1 Firewall Maintenance, which shall include:
  - 6.1.1 Standard maintenance of the firewall and ensuring the proper functioning thereof;
  - 6.1.2 Blocking of certain URLs, websites, social networks upon request;
  - 6.1.3 Reloading or setting up firewall in case of damage or failure of performance (excluding the replacement of hardware failure or damage);
  - 6.1.4 Opening of ports upon request;
  - 6.1.5 Updating of software as and when it becomes necessary; and
  - 6.1.6 Checking of warranties of hardware and handling of warranty transactions.
- 6.2 Web Hosting, which shall include:
  - 6.2.1 Hosting of the Customer's domain and ensuring the proper functioning thereof; and

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6.2.2 Providing necessary technical support as and when the web-hosting so predetermines.

6.3 Provision of bandwidth, which shall include:

6.3.1 the provision of data and ensuring the proper functioning thereof;

6.3.2 reporting of faulty Telephone lines;

6.3.3 recreation of ports; and

6.3.4 basic trouble shooting in the event that there is no internet connection.

6.4 Monitoring of MailScanner (electronic mail services), which shall include:

6.4.1 blocking off certain SPAM, virus contaminated as well as scam e-mails;

6.4.2 blocking off domains and releasing of mail as requested from time to time;

6.4.3 reloading or setting up of mail scanner in the event of damage or failure of performance (excluding the replacement of hardware failure or damage); and

6.4.4 Updating software as and when it becomes necessary;

6.5 Routing of data, which shall include:

6.5.1 Assisting in setting up, routing / trouble shooting network performance issues and adding new IP subnets; and

6.5.2 checking warranties of hardware supplied, as well as handling of warranty transactions.

6.6 Managing the Virtual Private Network (VPN) links which shall include:

6.6.1 Provision of virtual private networking to remote sites;

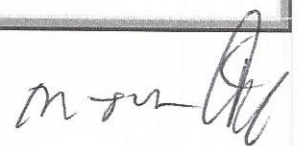
6.6.2 Inclusion of VPN links from off-site users to the customers network; and

6.6.3 Creation of VPN certificates and rendering assistance to users.

6.7 Backing-up of data, which shall include:

6.7.1 Assisting with back-up and adding / removing of servers; to backup software.

6.7.2 Monitoring the running of the back-up service; and



- 6.8. The Service Provider shall be readily accessible to the Customer at all reasonable times whenever technical support is required, and shall respond within a period of two to four hours of a call for support being logged by the Customer (see performance metrics).
- 6.9. The Service Provider shall not be liable for any loss or malfunction of the networks and ADSL that results from tampering with the equipment or any negligent act or omission by the Customer.
- 6.10. In the event that there is a need to replace any hardware, the Service Provider shall provide a quotation to the Customer for such replacement, which can be accepted or rejected by the Customer.

7.

#### **TERMINATION AND BREACH**

- 7.1. In the event that any party ("the defaulting party") commits a breach of any of the provisions of this agreement, the other party ("the aggrieved party") may give the defaulting party 10 (ten) days written notice to remedy such breach.
- 7.2. Should the defaulting party fail to comply with such notice, the aggrieved party shall be entitled to cancel this agreement and/or to claim immediate payment and/or specific performance from the defaulting party whether or not the due date for payment and/or performances has arrived.
- 7.3. The foregoing is without prejudice to such other rights as the aggrieved party may have at law.

8.

#### **LIABILITY**

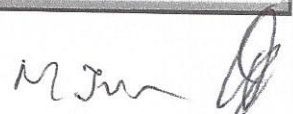
- 8.1. The Service Provider shall be liable for any damages sustained by the Customer as a result of breach of contract or negligence on its part in respect of the services. The maximum liability of the service provider for all claims arising out of the services provided in connection with this agreement shall be limited to an amount equal to twice the fees for the services as set out in clause 5 above.
- 8.2. The Service Provider shall further be liable for any damages or losses, howsoever they may arise, incurred by third parties as a result of any negligent act or omission on the part of the Service Provider.

## **CONFIDENTIALITY**

- 9.1 The Service Provider shall not disclose or divulge any confidential information relating to the service herein to anyone other than those third parties without prior written permission from the Customer which shall not be unreasonably withheld.
- 9.2 The prohibition from disclosing confidential information shall not apply where a disclosure is made:
- 9.2.1 under compulsion of the law;
  - 9.3.2 in compliance with a court order granting the disclosure;
  - 9.3.3 to further the necessary and legitimate interest of the party making the disclosure, provided that prior to such disclosure the other party is so advised in writing; or
  - 9.3.4 the confidential information was in the public domain prior to being disclosed by the Service Provider or has come into the public domain other than as a result of being divulged by the Service Provider.
- 9.4 The provisions of this clause are severable from the rest of this agreement and shall survive its termination and continue to be of full force.

## **DISPUTE RESOLUTION**

- 10.1 Any dispute which may arise out of the operation of this agreement shall be referred to a joint committee comprising of the duly authorised representatives of Customer and the Service Provider, who will use their best endeavours to resolve the dispute within 14 (fourteen) days of it having been referred to them.
- 10.2 In the event that the dispute fails to be resolved as envisaged in 10.1 above, the matter shall be referred to a mutually acceptable suitably qualified third party for arbitration.
- 10.3 The arbitration shall be held:
- 10.3.1 At a mutually agreed venue by the parties;





- 10.3.2 On the basis that the proper law of the agreement contained in this clause and of the contract in which this clause is contained shall be the law of the Republic of South Africa;
- 10.3.3 With only the legal and other representatives of the parties to the dispute present there at;
- 10.4 The Arbitrator shall be, if the matter in dispute is principally;
- 10.4.1 A legal matter, a practising advocate or attorney of at least 5 (five) years standing;
- 10.4.2 An accounting matter, a practising chartered accountant of at least 5 (five) years standing;
- 10.4.3 Any other matter, an independent person, agreed upon between the parties.
- 10.5 Should the parties fail to agree on an Arbitrator within 14 (fourteen) days after giving of notice an Arbitrator shall be appointed at the request of either party to the dispute by the President for the time being of the Law Society of the Northern Provinces..
- 10.6 The Arbitrator shall have the power to fix all procedural rules for the holding of the arbitration, including discretionary powers to make orders as to any matters which he may consider proper in the circumstances of the case with regard to submissions, pleadings, discovery, inspection of documents, examination of witnesses and any other matter relating to the conduct of the arbitration. The Arbitrator may receive and act on all such evidence, whether oral or written, strictly admissible or not, as he in his discretion may deem fit.
- 10.7 The award of the Arbitrator shall be final and binding upon the parties and may be made an order of any court of competent jurisdiction.

## 11. *DOMICILUM CITANDI ET EXECUTANDI*

The Parties choose the following addresses as their *domicilia citandi et executandi* for the purposes of giving any notice, the serving of any process or for any other purpose arising from this Agreement:

VPN TECHNOLOGIES : 670 Arthur Street  
Garsfontein  
Pretoria

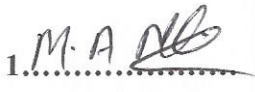
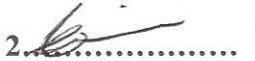
CUSTOMER : Municipal Buildings  
Corner Beaconsfield and Leslie Streets  
Vereeniging.

12. ENTIRE AGREEMENT

The parties hereby acknowledge that this agreement constitutes the entire contract between them and no other conditions, stipulations, warranties and / or representations whatsoever have been included herein. Any variation, amendment, alteration or addition to the terms hereof shall not be valid unless reduced to writing and signed by both Parties.

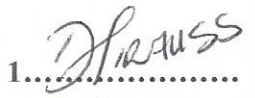
THUS DONE AND SIGNED AT VEREENIGING ON THIS THE 22 DAY OF MAY 2017

  
.....  
**M MAKHUTLE**  
**ACTING MUNICIPAL MANAGER**

AS WITNESSES: 1.   
2. 

THUS DONE AND SIGNED AT Pretoria ON THIS THE 26 DAY OF May 2017

  
.....  
**JACO LANGE**

AS WITNESSES: 1.   
2. 