



## African Development Bank

Reference: ADB/CTR/CGSP/2014/0008 - Mobile Devices Management Solution

### **MAINTENANCE CONTRACT**

**THIS MAINTENANCE CONTRACT** is entered into by and between **THE AFRICAN DEVELOPMENT BANK** (the “Bank”), and **[insert name of supplier]** (the “Supplier”).

**Parties** mean the Supplier and the Bank collectively, and **Party** means any one of them, as the context may indicate.

**WHEREAS** the Bank and the Supplier have concluded a contract for the provision and installation of Mobile Devices Management Solution] (the “Contract”);

**AND WHEREAS** the Bank and the Supplier have agreed, in accordance with the said Contract, that the Supplier shall provide maintenance support and routine assistance in respect of firmware, software, hardware and infrastructure, as well as provide updates and upgrades for the operating system for the duration of this Maintenance Contract.

**NOW THEREFORE**, the Parties hereto agree as follows:

#### **1. SCOPE AND TERM OF CONTRACT**

- 1.1 The purpose of this Maintenance Contract is to describe the Supplier's responsibilities in the maintenance of hardware equipment and software at the Bank's premises. The Supplier shall perform the services and carry out its obligations with due diligence, efficiency and economy, in accordance with standards specified in the Service Level Agreement. The Supplier shall observe sound management practices, and employ as appropriate advanced technology and safe methods of work. In respect of this Maintenance Contract, the Supplier shall always act as a faithful adviser to the Bank and shall at all times support and safeguard the Bank's legitimate interests in any dealings with sub-contractors or third parties.
- 1.2 This Maintenance Contract shall remain valid for a period of [insert initial period] (“Initial Period”) commencing on the day following Operational Acceptance date in accordance with the Contract for the supply, installation, training and maintenance of System concluded between the Bank and the Supplier. Maintenance costs are detailed in the pricing schedule in the Contract. Upon expiry of the Initial Period, this Maintenance Contract may be renewed for further periods of one year each up to a maximum of [...] consecutive years, on such terms and conditions as agreed by the Parties.
- 1.3 This Maintenance Contract is part of the Contract and subject to all its terms and conditions. For greater clarity, this Maintenance Contract can be terminated by itself without affecting the rest of the Contract, should the conditions for termination exist pursuant to the GCC.
- 1.4 The Supplier warrants that it is qualified by the manufacturer, in case of third party products, to supply and provide maintenance services, technical or help desk support, new version upgrade and/or other services related to the hardware and software installed. The Supplier further warrants that its work will not negatively affect the performance of the System.

#### **2. MAINTENANCE FEES - PAYMENT TERMS**



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- 2.1 In consideration of the provision of maintenance services hereunder, the Bank agrees to pay to the Supplier an amount detailed in the pricing schedule in the Contract as Annual Maintenance Fee, for the Initial Period. The Bank shall prepare an inventory of devices to be maintained, before commencement of this Maintenance Contract, and subsequently, within three (3) months to the end of each maintenance year, for the following year. Payment shall be effected by the Bank after receipt of itemized invoice from the Supplier indicating the breakdown of service charges. The Supplier shall not increase such amount (subject to increases due to the purchase of additional products) during the Initial Period. After the Initial Period the Supplier shall not increase the amount for the maintenance services by more than [set percentage]% per year.
- 2.2 The maintenance fee for the Initial Period shall be paid after Operational Acceptance on presentation to the Bank of appropriate invoices and supporting documents. Payment shall be made by the Bank within thirty (30) days of receipt of the relevant invoice and related documents including certification by the Bank's authorized representative that the services have been satisfactorily performed in accordance with the terms of this Maintenance Contract.

### **3. OBLIGATIONS OF THE SUPPLIER**

#### **3.1 SOFTWARE MAINTENANCE AND ENHANCEMENT**

##### **3.1.1 SERVICES**

###### **- Support and Routine Assistance**

The Supplier's software support personnel shall be available to assist and consult with the staff of the Bank [24 hours a day, seven days a week]. The Supplier and/or Local Representative Agent shall provide necessary support services to answer questions and to assist the Bank in resolving problems related to the use and operation of the System supplied and installed by the Supplier. The Supplier and/or Local Representative Agent shall be responsible for training Bank's Staff to operate the new and/or upgraded System.

###### **- Software Errors and Corrections**

So long as the System is under this Maintenance Contract, the Supplier agrees to correct errors or defects in the products (hardware and software) sold to the Bank and to supply such corrections to the Bank at no additional charge. The Bank agrees to report promptly to the Supplier any and all errors or defects in the products, which it may discover. The Supplier shall correct the errors or defects in the products promptly after they are discovered by the Bank or are reported by the Supplier. Corrections to the System shall be provided to the Bank on CD-ROM or as a download via the internet, or in the form of specific instructions to be performed by the Bank through on site intervention or electronic access to the Bank's computers/software system.

###### **- Enhancement and New Releases of Software and Documentation**

The Supplier shall provide and Bank shall install, at no additional cost to the Bank all new versions, releases, and updates for all security related software that are used in the System, within thirty (30) days of their availability from the Supplier to other clients



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and no later than three (3) months after they are released in the country of origin of the System. New releases of the System shall be supplied on CD ROM or as a download via the internet. Appropriate documentation and installation instructions with respect to new releases shall also be provided. The Bank agrees, with the effective telephone support of the Supplier, to install each new release of the System as soon as possible.

### **3.2 HARDWARE MAINTENANCE AND ENHANCEMENT**

#### **3.2.1 SERVICES**

The Supplier and/or Local Representative Agent shall provide the following maintenance and support services:

##### **- Support and Routine Assistance**

The Supplier's support staff shall provide telephone support services to answer questions and to assist the Bank, either on the phone or through on-site intervention, in resolving problems related to the use and operation of the hardware [24 hours a day, seven days a week, 5 days a week]. The Supplier shall ship replacement hardware, via expedited courier, within one business day of determination of the need to replace any defective hardware. The Bank shall ship to Supplier within ten (10) business days, at Supplier's cost, such defective hardware. The Supplier shall be responsible for training the Bank's personnel to use the hardware in case of System and/or hardware upgrade. Support shall be provided via telephone, email and on-site intervention where necessary.

### **4. DELAYS IN THE SUPPLIER'S PERFORMANCE**

All Services to be performed under this Maintenance Contract shall be provided by the Supplier in accordance with the time schedule prescribed hereunder. If at any time during performance of this Maintenance Contract, the Supplier should encounter conditions impeding timely delivery and performance of the Services, the Supplier shall promptly notify the Bank in writing of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the Supplier's notice, the Bank shall evaluate the situation and may at its discretion extend the Supplier's time for performance, or terminate the Maintenance Contract with or without claiming liquidated damages from the Supplier.

### **5. ENTRY INTO FORCE**

This Maintenance Contract shall be effective on the day following the Operational Acceptance date as defined in the Contract.