

# LEASE AGREEMENT

between

**Megasurf Wireless Internet CC**

trading as

**Megasurf**

(hereinafter referred to as the LESSOR)

and

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(hereinafter referred to as the LESSEE)

## 1. INTRODUCTION

- 1.1 The LESSOR is the owner and/or agent of certain PREMISES which are suitable for the installation of certain radio telecommunication equipment to be used by the customers of the LESSEE, or the LESSEE himself.
- 1.2 The LESSEE is a supplier/owner of such private radio telecommunication equipment.
- 1.3 The LESSEE wishes to rent a SITE in/on the PREMISES of the LESSOR for the purpose of installing such radio telecommunication equipment to facilitate the services the LESSEE requires (the LESSEE's EQUIPMENT)
- 1.4 The LESSOR wishes to let to the LESSEE a SITE on such PREMISES subject to the terms and conditions below.

## 2. THE PARTIES

- 2.1 The LESSOR is **Megasurf** herein represented by **M G Jackson** in his capacity as **Agent/ Owner** and who guarantees that he is fully authorized to enter into this agreement by virtue of resolution of the Board of Directors.
- 2.2 The LESSEE is \_\_\_\_\_ duly represented by \_\_\_\_\_ who is fully authorized to enter into this agreement by virtue of a resolution of the Board of Directors or Management Board.

## 3. THE LOCATION

- 3.1 The LESSOR hereby lets to the LESSEE who hires the SITE :

\_\_\_\_\_ ("the SITE")

with site co-ordinates:

EAST: \_\_\_\_\_ SOUTH : \_\_\_\_\_

Which SITE is in/on the PREMISES situated at

\_\_\_\_\_ ("the PREMISES")

- 3.2 The LESSOR warrants that he is the owner of the PREMISES or alternatively that he is entitled to lease the SITE on the PREMISES.

#### **4. RENTAL**

- 4.1 The rental payable by the LESSEE to the LESSOR will be paid on a monthly basis, for the LESSEE's equipment as defined in clause 12 of this agreement, or any possible approved addendums added to this agreement. This rental will be subject to annual escalation on 1 March each year, compounded for the period of the lease.
- 4.2 The rental in clause 4.1 will be payable in advance upon commencement date of this agreement and all other monthly payments within ten (10) days from date of invoice, at the office of the LESSOR situated at 72 Arhbeck street , Vanderbijlpark, 1900. Such payments can be made either via electronic transfer or direct deposits. Proof of payment must be faxed to Megasurf – Accounting Division 0866 937 278.
- 4.3 The first invoicing date will be the end of \_\_\_\_\_.

#### **5. DURATION**

- 5.1 The lease will commence on \_\_\_\_\_ and will continue for a minimum period of one (5) year, subject to clause 6.1.this agreement. The LESSEE will have the right to extend the lease for a further one (5) year.

#### **6. TERMINATION**

- 6.1 The LESSOR may terminate the lease if the lease agreement between the LESSOR and the landlord for the land upon which the SITE is located, is terminated, or force majeure renders the site unsuitable.
- 6.2 Either party may terminate this agreement by mutual agreement. One month's written notice of the intention to terminate is required.
- 6.3 Should any party breach any provision of this agreement and fail to remedy that breach within fourteen (14) days of receiving written notice from the aggrieved party, the aggrieved party shall be entitled to terminate this agreement without notice.
- 6.4 The aggrieved party shall be entitled to the above without prejudice to any other right that the aggrieved party may have, like the right to claim damages.
- 6.5 In particular, should the LESSEE remain in breach of this agreement in any way, the LESSOR will have the right to confiscate the radio equipment of the LESSEE and sell it to recover any amount owing by the LESSEE in terms of this agreement.

#### **7. THE LESSOR**

- 7.1 The LESSOR does not warrant that the SITE is suitable for the purposes for which it has been let.

- 7.2 The LESSOR will permit officials as well as employees, sub-contractors or agents of the LESSEE to enter the PREMISES and specifically the SITE for the purpose of installing, erection, inspection, servicing or repairing the LESSEE's equipment. Subject to site specific considerations, there will be no fixed times for entry but such entries and repairs must be exercised with the due consideration to the occupants of the PREMISES.
- 7.3 The LESSOR undertakes to:
- 7.3.1 Provide duplicate keys to the SITE, where the SITE is ordinarily under lock. Such keys must be returned to the LESSOR at the expiration of the lease agreement.
  - 7.3.2 If applicable, install antennae and antennae feeder cables, and filtering equipment (the LESSOR's EQUIPMENT) in terms of the agreed scope of works/specification, at its own cost, which equipment will remain the property of the LESSOR. The LESSOR's EQUIPMENT and lightning protection will be installed in accordance with the current recognized recommendations of SABS.
  - 7.3.3 Maintain the tower / mast / building and the LESSOR's EQUIPMENT.
  - 7.3.4 Supply AC power (both mains and back-up as available) to the LESSEE's equipment. This back-up power will be supplied where the electrical supply as supplied by the local authority fails, and will be supplied for a reasonable period to allow for the main supply to be restored.
- 7.4 During the existence of this lease and while the LESSEE's property is on the SITE, the LESSOR, its agents, representatives, employees or servants will not be held responsible for any loss, theft or damage howsoever caused including by negligence and gross negligence, that the LESSEE may suffer:
- 7.4.1 In respect of its property as installed on the SITE
  - 7.4.2 As a result of any breakdowns, interruption or failure in the electric current as supplied by the local authority;
  - 7.4.3 As a result of any breakdown or failure of the LESSEE's EQUIPMENT.

## **8. THE LESSEE**

- 8.1 The LESSEE will have the right to install and maintain radio telecommunication equipment on the SITE provided that both its installation and operation shall not cause any harm, danger or damage to the LESSOR, its servants, occupants, invitees or any person having legitimate access to the SITE or the PREMISES as a whole. The LESSEE indemnifies the LESSOR against all claims which may be made against the LESSOR as a result of any breach of the agreement.
- 8.2 The LESSEE warrants in favor of the LESSOR that the equipment installed and in use at all times complies with the requirements of the South African Bureau of Standards code of practice. Furthermore, the LESSEE undertakes to remove from the SITE any radio equipment (which is the property of the LESSEE) which caused interference to domestic radio, television and any other radio telecommunication equipment provided that the equipment is the cause of the interference and that the affected appliance or equipment has been correctly installed and functions according to specifications.
- 8.3 Where installed for his benefit, the LESSEE will be allocated specific locations for antennae and feeder cables at the location for the equipment. Unless by prior written arrangement, the LESSEE will not be allowed entry to the mast / tower or the use of antennae and feeder cables not allocated to and/or installed solely for the benefit of the LESSEE. The LESSEE may not add, move, and relocate equipment on the mast / tower without the prior written approval of the LESSOR.
- 8.4 All damages to the PREMISES, including the SITE, arising out of or in any way connected with the installation, inspection, servicing, repairing and general maintenance of the LESSEE's equipment, will

immediately be made good by the LESSEE. In the event of the LESSEE defaulting in this regard and remaining in default for a period of fourteen (14) days after written notice has been given by the LESSOR to the LESSEE requiring such default to be remedied, the LESSOR will be entitled to make good such damage, or cause such damage to be made good and recover the cost incurred in doing so, from the LESSEE.

- 8.5 The LESSEE will not be permitted to sublet the SITE or any portion of it. The LESSEE will not be permitted to cede, assign or make over this lease or any portion of the lease without the written consent of the LESSOR.
- 8.6 The LESSEE undertakes to ensure that the frequency/frequencies used by him on the SITE will be legally licensed / authorized by the Independent Communications Authority of South Africa or its successor or assigns. A copy of this frequency spectrum license / authority will be attached to this agreement and will form part of the lease agreement in that the LESSEE will not use any other frequencies on the SITE apart from the frequency / frequencies appearing on the license(s).
- 8.7 The LESSEE accepts that if the frequency / frequencies he intends using on the SITE causes serious interference to other SITE users or to himself which cannot be resolved following reasonable efforts by the LESSOR, the LESSEE will not be allowed to use the said frequency / frequencies on the SITE.
- 8.8 The LESSEE undertakes to pay the stamp duty and any other costs incidental to the drawing of this agreement.

## **9. DOMICILIUM**

- 9.1 The LESSOR chooses its domicilium citandi et executandi at 72 Arhbeck street, Vanderbijlpark, 1900.
- 9.2 The LESSEE chooses its domicilium citandi et executandi at \_\_\_\_\_, \_\_\_\_\_
- 9.3 Any notice or communication required or permitted to be given under this agreement shall be valid and effective only if in writing.
- 9.4 Any notice to be given by one party to the other in terms of this lease agreement shall be delivered by hand to a responsible person during ordinary business hours or sent by prepaid registered post to the other at the other at its domicilium citandi et executandi. Where such notices have been posted, it is deemed to have been delivered ten (10) days after posting.
- 9.5 Either parties shall be entitled to change its chosen domicilium citandi et executandi to another street address within the Republic of South Africa on notice to the other party provided that such change shall become effective only upon receipt by the other party of such notification.

## **10. JURISDICTION**

- 10.1 The LESSOR may at its election institute any proceedings at law which it may desire to institute for the enforcement of any rights conferred upon it in terms of this agreement of lease in the Magistrate's Court of any district having jurisdiction in respect of the LESSOR by virtue of Section 28 (1) Act No 32 of 1944, to the jurisdiction of which court the LESSEE hereby comments in terms of Section 45 (1) of Act No 32 of 1944.

## **11. GENERAL**

- 11.1 The agreement together with Annexure "A" and "B" and the relevant copy / copies of license(s) constitute the sole record of the agreement between the parties. No party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded in this agreement.

- 11.2 No additions to, variation of or agreed cancellation of the agreement shall be of any force or effect unless in writing and signed by or on behalf of the parties.
- 11.3 No relaxation or indulgence which any party may grant to any other shall constitute a waiver of the rights of the party and shall not preclude that party from exercising any rights which may have arisen in the past or which might arise in the future.

## 12. SYSTEMS TO BE INSTALLED

12.1 The systems to be installed are detailed in Annexure "B"

Signed at **Vanderbijlpark** on this \_\_\_st day of \_\_\_\_\_ 20\_\_

\_\_\_\_\_  
**M G Jackson**  
 On behalf of Megasurf (LESSOR)

\_\_\_\_\_  
**Witness 1**  
 On behalf of Megasurf

\_\_\_\_\_  
**Witness 2**  
 On behalf of Megasurf

Signed at..... on this .... Day of ..... 20\_\_

\_\_\_\_\_  
 On behalf of \_\_\_\_\_ (LESSEE)

\_\_\_\_\_  
**Witness 1**  
 On behalf of LESSEE

\_\_\_\_\_  
**Witness 2**  
 On behalf of LESSEE

## ANNEXURE A

**LEASE AGREEMENT DATA**

**SITE INFORMATION**

SITE NUMBER: \_\_\_\_\_

SITE NAME: \_\_\_\_\_

REGION: \_\_\_\_\_

SITE ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

ROUTE: \_\_\_\_\_

SITE TYPE: \_\_\_\_\_

**LESSOR'S DETAILS**

SITE OWNER NAME:		Megasurf Wireless Internet CC	
OWNER DOMICILIUM EXECUTANDI:		72 Ahrbeck Street	
		Vanderbijlpark	
		1900	
POSTAL ADDRESS:		P.O.Box 413	
		Vanderbijlpark	
		1900	
FINANCIAL DEPARTMENT:	Karen Struwieg	TECHNICAL DEPARTMENT:	Marius Jackson
TELEPHONE NUMBER:	013-7334900	TELEPHONE NUMBER:	0877 507 267
FAX NUMBER:	0866 937 278	FAX NUMBER:	0866 575 980
CELL NUMBER:	-	CELL NUMBER:	082 822 4724
CHEQUE PAYEE NAME:		Megasurf Wireless Internet	
BANK NAME: First National Bank		Nedbanks	
BRANCH NAME:		Vanderbijlpark	
BRANCH CODE:		174 837	
ACCOUNT TYPE:		Current / Cheque	
ACCOUNT NUMBER:		174 845 2711	

PLEASE INITIAL

**CONTRACTUAL DETAILS**

CONTRACT STARTING DATE: \_\_\_\_\_  
CONTRACT ENDING DATE: \_\_\_\_\_  
CONTRACT PERIOD: 5 year  
OPTION PERIODS: 5 x 5 year option

MONTHLY RENTAL (Excluding VAT): Total cost for all systems as per Annexure B

ESCALATION METHOD: Compounded  
ESCALATION FREQUENCY: Annually  
ESCALATION STARTING DATE: 1 March 20\_\_  
ESCALATION PERCENTAGE: 12%

ELECTRICAL CONSUMPTION: Included in monthly rental

ACCESS HOURS FOR INSTALLATION AND MAINTENANCE PURPOSES: 24 hours 365 days per year

NORMAL HOURS: Yes  
AFTER HOURS: Yes  
WEEKENDS: Yes

**LESSEE'S INFORMATION**

COMPANY NAME \_\_\_\_\_  
COMPANY REGISTRATION DETAILS \_\_\_\_\_  
VAT REGISTRATION NUMBER \_\_\_\_\_

LESSEE'S DOMICILIUM EXECUTANDI: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

POSTAL ADDRESS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_  
 ADMIN MATTERS \_\_\_\_\_  
 TELEPHONE NUMBER: \_\_\_\_\_  
 FAX NUMBER: \_\_\_\_\_  
 CELL NUMBER: \_\_\_\_\_  
 NOTES :

CONTACT PERSON: \_\_\_\_\_  
 TECHNICAL MATTERS \_\_\_\_\_  
 TELEPHONE NUMBER: \_\_\_\_\_  
 FAX NUMBER: \_\_\_\_\_  
 CELL NUMBER: \_\_\_\_\_

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## ANNEXURE B

<b>SYSTEMS TO BE INSTALLED</b>				
<b>Description of Equipment per System</b>		<b>Rental (R)</b>	<b>Tx Frequency (Mhz)</b>	<b>Rx Frequency (Mhz)</b>
System 1				
System 2				
System 3				
System 4				
System 5				
System 6				
System 7				
System 8				
System 9				
System 10				

**Total for all Systems installed: R (excl VAT)**

**Note: No additional systems may be installed without prior written approval and amendment of the Lease Agreement.**