

SERVICE PROVIDER AGREEMENT



on the Go for Growth

WATERBERG DISTRICT MUNICIPALITY

Entered into by:

WATERBERG DISTRICT MUNICIPALITY
(the Client)

And

Registration Company Name: **PALESA TECHNOLOGIES (PTY) LTD**
(The Service Provider)

In respect of the **OPERATING LEASE OF PHOTOCOPYING MACHINES**

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Preamble

Whereas:

The Waterberg District Municipality and Palesa Technologies (Pty) Ltd enter into an agreement for the provision of leasing on photocopying services for the Waterberg District Municipality.

It is therefore agreed as follows:

1. Parties:

The parties to this agreement are:

- 1.1 Waterberg District Municipality (hereinafter referred to as "the client"), represented by **MV Letsoalo**, in his duly authorized capacity as Municipal Manager of Waterberg District Municipality; and
- 1.2 Palesa Technologies (Pty) Ltd (hereinafter referred to as "the Service Provider"), represented herein by **Lynette Els**, in her duly authorized capacity as Managing Director of Palesa Technologies (Pty) Ltd.

2. Interpretation

The headings of the paragraphs in this Agreement are for the purposes of reference only and shall not be used in the interpretation of this Agreement. In this Agreement, unless a contrary intention clearly appears:

- 2.1. the singular includes the plural and vice versa;
- 2.2. the following terms shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings, namely :
 - 2.2.1. '**business day**' means any working day, excluding Saturdays, Sundays and public holidays;
 - 2.2.2. '**Client**' means the Waterberg District Municipality;


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- 2.2.3. '**commencement date**' means the date on which the parties commenced with the performance of their obligations, **01 November 2013**
- 2.2.4. '**contract price**' means the total amount of fees that will be charged by the Service Provider, including disbursements and VAT, for the performance of the services in terms of this Agreement;
- 2.2.5. '**key result**' means an indicator or yardstick in terms of which the Service Provider's successful performance of its obligations may be gauged;
- 2.2.6. '**methodology**' means the professional expertise and the system of methods required by the Service Provider to perform the obligations set out in terms of this Agreement;
- 2.2.7. '**prime rate**' means the variable interest rate as charged and calculated by the Service Provider's bankers from time to time;
- 2.2.8. '**project**' means the services to be performed by the Service Provider in terms of the Tender and the corresponding obligations to be fulfilled by the Client;
- 2.2.9. '**project plan**' means the strategy prepared by the parties for the successful completion of the Project submit within a reasonable time, prior to commencement of project;
- 2.2.10. '**Remuneration schedule**' means the details of remuneration.
- 2.2.11. '**Service Provider**' means Palesa Technologies (Pty) Ltd, under the registration name: Palesa Technologies (Pty) Ltd, a company established in 2004 under Registration number **2004/005682/07**
- 2.2.12. '**services**' refers to the professional work to be performed by the Service Provider in terms of this Agreement, as per page 4;
- 2.2.13. '**Tender**' means Tender No. **WDM/2013/-13/14-01 (Vote 03/15124)**, advertised by the Client and being in

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respect of the provision of operating lease of photocopying services for the Waterberg District Municipality.

- 2.3. figures are referred to in numerals and in letters and if there is any conflict between the two then the letters shall prevail; and,
- 2.4. expressions defined in this Agreement shall bear the same meanings in schedules or annexures to this Agreement, which do not themselves, contain their own definitions.

3. **Appointment and Duration**

- 3.1. The Client hereby appoints the Service Provider to carry out the services detailed in Paragraph 7 to this Agreement upon the terms and conditions set out herein.
- 3.2. The Service Provider will commence and complete the performance of the provision of Operating lease of photocopying machines for the Waterberg District Municipality as indicated in the project proposal and in the letter of appointment or on such other dates as may be agreed by the parties.
- 3.3. The duration of the project is for approximately 36 months, commencing on **Friday, 01 November 2013** and ending on **31 October 2016**.

4. **Team**

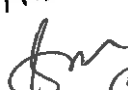
The team members that will be involved in the project must be according to the proposal and where a team member resigns or leaves the institution the client must be informed in writing through Supply Chain Management and the Project Manager.

5. **Shareholders**

In case where the shareholders of the company change during the year, the client must be informed in writing of such changes.

6. **Extent of terms and conditions**

- 6.1. This Agreement consists of the terms and conditions set out in the documentation listed as follows:
 - 6.1.1. All tender documents comprising the Tender (Schedule 1);
 - 6.1.2. The Service Provider's proposal (Schedule 2);

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6.1.3. Letter of appointment (Schedule 3); and,

6.1.4. This Agreement.

6.1.5. National Treasury Conditions of Contract

6.2. In the event of conflict between the provisions of any of the aforesaid documentation and this Agreement, the provisions of this Agreement shall prevail.

7. **Scope of Services**

The Operating lease of photocopying machines will be comprised of the following assets and/or services:

- **1 (one) x Black & White Photocopier**

Copying process: **minimum of 80 A4 pages per minute copy/print speed**

Duplex unit

Automatic duplex document feeder

Zoom – enlargement/Reduction 25% - 400% in 1% increment

Multi bypass tray

Cover interposer

PCL Print Controller

Scan to PDF, Scan to HDD and scan to email

2 or 4 holes punch unit

Post sheet inserter

Binder

Fax mode

Stapler

100 page saddle stitch booklet finisher

Automatic Collating

Automatic trimmer function

Folding function – be able to fold papers

E-mail mode

- **8 (eight) black & white photocopiers**

Copying process: **minimum of 36 pages per minute copy/print speed**

Duplex unit

50 sheet floor staple finisher

150 sheet bypass tray

Post sheet inserter

Cover interposer

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2 hole punch unit
 Automatic duplex document feeder
 Full colour scanning to email and PDF
 Zoom enlargement/reduction 25% -400% in 1% increments
 Fax unit
 E-mail mode

- **2 (two) colour photocopiers**

Copying process: **minimum of 36 pages per minute copy/print speed**
 Duplex unit
 50 sheet floor staple finisher
 150 sheet bypass tray
 Post sheet inserter
 Cover interposer
 2 hole punch unit
 Automatic duplex document feeder
 Full colour scanning to email and PDF
 Zoom enlargement/reduction 25% -400% in 1% increments
 Fax unit
 E-mail mode

- **1 (one) black & white photocopier**

Copying process: **minimum of 60 pages per minute copy/print speed.**
 Duplex unit
 50 sheet floor staple finisher
 150 sheet bypass tray
 Post sheet inserter
 Cover interposer
 2 hole punch unit
 Automatic duplex document feeder
 Full colour scanning to email and PDF
 Zoom enlargement/reduction 25% -400% in 1% increments
 Fax unit
 E-mail mode

8. Price

The contract price in respect of the Tender is as per the pricing schedules provided in by Palesa Technologies (Pty) Ltd. proposal as follows:

- 8.1** Palesa Technologies (Pty) Ltd. is appointed for the provision of operating lease of photocopying services for the Waterberg

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District Municipality at **R2051 573.18 VAT Inclusive/R1799 625.60 VAT Exclusive**, for a period of 36 months.

8.2 The table below has the pricing schedule and the rental amount per photocopier in detail:

Item	Description of machine	Serial number	Contract period	Rental amount (Inc. VAT)	Installation address	Contact person	Contact numbers
1.	Itec PRO 951		36	R23262.18	WDM main building (Registry)	Maureen Ngoepe	0147183300/14 085525438
2.	Itec XM 1140 - Fax Machine		36	N/A	WDM main building, Harry Gwala Street, Modimolle (Registry)	Maureen Ngoepe	0147183300/14 082555438
3.	Itec B363 MFP		36	R2549.89	Modimolle Disaster Management centre (Cnr. Nelson Mandela & Oktaan Street)	Dan Mokonyama	0147183300/76 0826641159
4.	Itec B363 MFP		36	R2549.89	Lephalale Disaster Management centre (Cnr. Chris Hani & Ramathlodi Street)	Victor Mautjana	0147624200 0729468164
5.	Itec B363 MFP		36	R2549.89	Mogalakwena EHP Offices (109 Ruiter Street, Mokopane)	Simon Monene	0154919724 0733936688
5.	Itec B363 MFP		36	R2549.89	WDM main building, Harry Gwala Street, Modimolle (Executive Mayor's office)	Maureen Ngoepe	0147183300/14 0825525438
7.	Itec B363 MFP		36	R2549.89	WDM main building, Harry Gwala Street, Modimolle (Municipal Manager's office)	Maureen Ngoepe	0147183300/14 0825525438
8.	Itec B363 MFP		36	R2549.89	WDM main building, Harry Gwala Street, Modimolle	Maureen Ngoepe	0147183300/14 0825525438

					(Planning & Economic Development)		
9.	Itec B363 MFP		36	R2549.89	WDM main building, Harry Gwala Street, Modimolle (Social Services)	Maureen Ngoepe	0147183300/14 0825525438
10.	Itec B363 MFP		36	R2549.89	WDM main building, Harry Gwala Street, Modimolle (Infrastructure)	Maureen Ngoepe	0147183300/14 0825525438
11.	Itec C364 MFP		36	R4076.60	WDM main building, Harry Gwala Street, Modimolle (Registry)	Maureen Ngoepe	0147183300/14 0825525438
12.	Itec C364 MFP		36	R4076.60	WDM main building, Harry Gwala Street, Modimolle (Office 12)	Maureen Ngoepe	0147183300/14 0825525438
13.	Itec B654 MFP		36	R5173.60	WDM main building, Harry Gwala Street, Modimolle (SCM printing room)	Maureen Ngoepe	0147183300/14 0825525438
				R56 988.10 VAT Inclusive			

9. Maintenance plan

The maintenance plan shall be as follows:

Itec PRO 951: Black & White copies @R0.067 cents per copy including VAT

Itec B363 MFP: Black & White copies @R0.089 cents per copy including VAT

Itec C364 MFP: Black & White copies @R0.13 cents per copy including VAT

Colour copies @R0.55 cents per copy including VAT

Itec B654 MFP: Black & White copies @R0.089 cents per copy including VAT

Service agreement includes the following:

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- Toner
- Staples
- Replacement parts or spares
- Labour
- Call outs – Response time will be within 4 hours
- Travelling expenses
- Routine service

Service agreement excludes the following:

- Paper
- Ring binders

The service will run for a period of 36 months. Palesa Technologies (Pty) Ltd will respond to all maintenance and service requests within 4 hours after it has been reported on or before 10H00 on the next working day if reported after 14H00. **Failure to turn up within the stipulated time of 4 hours to fix the machine will result in non-payment for that particular machine for the period of non-usage.**

Palesa Technologies (Pty) Ltd will also provide a replacement unit on site if repairs could not be effected within 24 hours after it has been reported or shall, at the service provider's costs, collect and deliver and make arrangements for work to be done at the service provider's offices at a charge not exceeding the copy cost applicable to the defective unit.

Normal working Hours: 08H00-17H00 Monday to Friday
After hours will be charged at R399.00 per hour, Including VAT.

10. Continuous Service Agreement

10.1 The Service Provider, Palesa Technologies, agrees to:

- Maintain the equipment in an efficient operating condition. The Service Provider shall not be liable for any loss, including any consequential loss, arising from the malfunction or failure of the equipment to function or from any other causes whatsoever. Any repairs or service required by the client due to the misuse or negligence or outside normal working hours, may at the Service Provider option, be charged to the client in accordance with the Service Provider's current service charges and conditions.
- Supply consumables at the Service Provider's preferred price applicable at the date of delivery of such consumables to the client with continuous service agreement.

10.2 The Client, Waterberg District Municipality, agrees to:

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- a) Pay the Service Provider as set out in the pricing schedule in Clause 8.
- b) Provide one staff member from all departments for each of the twelve machines to be trained by the technicians on the operations of the photocopiers. The client shall notify the Service Provider in writing of any change of these personnel.
- c) Provide access at any time or times during working hours to any authorized representative of the Service Provider for any purpose of this agreement.
- d) Accept liability for damage to the equipment if damage is due to negligence on the part of the Client or its employees or persons who have access to the equipment.
- e) Pay amount due to the Service Provider by the **first** of every month, upon receipt of an invoice, failing which the Service Provider may temporarily suspend the supply of service and consumables until outstanding amounts due to the Service Provider are paid.
- f) Supply the Service Provider in a manner determined by the Service Provider, from time to time, with a meter reading for each piece of equipment once a month. The Client's contact person with regard to the above is **Violet Maboa**, contact number is **014 718 3300/69**.
- g) The Client agrees that any corruption of data or damage to the hard disc caused by power fluctuation or lightning will be the Client's responsibility.
- h) Keep the goods in their custody and under their control at the premises mentioned in the Service Level Agreement and shall notify the Service Provider for the removal thereof to other premises.
- i) The client shall notify the Service Provider of any change of the address and telephone number of equipment at least two (2) weeks prior to movement.
- j) Pay the Service Provider for the relocation of equipment at current pricing. Equipment may only be moved or relocated by the Service Provider.

11. Replacement of photocopiers

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To the right, the initials "HKS".
At the bottom right, a signature that appears to be "Z".
A circled "B" is also visible.

If a photocopier machine is broken and the technicians find it difficult to fix or repair the machine within 14 working days after being reported, the machine must be replaced with another machine of the same features at no extra cost while the broken one is being repaired or checked. Failure to replace the machine will lead to non-payment for the period of non-replacement.

12. **Assets and ownership**

Since the contract is an operating lease of photocopying machines and not a finance lease agreement, it is agreed that the Service Provider is the owner of the photocopying machines and that at the end of the 36 month contract period, the Service Provider shall remove or take back the photocopying machines.

13. **Obligations of the Service Provider**

13.1. The aforesaid services shall be rendered diligently and to the standard required by the Client.

13.2. The service provider is required to **submit written progress reports on a monthly basis, indicating all the maintenance claims for that particular month.**

12.3 The Service provider appoints Nicky Grobler in her capacity as Sales coordinator of the Palesa Technologies (Pty) Ltd as the project manager and key point of contact and liason for all matters relating to the project by and between the Service Provider and Client.

12.4 The Service Provider will, amongst others, render the following services;

- Supply and delivery of twelve (12) photocopying machines to Waterberg District Municipality.
- The supply shall include the installation, operationalization and training of the client on the functions of the photocopying machines.
- That the twelve (12) machines be supplied as per the terms of reference with all the required features as per tender document.
- The Service Provider is required to adhere to the maintenance plan and the response time after fault reporting as per their proposal and this document.
- Supply and delivery of twelve machines are listed as follows:

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- 1) 80 CPM (Black & White) for Corporate Services (CSSS)
- 2) 60 CPM (Black & White) for Supply Chain Unit (BTO)
- 3) 36 CPM (Colour) for Finance department (BTO)
- 4) 36 CPM (Colour) for the Registry (CSSS)
- 5) 36 CPM (Black & White) for Executive Support
- 6) 36 CPM (Black & White) for Municipal Manager Office
- 7) 36 CPM (Black & White) for Infrastructure Development
- 8) 36 CPM (Black & White) for Planning & Economic Development
- 9) 36 CPM (Black & White) for Social Development
- 10) 36 CPM (Black & White) for Modimolle Disaster Management Centre
- 11) 36 CPM (Black & White) for Lephalale Disaster Management Centre
- 12) 36 CPM (Black & White) for Mogalakwena EHP Offices

14. **Obligations of the Client**

- 14.1 The Client shall provide reasonable support to the Service provider to enable it to perform its duties.
- 14.2 The Client shall ensure that the Service Provider has reasonable access to and the support of whatever information or personnel, respectively, may be necessary for the Service Provider to fulfil its obligations.
- 14.3 The Client appoints **Ms Maureen Ngoepe** in her capacity as Senior Admin Officer of the Waterberg District Municipality as the project manager and key point of contact and liason for all matters relating to the project by and between the Service Provider and Client.

15. **Remuneration**

- 15.1. The Client hereby agrees to remunerate the Service Provider strictly in accordance with the quotation.
- 15.2. The Client shall also pay in addition to the quoted amount, any cover on new assets that the municipality acquires, and/or cover for any new employees appointed during that particular financial year.
- 15.3. If the Client defaults or falls into arrears with any payment then the Service Provider reserves its right to claim payment of interest at the prime rate, calculated from 30 (thirty) days after

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the payment has become due to the actual date of payment. Unless the client is awaiting clarification of issues on the invoice, the payment may exceed (30 days).

16. **Variations and cancellations**

No agreement varying adding to, deleting from or cancelling this agreement shall be of force or legal effect unless reduced to writing and signed by or on behalf of the parties.

17. **Limitation of liability**

17.1. The Service Provider hereby protects and secures the Client against all legal liability with regard to any claims that may arise as a result of a breach of contract or negligence on the part of the Service Provider in respect of its obligations in terms of this Agreement.

17.2. The maximum liability of the Service Provider in respect of the aforesaid claims shall be limited to the aggregate of fees that have accrued to the Service Provider for the obligations that form the subject of the breach of contract or negligence as at the time that the cause of action arose.

18. **Amicable Settlement**

If any dispute arises in terms of this contract, either party may give five (5) days written notice to the other of such dispute, whereupon the parties shall meet promptly and in good faith attempt to reach an amicable settlement.

19. **Disputes**

19.1. In the event that a dispute arises between the Client and the Service Provider it shall be referred to mediation within 5 (five) business days of either party declaring such a dispute. In this regard:

19.1.1. A mediator shall be appointed by the parties, alternatively by the chair of the Attorneys Association in the Province where the dispute arose, to preside over the mediation; and,

19.1.2. The parties shall seek ways and means to resolve the dispute in the most expedient manner.

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19.2. Should the dispute not be resolved within 10 (ten) business days of the commencement of mediation it shall be referred to arbitration. Accordingly :

19.2.1. An arbitrator shall be appointed by the parties, alternatively by the chair of the Arbitration Foundation of South Africa ('AFSA'), to preside over the arbitration; and,

19.2.2. The rules of AFSA shall govern the conduct of the arbitration.

19.3. Nothing in this paragraph shall prevent either party from approaching the High Court for suitable judicial relief.

20. Breach

20.1. If either party breaches this Agreement or fails to perform any of its obligations, then the other party shall provide written notice, calling upon the first party to rectify its breach within a period of not less than 10 (ten) business days.

20.2. Should the party in breach have failed to rectify the breach within the aforesaid time period, the other party may cancel this Agreement and claim recovery of damages.

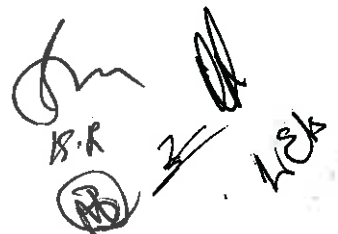
20.3. Timeframe for this project is 36 (thirty-six) months upon receipt of the appointment letter or earlier.

20.4. Any request for an extension on timeframe must be done in writing and be approved by the Accounting Officer or penalties will be imposed on the Service Provider.

20.5. Penalties in case of breach, extension on timeframe or inferior quality of goods will be determined by the client on his/her own discretion (penalties can be from 2% - 25%).

21. Termination

21.1. This Agreement may be terminated upon 20 (twenty) business days' written notice, after the terminating party has consulted the other about its intention.

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- 21.2. The aforestated termination shall not prejudice either party's rights in respect of the obligations already performed or to be performed as at the date of termination.

22. Severability

Any provision of this agreement found or held invalid or unenforceable, such terms shall be severable and the validity of all other terms shall not be affected thereby.

23. Whole agreement

This Agreement constitutes the whole agreement between the parties unless supplemented by further agreements, which shall be in writing.

24. *Domicilium citandi et executandi*

- 24.1. The parties choose as their *domicilia citandi et executandi* the addresses set out hereunder :

24.1.1. **Client :**

Office of the Municipal Manager
Waterberg District Municipality
Harry Gwala Street
Private Bag X 1018
Modimolle
0510

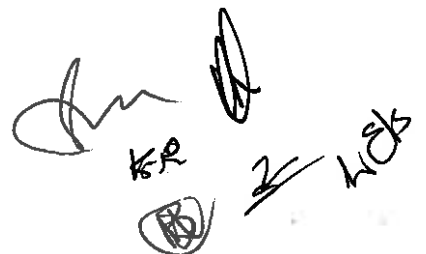
Contact numbers:

Tel: 014 718 3300
Fax: 014 717 3886

- 24.1.2. Service Provider :
The Managing Director
Palesa Tech. (Pty) Ltd.
69 Church Street
Postnet Suite 337
Private Bag X9307
Polokwane
0700

Contact numbers:

Tel: 015 294 1500
Fax: 015 295 5360

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Cell: 083 625 1077

- 24.2. Either party may change its *domicilium citandi et executandi* by giving written notice to the other, the new address becoming effective at the expiry of 10 (ten) business days from the communication of notification.

25. Amendments and alterations

No amendments and/or alterations to the terms of this Agreement shall be valid or binding unless reduced to writing and signed by all Parties.

26. Penalty Clause

- 26.1 The expiry date for the implementation period for this project is **31 October 2016**.
- 26.2 No extension will be granted for this project without good motivation and any failure to deliver the expected results before or on the specified date of the **31 October 2016** will automatically result in penalties to be effected by WDM.
- 26.3 The penalties for delays in completion will be calculated as 1% of the total once-off project amount for every delayed week.
- 26.4 The penalties for non-performance will be calculated from 2% to 25% of the total project amount on the discretion of the municipality. Penalty percentage can be increased from 25% depending on the severity of the penalty.
- 26.5 Failure to respond as according to the timeframes given in the proposals and this SLA for response time after fault reporting will result in a penalty. Penalty will only be effected after two written warnings by the Client within a 12 months period of contract.
- 26.6 Performance of the photocopiers will be assessed on an annual basis and where the service is found not to be satisfactory, the contract may be terminated.
- 26.7 National Treasury Conditions of Contract will also apply in terms of penalties imposed.



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27. Confidentiality

27.1 For the purposes of the Agreement Confidential Information means any and all information, including but not limited to, technical, financial, product and commercial information - disclosed in writing or otherwise by the Disclosing Party to the Receiving Party, whether disclosed in view of the purpose before or after the date of the Agreement and shall be deemed to include all documents and other material (including samples, models and computer software) containing or embodying or based on the Confidential Information (or part thereof) together with all notes, summaries and other material derived there from and all copies or reproductions of the foregoing. Such Confidential Information shall not include information:

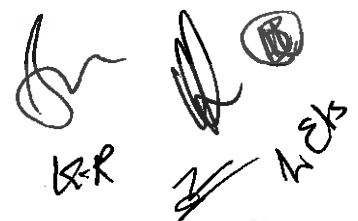
27.1.1 which is generally available to the public, or which will become generally available to the public other than by breach by the Receiving Party of its obligations hereunder;

27.1.2 which was or is already known to the Receiving Party before it had been or will be disclosed by the Disclosing Party, provided that such information may not reasonably be considered by the Receiving Party as confidential;

27.1.3 which the Receiving Party has received or will receive on a non-confidential basis from any party (including any third party) which is not in breach of an obligation of confidentiality towards the Disclosing Party or any party (including any third party), provided that such information may not reasonably be considered by the Receiving Party as confidential; and

27.1.4 which is independently developed by or on behalf of the Receiving Party.

27.2 All Parties shall:



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27.2.1 hold the other Party's Confidential Information in the strictest confidence;

27.2.2 not make use thereof other than for the performance of its obligations under the Agreement; and

27.2.3 only release such Confidential Information on a "need to know" basis subject thereto that the persons to whom such Confidential Information is released shall undertake to be bound by the confidentiality obligations contained herein.

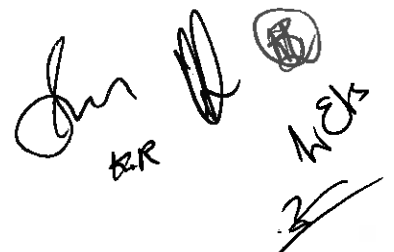
27.3 No parties shall be entitled to use the name of the other Party publicity releases or advertising or for other promotional purposes without procuring the prior written approval of the Party concerned.

27.4 The Parties' obligation in terms of this clause will survive the termination of this Agreement including the termination thereof by the effusion of time.

27.5 In the case of a release, announcement or document which is required to be given, made or published by law or under the rules of the JSE Securities Exchange South Africa or any other relevant stock exchange, the Party liable so to give, make or publish the same shall give to the other Party as much advance warning thereof as is reasonable in the circumstances together with drafts or a copy thereof as soon as it is at liberty to do so.

28. Warrant of Authority

The persons signing this agreement on behalf of the parties warrant their authority to do so.

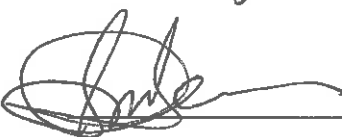


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Signed at **Modimolle** this 13 day NOVEMBER of 2013.

AS WITNESSES:

1.  For and on behalf of the Client

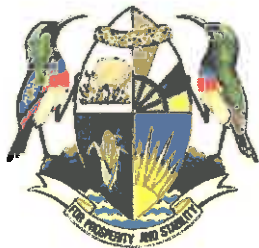
2.  
MV Letsoalo
Municipal Manager

Signed at **Modimolle** this 13 day November of 2013.

AS WITNESSES:

1.  For and on behalf of the Service Provider

2.  
Lynette Els
Managing Director



Waterberg
District Municipality

on the Go for Growth

Waterberg District Municipality

Private Bag X1018, Modimolle, 0510, Tel (014)718 3300, Fax (014) 717 3689

DEED OF CESSION AND AUTHORITY

I/We, the undersigned,

Palesa Tech (PTY) Ltd

CEDENT (service provider)

Do hereby cede, transfer and make over to and in favour of

I TO I Technology Services (PTY) Ltd

CESSIONARY (financier)

Cede the rights of payment for all rental income accruing to the Cedent from time to time in terms of the service level agreement. We do hereby irrevocably instruct the

WATERBERG DISTRICT MUNICIPALITY

To pay the **Cessionary** as per invoice issued and signed by the **Cedent**, all money due to the **Cedent** as set out in the agreement in respect of the following project -

PROJECT: Leasing of photocopier machines

TENDER NO: WDM/2013/14/01

I/We furthermore authorize the **Cessionary** to accept any money received under the Deed of Cession and Authority for its own account.

15.12.13