

Kareeberg



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Munisipaliteit / Municipality

(Carnarvon, Vanwyksblei, Vosburg)

Kantoor van die Munisipale Bestuurder

18th May 2017

Attention: Ruwald Lindeman
SebataEMSDirector

Procurement of an Integrated Financial Management and internal control system as it relates to the utilization of Transversal tender RT-25 2016

The Kareeberg Local Municipality have taken note of the guidance given as it relates to mSCOA circular 6 and have resolved to utilize the procurement process advantages provided by the tender.

After evaluation of prospective service offerings as it relates to the technical evaluation as stipulated by mSCOA circular 5 annexure C the bid adjudication committee have resolved that the service offering presented to us by your company on 12th January 2017 is our preferred solution.

We hereby wish to give notice of your successful appointment to deliver and implement an Integrated Financial Management and Internal Control System to the municipality at the amount of R 1 700 000.00 including Vat, but excluding travel and disbursements for the implementation of the solution. This is done based on your inclusion to the mentioned tender on B4 Hosted off site. We have however concluded to discuss the hosting versus onsite options with your good selves.

It is our expectation that the details work breakdown structure of the project and memorandum of understanding must be in place by a reasonable date and urge a kick off meeting before this date.

The additional recommendations made to the municipality based on hardware, data cleansing and support services will be negotiated via the mSCOA Steering Committee. If additional support is required, municipality will engage with Sebata.

Please urgently revert back with your acceptance of this appointment.

Kind Regards

Municipal Manager





MEMORANDUM OF UNDERSTANDING

**Memorandum of Understanding ("MOU") with regard to the supply,
installation, implementation, support and maintenance of SEBATA Products
and Services**

Made and entered into by and between

SEBATA MUNICIPAL SOLUTIONS (PROPRIETARY) LTD

(A limited liability company incorporated and registered in terms of the laws of the Republic of South Africa)

(Registration number: 1994/000005/07)

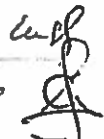
(Hereinafter referred to as "SEBATA")

(Hereinafter represented by Dylan Strydom in his capacity as Managing Director)

And

Kareeberg Local Municipality

(Individually referred to as "Party" and collectively as "Parties")

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1. PREAMBLE


The purpose of this MOU is to define the basis for collaboration between the Parties with regards to the design, development, testing and installation of **SEBATA PRODUCTS AND SERVICES** and the Parties have agreed in principle:

- 1.1 That on signature of the Memorandum of Understanding (MOU), a separate Statement of Work will be entered into, which will provide details of scope, deliverables and costs as will be required.
- 1.2 That notwithstanding the focus of this MOU on the Project, if opportunities are identified for collaboration in other areas of common interest, whether or not aligned with the Project, these will be explored.

Now therefore the Parties wish to record their understanding in writing as follows:

2. SCOPE OF THIS MOU

- 2.1 The Scope of work defined in this MOU is limited to the provision of services to design, develop and implement SEBATA EMS software. The implementation of SEBATA EMS software is comprised of the following phases that constitute the solution:
 - 2.1.1 Phase 1: Commission a mSCOA Steering Committee
 - 2.1.2 Phase 2: Gap analysis – People, Process, technology, mSCOA TB and Budgeting analysis
 - 2.1.3 Phase 3: Data Cleansing
 - 2.1.4 Phase 4: HR and Payroll
 - 2.1.5 Phase 5: IDP, SDBIP, Projects and Budgeting
 - 2.1.6 Phase 6: Billing,
 - 2.1.7 Phase 7: Ledger, SCM, Assets and Inventory
 - 2.1.8 Phase 8: Document Management
- 2.2 The indicative costs for the solution has been included in Schedule 1, however Schedule 1 does not commit the Parties to the costs outlined therein. Costs for work agreed to by the Parties will be defined in a separate Statements of Work.
- 2.3 Unless specifically otherwise provided, all amounts in this MOU are exclusive of Value Added Tax (VAT) and Subsistence and Travel costs.
- 2.4 SEBATA EMS On-site Support Tariffs and Subsistence and Travel Tariffs have been included in Schedule 2.
- 2.5 For submission to National Treasury, Sebata included the RT-25 Detailed and summary in Schedule 3.
- 2.6 The specific scope of work to implement SEBATA EMS software shall be defined in separate Statements of Work and shall supersede this MOU.
- 2.7 Except as expressly set out in this MOU, neither Party shall have any obligation to the other unless and until such obligations are set out in a Statement of Work signed by both Parties. It is understood that while this MOU constitutes a statement of mutual intentions between the Parties, it does not constitute a legally binding obligation, and except for each Party's responsibility for costs incurred arising from this MOU any confidentiality obligations, and dispute resolution provisions, this MOU creates no rights in

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favour of either Party. A legally binding commitment for the proposed Project will result only from the signature by both Parties and a Statement of Work.

3. DEFINITIONS

In this MOU and the Schedules annexed hereto, unless inconsistent with or otherwise indicated by the context –

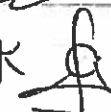

- 3.1 "Acceptance" and its derivatives (such as Accept or Accepted) means reasonable acceptance of Deliverables by Kareeberg Local Municipality;
- 3.2 "Schedule" means any Schedule to this MOU signed by both Parties and which is incorporated into this MOU;
- 3.3 "Applicable Law" means any of the following, from time to time, to the extent it applies to a Party, or the Services (including the performance, delivery, receipt or use of the Services, as applicable and wherever occurring):
 - 3.3.1.1 any statute, regulation, policy, by-law, directive, notice or subordinate legislation (including treaties, multinational conventions and the like having the force of law);
 - 3.3.1.2 the common law;
 - 3.3.1.3 any binding court order, judgment or decree;
 - 3.3.1.4 any applicable industry code, policy or standard enforceable by law; or
 - 3.3.1.5 any applicable direction, policy or order that is given by a regulator;
- 3.4 "Bespoke Developed Intellectual Property" means any Intellectual Property developed and/or customised by SEBATA specifically for Kareeberg Local Municipality pursuant to a Statement of Work. All Deliverables shall constitute Bespoke Developed Intellectual Property, unless expressly provided otherwise;
- 3.5 "Business Day" means any day in South Africa which is not a Saturday, Sunday or official public holiday. All references in this MOU to days shall be deemed to be to Business Days, unless specifically stipulated as being calendar days;
- 3.6 "Business Hours" means from 08h00 to 17h00 on Business Days;
- 3.7 "Change Procedure" means the procedure via which the Parties will manage changes to the Services.
- 3.8 "Change Request" means a document that materially changes a Deliverable provided under an executed Statement of Work. A Change Request shall describe in writing the details of the work to be performed under this MOU, including the anticipated parameters and scope of the work including the phases, the revisions, modifications or enhancements to Non-Operational and Operational Deliverables that have already been provided for in an existing Statement of Work, the expected charges and the timeline for the completion of the work including the timeline for the completion of each Deliverable;
- 3.9 "Commercially Reasonable Efforts" means taking such steps, and otherwise performing in such a manner, as a well-managed company would undertake where such company was acting in a determined, prudent, and reasonable manner to achieve the particular result for its own benefit provided always that such steps are within the reasonable control of the Party;
- 3.10 "Client Data" means collectively: -

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- 3.10.1 data provided by or relating to *Kareeberg Local Municipality*, any Third Party or private individual, to which SEBATA has access during the currency of this MOU; and
- 3.10.2 data specific to the Services which SEBATA generates, processes, or supplies to *Kareeberg Local Municipality* in the performance of the Services;
- 3.11 "Commencement Date" means the date on which specific Statements of Work will commence, as stipulated in such Statement of Works, provided that where no commencement date is stipulated, the commencement date shall be deemed to be the first Business Day of the month following the last dated signature of such Statement of Work;
- 3.12 "Confidential Information" means information or data, whether disclosed orally or in writing, that is identified as being confidential or proprietary at the time of disclosure or has the necessary quality of confidence about it and includes, without limitation, the terms and conditions of this MOU, the Client Data and any information relating to a Party's:
- 3.12.1 business, business policies, business plans, pricing models and other business and commercial information;
- 3.12.2 know-how, trade secrets, specifications, drawings, sketches, models, samples, data, diagrams and flow charts;
- 3.12.3 potential customers, customer lists, sales, sales figures and products;
- 3.12.4 technical information, including use of technology, systems, hardware, software (and the incidence of any faults therein) and related material and documentation; and
- 3.12.5 past, present and future research and development.
- 3.13 "Deliverable" means Operational and Non-Operational Deliverables;
- 3.14 "Destructive Element" means any "back door", "time bomb", "Trojan horse", "worm", "drop dead device", "virus" or other computer software routine or code intended or designed to:
- 3.14.1 permit access to or the use of Kareeberg Local Municipality computer system by SEBATA or by a third person other than as authorised by Kareeberg Local Municipality; or
- 3.14.2 disable, damage, erase, disrupt or impair the normal operation of Kareeberg Local Municipality computer system;
- 3.15 "Dispute Resolution Procedure" means the procedure contemplated in clause 21;
- 3.16 "Documentation" means, with respect to Deliverables, equipment and Third Party Software, the project plans, functional specifications, technical specifications, designs and templates, technical manuals, training manuals, user manuals, flow diagrams, file descriptions, installation specifications and plans, and other information that describes the function and use of such items, whether written or electronic;
- 3.17 "Effective Date" means notwithstanding the date of signature of this MOU;
- 3.18 "Functional Specification" means the functional and technical specifications of the Solution, and any component or Deliverable which forms part thereof. The functional specifications of specific deliverables and the Solution will be set out in Specific Statements of Work concluded between the Parties in terms of clause 2.2;
- 3.19 "SEBATA Intellectual Property" means any Intellectual Property which SEBATA has created, acquired or otherwise has rights in prior to the Effective Date and/or which SEBATA may, in connection with the

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- performance of the Services in terms of this MOU employ, provide, modify, create, acquire or otherwise obtain rights in without reference to or use of the Kareeberg Local Municipality Intellectual Property, but specifically excluding the Bespoke Developed Intellectual Property;
- 3.20 "Independent Expert" means an independent expert appointed by Agreement between the Parties to resolve a dispute between them in terms of this MOU, provided that: -
- 3.20.1 the Parties are able to agree on an independent expert within 5 (five) days of either Party requiring one to be appointed;
 - 3.20.2 such expert shall be deemed to act as an expert and not as an arbitrator and such expert shall make its determination within 14 (fourteen) calendar days of being appointed, or such longer period as may be agreed between the Parties in writing;
 - 3.20.3 the decision of such Independent Expert shall (in the absence of clerical or manifest error) be final and binding on the Parties;
 - 3.20.4 the Independent Expert's fees for so acting shall be borne by the Parties in equal shares unless the Independent Expert determines that the conduct of either Party was such that it should bear a greater proportion or all of such fees; and
 - 3.20.5 where in terms of this MOU to appoint an independent Third Party (including an arbitrator), it is the Parties intention that such Third Party shall have the requisite skills, experience and expertise necessary to determine the specific issue at hand, provided further that the appointee shall not be subject to dispute by either Party on the grounds that it has failed to act in accordance with the intention expressed in this clause;
- 3.21 "Intellectual Property" means any trademarks, designs, concepts, confidential information ideas, inventions, methods, methodologies, procedures, processes, know-how, techniques, models, reports, statements, templates; software, software tools, utilities and routines or any changes or additions thereto (if any);
- 3.22 "Intellectual Property Rights" means any and all rights in the nature of intellectual property rights anywhere in the world (whether registered or unregistered) owned, possessed or controlled by a Party, directly or indirectly, including, without limitation, patents, trademarks, service marks, design rights, copyright (including all copyright in any designs and computer software), source codes, moral rights, databases, trade or business names, whether capable of registration or not, but including any right to register same;
- 3.23 "Location" means the physical Locations to or at which the Services will be provided, being Kareeberg Local Municipality's physical address set out on the cover page of this MOU, and such additional Locations as may be specified in Statements of Work;
- 3.24 "Losses" means all losses, liabilities, and damages arising from claims (whether actual or threatened) and all related costs and expenses (including legal fees and disbursements and costs of investigation, litigation, settlement, judgment), fines, interest and penalties;
- 3.25 "Memorandum of Understanding" means this Memorandum of Understanding, comprising clauses 1 to 29 of the main body of this MOU;

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- 3.26 "Material Errors or Deficiencies" means any error in the operation of, or deficiency in the functionality of, an Operational Deliverable that potentially could have more than an immaterial impact on Kareeberg Local Municipality;
- 3.27 "Module" means an independent functional unit of the SebataEMS solution, i.e. HR / Payroll module;
- 3.28 "New Deliverables" means deliverables in addition to the Solution which Kareeberg Local Municipality may request SEBATA to provide from time to time pursuant to Statements of Work executed between the Parties;
- 3.29 "Non-Operational Deliverables" mean project plans, implementation plans, evaluations, gap analysis, functional specifications, proposals, Documentation and anything else to be delivered under a Statement of Work other than the Operational Deliverables, whether written or electronic, that are comprehensive and otherwise sufficient for the purposes for which they are intended;
- 3.30 "Operational Deliverables" means software including source code and object code, data structures, interfaces, scripts, web applications, metadata, software libraries and changes thereto to be delivered under a Statement of Work. If a Statement of Work requires the procurement, provision, and/or installation of equipment and Third Party Software for Kareeberg Local Municipality to use the Operational Deliverable for its intended purpose, such equipment and Third Party Software shall be treated as part of the Operational Deliverable;
- 3.31 "Parties" means collectively Kareeberg Local Municipality and SEBATA and the term "Party" refers to either one of them as the context may require;
- 3.32 "Project" means the overall project for the scoping, design, development and implementation of the Solution;
- 3.33 "Project Manager" means each Party's authorised representative designated to manage the provision of Services by SEBATA to Kareeberg Local Municipality, as contemplated in clause 10.1;
- 3.34 "Reimbursable Expenses" means out-of-pocket travel and living expenses actually and reasonably incurred by SEBATA in performing its obligations and catered for in a Statement of Work or specifically approved by Kareeberg Local Municipality in advance in writing;
- 3.35 "Related Deliverables" means all Deliverables under one or more Statements of Work that are required for Kareeberg Local Municipality to use each Operational Deliverable efficiently for its intended purpose. For this purpose, only Operational Deliverables under Statements of Work executed prior to the Acceptance of a Deliverable shall be taken into account; that is, the Acceptance of a Deliverable shall not be revisited as a consequence of the Parties executing additional Statements of Work after a Deliverable and any Related Deliverables have been Accepted, unless such Statements of Work specifically provide therefor;
- 3.36 "Required Consents" means, with respect to Intellectual Property owned by Third Parties that is licensed to Kareeberg Local Municipality directly, those consents and approvals necessary to enable SEBATA access to and use of such Intellectual Property required for SEBATA to perform the Services in accordance with the terms of this MOU;
- 3.37 "Retained Responsibilities" means those tasks, functions, or responsibilities that are specifically listed in a Statement of Work under the heading Kareeberg Local Municipality Retained Responsibilities" which Kareeberg Local Municipality is required to fulfil;

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- 3.38 "MSCOA" means the Standard Chart of Accounts regulation, as defined by National Treasury. Also referred to as mSCOA – Municipal Standard Chart of Accounts;
- 3.39 "Services" means the Services to be provided by SEBATA to Kareeberg Local Municipality in terms of this MOU, as set out in specific Statements of Work;
- 3.40 "Software" means the SEBATA EMS software licensed by Kareeberg Local Municipality;
- 3.41 "Solution" means the SEBATA EMS solution to be designed, specified, installed and commissioned by SEBATA in terms of this MOU;
- 3.42 "Staff" means any director, employee, agent, consultant, contractor or other representative of a Party;
- 3.43 "Staff Rates" means labour rates by skill set to be used to determine SEBATA charges for Services performed on a time and materials basis. For purposes of clarity, vacation time, sick leave, travel time outside of working hours, unexcused absences, and non-project related administrative time will not be taken into account when determining the number of hours chargeable on a time and materials basis. SEBATA Staff performing Services on a time and materials basis, shall not perform more than 45 (forty-five) chargeable hours of work during a week unless requested by Kareeberg Local Municipality in writing. SEBATA Staff will produce and provide to Kareeberg Local Municipality reasonably detailed contemporaneous time records in accordance with Kareeberg Local Municipality's instructions describing the time spent by each person performing such Services. These records will identify the tasks being performed by each person during the month and time spent on each task. SEBATA will not be entitled to charge for time for which such time records are not provided;
- 3.44 "Statement of Work" means a supplementary MOU concluded by the Parties in writing from time to time, as contemplated in clause 4.2 below describing specific Services to be provided by SEBATA to Kareeberg Local Municipality on behalf of Kareeberg Local Municipality pursuant to this MOU together with the specific operational and commercial terms applicable to such Services;
- 3.45 "Kareeberg Local Municipality Indemnitees" shall have the meaning ascribed thereto in clause 16.1;
- 3.46 "Kareeberg Local Municipality Intellectual Property" means any Intellectual Property which Kareeberg Local Municipality has created, acquired or otherwise has rights in, whether by operation of law or contract;
- 3.47 "Third Party" means an entity other than Kareeberg Local Municipality and SEBATA and their respective Staff;
- 3.48 "Third Party Software" means software utilised by SEBATA in providing the Services or integrated by SEBATA into a Deliverable which is proprietary to a Third Party;
- 3.49 "Third Party Contracts" means contracts between Kareeberg Local Municipality and third Parties and "Third Party Contractor" shall refer to the Third Party with whom Kareeberg Local Municipality has contracted in terms of any Third Party Contract;

4. STRUCTURE OF THIS MOU

4.1 Memorandum of Understanding

This Memorandum of Understanding is intended to operate as a general agreement pursuant to which the Parties will scope, agree and execute distinct Statements of Work in respect of projects under the

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overall Solution for the implementation by SEBATA of the Solution, the detail of which will be set out in specific Statements of Work to be issued in terms of this MOU from time to time.

4.2 Statements of Work

4.2.1 Should Kareeberg Local Municipality wish to appoint SEBATA to provide any Services to Kareeberg Local Municipality, the Parties shall record details relative to same in a Statement of Work. Each Statement of Work may include some or all of the following, as applicable:

- 4.2.1.1 the Commencement Date and duration of the Statement of Work;
- 4.2.1.2 additional contractual terms applicable to the Services supplied pursuant to the Statement of Work, if any;
- 4.2.1.3 a statement regarding the scope of the Services to be performed by SEBATA thereunder;
- 4.2.1.4 the Service Levels applicable to the specific Services, if any;
- 4.2.1.5 the service hours, provided that in the absence of any defined service hours, these shall be deemed to be Business Hours;
- 4.2.1.6 the relevant Project Managers;
- 4.2.1.7 details of the fees payable to SEBATA in respect of the Services to be supplied in terms of that Statement of Work;
- 4.2.1.8 details of any Variable Pricing model that applies to that Statement of Work.

4.2.2 Except where specifically provided to the contrary in a Statement of Work, each Statement of Work shall be subject to this MOU. Insofar as any provision of a Statement of Work conflicts with this MOU, the provisions of this MOU shall prevail, unless such term is expressly referred to and modified in such Statement of Work.

4.2.3 The terms and conditions set forth in a Statement of Work shall not be effective until such Statement of Work is signed by both Parties in accordance with this MOU.

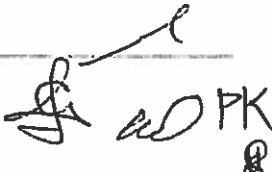
4.2.4 For the avoidance of doubt, and save where expressly provided to the contrary, the terms of one Statement of Work shall not apply to any other Statement of Work.

4.2.5 Any document signed by the Parties which references this MOU shall constitute a Statement of Work for the purposes of this MOU notwithstanding the fact that it does not strictly comply with the provisions of this clause 4.2.

5. APPOINTMENT AND TERM

5.1 **Appointment.** Kareeberg Local Municipality hereby appoints SEBATA to render the Services to Kareeberg Local Municipality, subject to the provisions of this MOU and any Statements of Work issued pursuant thereto, which appointment SEBATA hereby accepts.

5.2 **Term.** The appointment of SEBATA shall commence on the Effective Date, and shall, subject to the Parties' rights of termination in terms of this MOU, subject to the right of either Party to terminate this MOU on 30 days' written notice to the other Party at any time should no Statements of Work then be in effect or pending. This MOU shall automatically lapse 12 (twelve) months after lapsing or termination of the last Statement of Work executed by the Parties pursuant to this MOU.


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- 5.3 **Statement of Work.** Each Statement of Work shall commence on the Commencement Date thereof and endure for the period contemplated in such Statement of Work, or failing which, upon completion of the Services contemplated in such Statement of Work.

6. SERVICES

- 6.1 **Overview of Services.** SEBATA shall perform general software implementation and development professional Services, including, without limitation, business process re-engineering, data cleansing, conception, design, development, implementation, coding, configuration, modification, enhancement, procurement, installation, integration, testing, and remediation Services as are required to provide certain Deliverables to Kareeberg Local Municipality, but only to the extent Kareeberg Local Municipality has executed Statements of Work for such Deliverables, (the "Services").

- 6.2 **Retained Responsibilities.** Kareeberg Local Municipality shall not have any operational obligations under this MOU or any Statement of Work other than the Retained Responsibilities. For purposes of clarity, Kareeberg Local Municipality may retain a function either because it will perform that function itself or because it will retain a Third Party to perform such function.

6.3 Provision of Services

- 6.3.1 When Kareeberg Local Municipality requires SEBATA to perform Services, Kareeberg Local Municipality shall prepare a Statement of Work describing in writing the details of the work to be performed. Such description shall include the anticipated parameters and scope of the work, including the Non-Operational and Operational Deliverables to be provided by SEBATA as part of the work, and the timeline for the completion of the work, including the timeline for the completion of each Deliverable.

- 6.3.2 Throughout the currency of each Statement of Work, SEBATA shall perform the Services, functions, and responsibilities described in such Statement of Work, as well as any Services, functions, and responsibilities not described in a Statement of Work but required to provide each Deliverable and any Related Deliverables in accordance with the specifications therefore, other than the Retained Responsibilities.

- 6.4 **Changes to the Services.** SEBATA specifically acknowledges that changes to Deliverables to be provided under an executed Statement of Work are likely to occur, and that Kareeberg Local Municipality will require such changes from time to time. SEBATA shall implement such changes upon Kareeberg Local Municipality's execution of a Change Request. For purposes of clarity, additional Services and New Deliverables shall be provided only under Statements of Work and not under Change Requests.

6.5 Excused Performance

- 6.5.1 Subject to the provisions of clause 6.5.2, SEBATA will be excused from a failure to perform an obligation under this MOU or a Statement of Work to the extent such failure is directly caused by Kareeberg Local Municipality's failure to perform a Retained Responsibility.

- 6.5.2 SEBATA shall be excused from a failure to perform the Services in accordance with this MOU provided that:

- 6.5.2.1 SEBATA establishes to Kareeberg Local Municipality's reasonable satisfaction that the failure is attributable to a factor outside SEBATA's reasonable control; and

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- 6.5.2.2 SEBATA has promptly notified Kareeberg Local Municipality upon becoming aware of such factor; and
- 6.5.2.3 SEBATA demonstrates to Kareeberg Local Municipality's reasonable satisfaction that it has used Commercially Reasonable Efforts to perform the Services, including by way of work-around or other means.
- 6.5.3 For purposes of clarity, the failure of Kareeberg Local Municipality to take any step or perform any function other than a Retained Responsibility shall not prima facie be considered a factor beyond SEBATA's control.
- 6.5.4 SEBATA's failure to perform any of the Services shall be excused only under this clause 6.5 or under clause 22.
- 6.6 Exclusivity and Minimums**
- 6.6.1 SEBATA specifically acknowledges and agrees that this MOU does not establish an exclusive arrangement and is not a requirements contract. Moreover, Kareeberg Local Municipality is under no obligation to offer SEBATA a minimum number of Statements of Work or particular kinds or volumes of Services.
- 6.6.2 Without limiting the generality of the foregoing, SEBATA specifically acknowledges and agrees that Kareeberg Local Municipality may withdraw any Services from the scope of a Statement of Work on 45 (forty-five) Business days' prior notice to SEBATA without any payment or liability to SEBATA other than payment of SEBATA's charges for Services actually and properly rendered prior to the effective date of the withdrawal. In such event, there shall be an equitable adjustment to SEBATA's charges and in the event that amounts already paid by Kareeberg Local Municipality to SEBATA exceed such adjusted charges, SEBATA shall promptly refund such excess amounts.
- 6.7 Cooperation with Kareeberg Local Municipality and Third Party Contractors**
- 6.7.1 If Kareeberg Local Municipality performs itself or hires one or more Third Parties to perform some or all of the Services or any related Services, SEBATA shall use Commercially Reasonable Efforts to cooperate and consult with such Third Parties so that SEBATA and the Third Parties provide service to Kareeberg Local Municipality in as seamless a manner as is reasonably possible. Such cooperation shall include providing such information regarding the Services as Kareeberg Local Municipality and such Third Parties may reasonably request, including providing information of a technical nature.
- 6.7.2 Where third Parties require access to SEBATA Intellectual Property to provide the Services, Kareeberg Local Municipality shall request that such third Parties retained by Kareeberg Local Municipality comply with SEBATA's reasonable confidentiality requirements.
- 6.7.3 SEBATA shall immediately notify Kareeberg Local Municipality if an act or omission of Kareeberg Local Municipality or a Third Party may interfere with SEBATA's provision of the Services in a timely fashion and shall work with Kareeberg Local Municipality to prevent or circumvent such problem or delay.
- 6.7.4 SEBATA shall not be liable for any system related failure as a result of faulty ICT services or hardware provided by a Third Party.

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6.8 Documentation.

Prior to elevating an Operational Deliverable into production, SEBATA shall provide Documentation that accurately reflects the design, structure, and operational issues related to use of such Deliverable, and that:

- 6.8.1 explains the technical details of the Deliverable at a level and in a fashion necessary to enable Kareeberg Local Municipality's Staff with a reasonable level of technical experience and to modify, maintain and support such Deliverables; and
- 6.8.2 explains the operation and use of the Deliverable at a level and in a fashion necessary to enable trained Staff to use and operate such Deliverables.
- 6.8.3 For the purposes of clarity, it is recorded that documentation as set out in this clause 6.8 does not refer to end-user documentation, unless otherwise stated in a particular Statement of Work.

6.9 Required Consents. Kareeberg Local Municipality shall be responsible for obtaining Required Consents in respect of any Intellectual Property that is:

- 6.9.1 licensed by Kareeberg Local Municipality from Third Parties, and/or
- 6.9.2 required for SEBATA to perform the Services in accordance with the MOU.

7. SEBATA'S STAFF

- 7.1 **Suitably Qualified Staff.** SEBATA shall employ suitably qualified, experienced and trained Staff to provide the Services in terms of this MOU, provided that SEBATA shall be entitled, in its discretion, to allocate Staff resources in accordance with the technical or other skills and knowledge required, provided further that any exercise of such discretion by SEBATA shall not negatively impact upon the provision of the Services by SEBATA.
- 7.2 **SEBATA to adhere to procedures of Kareeberg Local Municipality.** SEBATA Staff shall at all times when on Kareeberg Local Municipality Locations adhere to the standard health, safety and security procedures and guidelines applicable to Staff at such Locations, as varied and conveyed by Kareeberg Local Municipality to SEBATA from time to time. Should Kareeberg Local Municipality at any time have reason to believe that any of SEBATA' Staff are failing to comply with such standard health, safety and security procedures and guidelines, Kareeberg Local Municipality may deny such person access to any or all of such Locations or systems and require SEBATA to replace such person without delay.

8. OBLIGATIONS OF KAREEBERG LOCAL MUNICIPALITY

8.1 General obligations. Kareeberg Local Municipality shall at its cost:

- 8.1.1 allow SEBATA and its Staff such access to the Locations as may be reasonably required by SEBATA and its Staff to enable SEBATA to comply with its obligations stipulated in this MOU. Such access includes logical and physical access to networks, information, documentation and data;
- 8.1.2 allocate Kareeberg Local Municipality Staff, with appropriate access rights and permissions, to provide SEBATA and its Staff with such reasonable assistance at the Locations as may be reasonably required by SEBATA to enable it to provide the Services;

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- 8.1.3 make available suitable and necessary environmental conditions as may be reasonably required by SEBATA at any of the Locations including without limitation the provision of electricity, telephone Services and other connectivity (including access to email, internet and networks), lighting and air-conditioning;
- 8.1.4 make available adequate office space and such reasonable office Services as may be required by the Staff of SEBATA at those times the Staff of SEBATA require access to the Locations in order to render and/or provide the Services, provided that SEBATA gives Kareeberg Local Municipality reasonable written notice of its requirements in this regard and Kareeberg Local Municipality accedes thereto;
- 8.1.5 provide SEBATA all such other reasonable assistance and information, in order for SEBATA to render the Services, provided that SEBATA gives Kareeberg Local Municipality reasonable written notice of its requirements in this regard.

9. ACCEPTANCE OF DELIVERABLES

- 9.1 **Acceptance of Non-Operational Deliverables.** Kareeberg Local Municipality will Accept a Non-Operational Deliverable when it is of the view that such Deliverable is sufficient for its intended purpose.
- 9.2 **Acceptance of Operational Deliverables.** Kareeberg Local Municipality will Accept an Operational Deliverable, and all of its Related Deliverables in accordance with the Acceptance Test Procedures.

10. GOVERNANCE STRUCTURES

In order to facilitate the smooth and effective management of the relationship, the Parties: -

- 10.1 shall each appoint a suitably qualified and responsible person to act as their Project Manager in respect of the relationship between the Parties and the management of the provision by SEBATA of the Services in terms of this MOU. In respect of such Project Managers: -
 - 10.1.1 they will have the power and authority to make decisions with respect to actions to be taken by them in the ordinary course of day-to-day management of the Project and the Services, but, for the purposes of clarity it is recorded that the Project Managers shall not be entitled to vary the terms of this MOU;
 - 10.1.2 all invoices, communications, documentation and materials relating to this MOU shall be sent by each Party to the appropriate Project Manager and in particular Kareeberg Local Municipality Project Manager will monitor the performance of the Services by SEBATA and will be responsible for liaising with the SEBATA Project Manager in terms of reporting poor performance by SEBATA and managing the provision of Services by SEBATA pursuant to this MOU;

11. VARIATION

- 11.1 **No Variation.** Subject to the provisions of this clause 11, no variation, addition or consensual cancellation of this MOU shall be of any force or effect, unless agreed to in writing and signed by the Parties.
- 11.2 **Changes to Services.** Should either Party wish to amend any aspect of the Schedules, a Statement of Work or the Services, such Party shall adhere to the Change Procedure.

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11.3 Dispute relating to variations. If the Parties fail to reach Agreement relating to any Change Request or requested variation, any dispute or deadlock between them in regard thereto shall be subject to determination in terms of the Dispute Resolution Procedure.

12. CONSIDERATION

12.1 Consideration. As consideration for rendering the Services, Kareeberg Local Municipality shall pay SEBATA the fees set out in specific Statements of Work.

12.2 Fixed price charges. Where SEBATA is being compensated on a fixed price basis, the Statement of Work shall provide a payment schedule under which scheduled amounts within the total compensation for the work under the Statement of Work are payable only as Deliverables are Accepted or milestones are achieved, as well as any retention or risk/reward amounts payable upon acceptance of the complete Deliverable by Kareeberg Local Municipality in the relevant Statement of Work.

12.3 Charges based on Variable price with Shared Risk/Reward. Where SEBATA is being compensated on a variable price basis with Shared Risk/Reward, the Statement of Work shall provide a schedule specifying the methodology for calculating the total compensation for the work under the Statement of Work.

12.4 Time and materials charges.

12.4.1 If the Services at any time are performed on a time and materials basis, SEBATA will be compensated only for actual hours of work performed and such compensation shall be at the Staff Rates.

12.4.2 In respect of any Services provided on a time and materials basis, SEBATA shall stipulate in the relevant Statement of Work an indicative budget of what the estimated cost of completion of the relevant Services will be ("Budgeted Cost"). SEBATA shall at all times be responsible for tracking the amount spent by Kareeberg Local Municipality in respect of the Services against the relative completion of the Services and for notifying Kareeberg Local Municipality of any potential overruns of the Budgeted Cost. SEBATA agrees that it will provide detailed reasons and motivations for any expenditure in excess of 5% more than the Budgeted Cost.

12.5 Third Party time and materials charges. Third Party expenses specifically identified in the Statement of Work shall be treated as pass-through expenses in accordance with clause 12.7. SEBATA shall not incur any Third Party expense as a pass-through expense without Kareeberg Local Municipality's prior consent.

12.6 Reimbursable Expenses. SEBATA will invoice Kareeberg Local Municipality on a monthly basis in arrears for Reimbursable Expenses necessarily and actually incurred as a result of performing the Services.

12.7 Pass-Through Expenses. With respect to any expenses that are to be treated as a pass-through expense, the following rules shall apply:

12.7.1 on receipt of a valid invoice relating to a pass-through expense, SEBATA shall provide Kareeberg Local Municipality with such invoice together with a statement identifying the charges that are, and are not, proper and valid.

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12.7.2 SEBATA shall not apply a margin to or otherwise mark-up or charge an administration fee for pass-through expenses.

12.8 Invoicing – Time and Materials charges/Variable Pricing Model Charges

12.8.1 SEBATA Staff shall keep contemporaneous records showing their time spent working on the Services. In this regard:

12.8.2 All time and materials charges attributable to Services under a Statement of Work shall be invoiced on a monthly basis;

12.8.3 to the extent that there are any specific provisions dealing with the variable pricing model charges, such provisions will be detailed in the relevant Statement of Work.

12.9 Disputed charges and Invoicing Errors.

12.9.1 If an invoice is identified as incorrect, then SEBATA shall either issue a corrected invoice if the amount has not yet been paid, or make a correction on the invoice for the month following the month in which the incorrect invoice was issued if the amount has been paid

12.9.2 Kareeberg Local Municipality may withhold payment of charges that Kareeberg Local Municipality disputes in good faith (or, if the disputed charges have already been paid, Kareeberg Local Municipality may withhold an equal amount from a later payment), including disputes in respect of an error in an invoice or an amount paid. Without limiting the generality of the foregoing, if SEBATA fails to complete the work required to achieve a Payment Milestone successfully or deliver a Deliverable ready for Acceptance in a timely fashion, Kareeberg Local Municipality may the payment in respect of the applicable Statement of Work until the Payment Milestone has been achieved and such Deliverable Accepted.

12.9.3 If Kareeberg Local Municipality withholds payment of any charges:

12.9.3.1 Kareeberg Local Municipality shall notify SEBATA within 10 Business Days of invoice date of the charges that it is disputing; and

12.9.3.2 the Parties shall promptly address such dispute in accordance with the Dispute Resolution Procedure.

12.9.4 If the dispute relates to (or equals, in the case of disputed charges that have already been paid) only certain of the charges included on an invoice, then Kareeberg Local Municipality shall pay the undisputed amounts in accordance with clause 12.1 and clause 12.2.

12.10 Payment. Kareeberg Local Municipality shall pay amounts owed to SEBATA within 30 (thirty) calendar days following receipt of an invoice therefor that is accurate and meets the requirements of this MOU.

13. OWNERSHIP OF DATA

13.1 **Ownership.** Ownership in all Client Data, whether under its control or not, shall continue to vest in Kareeberg Local Municipality and SEBATA shall not obtain any proprietary rights in such Client Data.

13.2 **Data may only be used in performance of the Services.** Client Data in the possession of Kareeberg Local Municipality, or to which SEBATA may have access during the currency of this MOU, may not be used by SEBATA for any purposes whatsoever other than as may be specifically required to enable SEBATA to comply with its obligations in terms of this MOU.

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14. INTELLECTUAL PROPERTY

14.1 Copyright

14.1.1 Kareeberg Local Municipality Intellectual Property

14.1.1.1 Kareeberg Local Municipality retains all Intellectual Property Rights in and to the Kareeberg Local Municipality Intellectual Property. As of the Effective Date, SEBATA is granted a world-wide, fully paid-up, non-exclusive license during the currency of this MOU to perform any lawful act including the right to use, copy, maintain, modify, enhance and create derivative works of such Kareeberg Local Municipality Intellectual Property for the sole purpose of providing the Services pursuant hereto.

14.1.1.2 SEBATA shall not be permitted to use Kareeberg Local Municipality Intellectual Property for the benefit of any person without the prior written consent of Kareeberg Local Municipality, which may be withheld at Kareeberg Local Municipality's sole discretion. Except as otherwise requested or approved by Kareeberg Local Municipality, which approval shall be in Kareeberg Local Municipality's sole discretion, SEBATA shall cease all use of Kareeberg Local Municipality Intellectual Property on termination of the relevant Statement of Work.

14.1.2 SEBATA Intellectual Property

14.1.2.1 All Intellectual Property Rights in or used in respect of the SEBATA Intellectual Property are and shall remain the property of SEBATA. Kareeberg Local Municipality shall not during or at any time after termination of this MOU acquire or be entitled to claim any right or interest in SEBATA' Intellectual Property or in any way question or dispute the ownership thereof.

14.1.2.2 Kareeberg Local Municipality acknowledges that the SEBATA Intellectual Property may only be used by Kareeberg Local Municipality as specifically authorised in terms of this MOU, or otherwise authorised in writing by SEBATA.

14.1.2.3 To the extent that the copyright or any other intellectual property rights in any SEBATA Intellectual Property vests in Kareeberg Local Municipality by operation of law, Kareeberg Local Municipality hereby assigns the copyright or other intellectual property rights to SEBATA.

14.1.3 Bespoke Developed Intellectual Property.

14.1.3.1 Subject to payment therefor by Kareeberg Local Municipality and notwithstanding any termination of this MOU, all Intellectual Property Rights subsisting in and to any Bespoke Developed Intellectual Property shall vest in Kareeberg Local Municipality, save to the extent that the Parties agree that any relevant Deliverables will be owned by SEBATA. If the Parties agree that the any Deliverables will be owned by SEBATA the provisions of clause 14.1.1.1 will apply in respect of such milestones or deliverables.

14.1.3.2 To the extent that any SEBATA Intellectual Property is embedded in such Bespoke Developed Intellectual Property, SEBATA hereby grants to Kareeberg Local Municipality a non-exclusive, non-transferable license to use such SEBATA Intellectual Property for purposes of receiving and using the Solution. Where the copyright,

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trademarks and other intellectual property rights subsisting in or used in respect of any Bespoke Developed Intellectual Property vests in Kareeberg Local Municipality, Kareeberg Local Municipality hereby grants to SEBATA a license to use such Bespoke Developed Intellectual Property for purposes of providing the Services.

14.2 Source Code

- 14.2.1 With respect to Kareeberg Local Municipality Intellectual Property created under the MOU, and any other SEBATA Intellectual Property used or provided in connection with the Services which is required by Kareeberg Local Municipality to use, copy, maintain, support, modify, enhance and create derivative works of, any Deliverable, SEBATA shall provide Kareeberg Local Municipality complete source code, object code and documentation therefore promptly upon Acceptance of the Deliverable containing such code.
- 14.2.2 With respect to Third Party Software that is used by SEBATA to perform the Services, or incorporated or embedded in any Deliverable, SEBATA shall use Commercially Reasonable Efforts to obtain the source code and arrange for its placement in escrow, notwithstanding any decision by Kareeberg Local Municipality to permit the use or provision of the Intellectual Property without source code.

15. SEBATA WARRANTIES

15.1 Intellectual Property Warranties:



- 15.1.1 SEBATA warrants that no aspect of rendering the Services or any proprietary material of SEBATA will infringe any Intellectual Property Rights of any Third Party, and SEBATA shall, at its cost, defend Kareeberg Local Municipality against any such claim, provided that Kareeberg Local Municipality gives prompt notice to SEBATA of such claim, SEBATA controls the defence thereof and Kareeberg Local Municipality does not compromise or settle such claim.
- 15.1.2 Should any Third Party succeed in its claim for the infringement of any intellectual property rights, SEBATA shall, within 30 (thirty) calendar days of the infringing item having been found to so infringe: -
- 15.1.2.1 obtain for Kareeberg Local Municipality the right to continue using the infringing item or the parts thereof which constitute the infringement; or
 - 15.1.2.2 replace the infringing item or the parts thereof which constitute the infringement with another product which does not infringe and which in all respects operates substantially in accordance with the specifications thereof; or
 - 15.1.2.3 alter the infringing item in such a way as to render it non infringing while still in all respects operating substantially in accordance with the specifications thereof; or falling any of the above;
 - 15.1.2.4 withdraw the infringing item; provided that SEBATA may, in such circumstances, elect which of the above actions to take.

- 15.2 Service warranties. SEBATA warrants that in relation to each Service provided in terms of this MOU it will provide the Services:

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- 15.2.1 with promptness and diligence and in a workmanlike manner and in accordance with the practices and professional standards of well-managed companies performing Services similar to the Services;
- 15.2.2 In accordance with all applicable laws and regulations.
- 15.3 Pricing warranties. SEBATA represents and warrants that it shall at all times with respect to Services for which SEBATA is compensated on a Time and Materials basis, use its best efforts to perform the Services in the most cost-effective manner consistent with the level of quality and performance required under this MOU and shall demonstrate same to the reasonable satisfaction of Kareeberg Local Municipality on receipt of a written request to such effect from Kareeberg Local Municipality.
- 15.4 General Warranties. SEBATA warrants further that:
- 15.4.1 It has the legal right and full power and authority to execute and deliver, and to exercise its rights and perform its obligations under this MOU and all the documents which are to be executed by it as envisaged by this MOU;
- 15.4.2 nothing contained in this MOU will result in a breach of any Agreement, licence or other instrument, order, judgement or decree of any Court, governmental agency or regulatory body to which it is bound;
- 15.5 Survival. This clause 15 shall survive termination of this MOU.
16. INDEMNITIES
- 16.1 General indemnity. SEBATA hereby indemnifies and holds harmless Kareeberg Local Municipality, Kareeberg Local Municipality Affiliates and their respective officers, directors, employees, agents, successors, and assigns ("Kareeberg Local Municipality Indemnitees"), from any and all Losses and threatened Losses arising from, in connection with, or based on allegations of, any of the following:
- 16.1.1 Third Party claims attributable to any breach of the provisions of the MOU by SEBATA;
- 16.1.2 Third Party claims arising from SEBATA's breach of an Agreement between SEBATA and a subcontractor or supplier (including claims by the subcontractor or supplier);
- 16.1.3 Third Party claims attributable to theft, fraud or other unlawful activity or any negligent, wilful or fraudulent conduct by SEBATA or SEBATA Staff, and claims attributable to errors or omissions;
- 16.1.4 Third Party claims of infringement of any Intellectual Property Rights, based on the Deliverables or any other materials or Intellectual Property provided or used by SEBATA;
- 16.1.5 Third Party claims arising from or related to the death or bodily injury of any agent, employee, business invitee, or business visitor or other person caused by the negligent conduct of SEBATA or SEBATA Staff;
- 16.2 Death and bodily injury. The Parties each agree to indemnify, defend and hold harmless the other from all claims, actions, damages, liabilities, costs and expenses, including reasonable attorneys' fees and expenses, arising out of the death or bodily injury of any Staff, business invitee or business visitor of the indemnatee which arises out of a culpable act or omission of the indemnifying Party.
- 16.3 Mitigation of Loss. For the avoidance of doubt, a Party claiming indemnification under this MOU shall use all commercially reasonable endeavours to mitigate any damage, loss or liability to which arises hereunder.

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16.4 **Notice.** The foregoing indemnities will not apply unless the Party claiming indemnification notifies the other Party promptly of any matters in respect of which the foregoing indemnity may apply and of which the notifying Party has knowledge and gives the other Party full opportunity to control the applicable response and defence, including any Agreement relating to the settlement of the matter. No failure to so notify an indemnitor shall relieve the indemnitor of its obligations under this MOU except to the extent that it can demonstrate damages attributable to such failure.

17. REGULATORY COMPLIANCE

17.1 **General Obligation.** Subject to due notice thereof having been given by Kareeberg Local Municipality in terms of clause 17.2, SEBATA shall:

17.1.1 take such steps as are required for the Services and Deliverables to comply with all Applicable Laws;

17.1.2 perform its obligations in a manner that complies with all Applicable Laws;




17.1.3 identify and procure on a pass-through basis required licenses, permits, certificates, approvals and inspections required for it to perform the Services including for the purchase, sale, importation, modification, improvement, development, installation and integration of the Deliverables; and

17.1.4 use Commercially Reasonable Efforts to identify any licenses and permits required for the Client to use the Deliverables.

17.2 **Monitoring and Changes to Law.** The Parties shall monitor Applicable Laws that apply to Third Party contractors of goods and Services generally, companies in South Africa generally, Contractors of technology services and software generally and identify any proposed changes to Applicable Law. Upon identifying or being notified by Kareeberg Local Municipality of a change or proposed change in Applicable Law, SEBATA shall promptly analyse the impact of such change or proposed change on the Services, notify Kareeberg Local Municipality of such impact, and propose to Kareeberg Local Municipality changes to the Services, if any, that are, or in the case of a proposed change may be, required. Kareeberg Local Municipality shall promptly review such proposal, and upon Kareeberg Local Municipality's approval, SEBATA shall promptly implement such changes to the Services as well as any other changes requested by Kareeberg Local Municipality and reasonably required as a consequence of a change in Applicable Law. SEBATA shall be solely responsible for any fees, costs or expenses incurred in this regard.

17.3 **Fines.** The Parties shall be responsible for any fines or penalties (generically referred to as "Penalties" herein) levied against either Party by any authority arising from any non-compliance of the Services with any Applicable Law to the extent that the same arises as a result of any act or omission of either Party or a failure by either Party to comply with its obligations in terms of this MOU.

17.4 **No admission or waiver.** No payment of any such Penalty by either Party shall constitute an admission by the Party of its liability or culpability in respect of such Penalty or a waiver of its right to recover any amounts from either Party


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- 17.5 **Indemnity.** Each Party hereby indemnifies and holds the other harmless in respect of the amount of any Penalties imposed on the relevant Party as a result of any non-compliance by the other Party with the provisions of this clause 17.
- 17.6 **External Forces.** SEBATA will not be responsible for any changes relating to the implementation as a result of external forces not in the direct control of SEBATA, thus resulting in additional payments as a result thereof.
- 17.7 **ICT Hardware.** Relating to ICT hardware essential for the operation of EMS, SEBATA will be the sole provider of such ICT hardware required in order to implement and maintain the EMS solution.
- 17.8 **SCOA Compliance.** Should any modules of the SEBATA EMS solution be deemed to be non-compliant, as assessed by an authorised third party assessor appointed by the National Treasury, Kareeberg Local Municipality will have the right to claim for the charges rendered by SEBATA for the module that has been assessed to be non-compliant and according to the charges stipulated in Schedule 1. SCOA non-compliance will be deemed to be a Termination by Kareeberg Local Municipality for Cause in clause 19.1.

18. CONFIDENTIALITY AND NON-DISCLOSURE

- 18.1 **Confidentiality obligation.** Each Party ("the Receiving Party") must treat and hold as confidential all Confidential Information, which they may receive from the other Party ("the Disclosing Party") or which becomes known to them concerning the Disclosing Party during the currency of this MOU.
- 18.2 **The Receiving Party's obligations with regard to confidential information.** The Receiving Party agrees that in order to protect the proprietary interests of the Disclosing Party in its Confidential Information:
- 18.2.1 it will only make the Confidential Information available to those of its Staff who are actively involved in the execution of its obligations under this MOU or to its professional advisors appointed to advise on any aspect relating to this MOU and then only on a "need to know" basis;
- 18.2.2 it will initiate internal security procedures reasonably acceptable to the Disclosing Party to prevent unauthorised disclosure and will take all practical steps to impress upon those Staff who need to be given access to Confidential Information, the secret and confidential nature thereof and in this regard SEBATA shall, if so required by Kareeberg Local Municipality, procure that each of its Staff enter into a written confidentiality undertaking in favour of Kareeberg Local Municipality on substantially the terms set out in this clause;
- 18.2.3 subject to the right to make the Confidential Information available to their Staff or professional advisors under clause 18.2.1 above, they will not at any time, whether during this MOU or thereafter, either use any Confidential Information of the Disclosing Party or directly or indirectly disclose any Confidential Information of the Disclosing Party to third Parties;
- 18.2.4 all written instructions, drawings, notes, memoranda and records of whatever nature relating to the Confidential Information of the Disclosing Party which have or will come into the possession of the Receiving Party and its Staff, will be, and will at all times remain, the sole and absolute property of such Party and shall be promptly be handed over to such Party when no longer required for the purposes of this MOU.

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- 18.3 **Obligations in respect of Confidential Information upon termination.** Upon termination or expiry of this MOU, the Parties will deliver to each other or, at each Party's option, destroy all originals and copies of Confidential Information, (other than the terms and conditions of this MOU) in their possession.
- 18.4 **Information, which will not constitute Confidential Information.** The foregoing obligations shall not apply to any information which:
- 18.4.1 is lawfully in the public domain at the time of disclosure;
 - 18.4.2 subsequently and lawfully becomes part of the public domain by publication or otherwise;
 - 18.4.3 subsequently becomes available to the Receiving Party from a source other than the Disclosing Party, which source is lawfully entitled without any restriction on disclosure to disclose such Confidential Information; or
 - 18.4.4 is disclosed pursuant to a requirement or request by operation of law, regulation or court order.
- 18.5 **Disclosure to professional advisors.** Nothing in this clause shall preclude the Receiving Party from disclosing the Confidential Information of the Disclosing Party to its professional advisors or financiers in the bona fide course of seeking finance, business and professional advice, provided that the Receiving Party shall procure that any Party to whom it validly discloses the Confidential Information of the Disclosing Party, as contemplated in this clause 18 undertakes to respect the secret, confidential and proprietary nature thereof.
- 18.6 **Indemnity in respect of Confidential Information.** The Receiving Party hereby indemnifies the Disclosing Party against any loss or damage, which the Disclosing Party may suffer as a result of a breach of this clause by the Receiving Party or its Staff.
- 18.7 **Severability.** The provisions of this clause 18 are severable from the rest of the provisions of this MOU and shall survive its termination and continue to be of full force and effect for a period of 5 (five) years after the date of termination.

19. TERMINATION

19.1 Termination By Kareeberg Local Municipality for Cause.

- 19.1.1 Kareeberg Local Municipality may, by giving written notice to SEBATA, terminate for cause one or more Statements of Work in whole or in part, or this MOU and all Statements of Work, as of a date specified in the notice of termination if:
- 19.1.1.1 SEBATA breaches a material obligation under this MOU or any Statement of Work, which breach is not cured within 60 (sixty) business days after notice of breach from Kareeberg Local Municipality to SEBATA; or
 - 19.1.1.2 SEBATA commits numerous breaches of one or more Statements of Work that collectively constitute a material breach.
- 19.1.2 If Kareeberg Local Municipality elects to terminate this MOU for cause under this clause 19.1, Kareeberg Local Municipality may elect in its sole discretion to:
- 19.1.2.1 retain the Deliverables that SEBATA has already provided to Kareeberg Local Municipality. In such event, Kareeberg Local Municipality shall have no liability to SEBATA with respect to such termination (including for termination fees), other than for SEBATA's charges for Services actually rendered with respect to the Deliverables

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Kareeberg Local Municipality retains in accordance with the requirements of the MOU prior to the effective date of the termination;

19.1.2.2 reject the Deliverables in exchange for a full refund of all amounts paid by Kareeberg Local Municipality to SEBATA pursuant to this MOU, in which event Kareeberg Local Municipality will not be entitled to continue using the Deliverables.

19.1.3 If a purported termination by Kareeberg Local Municipality for cause under this clause 19.1 is determined by a competent authority not to be properly a termination under clause 19.1, then such termination by Kareeberg Local Municipality shall be deemed to be a termination for convenience under clause 19.2.

19.2 Termination for Convenience by Kareeberg Local Municipality


19.2.1 Kareeberg Local Municipality may terminate this MOU and/or one or more Statements of Work in whole or in part for convenience and without cause at any time by giving SEBATA at least 30 (thirty) business days' prior notice (which notice may be given at any time on or after the Commencement Date) designating the termination date. Should Kareeberg Local Municipality wish the MOU to terminate immediately, Kareeberg Local Municipality may indicate same to SEBATA, in which event Kareeberg Local Municipality shall pay a termination fee equal to the sum of the Per Person Termination Fee for each of SEBATA Staff performing the Services under the MOU or under the Statements of Work being terminated, as the case may be, as of the date Kareeberg Local Municipality issues its notice of termination. The "Per Person Termination Fee" shall be the product of the applicable per day Staff Rate and the number of days each such individual is intended to remain on the Project, but not in excess of the 30 (thirty) business day notice period. During such period SEBATA shall use Commercially Reasonable Efforts to redeploy its Staff as soon as possible and shall credit Kareeberg Local Municipality to the extent that it is able to do so.

19.2.2 Save as contemplated in clause 19.2.1, Kareeberg Local Municipality shall have no liability to SEBATA with respect to a termination for convenience in terms of this clause 19.2, other than SEBATA's charges for Services actually rendered in accordance with the requirements of the MOU prior to the effective date of the termination.

19.3 **Termination for Cause by SEBATA.** If Kareeberg Local Municipality fails to pay SEBATA any undisputed amounts when due, or fails to pay any amounts that have been finally adjudged to be due under this MOU or a Statement of Work, and Kareeberg Local Municipality fails to make such payment within 30 (thirty) business days of notice from SEBATA of the failure to make such payment, then SEBATA may, by giving notice to Kareeberg Local Municipality, terminate this MOU or Statement of Work as of a date specified in the notice of termination.

19.4 Termination for Convenience by SEBATA

19.4.1 SEBATA may terminate this MOU and/or one or more Statements of Work in whole or in part for convenience and without cause at any time by giving Kareeberg Local Municipality at least 30 (thirty) business days' prior notice (which notice may be given at any time on or after the Commencement Date) designating the termination date. Should SEBATA wish the MOU to terminate immediately, SEBATA may indicate same to Kareeberg Local Municipality.

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20. PROCEDURES AND ASSISTANCE UPON TERMINATION

On termination or cancellation of this MOU for any reason, SEBATA will provide Kareeberg Local Municipality with exit management assistance.

21. DISPUTE RESOLUTION

- 21.1 Committee.** Any dispute which arises between the Parties and which cannot be resolved by them amicably, shall be referred to a joint committee of a Director of each of the Parties, or alternates appointed by them, who will use their best endeavours to resolve the dispute within 10 (ten) business days of the dispute having been referred to them.
- 21.2 Technical disputes.** If so agreed by the joint committee, any dispute of a technical nature concerning the interpretation of any specifications or requirements or relating to the functions or capabilities of the Services or Solution, may be referred by such committee, together with reasons for referring the matter, to an Independent Expert for final settlement. The Independent Expert's fees for so acting shall be borne by the Parties in equal shares unless the Independent Expert determines that the conduct of either Party was such that it should bear a greater proportion or all of such fees.
- 21.3 Failure to resolve.** Should the joint committee be unable to agree on whether a dispute is technical or not, or if it is unable to resolve a dispute in accordance with the foregoing, such dispute will be finally resolved according to the then applicable rules of arbitration of AFSA ("AFSA Rules").
- 21.4 Demand for arbitration.** Either Party to this MOU may demand that a dispute be referred to arbitration by giving written notice to that effect to the other Party.
- 21.5 Urgent interim relief.** This clause shall not preclude either Party from obtaining interim relief on an urgent basis from a court of competent jurisdiction pending the decision of the arbitrator.
- 21.6 Arbitration provisions.** The arbitration referred to in clause 21.3 shall be held: -
- 21.6.1 at Johannesburg in the English language; and
 - 21.6.2 immediately and with a view to its being completed within 21 (twenty-one) days after it is demanded;
- 21.7 Right of appeal.** The Parties irrevocably agree that the submission of any dispute to arbitration in terms of this clause 21 is subject to the Parties' rights of appeal and review. Either Party may appeal the arbitration ruling by giving written notice to that effect to the other Party to the arbitration within 20 (twenty) days of the ruling being handed down. The appeal shall be dealt with in accordance with the AFSA Rules by a panel of 3 (three) arbitrators appointed by AFSA for this purpose.
- 21.8 Parties to be bound.** The Parties irrevocably agree that upon expiry of the 20 (twenty) day period for appeal or the handing down of the ruling of the appeal panel, as the case may be, as contemplated in clause 21.7, the decision in arbitration proceedings: -
- 21.8.1 shall be final and binding upon the Parties;
 - 21.8.2 shall be carried into effect; and
 - 21.8.3 may be made an order of any court of competent jurisdiction.
- 21.9 Continued Performance.** Subject to Kareeberg Local Municipality's right to withhold payment of amounts it disputes in good faith and to terminate the MOU or any Statement of Work, each Party agrees to continue performing its obligations under this MOU while any dispute is being resolved. In the event

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that the arbitration proceedings have not been resolved within a period of 45 (forty-five) Business days then in such event only, SEBATA will be entitled to withhold its Services and Kareeberg Local Municipality shall be entitled to terminate this MOU.

21.10 Costs. The costs of the arbitration shall be borne by the Parties in equal shares.

21.11 Severability. This clause 21 is severable from the rest of this MOU and shall remain valid and binding on the Parties notwithstanding any termination of this MOU.

22. FORCE MAJEURE

Performance of the obligations of either Party hereto in terms of this MOU shall be excused for as long as and to the extent that it is unable to do so because of any cause beyond its control and for which it is not responsible which, if qualifying as such shall include, without limitation, an act of God, State, terrorism, war (whether declared or not) or sabotage; fire, flood, riot, strike, lock-out, downtime of any communication infrastructure, power failure or governmental restriction, affecting the performance of such obligations, provided that –

22.1 the Party claiming such inability –

22.1.1 shall, when that Party knows that it is likely to occur and when it occurs, immediately give notice to the other Party (which shall be confirmed in writing as soon as possible thereafter as is possible) detailing the circumstances on which it relies and an estimate of the likely duration of such inability; and

22.1.2 shall, when that Party knows that such inability is likely to terminate and when it terminates, immediately give notice thereof to the other Party, which shall be confirmed in writing as soon thereafter as is possible;

22.2 the Parties shall co-operate together and use all reasonable efforts to overcome, or failing which, to minimise the effect of such inability;




22.3 if a Party is claiming such inability and the effect thereof has not been so overcome –

22.3.1 where SEBATA claims such inability, within a period of 7 (seven) days, then Kareeberg Local Municipality may, but not be obliged to, engage one or more third Parties to perform the obligations of SEBATA hereunder affected by such inability which would otherwise have been performed in terms of this MOU by SEBATA, for only as long as and to the extent that SEBATA is unable to perform the same;

22.3.2 within a period of 60 (sixty) days, then either Party may (as its sole remedy) to terminate this MOU on 7 (seven) days written notice to this effect given to the other Party; and

22.4 neither Party shall be obliged to perform subsequently any obligation in terms of this MOU not performed as a consequence of and during any such inability, and the duration of this MOU shall not be extended as a consequence of any such inability;

22.5 Kareeberg Local Municipality shall not be obliged to pay SEBATA to the extent that SEBATA is prevented from providing the Services during the period of any such inability.


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23. RECORDS AND RIGHTS OF INSPECTION

23.1 Retention of Records

23.1.1 SEBATA shall maintain a complete audit trail of all financial and non-financial transactions under this MOU and all Statements of Work sufficient to permit a complete audit thereof in accordance with this clause 23. SEBATA shall provide to Kareeberg Local Municipality, and its internal or external inspectors and auditors ("Auditors"), and its regulators (including all government entities having jurisdiction over SEBATA or Kareeberg Local Municipality) access at reasonable times to SEBATA facilities from which Services are actually being performed, to SEBATA Staff and to information, records and documentation relating to the Services for the purpose of performing audits, tests, examinations, and inspections of SEBATA in order to:

23.1.1.1 verify the accuracy of charges and invoices;

23.1.1.2 verify SEBATA's compliance with the provisions of this MOU;

23.1.1.3 audit and inspect the conduct of SEBATA with respect to its operations and procedures relating to the Services or in SEBATA's performance of the Services;

23.1.1.4 verify SEBATA's compliance with Kareeberg Local Municipality's security practices; and

23.1.1.5 enable Kareeberg Local Municipality to comply with Applicable Law.

23.1.2 Without limiting the generality of the foregoing, SEBATA shall make all facilities from which the Services are being performed available for inspection by representatives of governmental agencies in compliance with all Applicable Law.

23.2 Rights of Inspection. Upon reasonable advance written notice by Kareeberg Local Municipality and subject to clause 23.4, SEBATA shall provide to the Auditors reasonable access to the records kept pursuant to clause 23.1 and to undertake a performance audit of SEBATA's provision of Services pursuant to this MOU.

23.3 Co-operation by SEBATA. SEBATA shall provide such co-operation and assistance to Kareeberg Local Municipality Auditors, in a timely manner, as they may reasonably require in connection with any performance audit or inspection conducted pursuant to this clause 23.

23.4 Obligations of Kareeberg Local Municipality. Kareeberg Local Municipality shall: -

23.4.1 procure that, prior to commencing audit or inspection pursuant to this clause 23, the Auditors undertake to keep the Confidential Information of SEBATA confidential at all times; and



23.4.2 provide SEBATA with a reasonable time period to comply with the requests of the Auditors pursuant to this clause 23.

23.5 SEBATA to allow access to premises. Where, pursuant to any provision contained in this clause 23, SEBATA is required to allow Kareeberg Local Municipality to inspect or take copies of any item, SEBATA shall place such documents or copies in a data room and shall allow Kareeberg Local Municipality, or its Auditors, such reasonable access to such data room during normal working hours as is necessary to enable Kareeberg Local Municipality to inspect or take copies of the items.

23.6 Cost of inspection and minimum interference. The inspection contemplated in this clause 23 will be conducted: -

23.6.1 during SEBATA's business hours;

23.6.2 with the minimum of interference in the provision of the Services and SEBATA's other operations;

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- 23.6.3 at Kareeberg Local Municipality's cost, provided that Kareeberg Local Municipality shall not reimburse SEBATA for the time of SEBATA' Staff in providing assistance on the basis contemplated in this clause.
- 23.7 **Audits Conducted by SEBATA.** Within 14 (fourteen) days following receipt, SEBATA will make available to Kareeberg Local Municipality the findings of any review or audit conducted by SEBATA (including its internal and/or external auditors) of SEBATA' performance under this MOU. With respect to audits conducted by SEBATA (including its internal and/or external auditors) of its operations more generally, SEBATA will make available to Kareeberg Local Municipality the findings of any such review or audit to the extent such findings reflect conditions and events that could reasonably be expected to have a material adverse impact on Kareeberg Local Municipality or the Services.
- 23.8 **Remedial Action.** Promptly following an audit or inspection by or on behalf of Kareeberg Local Municipality or SEBATA, Kareeberg Local Municipality and SEBATA shall meet to discuss the findings required to be disclosed in terms of this clause 23. Within 30 (thirty) days of such meeting, SEBATA shall prepare for Kareeberg Local Municipality's review and approval a first draft of an appropriate remedial action plan ("Remedial Action Plan") to respond to the deficiencies identified in and changes suggested by such finding, if any. Upon approval of the Remedial Action Plan by Kareeberg Local Municipality, SEBATA shall promptly implement such plan in accordance with any milestones or schedules set forth in such plan. SEBATA shall not charge Kareeberg Local Municipality for the resources employed or other costs incurred in connection with the implementation of the Remedial Action Plan.
- 23.9 **Overcharges.** If an audit reveals an overcharge, SEBATA shall promptly refund the overcharge in accordance with clause 12.
- 24. ASSIGNMENT & SUBCONTRACTING**
- 24.1 **No Assignment.** Neither Party shall be entitled to cede, assign, delegate or otherwise transfer the benefit or burden of all or any part of this MOU without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed.
- 24.2 **Right of SEBATA to sub-contract.** SEBATA may sub-contract its obligations in terms of this MOU to a Third Party, provided that: -
- 24.2.1 such sub-contracting shall not absolve SEBATA from responsibility for achieving the Service Levels or complying with its obligations in terms of this MOU;
- 24.2.2 SEBATA shall at all times remain the sole point of contact for Kareeberg Local Municipality;
- 24.2.3 the appointment of any such subcontractor shall be subject to the prior written approval of Kareeberg Local Municipality.
- 25. NON-SOLICITATION OF STAFF**
- The Parties agree that neither Party shall, without the prior written consent of the other, either during, or within 12 (twelve) months of the termination of this MOU, engage, employ or otherwise solicit for employment whether directly or indirectly, any person who during the currency of this MOU was a member of the Staff of the other party involved in the acquisition or provision of Services in terms hereof. To the extent that the Party whose Staff is recruited ("the Affected Party"):

[Handwritten signatures and initials]
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- 25.1 consents to any such employment, the recruiting Party ("the Recruiting Party") shall pay the Affected Party a recruitment fee equal to 25% of the gross annual package (including any quantifiable bonuses or incentives and annualised if necessary) paid by the Innocent Party to the member of Staff concerned ("Gross Package");
- 25.2 does not consent to any such employment, the Recruiting Party shall, on written demand from the Affected Party, pay the Affected Party a recruitment fee equal to 100% of the Gross Annual Package of the Staff concerned;
- 25.3 and such amount shall be payable within 30 (thirty) days of commencement of such member of Staff's appointment by the Recruiting Party.

26. RELATIONSHIP AND DUTY OF GOOD FAITH

- 26.1 **No temporary employment service.** Nothing in this MOU shall be construed as constituting a temporary employment service as contemplated in section 198 of the Labour Relations Act, 1995.
- 26.2 **No partnership.** Nothing in this MOU shall be construed as creating a partnership between the Parties and neither Party shall have any authority to incur any liability on behalf of the other or to pledge the credit of the other Party.
- 26.3 **Good Faith.** The Parties shall at all times owe each other a duty of good faith and shall, in all dealings with each other and in respect of the Services act according to such standard.

27. INTERPRETATION

This MOU shall be subject to the following rules of interpretation.

27.1 Parts of the MOU. Unless otherwise stated:


- 27.1.1 references to clauses, sub-clauses, schedules or paragraphs are to be construed as references to clauses, sub-clauses, schedules or paragraphs of this MOU;
- 27.1.2 references in schedules to clauses shall, unless expressly provided otherwise, be deemed to be a reference to clauses in such schedule;
- 27.1.3 clause headings and sub-headings are for convenience only and shall not affect the interpretation of this MOU.

27.2 Enactments. References to any enactment shall be deemed to include references to such enactment as re-enacted, amended or extended from time to time.

27.3 References. References to: -

- 27.3.1 persons shall include companies, corporations, trusts and partnerships;
- 27.3.2 any Party shall, where relevant, be deemed to be references to, or to include, as appropriate, their respective successors or permitted assigns;
- 27.3.3 the singular shall include the plural and vice versa;
- 27.3.4 any one gender shall include a reference to all other genders.
- 27.3.5 days shall be deemed to be to business days, unless specifically stipulated as being calendar days.

27.4 Survival of terms. The expiration or termination of this MOU shall not affect such of the provisions of this MOU as expressly provide that they will operate after any such expiration or termination or which of

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necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.

- 27.5 Substantive provisions.** If any provision in a definition is a substantive provision conferring rights or imposing duties on any Party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in this MOU.
- 27.6 Calculation of days.** When any number of days is prescribed in this MOU, same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day falls on a day which is not a business day, in which case the last day shall be the next Business Day.
- 27.7 Definitions apply in schedules.** Expressions defined in clause 3 shall bear the same meanings in the schedules to this MOU. Where any term is defined within the context of any particular clause in this MOU, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this MOU, notwithstanding that the term has not been defined in clause 3.
- 27.8 Approvals and consents.** Where the approval or consent of any Party is required in terms of this MOU, the Parties hereby agree that such approval or consent shall not, unless expressly provided to the contrary, be unreasonably withheld or delayed by the Party who is required to give same
- 27.9 Neutral construction.** The rule of construction that the MOU shall be interpreted against the Party responsible for the drafting or preparation of the MOU, shall not apply.
- 27.10 The term "including".** The words "include", "includes", and "including" means "include without limitation", "includes without limitation", and "including without limitation". The use of the word "including" followed by a specific example shall not be construed as limiting the meaning of the general wording preceding it.
- 27.11 Common meaning.** Terms other than those defined within the MOU will be given their plain English meaning, and those terms, acronyms, and phrases known in general commercial or industry-specific practice, will be interpreted in accordance with their generally accepted meanings.

28. GENERAL



- 28.1 Publicity.** Neither Party shall make or issue any formal or informal announcement, advertisement or statement to the press in connection with this MOU without the prior written consent of the other Party, or cite Kareeberg Local Municipality as one of its Clients, without the express written consent of Kareeberg Local Municipality.
- 28.2 Whole Agreement.** This MOU constitutes the entire Agreement between the Parties in respect of the subject matter hereof and neither Party shall be bound by any undertakings, representations, warranties or promises not recorded in this MOU.
- 28.3 Waiver.** No waiver of any of the terms and conditions of this MOU will be binding or effectual for any purpose unless expressed in writing and signed by the Party hereto giving the same, and any such waiver will be effective only in the specific instance and for the purpose given. No failure or delay on the part of either Party hereto in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.


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- 28.4 **Severability.** Should any of the terms and conditions of this MOU be held to be invalid, unlawful or unenforceable, such terms and conditions will be severable from the remaining terms and conditions which will continue to be valid and enforceable. If any term or condition held to be invalid is capable of amendment to render it valid, the Parties agree to negotiate an amendment to remove the invalidity.
- 28.5 **Applicable Law.** This MOU will be governed by and construed in accordance with the law of South Africa and all disputes, actions and other matters relating thereto will be determined in accordance with such law.
- 28.6 **Jurisdiction.** Subject to clause 21, the Parties hereto hereby consent and submit to the exclusive jurisdiction of courts of South Africa in any dispute arising from or in connection with this MOU.
- 28.7 **Costs.** Each Party shall bear and pay its own fees and costs of and incidental to the negotiation, drafting, preparation and execution of this MOU.


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29. DOMICILIA

The Parties choose as their respective *domicilium citandi et executandi* for purposes of this MOU as set out hereunder.

SEBATA

No. 66 Park Lane

Sandown

Sandton

2146

Tel: +27(0)11 218 8000

Fax: +27(0)86 274 3900

E-mail: carl.stroud@sebata.co.za

Kareeberg Local Municipality

PO Box 10

Carnarvon

8925

Tel: 053 3823012

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THUS DONE AT Blenfontein ON THIS THE 19 DAY OF May 2017

Accepted for and on behalf of:

SEBATA MUNICIPAL SOLUTIONS (PROPRIETARY) LIMITED

NAME: Carl Stroud

Who warrants his/her authority hereto

CAPACITY: Managing Director

AUTHORITY: RP [Signature]

AS WITNESSES:

[Signature]
[Signature]

THUS DONE AT CARNARVON ON THIS THE 18 DAY OF MAY 2017

Accepted for and on behalf of:

KAREEBERG LOCAL MUNICIPALITY

NAME: WILLEM DE BRUIN

Who warrants his/her authority hereto

CAPACITY: MUNICIPAL MANAGER

AUTHORITY: [Signature]

AS WITNESSES:

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SCHEDULE 1 (Per user license fee and implementation cost summary)



Project Stream (ZAR)	Duration days	Work Hours	Rate	Cost
License Fees (Based on 5 high end users; R6 000 per user, per annum)				R 30 000.00
Once-off Fee - SebataEMS				R 227 809.34
Phase 1: Project Planning and Project management				R 108 000.00
List of Stakeholders	1	8	750	R 6 000.00
Commissioning of a Project	1	8	750	R 6 000.00
MOU, Statements of work and Project Charter	1	8	750	R 6 000.00
Change Management - Specialist	0	0	750	R 0.00
Project Management, Coordination and Steering Committee meetings	15	120	750	R 90 000.00
Phase 2: Gap Analysis and readiness assessment				R 72 800.00
IT assessment and sign-off	10	80	750	R 48 800.00
Setup and configuration	4	32	750	R 24 000.00
Phase 3: HR/Payroll				R 216 000.00
Assessment and possible dependencies	4	32	750	R 24 000.00
Extractions, import and validations	4	32	750	R 24 000.00
Setups and configuration	10	80	750	R 60 000.00
Training	4	32	750	R 24 000.00
Parallel and go live runs	4	32	750	R 24 000.00
Handholding and Post Go-Live Support	10	80	750	R 60 000.00
Phase 4: Planning (IDP and SDBIP) and Budgeting				R 156 000.00
IDP/ SDBIP / Project-based Budget Assessment	4	32	750	R 24 000.00
Extractions, imports and validations	4	32	750	R 24 000.00
Setup, configuration and testing	4	32	750	R 24 000.00
Planning Training	4	32	750	R 24 000.00
Handholding	10	80	750	R 60 000.00
Phase 5: Billing				R 327 000.00
Billing Assessment and possible dependencies	4	32	750	R 24 000.00
Extractions, imports and validations	4	32	750	R 24 000.00
Setup, configuration and testing	4	32	750	R 24 000.00
Billing Parallel and live run	25	200	750	R 150 000.00
Training	7.5	60	750	R 45 000.00
Handholding	10	80	750	R 60 000.00
Phase 6: Ledger/Assets/Inventory/SCM				R 600 000.00
Assets				R 132 000.00
Asset Assessment	4	32	750	R 24 000.00
Extractions, imports and validations	10	80	750	R 60 000.00
Asset Training	4	32	750	R 24 000.00
Assets Handholding	4	32	750	R 24 000.00

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Stores				R 132 000.00
Stores Assessment	4	32	750	R 24 000.00
Extractions, Imports and validations	10	80	750	R 60 000.00
Stores Training	4	32	750	R 24 000.00
Stores Handholding	4	32	750	R 24 000.00
Supply Chain				R 132 000.00
SCM Assessment	4	32	750	R 24 000.00
Extractions, Imports and validations	10	80	750	R 60 000.00
SCM Training	4	32	750	R 24 000.00
SCM Handholding	4	32	750	R 24 000.00
Ledger Configuration and Testing				R 204 000.00
Ledger Assessment	4	32	750	R 24 000.00
Extractions, Imports and validations	10	80	750	R 60 000.00
Training on ledger	10	80	750	R 60 000.00
Ledger Handholding	10	80	750	R 60 000.00
Subtotal for mSCOA Project Implementation Excluding Disbursement				R 1 707 609.34
<u>Additional Services not on the RT25-2016 (Optional)</u>				
People and resource gap analysis	15	120	750	R 90 000.00
Process, workflow, best practice and governance gap analysis	30	240	750	R 180 000.00
mSCOA Segmental trial balance, budgeting and transactional gap analysis	35	280	750	R 210 000.00
Data cleansing	65	520	750	R 390 000.00
Audit Files	35	280	750	R 210 000.00
Compiling mSCOA Budget	58	464	750	R 348 000.00
Document Management System	27	216	750	R 162 000.00
Subtotal for additional mSCOA deliverables Excluding Disbursement				R 1 590 000.00

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SCHEDULE 2 (Tariffs)

SebataEMS On-site Support Tariffs	Cost Excluding Vat
Top Management	R 1 200.00
Management	R 950.00
Specialist	R 910.00
Senior	R 810.00
Consultant	R 710.00
Junior	R 550.00

SebataEMS Subsistence and Travel Tariffs	Cost
Travel per km	R 5.45 p/km
Accommodation: Hotels	R 1 200.00
Accommodation: B&B	R 800.00
Breakfast	R 120.00
Lunch	R 120.00
Dinner	R 150.00
Toll fees, Parking, Airfares	Actuals

*Support and subsistence tariffs exclude VAT and will increase on 1 July 2017 and on the same dates for the years to come.

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SEBATA EMIS™
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SCHEDULE 3 (RT25 Detailed and summary, for submission to NT)

SUMMARY SHEET - HOSTED	TOTAL IN ZAR (Inclusive of VAT)
Hardware requirement	R 0.00
Once off License fee	R 259 702.65
Annual maintenance fee - Year 1	R 0.00
Annual maintenance fee - Year 2	R 0.00
Annual maintenance fee - Year 3	R 0.00
Annual service fee - Year 1	R 325 800.00
Annual service fee - Year 2	R 358 380.00
Annual service fee - Year 3	R 394 218.00
After Implementation - Year 1	R 322 080.00
After Implementation - Year 2	R 354 288.21
After Implementation - Year 3	R 389 716.49
Status assessment cost	R 171 912.00
Change management cost	R 0.00
Requirement assessment	R 253 080.00
Customise and setup	R 218 880.00
Testing	R 362 520.00
Training	R 256 500.00
Hand-holding	R 424 080.00
CATEGORY B4 - HOSTED	R 4 091 157.35

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Classification module	1. License Fee (must include ALL next elements)				2. Professional Services			Assessment of current status	Operational change management	Assessment of requirements	3. Implementation Cost				User Acceptance Testing (UAT)	Implementation in Training	Handholding fee based on site visits
	One-off fee	Annual service level agreement fee			After implementation on-site support (consultant's fee)						Customization and setup of parameters						
		Year 1	Year 2	Year 3	Year 1	Year 2	Year 3				Operating system and server setup	Database configuration and setup	Security rules & definitions	Software solution			
IPM/SL	R 230 700.00	R 323 600.00	R 354 300.00	R 380 210.00	R 222 000.00	R 254 200.00	R 267 100.00	R 271 910.00	R 0.00	R 253 000.00	R 100 000.00	R 00 307.30	R 31 000.00	R 0.00	R 162 500.00	R 350 000.00	R 0 000 000.00
Analytics (DWH)																	
Hardware requirements	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00
Operating System	R 0.00	R 0.00	R 0.00	R 0.00	R 50 000.00	R 53 200.00	R 70 210.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00
Database	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00
Software Solutions	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00
Hosting Fee	R 0.00	R 995 000.00	R 115 100.00	R 257 910.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00
ERP	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00
Breakdown of system offering																	
Chart of Accounts																	
General Ledger - accounting module																	
Inventory module	R 53 315.00	R 0 000.00	R 0 000.00	R 0 000.00	R 22 700.00	R 30 530.00	R 38 040.00	R 75 240.00	R 0.00	R 91 000.00	R 30 000.00	R 70 700.00	R 0 000.00	R 0.00	R 70 310.00	R 53 315.00	R 00 000.00
IDP / Budget	R 1 700.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 1 700.00	R 0.00	R 0.00	R 0.00	R 0.00	R 1 000.00	R 0 000.00	R 0 000.00
Integrated development plan (IDP) maintenance	R 0 000.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00
Budget module - Directly linked and integrated from the IDP and Project delivery and MIS/CRM system	R 0 000.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00
MIS/CRM system	R 0 000.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00
Supply Chain management	R 0 000.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00
Contract management	R 0 000.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00

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	1. License Fee (must include ALL cost elements)			2. Professional Services				3. Implementation Costs									
	One-off fee	Annual service level agreement fee		After implementation on-site support (on-call) costs				Assessment of current status	Organisational change management	Assessment of requirements	Customisation and setup of parameters				User Acceptance Testing (UAT)	Implementation or Training	Handholding (on-site) or remote handholding
											Operating system and server setup	Database configuration and setup	Security roles & distribution	Software solution			
Accounts Payable	R 1 700.51	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 654.16	R 0.00	R 1 700.40	R 501.42	R 481.54	R 109.84	R 0.00	R 1 817.60	R 1 787.50	R 7 170.40
Customers with payments	R 7 987.03	R 0.00	R 0.00	R 0.00	R 4 471.48	R 5 089.81	R 5 954.42	R 1 719.17	R 0.00	R 7 987.03	R 1 004.85	R 961.07	R 718.88	R 0.00	R 7 625.78	R 7 170.00	R 4 740.00
Management Accounting	R 1 700.51	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 654.16	R 0.00	R 1 700.40	R 501.42	R 481.54	R 109.84	R 0.00	R 1 817.60	R 1 787.50	R 7 170.40
Leasing variable	R 5 266.75	R 0.00	R 0.00	R 0.00	R 2 774.81	R 3 015.00	R 3 166.50	R 7 438.24	R 0.00	R 5 266.60	R 2 011.76	R 1 926.14	R 437.76	R 0.00	R 7 250.40	R 5 170.00	R 8 481.40
Asset Management	R 20 776.21	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 11 767.95	R 0.00	R 20 776.40	R 8 054.78	R 7 701.54	R 1 751.04	R 0.00	R 29 003.60	R 20 776.00	R 33 976.40
Financial asset management	R 1 700.51	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 654.16	R 0.00	R 1 700.40	R 501.42	R 481.54	R 109.84	R 0.00	R 1 817.60	R 1 787.50	R 7 170.40
Security and recovery (for maximum value)	R 12 885.13	R 0.00	R 0.00	R 0.00	R 7 248.97	R 10 171.67	R 11 188.83	R 6 591.60	R 0.00	R 12 885.00	R 6 051.24	R 5 819.36	R 1 274.40	R 0.00	R 18 176.00	R 12 875.00	R 21 204.00
Financial Management and Administration	R 1 700.51	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 654.16	R 0.00	R 1 700.40	R 501.42	R 481.54	R 109.84	R 0.00	R 1 817.60	R 1 787.50	R 7 170.40
Combinat	R 12 885.13	R 7 400.00	R 7 400.00	R 7 064.00	R 27 740.91	R 30 915.00	R 31 966.50	R 6 591.60	R 0.00	R 12 885.00	R 6 051.24	R 5 819.36	R 1 274.40	R 0.00	R 18 176.00	R 12 875.00	R 21 204.00
Policy cash system	R 2 567.05	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 1 719.17	R 0.00	R 2 567.00	R 1 004.85	R 961.07	R 718.88	R 0.00	R 2 625.78	R 2 565.00	R 4 740.00
Grant management system	R 2 567.05	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 1 719.17	R 0.00	R 2 567.00	R 1 004.85	R 961.07	R 718.88	R 0.00	R 2 625.78	R 2 565.00	R 4 740.00
Accounts Receivable	R 5 194.05	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 1 438.24	R 0.00	R 5 194.00	R 2 011.76	R 1 926.14	R 437.76	R 0.00	R 7 250.40	R 5 170.00	R 8 481.40
Billing type	R 38 751.00	R 7 500.00	R 7 500.00	R 6 075.00	R 46 731.95	R 50 916.11	R 55 044.16	R 7 578.80	R 0.00	R 38 751.00	R 15 107.77	R 14 446.00	R 2 863.70	R 0.00	R 54 176.00	R 38 475.00	R 63 612.00
Point of Sales system	R 5 984.05	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 1 438.24	R 0.00	R 5 984.00	R 2 011.76	R 1 926.14	R 437.76	R 0.00	R 7 250.40	R 5 170.00	R 8 481.40
Managed services	R 1 700.51	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 654.16	R 0.00	R 1 700.40	R 501.42	R 481.54	R 109.84	R 0.00	R 1 817.60	R 1 787.50	R 7 170.40
Report writing system / integration at district level from local party	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00
Data collection system	R 7 537.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 1 719.17	R 0.00	R 7 537.00	R 1 004.85	R 961.07	R 718.88	R 0.00	R 7 625.78	R 7 170.00	R 4 740.00
Albion system	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00

PK
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MEMORANDUM OF UNDERSTANDING
SEBATA EMSTM
June 2016 / 2017

	1. License Fee (includes ALL cost elements)				2. Profit (includes) Services				3. Implementation Cost									
	Once-off fee	Annual service level agreement fee			After implementation on-site support (consultant on-site)			Assessment of current status	Organizational change management	Assessment of requirements	Customization and setup of parameters				Software installation	User Acceptance Testing (UAT)	Implementation & Training	Handriding fees based on value added knowledge
Criminal records system	R 0.00	R 0.00	R 0.00		R 0.00	R 0.00		R 0.00	R 0.00	R 0.00	Overriding operating system and server setup	Database configuration and setup	Security review & definitions	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00
Pen and emergency services systems	R 0.00	R 0.00	R 0.00		R 0.00	R 0.00		R 0.00	R 0.00	R 0.00		R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00
Police production market systems	R 0.00	R 0.00	R 0.00		R 0.00	R 0.00		R 0.00	R 0.00	R 0.00		R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00
Library system	R 0.00	R 0.00	R 0.00		R 0.00	R 0.00		R 0.00	R 0.00	R 0.00		R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00
Municipal systems	R 0.00	R 0.00	R 0.00		R 0.00	R 0.00		R 0.00	R 0.00	R 0.00		R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00
Public system	R 0.00	R 0.00	R 0.00		R 0.00	R 0.00		R 0.00	R 0.00	R 0.00		R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00
Traffic lights systems	R 0.00	R 0.00	R 0.00		R 0.00	R 0.00		R 0.00	R 0.00	R 0.00		R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00
Transport services	R 0.00	R 0.00	R 0.00		R 0.00	R 0.00		R 0.00	R 0.00	R 0.00		R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00
Webcam bridge system	R 0.00	R 0.00	R 0.00		R 0.00	R 0.00		R 0.00	R 0.00	R 0.00		R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00
Property Management	R 1 296.51	R 0.00	R 0.00		R 0.00	R 0.00		R 0.00	R 0.00	R 1 265.40	R 567.12	R 481.54	R 109.44	R 0.00	R 1 812.60	R 1 281.50	R 2 120.40	R 2 120.40
Property Register	R 1 296.51	R 0.00	R 0.00		R 0.00	R 0.00		R 0.00	R 0.00	R 1 265.40	R 567.12	R 481.54	R 109.44	R 0.00	R 1 812.60	R 1 281.50	R 2 120.40	R 2 120.40
Human Capital Management	R 1 296.51	R 0.00	R 0.00		R 0.00	R 0.00		R 0.00	R 0.00	R 1 265.40	R 567.12	R 481.54	R 109.44	R 0.00	R 1 812.60	R 1 281.50	R 2 120.40	R 2 120.40
Payroll	R 33 761.31	R 5 100.00	R 5 610.00	R 6 171.00	R 5 548.82	R 6 103.00	R 6 713.00	R 7 348.56	R 0.00	R 31 900.40	R 13 089.07	R 12 519.84	R 2 845.44	R 0.00	R 47 117.60	R 33 345.00	R 55 120.40	R 0.00
Administrative	R 0.00	R 0.00	R 0.00		R 0.00	R 0.00		R 0.00	R 0.00	R 0.00		R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00
Vehicle Maintenance	R 0.00	R 0.00	R 0.00		R 0.00	R 0.00		R 0.00	R 0.00	R 0.00		R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00	R 0.00
Risk	R 1 296.51	R 0.00	R 0.00		R 0.00	R 0.00		R 0.00	R 0.00	R 1 265.40	R 567.12	R 481.54	R 109.44	R 0.00	R 1 812.60	R 1 281.50	R 2 120.40	R 2 120.40
Reporting	R 1 296.51	R 0.00	R 0.00		R 0.00	R 0.00		R 0.00	R 0.00	R 1 265.40	R 567.12	R 481.54	R 109.44	R 0.00	R 1 812.60	R 1 281.50	R 2 120.40	R 2 120.40
Report writer	R 1 296.51	R 0.00	R 0.00		R 0.00	R 0.00		R 0.00	R 0.00	R 1 265.40	R 567.12	R 481.54	R 109.44	R 0.00	R 1 812.60	R 1 281.50	R 2 120.40	R 2 120.40
Schedule reporting	R 1 296.51	R 0.00	R 0.00		R 0.00	R 0.00		R 0.00	R 0.00	R 1 265.40	R 567.12	R 481.54	R 109.44	R 0.00	R 1 812.60	R 1 281.50	R 2 120.40	R 2 120.40
Annual financial statements	R 0.00	R 0.00	R 0.00		R 0.00	R 0.00		R 0.00	R 0.00	R 1 265.40	R 567.12	R 481.54	R 109.44	R 0.00	R 1 812.60	R 1 281.50	R 2 120.40	R 2 120.40