



**SERVICE LEVEL AGREEMENT ENTERED INTO
BY AND BETWEEN**

**SEDIBENG DISTRICT MUNICIPALITY herein represented by
MOTSUMI MATHE in his capacity as the Municipal Manager, duly authorized thereto, (hereinafter referred to
as "the Employer");**

AND



**JMP Security Solutions, Registration No: 2014/239146/07, herein
Represented by MESHACK MOKOENA in his capacity as DIRECTOR, duly authorized thereto, (hereinafter
referred to as "the Contractor").**

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PREAMBLE

WHEREAS, the Employer requires security services to be rendered at its various buildings, sites and infrastructure, and consequently advertised for a suitably qualified service provider for this service under Bid Number: 8/2/2/7-2023;

AND WHEREAS, the Employer has appointed the Service Provider which is willing to render the services required;

AND WHEREAS, Employer has appointed the Service Provider under certain terms and conditions; and

AND WHEREAS, the terms and conditions are acceptable to the Service Provider.

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS AND ANCRONYMS

- 1.1.1 "Accounting Officer" means the Municipal Manager as referred to and contemplated in section 60 (a) of the Local Government: Municipal Finance Management Act no 56 of 2006 as amended;
- 1.2 "Ad Hoc Security Services" Unplanned needs that require the service to be rendered outside of the specifications including events, emergency repairs, investigative services, marches on Council property and such other situations as may be approved by the Municipal Manager;
- 1.3 "Employer" means Sedibeng District Municipality;
- 1.4 "Equipment" radio, cellphones, metal detectors, boom gates, control gates, registers, safes, access cards, stiles or any other tools of trade required to render the service.
- 1.5 "Operating Sites" the premises of the Employer at which the services are to be rendered in terms of this Agreement
- 1.6 "Parties" means Sedibeng District Municipality and JMP Security Solutions;

2. INTERPRETATION

- 2.1 Headings and sub-headings are inserted for information purposes only and shall not be used in the interpretation of this Agreement.

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- 2.2 Unless the context clearly indicates a contrary intention, any word connoting:
- 2.2.1 any singular shall be deemed to include a reference to the plural and vice versa;
 - 2.2.2 any one gender shall be deemed to include a reference to the other two genders; and
 - 2.2.3 a natural person shall be deemed to include a reference to a legal or juristic person.
- 2.3 The expiry or termination of this Agreement shall not affect provisions of this Agreement which expressly provide that they will operate after any such expiry or termination of this Agreement. Provisions of necessity shall continue to have been effective after such expiry or termination of this Agreement, notwithstanding that the clauses themselves do not expressly provide for this.
- 2.4 The rule of interpretation that a written agreement shall be interpreted against the party responsible for the drafting or preparation of that Agreement shall not apply.
- 2.5 Where figures are referred to in numerals and in words and there is any conflict between the two, the words shall prevail.
- 2.6 Any reference to any legislation is a reference to such legislation as at the Signature Date and as amended or re-enacted, from time to time.
- 2.7 If any provision in a definition is a substantive provision conferring any rights or imposing any obligations on any party, then notwithstanding that, it is only in this interpretation clause, effect shall be given to it as if it were a substantive provision in this Agreement.
- 2.8 If any provision of this Agreement is in any way inconsistent with the provisions of the Act, the provisions of the Act shall prevail, and this Agreement shall read in all respects subject thereto.

3. PURPOSE OF THE AGREEMENT

- 3.1 The Parties agree that the Service Provider will provide security services.

4. DURATION

- 4.1 The Parties agree that the agreement will be for a period of three (3) years, commencing on 1 February 2024, and ending on the 31st January 2027. Irrespective of the date or signature hereof.
- 4.2 Service Provider shall be subjected to annual performance evaluation.
- 4.3 Should it become necessary, upon the expiry of this Agreement, the Parties may enter into an Addendum extending the Agreement for such further period as may be agreed by the parties, subject to the constraints of relevant legislation and policies.

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5. EMPLOYER'S RESPONSIBILITIES:

5.1. The Employer shall have the following obligations:

- 5.1.1 To allow the Service Provider access to all the operating sites at which services are required to be rendered;
- 5.1.2 Pay the Service Provider the agreed amount for the provision of the services in the manner agreed upon;
- 5.1.3 Co-operate with and provide the Service Provider with the necessary support and information to enable the Service Provider perform the services required;
- 5.1.4 Supervise and monitor the provision of the service regularly, to ensure compliance with the Specifications; and
- 5.1.3 Designate an official to liaise with the Service Provider and be the project manager for purposes of this agreement.

6. SERVICE PROVIDER'S RESPONSIBILITIES

6.3 The Service Provider shall have the following obligations:

- 6.3.1 Provide the services strictly with the agreed plan;
- 6.3.2 Employ and provide the agreed number of competent and properly qualified staff to keep the operating sites safe and secure at all times;
- 6.3.3 Co-operate with the Employer to ensure maximum cost effectiveness with respect to the rendering of the services;
- 6.3.4 At the Service Providers costs, provide the required and agreed security advice, technology and or material necessary for the provision of the service to its staff and to the Employer;
- 6.3.5 Utilise the number of operating sites solely for the purposes of rendering the security service;
- 6.3.6 Not permit anyone other than its employees, subcontractors and representative's access to the operating sites for the performance of their duties
- 6.3.7 Not use any of the employer's equipment unless they have been authorized to do so by the Employer, and further not affix any of its promotional material to any of the Employer's property
- 6.3.8 Ensure that its employees working on the operating sites are easily identifiable as such by way of a uniform, name badge or any such manner
- 6.3.9 Provide ad hoc security services to the Employer on request and such request shall be made in writing and to be approved in writing by the Municipal Manager; for the purpose of making a payment.
- 6.3.10 Where a telephonic link is provided, such shall be used for the sole purpose of providing the service required, and the Service Provider shall be liable for the costs of all the calls and make such payment upon presentation of a statement of account in that regard;

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- 6.3.11 immediately report to the Employer any event, occurrence or situation that may potentially lead to prosecution or the disruption of the rendering of the service in any manner whatsoever;
- 6.3.12 Patrol the operating sites internally and externally to prevent unauthorized entry, damage to the property, theft or loss on the property, and further to protect those that are authorized to be on the site;
- 6.3.13 Supervise its staff on duty on a regular basis to ensure efficiency and effectiveness rendering of the service.

7. INSURANCE

The Service Provider shall during the subsistence of the Agreement procure and maintain public liability insurance cover for any possible future claims by the Employer. Such policy must take into account the Employer's property as well as that of third parties.

8. INDUSTRIAL ACTION

- 8.1 The Service Provider shall ensure that the provision of services is not interrupted or adversely affected by any industrial action whatsoever relating to its employees, subcontractors or persons working through them to ensure the provision of the service.
- 8.2 Where there is an interruption of the service due to an industrial action on the part of the employees of the Service Provider, the Service Provider shall at its own cost employ such temporary staff as may be required to ensure the continuation of the service for the duration of the industrial action.
- 8.3 The Service Provider shall ensure that all its employees participating in an industrial action do not have access to the operating sites for as long as the industrial action persists. Should such industrial action continue beyond a period of two (2) weeks, or take place on more than four (4) occasions during a twelve (12) month period, the Employer shall be entitled to terminate this contract.
- 8.4 In the event that there is an interruption of service and the Service Provider fails to employ temporary as envisaged in 8.2 above, the Employer shall have the right to utilize all available means to ensure that the operational sites are protected, this shall include the engagement of another company to provide the services required for the duration of the industrial action.

The Service Provider shall be liable for the total cost of the interim security measures, inclusive of any excess amount payable.

- 8.5 The Service Provider shall be liable for all damages that may be caused to persons and property on the operating sites during the industrial action, regardless of whether the perpetrators of such damage are their employees or not.

9. PAYMENT

- 9.1. Council shall pay to the Service Provider for the services rendered, an amount of R 11,080,507.56 (Eleven Million Eighty Thousand Five Hundred and Seven Rand and Fifty-Six Cent) per annum

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CALCULATIONS

Number of Guards = 51

51 x R15,743.83 = R 802,935.33 (VAT exclusive)

VAT = R120,440.30

Total monthly payment = R923,375.63

Annual PSIRA increases will be accommodated annually by means of an addendum to the main agreement.

- 9.2 The payment shall be effected within thirty (30) days of presentation of an invoice to the Employer, indicating the number of guards employed per operating site for the month and the level of such guards. The invoice shall be signed by an official of the Employer confirming the correctness of the information reflected on it
- 9.3 In the event that duly approved *ad hoc* security services were rendered during any month, a separate invoice shall be prepared providing details of the ad hoc services rendered, including but not limited to the duration of such service, the location where the Ad Hoc service was rendered and the nature of the service rendered. The invoice shall be certified as correct by the official referred to in 5.1.3 above.
- 9.4 All payments will be made by the Employer directly to the bank account of the Service Provider, the particulars which are as follows:

Account Name : BUSSINESS ACCOUNT
Bank Name : FIRST NATIONAL BANK
Branch Code : 250141
Account No : 62 80972 3845

10. CONFIDENTIALITY

The Service Provider shall exercise all care and diligence in executing duties and shall ensure professionalism and that the service is of highest standard.

- 10.1 From time to time during the duration of this Agreement, Confidential Information may be given by one Party to this Agreement ("the Disclosing Party") to the other Party ("the Recipient").
- 10.2 The Receiving Party will treat and keep all Confidential Information as secret and confidential and will not, without the Disclosing Party's written consent, directly or indirectly communicate or disclose (whether in writing or orally or in any other manner) Confidential Information to any other person other than in accordance with the terms of this Agreement.
- 10.3 The Receiving Party will only use the Confidential Information for the sole purpose of complying with its obligations under this Agreement.
- 10.4 Notwithstanding the Confidentiality clause, the Receiving Party may disclose Confidential Information:
- 10.4.1 to those of its Agents who strictly need to know the Confidential Information for the sole purpose set out in clause 10.3 (Confidential Information) provided that the Receiving Party shall ensure that such Agents are made aware prior to the disclosure of any part of the Confidential Information that the same is confidential and that they owe a duty of confidence to the Disclosing Party on the same terms as contained in this Agreement.

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The Receiving Party shall at all times remain liable for any actions of such Agents that would constitute a breach of this Agreement; or

- 10.4.2 to the extent required by law or the rules of any applicable regulatory authority, subject to clause 10.5 (Confidential Information) below.
- 10.5 If the Receiving Party is required to disclose any Confidential Information in accordance with clause 10.3 (Confidential Information) above, it shall promptly notify the Disclosing Party so that the Disclosing Party may have an opportunity to prevent the disclosure through appropriate legal means and the Receiving Party shall co-operate with the Disclosing Party regarding the form, nature, content and purpose of such disclosure or any action which the Disclosing Party may reasonably take to challenge the validity of such requirement.
- 10.6 The contents and the existence and the scope of this Agreement are Confidential Information.
- 10.7 If any Confidential Information is copied, disclosed or used otherwise than as permitted under this Agreement then, upon becoming aware of the same, without prejudice to any rights or remedies of the Disclosing Party, the Receiving Party shall as soon as practicable notify the Disclosing Party of such event and, if requested by the Disclosing Party, take such steps (including the institution of legal proceedings) as shall be necessary to remedy (if capable of remedy) the default and/or to prevent further unauthorised copying, disclosure or use.
- 10.8 Notwithstanding whether the Receiving Party uses the Confidential Information in accordance with this Agreement or not (including modifying or amending the Confidential Information), all Confidential Information shall remain the property of the Disclosing Party and its disclosure shall not confer on the Receiving Party any rights of the Disclosing Party (or its Agents), including Intellectual Property rights, over the Confidential Information whatsoever beyond those contained in this Agreement.
- 10.9 Use by the Receiving Party of any Confidential Information in accordance with the terms of this Agreement will not infringe the Intellectual Property of any other person and no notification of any actual or potential claim alleging such infringement has been received by the Disclosing Party.
- 10.10 The Receiving Party agrees to ensure proper and secure storage of all Confidential Information and any copies thereof to at least the same standard as the Receiving Party keeps its own Confidential Information. The Receiving Party shall not make any copies or reproduce in any form any Confidential Information except for the purpose of disclosure as permitted in accordance with this Agreement.
- 10.11 The Receiving Party shall keep a written record, to be supplied to the Disclosing Party upon request, of the Confidential Information received and any copies made thereof and, so far as is reasonably practicable, of the location of such Confidential Information and any copies thereof.
- 10.12 Without prejudice to any other rights or remedies of the Disclosing Party, the Receiving Party acknowledges and agrees that damages would not be an adequate remedy for any breach by it of the provisions of this clause 11 (Confidential Information) and that the Disclosing Party shall be entitled to seek the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach of any such provision by the Receiving Party or its Agents, and no proof of special damages shall be necessary for the enforcement of the rights under this clause 11 (Confidential Information).

11. **CESSION**

The Service Provider shall not cede or assign any of its rights, title and obligations without prior written consent of Council.

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12. VARIATION

- 12.1 Any variation, alteration, extension or amendment shall not be valid unless reduced to writing and signed by both Parties.
- 12.2 Any indulgence, leniency or extension of time shall not constitute or be construed as a waiver of any rights accruing to each Party in terms of this agreement.

13. BREACH

- 13.1 In the event of a breach of any of the provision of the contract by either Party, the Party not in default shall give seven (7) days written notice to the defaulting Party to rectify the breach.
- 13.2 Should the defaulting Party fail, refuse or neglect to rectify the breach within the said period, the other Party shall have right:
 - 13.2.1 To terminate the contract with immediate effect;
 - 13.2.2 To institute action for specific performance;
 - 13.2.3 To institute action for the recovery of any damages that may have been suffered as a result of the breach.

14. GOVERNING LAW

- 14.1 The agreement shall be governed by, construed and interpreted according to the laws of the Republic of South Africa.
- 14.2 Notwithstanding the amount in dispute, the Parties hereto consent to the jurisdiction of the Vereeniging Magistrate Court.
- 14.3 No amendment, alteration, cancellation, variation of or addition to this agreement shall be of any force and effect unless reduced to writing and signed either by both Parties and their duly authorized representatives.

15. DISPUTE RESOLUTION

- 15.1 If any dispute or difference of any kind whatsoever arises between the Service Provider and the Employer in connection with or arising out of this agreement and the parties are unable to reach settlement between themselves, then the dispute shall be resolved by submission to arbitration.
- 15.2 Where the dispute is submitted to arbitration, then the arbitration shall be held in terms of the Arbitration Act No. 42 of 1965, as amended, and shall be conducted in accordance with the rules for the conduct of arbitration's published by the Association of Arbitrators and shall be heard by a sole arbitrator unless otherwise agreed by the parties.
- 15.3 The arbitrator shall be chosen by agreement between the parties from a panel of three persons nominated by the chairman of the Association of Arbitrators at the written request of either party, within seven (7) days of

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receipt of notice advising the names of the said panel. Failing agreement on the choice of an arbitrator, the chairman of the Association of Arbitrators shall appoint the arbitrator.

- 15.4 Reference to arbitration shall not relieve either party from any liability for the due and timeous performance of his obligations in terms of this agreement.

16. BREACH

- 16.1 If either party breaches any terms of this agreement, and fails to remedy such breach within fourteen (14) days after written notice requiring the defaulting party to rectify such breach, the party giving the notice shall be entitled at its option to:

16.2 Sue for the immediate specific performance and claim damages for unfulfilled obligation; or

16.3 Cancel this agreement, and claim damages. Written notice of cancellation shall be given to the defaulting party and cancellation shall take effect on presentation of that notice.

16.4 The innocent party's remedies in terms of this clause are without prejudice to any other remedies to which it may be entitled in law. The defaulting party undertakes to pay all costs incurred as a result of any action instituted in terms of this clause, whether by way of litigation, or arbitration.

16.5 This clause shall remain in force notwithstanding any cancellation of the contract.

17. RELATIONSHIP OF PARTIES

The relationship of the Parties shall be governed by this Agreement. Nothing in this Agreement shall be deemed to constitute either Party the partner of the other Party, nor constitute either Party the agent or legal representative of the other Party. It is not the intention of the Parties to create nor shall this Agreement be construed to create, any commercial or other partnership. Neither of the Parties shall have any authority to act for or to assume any obligation or responsibility on behalf of the other Party. Neither of the Parties shall hold itself out as a partner of the other Party.

18. GOOD FAITH

Each Party agrees that, in its respective dealings with the other Party under or in connection with this Agreement, it shall act in good faith.

19. CESSION AND SUB-CONTRACTING

The Contractor shall not cede, sub-contract, assign, transfer, make over or delegate any right or obligation acquired or incurred in terms of this agreement, without prior written consent of the Client.



20. **GOVERNING LAW.**

This Agreement shall be governed by and interpreted in accordance with the laws of the Republic of South Africa. All disputes, actions and other matters relating to this Agreement shall be determined in accordance with such law.

21. **ASSURANCE THAT THIS AGREEMENT IS BINDING**

The Parties warrant to each other that they have taken or caused to be taken all steps, actions and corporate or executive proceedings necessary to cause this Agreement to be binding on themselves. Either Party shall, if requested by the other Party furnish to the latter sufficient evidence of the authority of the person or persons who shall, on behalf of the Party so requested, take any action or execute any documents required or permitted to be taken or executed by such person in terms of this Agreement.

22. **ENTIRE AGREEMENT**

This agreement contains the entire agreement between the parties and no amendments hereto shall be valid unless reduced to writing and duly authorized by a representative of each party.

23. **DOMICILIUM CITANDI**

The Parties choose the following addresses as their respective *domicilia citandi et executandi* for purposes of notices, payments and service of processes:

23.1 Sedibeng District Municipality : Municipal Buildings
Corner Leslie and Beaconsfield Avenue
Vereeniging, 1930

23.2 JMP Security Solutions : 37 Jannie de Waal Street
Vanderbijlpark, 1911

DATED AND SIGNED AT VEREENIGING ON THIS THE 23rd DAY OF JANUARY 2024.



MOTSUMI MATHE
(OBO EMPLOYER)

AS WITNESSES:

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DATED AND SIGNED AT VEREENIGING ON THIS THE 23rd DAY OF JANUARY 2024.


MESHACK MOKOENA
(OBO SERVICE PROVIDER)

AS WITNESSES:

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