



## **MEMORANDUM OF AGREEMENT**

FOR THE

**SUPPLY OF VOIP SERVICES TO CITY OF CAPE TOWN**

MADE AND ENTERED INTO BETWEEN

**CITY OF CAPE TOWN METROPOLITAN MUNICIPALITY**

And

**VOX TELECOMMUNICATIONS (PTY) LTD t/a VOX (PTY) LTD**

**Registration no. [REDACTED]**

**Contract No: 192S/2022/23**

## PREAMBLE

**WHEREAS** Tender **192S/2022/23** was awarded to **VOX TELECOMMUNICATIONS (PTY) LTD t/a VOX (PTY) LTD** in line with the Supply Chain Management- Bid Adjudication Committee resolution **SCMB 49/10/23** dated **16 October 2023**, for the **SUPPLY OF VOIP SERVICES TO CITY OF CAPE TOWN**, from date of commencement (not prior to 01 July 2024) to 30 June 2034.

**AND WHEREAS** it is recorded that this Contract will be governed by the provisions of the National Treasury – Conditions of Contract (revised July 2010), General Conditions of Contract for the Supply of Goods and/or services and Services, (“**GCC**”), read with the Special Conditions of Contract (“**SCC**”) annexed hereto marked “**PART 2: SPECIAL CONDITIONS OF CONTRACT**”.

**NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:**

### 1. PARTIES

The Parties to this Contract are:

- 1.1. **The City of Cape Town**, a metropolitan municipality, established in terms of the Local Government: Municipal Structures Act. 117 of 1998 read with the Province of the Western Cape: Provincial Gazette 5588 dated 22 September 2000, as amended (“**the Purchaser**”), herein represented by **the City Manager and/or his nominee** duly authorised hereto;
- 1.2. **VOX TELECOMMUNICATIONS (PTY) LTD t/a VOX (PTY) LTD**, a private company duly registered in terms of the laws of the Republic of South Africa with registration no: [REDACTED], with its principal place of business situated at [REDACTED] [REDACTED] (the Supplier”), herein represented by [REDACTED] in his/her capacity as [REDACTED]

hereinafter, each a “Party” and together the “Parties”.

### 2. INTERPRETATION

- 2.1. In the event of any conflict between the provisions of this Contract, the GCC and any Parts attached hereto, or any other document incorporated by reference to this Contract, save to the extent expressly stated to the contrary, such conflict will be resolved by giving precedence to such different parts of this Contract in the following purchase order of precedence:
  - 2.1.1. first, the terms and conditions of the SCC;
  - 2.1.2. second, the terms and conditions of the GCC;
  - 2.1.3. third, Parts and Annexures to this Contract; and
  - 2.1.4. fourth, any other documents incorporated by reference.

- 2.2. The provisions of this Contract supersede and replace the provisions of any previous agreement entered into between the Parties relating to the same subject matter.

### **3. APPOINTMENT AND DURATION**

- 3.1. The Purchaser hereby appoints the Supplier to perform the Specifications for the Purchaser from the Commencement Date.
- 3.2. Unless terminated earlier in accordance with the provisions as set out in the GCC or any other provision in terms of this Contract, this Contract shall commence from the date of commencement (not prior to 01 July 2024) and terminate on 30 June 2034.

### **4. MUTUAL GOOD FAITH / CO-OPERATION**

- 4.1. The Parties represent and undertake to do all such things, perform all such acts and take all steps to procure the doing of all such things and the performance of all such acts, as may be necessary or incidental to give effect to the execution of this Contract.
- 4.2. The Parties shall at all times during the continuance of this Contract observe the principles of good faith towards one another in the performance of their obligations in terms of this Contract.

### **5. OBLIGATIONS OF THE PURCHASER**

- 5.1. The Purchaser undertakes to perform its obligations in accordance with the Contract, including but not limited to the Specifications (**PART 4: SPECIFICATIONS**), subject to the satisfactory fulfilment of the obligations by the Supplier as set out in this Contract.
- 5.2. The Purchaser shall monitor and evaluate the Supplier's performance in respect of the Specifications.

### **6. OBLIGATIONS OF THE SUPPLIER**

- 6.1. The Supplier hereby agrees and undertakes to perform the Goods and/or Services to the Purchaser as set out in Specifications (**PART 4: SPECIFICATIONS**).
- 6.2. The Supplier will perform the Goods and/or Services as expeditiously as possible and furthermore agrees and undertakes to perform the goods and/or services in accordance with the operational requirements of the Purchaser.
- 6.3. The Supplier will ensure that the Goods and/or Services will be of a satisfactory quality and fit for purpose.

- 6.4. The Supplier shall, ensure that its employees, agents, representatives, sub-Suppliers and suppliers comply with this Contract and all applicable Laws in the execution of the Goods and/or Services.
- 6.5. The Supplier will not conduct any activity of whatsoever nature which may be detrimental to the Purchaser's reputation and goodwill.

## **7. PRICING SCHEDULE**

- 7.1. The Contract Price for the Goods and/or Services shall be as set out in the Pricing Schedule.
- 7.2. The Supplier shall not be entitled to any other consideration for the rendering of the Goods and/or Services other than as provided for in this Contract.

# DETAILS OF SUPPLIER

1825/2022/2023 SUPPLY OF VOIP SERVICES TO CITY OF CAPE TOWN

## VOLUME 2: RETURNABLE DOCUMENTS (3) DETAILS OF TENDERER

**1.1 Type of Entity** (Please tick one box)

- Individual / Sole Proprietor
  Close Corporation
 Company  
 Partnership or Joint Venture or Consortium
  Trust
 Other: .....

**1.2 Required Details** (Please provide applicable details in full):

<b>Name of Company / Close Corporation or Partnership / Joint Venture / Consortium or Individual /Sole Proprietor</b>	Vox TELECOMMUNICATIONS (PTY) LTD
<b>Trading as (if different from above)</b>	VOX
<b>Company / Close Corporation registration number (if applicable)</b>	[REDACTED]
<b>Postal address</b>	[REDACTED] Postal Code [REDACTED]
<b>Physical address (Chosen domicilium citandi et executandi)</b>	[REDACTED]
<b>Contact details of the person duly authorised to represent the tenderer</b>	Name <input type="radio"/> Mr <input type="radio"/> Ms [REDACTED] (Name & Surname) Telephone: [REDACTED] Cellular Telephone: [REDACTED] E-mail address: [REDACTED]
<b>Income tax number</b>	[REDACTED]
<b>VAT registration number</b>	[REDACTED]
<b>SARS Tax Compliance Status PIN</b>	[REDACTED]
<b>City of Cape Town Supplier Database Registration Number (See Conditions of Tender)</b>	[REDACTED]
<b>National Treasury Central Supplier Database registration number (See Conditions of Tender)</b>	[REDACTED]

FORM OF OFFER AND ACCEPTANCE

192S/2022/2023 SUPPLY OF VOIP SERVICES TO CITY OF CAPE TOWN

(4) FORM OF OFFER AND ACCEPTANCE

TENDER [192S/2022/2023 SUPPLY OF VOIP SERVICES TO CITY OF CAPE TOWN]

OFFER: (TO BE FILLED IN BY TENDERER):

Required Details (Please provide applicable details in full):

Table with 2 columns: Field Name and Value. Fields include 'Name of Tendering Entity' (Vox Telecommunications (Pty) Ltd) and 'Trading as' (VOX).

AND WHO IS represented herein by: (full names of signatory)

[Redacted signature]

duly authorised to act on behalf of the tenderer in his capacity as: (title/ designation)

[Redacted title/designation]

By signing this Form of Offer and Acceptance, the tenderer:

- 1. confirms that it has examined the documents listed in the Index (including Schedules and Annexures) and has accepted all the Conditions of Tender;
2. confirms that it has received and incorporated any and all notices issued to tenderers issued by the CCT;
3. confirms that it has satisfied itself as to the correctness and validity of the tender offer; that the price(s) and rate(s) offered cover all the goods and/or services specified in the tender documents; that the price(s) and rate(s) cover all its obligations and accepts that any mistakes regarding price(s), rate(s) and calculations will be at its own risk;
4. offers to supply all or any of the goods and/or render all or any of the services described in the tender document to the CCT in accordance with the: 4.1 terms and conditions stipulated in this tender document; 4.2 specifications stipulated in this tender document; and 4.3 at the prices as set out in the Price Schedule.
5. accepts full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on it in terms of the Contract.

Signature(s)

[Redacted signature]

Print name(s):

On behalf of the tenderer (duly authorised)

01 DECEMBER 2022
Date

[Redacted signature]

Handwritten mark

---

## PART 1 : AGREEMENTS

---

### TENDER NO. 192S/2022/23: SUPPLY OF VOIP SERVICES TO CITY OF CAPE TOWN

#### (TO BE FILLED IN BY THE CITY)

By signing this part of this form of offer and acceptance, the Purchaser identified below accepts the supplier's offer. In consideration thereof, the Purchaser shall pay the supplier the amount due in accordance with the conditions of contract. Acceptance of the supplier's offer shall form an agreement between the Purchaser and the supplier upon the terms and conditions contained in this agreement and in the contract that is the subject of this agreement.

The terms of the contract are contained in:

- Clause 1 to 7, and the sub-clauses, cited in pages 1 to 4 above
- Part 1: Agreements
- Part 2: Special Conditions to Contract
- Part 3: General Conditions of Contract
- Part 4: Specifications
- Part 5: Pricing Schedule
- Part 6: Occupational Health And Safety Agreement.
- Part 7: Contract Price Adjustment and/Or Rate Of Exchange Variation
- Part 8: Information to be provided by the Supplier.

and documents or parts thereof, which may be incorporated by reference into the above listed Parts.

Deviations from and amendments to the documents listed in the tender data and any addenda thereto as listed in the returnable schedules as well as any changes to the terms of the offer agreed by the supplier and the Purchaser during this process of offer and acceptance, are contained in the schedule of deviations attached to and forming part of this form of offer and acceptance. No amendments to or deviations from said documents are valid unless contained in this schedule.

The supplier shall within two weeks after receiving a completed copy of this agreement, including the schedule of deviations (if any), contact the Purchaser to arrange the delivery of any securities, bonds, guarantees, proof of insurance and any other documents to be provided in terms of the conditions of contract identified in the special contract conditions. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this agreement.

**Notwithstanding anything contained herein, this agreement comes into effect from date of commencement (not prior to 01 July 2024) and terminate on 30 June 2034.**

**TENDER NO: 265S/2022/23 - SUPPLY, INSTALLATION AND MAINTENANCE OF QUEUE MANAGEMENT SYSTEMS**

<b>The Parties</b>	<b>Purchaser</b>	<b>Supplier</b>
Business Name	<b>CITY OF CAPE TOWN</b>	<b>VOX TELECOMMUNICATIONS (PTY) LTD t/a VOX (PTY) LTD</b>
Business Registration	[REDACTED]	[REDACTED]
Tax number (VAT)	[REDACTED]	[REDACTED]
Physical Address	[REDACTED] [REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED]
Accepted contract sum including tax	As Per PART 5, below	
Accepted contract duration	from date of commencement (not prior to 01 July 2024) and terminate on 30 June 2034.	
Signed – who by signature hereto warrants authority	<b>The City Manager and/or his nominee</b>	
Name of signatory		
Signed: Date		
Signed: Location		
Signed: Witness		
Name of Witness		

---

## FORM OF OFFER AND ACCEPTANCE (Continued)

---

### TENDER NO. 192S/2022/23: SUPPLY OF VOIP SERVICES TO CITY OF CAPE TOWN

(TO BE FILLED IN BY THE CITY)

#### Schedule of Deviations

##### Notes:

1. The extent of deviations from the tender documents issued by the CCT before the tender closing date is limited to those permitted in terms of the conditions of tender.
2. A supplier's covering letter shall not be included in the final contract document. Should any matter in such letter, which constitutes a deviation as aforesaid, become the subject of agreements reached during the process of offer and acceptance, the outcome of such agreement shall be recorded here.
3. Any other matter arising from the process of offer and acceptance either as a confirmation, clarification or change to the tender documents and which it is agreed by the Parties becomes an obligation of the contract shall also be recorded here.
4. Any change or addition to the tender documents arising from the above agreements and recorded here, shall also be incorporated into the final draft of the Contract.

**1 Subject      CLARIFICATION NOTICE 1- 22 NOVEMBER 2022- SUPPLY OF VOIP SERVICES TO CITY OF CAPE TOWN- TENDER 192S/2022/23**

**Details.        Your attention is drawn to the pricing schedule regarding submitting pricing for individual number and range porting.**

##### **Schedule A:**

- Item A.1.19 - Number porting – Per number**
- Item A.1.20 – Range Porting – Per range**

##### **Schedule B:**

- Item B.1.21 - Number porting – Per number**
- Item B.1.22 – Range Porting – Per range**

**Bidders (recipient operators) must consider all their porting costs per number when submitting pricing. The donating operator/s must not charge when the subscriber ports its numbers to a recipient operator as per ICASA Number Portability Regulations 2018.**

**Your attention is drawn to the pricing schedule page 37, bidders must replace page 37 of the tender document with the attached Notice 1 Annexure A - Page 37 Replacement.**

By the duly authorised representatives signing this agreement, the CCT and the supplier agree to and accept the foregoing schedule of deviations as the only deviations from and amendments to this tender document and addenda thereto as listed in the returnable schedules, as well as any confirmation, clarification or changes to the terms of the offer agreed by the supplier and the CCT during this process of offer and acceptance.

It is expressly agreed that no other matter whether in writing, oral communication or implied during the period between the issue of the tender documents and the receipt by the supplier of a completed signed copy of this Agreement shall have any meaning or effect in the contract between the parties arising from this agreement.

---

## PART 2: SPECIAL CONDITIONS OF CONTRACT

---

The following Special Conditions of Contract, referring to the National Treasury – Conditions of Contract (revised July 2010), are applicable to this Contract:

### 1. Definitions

*Delete Clause 1.15 and substitute with the following*

- 1.15 The word 'Goods' is to be replaced everywhere it occurs in the GCC with the phrase 'Goods and/or services and / or Services' which means all of the equipment, machinery, materials, services, products, consumables, etc. that the supplier is required to deliver to the purchaser under the contract. This definition shall also be applicable, as the context requires, anywhere where the words "supplies" and "services" occurs in the GCC.

*Delete Clause 1.19 and substitute with the following*

- 1.19 The word 'order' is to be replaced everywhere it occurs in the GCC with the words 'Purchase Order' which means the official purchase order authorised and released on the purchaser's SAP System.

*Delete Clause 1.21 and substitute with the following:*

- 1.21 'Purchaser' means the **City of Cape Town**. The address of the Purchaser is **12 Hertzog Boulevard, Cape Town, 8001**.

*Add the following after Clause 1.25:*

- 1.26 'Supplier' means any provider of goods and/or services and / or services with whom the contract is concluded.
- 1.27 "Intellectual Property" means any and all intellectual property rights of any nature anywhere in the world whether registered, registerable or otherwise, including patents, trademarks, registered designs and domain names, applications for any of the foregoing, trade or business names, copyright and rights in the nature of copyright, design rights, rights in databases, know-how, trade secrets and any other intellectual property rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the "look and feel" of any websites

### 3. General Obligations

*Delete Clause 3.2 in its entirety and replace with the following clauses.*

- 3.2 The parties will be liable to each other arising out of or in connection with any breach of the obligations detailed or implied in this contract, subject to clause 28.
- 3.3 All parties in a joint venture or consortium shall be jointly and severally liable to the purchaser in terms of this contract and shall carry individually the minimum levels of insurance stated in the contract, if any.
- 3.4 The parties shall comply with all laws, regulations and bylaws of local or other authorities having jurisdiction regarding the delivery of the goods and/or services and give all notices and pay all charges required by such authorities.
- 3.4.1 The parties agree that this contract shall also be subject to the CCT's Supply Chain Management Policy ('SCM Policy') that was applicable on the date the bid was advertised, **save that if the Purchaser adopts a new SCM Policy which contemplates that any clause therein would apply to the contract emanating from this tender, such clause shall also be applicable to that contract**. Please refer to this document contained on the CCT's website.
- 3.4.2 Abuse of the supply chain management system is not permitted and may result in cancellation of the contract, restriction of the supplier, and/or the exercise by the City of any other remedies available to it as described in the SCM Policy.

3.5 The **supplier** shall:

- 3.5.1 Arrange for the documents listed below to be provided to the Purchaser prior to the issuing of the purchase order:
- a) Proof of Insurance (Refer to Clause 11) or Insurance Broker's Warrantee
  - b) Letter of good standing from the Compensation Commissioner, or a licensed compensation insurer (Refer to Clause 11)
  - c) Initial delivery programme
  - d) Other requirements as detailed in the tender documents
- 3.5.2 Only when notified of the acceptance of the bid by the issuing of the purchase order, the supplier shall commence with and carry out the delivery of the goods and/or services in accordance with the contract, to the satisfaction, of the purchaser
- 3.5.3 Provide all of the necessary materials, labour, plant and equipment required for the delivery of the goods and/or services including any temporary services that may be required
- 3.5.4 Insure his workmen and employees against death or injury arising out of the delivery of the goods and/or services
- 3.5.5 Be continuously represented during the delivery of the goods and/or services by a competent representative duly authorised to execute instructions;
- 3.5.6 In the event of a loss resulting in a claim against the insurance policies stated in clause 11, pay the first amount (excess) as required by the insurance policy
- 3.5.7 Comply with all written instructions from the purchaser subject to clause 18
- 3.5.8 Complete and deliver the goods and/or services within the period stated in clause 10, or any extensions thereof in terms of clause 21
- 3.5.9 Make good at his own expense all incomplete and defective goods and/or services during the warranty period
- 3.5.10 Pay to the purchaser any penalty for delay as due on demand by the purchaser. The supplier hereby consents to such amounts being deducted from any payment to the supplier.
- 3.5.11 Comply with the provisions of the OHAS Act & all relevant regulations.
- 3.5.12 Comply with all laws relating to wages and conditions generally governing the employment of labour in the Cape Town area and any applicable Bargaining Council agreements.
- 3.5.13 Deliver the goods and/or services in accordance with the contract and with all reasonable care, diligence and skill in accordance with generally accepted professional techniques and standards.

3.6 The **purchaser** shall:

- 3.6.1 Issue purchase orders for the goods and/or services required under this Contract. No liability for payment will ensue for any work done if an official purchase order has not been issued to the supplier.
- 3.6.2 Make payment to the **supplier** for the goods and/or services as set out herein.
- 3.6.3 Take possession of the goods and/or services upon delivery by the supplier.
- 3.6.4 Regularly inspect the goods and/or services to establish that it is being delivered in compliance with the contract.
- 3.6.5 Give any instructions and/or explanations and/or variations to the supplier including any relevant advice to assist the supplier to understand the contract documents.
- 3.6.6 Grant or refuse any extension of time requested by the supplier to the period stated in clause 10.

- 3.6.7 Inspect the goods and/or services to determine if, in the opinion of the purchaser, it has been delivered in compliance with the contract, alternatively in such a state that it can be properly used for the purpose for which it was intended.
- 3.6.8 Brief the supplier and issue all documents, information, etc. in accordance with the contract.

**5. Use of contract documents and information; inspection, copyright, confidentiality, etc.**

*Add the following after clause 5.4:*

- 5.5 Copyright of all documents prepared by the supplier in accordance with the relevant provisions of the copyright Act (Act 98 of 1978) relating to contract shall be vested in the purchaser. Where copyright is vested in the supplier, the purchaser shall be entitled to use the documents or copy them only for the purposes for which they are intended in regard to the contract and need not obtain the supplier's permission to copy for such use. Where copyright is vested in the purchaser, the supplier shall not be liable in any way for the use of any of the information other than as originally intended for the contract and the purchaser hereby indemnifies the supplier against any claim which may be made against him by any party arising from the use of such documentation for other purposes.

The ownership of data and factual information collected by the supplier and paid for by the purchaser shall, after payment, vest with the purchaser

- 5.6 **Publicity and publication**  
The supplier shall not release public or media statements or publish material related to the services or contract within two (2) years of completion of the services without the written approval of the purchaser, which approval shall not be unreasonably withheld.
- 5.7 **Confidentiality**  
Both parties shall keep all information obtained by them in the context of the contract confidential and shall not divulge it without the written approval of the other party.
- 5.8 **Intellectual Property**
- 5.8.1 The supplier acknowledges that it shall not acquire any right, title or interest in or to the Intellectual Property of the Purchaser.
- 5.8.2 The supplier hereby assigns to the Purchaser, all Intellectual Property created, developed or otherwise brought into existence by it for the purposes of the contract, unless the Parties expressly agree otherwise in writing.
- 5.8.3 The supplier shall, and warrants that it shall:
- 5.8.3.1 not be entitled to use the Purchaser's Intellectual Property for any purpose other than as contemplated in this contract;
- 5.8.3.2 not modify, add to, change or alter the Purchaser's Intellectual Property, or any information or data related thereto, nor may the supplier produce any product as a result of, including and/or arising from any such information, data and Intellectual Property, and in the event that it does produce any such product, the product shall be, and be deemed in law to be, owned by the Purchaser;
- 5.8.3.3 not apply for or obtain registration of any domain name, trademark or design which is similar to any Intellectual Property of the Purchaser;
- 5.8.3.4 comply with all reasonable directions or instructions given to it by the Purchaser in relation to the form and manner of use of the Purchaser Intellectual Property, including without limitation, any brand guidelines which the Purchaser may provide to the supplier from time to time;
- 5.8.3.5 procure that its employees, directors, members and suppliers comply strictly with the provisions of clauses 5.8.3.1 to 5.8.3.3 above;

unless the Purchaser expressly agrees thereto in writing after obtaining due internal authority.

5.8.4 The supplier represents and warrants to the Purchaser that, in providing goods and/or services, services or both, as the case may be, for the duration of the contract, it will not infringe or make unauthorised use of the Intellectual Property rights of any third party and hereby indemnifies the Purchaser from any claims, liability, loss, damages, costs, and expenses arising from the infringement or unauthorised use by the supplier of any third party's Intellectual Property rights.

5.8.5 In the event that the contract is cancelled, terminated, ended or is declared void, any and all of the Purchaser's Intellectual Property, and any and all information and data related thereto, shall be immediately handed over to the Purchaser by the supplier and no copies thereof shall be retained by the supplier unless the Purchaser expressly and in writing, after obtaining due internal authority, agrees otherwise.

## **7. Performance Security**

*Delete clause 7.1 to 7.4 and replace with the following:*

'Not Applicable. Suppliers must disregard **Form of Guarantee / Performance Security** and are not required to complete same.

## **8. Inspections, tests and analyses**

*Delete Clause 8.2 and substitute with the following:*

8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or supplier shall be open, at all reasonable hours, for inspection by a representative of the purchaser or an organisation acting on behalf of the purchaser.

## **10. Delivery and documents**

*Delete clauses 10.1 and 10.2 and replace with the following:*

10.1 Delivery of the goods and/or services shall be made by the supplier in accordance with the terms specified in the contract. The time for delivery of the goods and/or services shall be the date as stated on the purchase order. Purchase orders for the supply and delivery of goods and/or services may be raised up until the expiry of a framework agreement bid, provided that the goods and/or services can be delivered within 30 days of expiry of the framework contract. All purchase orders, other than for the supply and delivery of goods and/or services, must be completed prior to the expiry of the contract period.

10.2 The purchaser shall determine, in its sole discretion, whether the goods and/or services have been delivered in compliance with the contract, alternatively in such a state that it can be properly used for the purpose for which it was intended. When the purchaser determines that the goods and/or services have been satisfactorily delivered, the purchaser must issue an appropriate certification, or written approval, to that effect. Invoicing may only occur, and must be dated, on or after the date of acceptance of the goods and/or services.

## **11. Insurance**

*Add the following after clause 11.1:*

11.2 Without limiting the obligations of the supplier in terms of this contract, the supplier shall effect and maintain the following additional insurances:

- a) Public liability insurances, in the name of the supplier, covering the supplier and the purchaser against liability for the death of or injury to any person, or loss of or damage to any property, arising out of or in the course of this Contract, in an amount not less than **R20 million** for any single claim;
- b) Motor Vehicle Liability Insurance, in respect of all vehicles owned and / or leased by the supplier, comprising (as a minimum) "Balance of Third Party" Risks including Passenger Liability Indemnity;
- c) Registration / insurance in terms of the Compensation for Occupational Injuries and Disease Act,

Act 130 of 1993. This can either take the form of a certified copy of a valid Letter of Good Standing issued by the Compensation Commissioner, or proof of insurance with a licenced compensation insurer, from either the bidder's broker or the insurance company itself (see **Proof of Insurance / Insurance Broker's Warranty** section in document for a pro forma version).

In the event of under insurance or the insurer's repudiation of any claim for whatever reason, the CCT will retain its right of recourse against the supplier.

- 11.3 The supplier shall be obliged to furnish the CCT with proof of such insurance as the CCT may require from time to time for the duration of this Contract. Evidence that the insurances have been effected in terms of this clause, shall be either in the form of an insurance broker's warranty worded precisely as per the pro forma version contained in the **Proof of Insurance / Insurance Broker's Warranty** section of the document or copies of the insurance policies.

## **15. Warranty**

*Add to Clause 15.2:*

- 15.2 This warranty for this contract shall remain valid for **six (6) months** after the goods and/or services have been delivered.

## **16. Payment**

*Delete Clause 16.1 in its entirety and replace with the following:*

- 16.1 A monthly payment cycle will be the norm. All invoices which are dated on or before the 20th of a particular month will typically be paid between the 23rd and 26th of the following month. The supplier may submit a fully motivated application regarding more frequent payment to the Purchaser's Director: Expenditure for consideration. Requests for more frequent payments will be considered at the sole discretion of the Purchaser and is not a right in terms of this contract.

*Delete Clause 16.2 in its entirety and replace with the following:*

- 16.2 The supplier shall furnish the purchaser's Accounts Payable Department with an original tax invoice, clearly showing the amount due in respect of each and every claim for payment.

*Add the following after clause 16.4*

- 16.5 Notwithstanding any amount stated on the purchase order, the supplier shall only be entitled to payment for goods and/or services actually delivered in terms of the Project Specification and Drawings, or any variations in accordance with clause 18. Any contingency sum included shall be for the sole use, and at the discretion, of the purchaser.

The CCT is not liable for payment of any invoice that pre-dates the date of delivery of the goods and/or services.

- 16.6 The purchaser will only make advanced payments to the supplier in strict compliance with the terms and details as contained on **Proforma Advanced Payment Guarantee** and only once the authenticity of such guarantee has been verified by the City's Treasury Department.

## **17. Prices**

*Add the following after clause 17.1*

- 17.2 If as a result of an award of a contract beyond the original tender validity period, the contract execution will be completed beyond a period of twelve (12) months from the expiry of the original tender validity period, then the contract may be subject to contract price adjustment for that period beyond such twelve (12) months. An appropriate contract price adjustment formula will be determined by the Director: Supply Chain Management if such was not included in the bid documents.

- 17.3 If as a result of any extension of time granted the contract execution will be completed beyond a period of twelve (12) months from the expiry of the original tender validity period, then contract price adjustment may apply to that period beyond such twelve (12) months. An appropriate contract price adjustment

formula will be determined by the Director: Supply Chain Management if such was not included in the bid documents.

17.4 The prices for the goods and/or services delivered and services performed shall be subject to contract price adjustment and the following conditions will be applicable:

**As per returnable Schedule 8: Contract Price Adjustment**

17.5 If price adjustment for variations in the cost of plant and materials imported from outside of South Africa is provided for in the contract, such adjustment shall be based on the information contained on the schedule titled "**Price Basis for Imported Resources**" and as below. For the purposes of this clause the Rand value of imported Plant and Materials inserted on the schedule titled "**Price Basis for Imported Resources**" (column (F)) shall be the value in foreign currency (column (A)) converted to South African Rand (column (C)) by using the closing spot selling rate quoted by **CCT's** main banker, NEDBANK, on the Base Date (seven calendar days before tender closing date) rounded to the second decimal place (column(B)), to which shall be added any Customs Surcharge and Customs Duty applicable at that date (columns (D) and (E)).

17.5.1 Adjustment for variations in rates of exchange:

- (a) The value in foreign currency inserted in column (A) shall be subject to clause (h) below when recalculating the Rand value.
- (b) The rate of exchange inserted in column (B) shall be the closing spot selling rate quoted by Council's main banker, NEDBANK, on the Base Date, rounded to the second decimal place, subject to sub-paragraph (c) below.
- (c) If the rate of exchange inserted by the Supplier differs from the NEDBANK rate referred to above, then the NEDBANK rate shall apply and the Rand value in columns (C) and (F) shall be recalculated accordingly, without altering the price in the Price Schedule for the relevant items.
- (d) If a tender from a supplier or sub-supplier provides for variations in rates of exchange, the Supplier may **only** claim for variations in rates of exchange if he binds the supplier or sub-supplier to the same provision to take out forward cover as described in sub-paragraph (e) below.
- (e) The Supplier (or sub-supplier) shall within five working days from the date of placing a firm purchase order on an overseas supplier, cover or recover forward by way of a contract with a bank which is an authorised foreign exchange dealer, the foreign exchange component of the cost of any imported Plant and Materials inserted by the Supplier on the scheduled titled "**Price Basis for Imported Resources**".
- (f) When the Supplier (or sub-supplier) so obtains forward cover, the Supplier shall immediately notify the CCT of the rate obtained and furnish the CCT with a copy of the foreign exchange contract note.
- (g) Based on the evidence provided in sub-paragraph (f) above, the value in Rand inserted in column (C) of on the schedule titled "**Price Basis for Imported Resources**" shall be recalculated using the forward cover rate obtained, and any increase or decrease in the Rand value defined in this clause shall be adjusted accordingly, subject to sub-paragraph (h) below.
- (h) The adjustments shall be calculated upon the value in foreign currency in the Supplier's (or sub-supplier's) **forward cover contract**, provided that, should this value exceed the value in foreign currency inserted in column (A) of on the schedule titled "**Price Basis for Imported Resources**", then the value in column (A) shall be used.

17.53.2 Adjustment for variations in customs surcharge and customs duty

- (a) Any increase or decrease in the Rand value between the amounts of Customs Surcharge and Customs Duty inserted in on the schedule titled "**Price Basis for Imported Resources**" and those amounts actually paid to the Customs and Excise Authorities, which are due to changes in the percentage rates applicable or to the foreign exchange rate used by the authorities, shall be adjusted accordingly.
- (b) The Supplier shall state the Customs Duty Tariff Reference applicable to each item and the Supplier

shall advise the CCT's Agent of any changes which occur.

#### 17.5.3 Adjustment for variation in labour and material Costs

If the prices for imported Plant and Materials are not fixed, the Supplier shall in his Tender specify the formula for calculating Contract Price Adjustments normally used in the country of manufacture and the indices and relative proportions of labour and material on which his Tender prices are based. Evidence of the indices applicable shall be provided with each claim. The indices applicable 42 days before contractual dispatch date from the factory will be used for the purposes of Contract Price Adjustment.

Failure to specify a formula in the Tender shall mean that the prices are fixed or shall be deemed to be fixed.

### **18. Contract Amendments**

*Delete the heading of clause 18 and replace with the following:*

### **18. Contract Amendments and Variations**

*Add the following to clause 18.1:*

Variations means changes to the goods and/or services, extension of the duration or expansion of the value of the contract that the purchaser issues to the supplier as instructions in writing, subject to prior approval by the purchaser's delegated authority. Should the supplier deliver any goods and/or services not described in a written instruction from the purchaser, such work will not become due and payable until amended purchase order has been issued by the purchaser.

### **20. Subcontracts**

*Add the following after clause 20.1:*

- 20.2 The supplier shall be liable for the acts, defaults and negligence of any sub supplier, his agents or employees as fully as if they were the acts, defaults or negligence of the supplier.
- 20.3 Any appointment of a sub supplier shall not amount to a contract between the CCT and the sub supplier, or a responsibility or liability on the part of the CCT to the sub supplier and shall not relieve the supplier from any liability or obligation under the contract.

### **21. Delays in the supplier's performance**

*Delete Clause 21.2 in its entirety and replace with the following:*

- 21.2 If at any time during the performance of the contract the supplier or its sub-suppliers should encounter conditions beyond their reasonable control which impede the timely delivery of the goods and/or services, the supplier shall notify the purchaser in writing, within 7 Days of first having become aware of these conditions, of the facts of the delay, its cause(s) and its probable duration. As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation, and may at his discretion extend the time for delivery.

Where additional time is granted, the purchaser shall also determine whether or not the supplier is entitled to payment for additional costs in respect thereof. The principle to be applied in this regard is that where the purchaser or any of its agents are responsible for the delay, reasonable costs shall be paid. In respect of delays that were beyond the reasonable control of both the supplier and the purchaser, additional time only (no costs) will be granted.

The purchaser shall notify the supplier in writing of his decision(s) in the above regard.

- 21.3 No provision in a contract shall be deemed to prohibit the obtaining of goods and/or services from a national department, provincial department, or a local authority.

### **22. Penalties**

*Delete clause 22.1 and replace with the following:*

22.1 Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods and/or services within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum as stated herein for each day of the delay until actual delivery or performance.

The penalty for this contract shall be [

At the end of each calendar month the following penalties will be applied:

Credit % per penalty point	Total Credit % for previous calendar month	Penalty
0.5% credit	Total Credits % = Credit per penalty x total penalty points for previous month	Total Credit % to be applied against the following month's invoice/s. Credit to be applied as discount

Please refer to (13.4) Specifications regarding the application of penalty points.

Penalty points conditions and limitations:

- The credit % applied may not exceed the total invoice amount for the particular service item for that month.
- All penalty points will reset to zero (0) at the end of each calendar month and once applied as a credit %.
- Should the service provider accumulate penalty points for 3 consecutive months, the service provider must provide the city with a plan and timeline on how it intends to resolve recurring issues. Should the provider continue to accumulate penalty points for the following 4<sup>th</sup> consecutive month and the city has reason to believe that the service provider is unable to resolve the issue/s, the city is entitled to procure the applicable service/s from the from the highest ranked standby supplier/s.
- The city will continue to procure from the highest ranked standby supplier/s until such time the city has reason to believe that the primary service provider has resolved the reason/s for the consecutive monthly penalties.

22.2 The purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, financial penalties as contained on the **Preference Schedule** relating to breaches of the conditions upon which preference points were awarded.

### 23. Termination for default

*Delete the heading of clause 23 and replace with the following:*

### 23. Termination

*Add the following to the end of clause 23.1:*

if the supplier fails to remedy the breach in terms of such notice

*Add the following after clause 23.7:*

23.8 In addition to the grounds for termination due to default by the supplier, the contract may also be terminated:

23.8.1 Upon the death of the supplier who was a Sole Proprietor, or a sole member of a Close Corporation, in which case the contract will terminate forthwith.

23.8.2 The parties by mutual agreement terminate the contract.

23.8.3 If a Purchase order has been issued incorrectly, or to the incorrect recipient, the resulting contract may

be terminated by the purchaser by written notice

- 23.8.4 If a material irregularity vitiates the procurement process leading to the conclusion of the contract, rendering the procurement process and the conclusion of the resulting contract unfair, inequitable, non-transparent, uncompetitive or not cost-effective, provided the City Manager follows the processes as described in the purchasers SCM Policy.
- 23.8.5 After providing notice to the supplier, if the implementation of the contract may result in reputational risk or harm to the City as a result of (inter alia):
- 23.8.5.1 reports of poor governance and/or unethical behaviour;
  - 23.8.5.2 association with known family of notorious individuals;
  - 23.8.5.3 poor performance issues, known to the Purchaser;
  - 23.8.5.4 negative social media reports; or
  - 23.8.5.5 adverse assurance (e.g. due diligence) report outcomes..
- 23.9 If the contract is terminated in terms of clause 23.8, all obligations that were due and enforceable prior to the date of the termination must be performed by the relevant party.

## **26. Termination for insolvency**

*Delete clause 26.1 and replace with the following:*

- 26.1 The purchaser may make either of the following elections to ensure its rights are protected and any negative impact on service delivery is mitigated:
- 26.1.1 accept a supplier proposal (via the liquidator) to render delivery utilising the appropriate contractual mechanisms; or
  - 26.1.2 terminate the contract, as the liquidator proposed supplier is deemed unacceptable to the purchaser, at any time by giving written notice to the supplier (via the liquidator).
- 26.2 Termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the purchaser.

## **27. Settlement of Disputes**

*Amend clause 27.1 as follows:*

- 27.1 If any dispute or difference of any kind whatsoever, with the exception of termination in terms of clause 23.1(c), arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve such dispute or difference amicably, by mutual consultation.

*Delete Clause 27.2 in its entirety and replace with the following:*

- 27.2 Should the parties fail to resolve any dispute by way of mutual consultation, either party shall be entitled to refer the matter for mediation before an independent and impartial person whose identity shall be agreed to between the Parties within fourteen (14) days, failing which the referring party will be entitled to approach the Chairperson of the Cape Bar for a recommendation of a mediator experienced in the subject matter of the dispute, to act as the mediator. Such referral shall be done by either party giving written notice to the other of its intention to commence with mediation. No mediation may be commenced unless such notice is given to the other party.

Irrespective whether the mediation resolves the dispute, the parties shall bear their own costs concerning the mediation and share the costs of the mediator and related costs equally.

The mediator shall agree the procedures, representation and dates for the mediation process with the parties. The mediator may meet the parties together or individually to enable a settlement.

Where the parties reach settlement of the dispute or any part thereof, the mediator shall record such agreement and on signing thereof by the parties the agreement shall be final and binding.

Save for reference to any portion of any settlement or decision which has been agreed to be final and binding on the parties, no reference shall be made by or on behalf of either party in any subsequent court proceedings, to any outcome of an amicable settlement by mutual consultation, or the fact that any particular evidence was given, or to any submission, statement or admission made in the course of amicable settlement by mutual consultation or mediation.

## **28. Limitation of Liability**

*Delete clause 28.1 (b) and replace with the following:*

- (b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the sums insured in terms of clause 11 in respect of insurable events, or where no such amounts are stated, to an amount equal to twice the contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

*Add the following after clause 28.1:*

28.2 Without detracting from, and in addition to, any of the other indemnities in this contract, the supplier shall be solely liable for and hereby indemnifies and holds harmless the purchaser against all claims, charges, damages, costs, actions, liability, demands and/or proceedings and expense in connection with:

- a) personal injury or loss of life to any individual;
- b) loss of or damage to property;

arising from, out of, or in connection with the performance by the supplier in terms of this Contract, save to the extent caused by the gross negligence or wilful misconduct of the purchaser.

28.3 The supplier and/or its employees, agents, concessionaires, suppliers, sub-suppliers or customers shall not have any claim of any nature against the purchaser for any loss, damage, injury or death which any of them may directly or indirectly suffer, whether or not such loss, damages, injury or death is caused through negligence of the purchaser or its agents or employees.

28.4 Notwithstanding anything to the contrary contained in this Contract, under no circumstances whatsoever, including as a result of its negligent (including grossly negligent) acts or omissions or those of its servants, agents or suppliers or other persons for whom in law it may be liable, shall any party or its servants (in whose favour this constitutes a *stipulatio alteri*) be liable for any indirect, extrinsic, special, penal, punitive, exemplary or consequential loss or damage of any kind whatsoever, whether or not the loss was actually foreseen or reasonably foreseeable), sustained by the other party, its directors and/or servants, including but not limited to any loss of profits, loss of operation time, corruption or loss of information and/or loss of contracts.

28.5 Each party agrees to waive all claims against the other insofar as the aggregate of compensation which might otherwise be payable exceeds the aforesaid maximum amounts payable.

## **31. Notices**

*Delete clauses 31.1 and 31.2 and replace with the following:*

31.1 Any notice, request, consent, approvals or other communications made between the Parties pursuant to the Contract shall be in writing and forwarded to the addresses specified in the contract and may be given as set out hereunder and shall be deemed to have been received when:

- a) hand delivered – on the working day of delivery
- b) sent by registered mail – five (5) working days after mailing
- c) sent by email or telefax – one (1) working day after transmission

## **32. Taxes and Duties**

*Delete the final sentence of 32.3 and replace with the following:*

In this regard, it is the responsibility of the supplier to submit documentary evidence in the form of a

valid Tax Clearance Certificate issued by SARS to the CCT at the Supplier Management Unit located within the Supplier Management / Registration Office, 2<sup>nd</sup> Floor (Concourse Level), Civic Centre, 12 Hertzog Boulevard, Cape Town (Tel 021 400 9242/3/4/5).

Add the following after clause 32.3:

32.4 The **VAT registration** number of the City of Cape Town is [REDACTED].

## **ADDITIONAL CONDITIONS OF CONTRACT**

Add the following Clause after Clause 34:

### **35. Reporting Obligations.**

35.1 The supplier shall complete, sign and submit with each delivery note, all the documents as required in the Specifications. Any failure in this regard may result in a delay in the processing of any payments.

### **36. ICASA License**

36.1 The supplier shall arrange for the documents to be provided to the purchaser prior to the issuing of a purchase order as listed in the draft contract clause 3.5.1 including:

- A valid and current ICASA ECS/ECNS license
  - If the license submitted is in the name of anything other than the supplier, then the supplier must provide an official signed letterhead from the company which name is on the license, stating that the supplier has the authority, capabilities and permission to provide the service.
  - If the supplier is exempt from an ICASA license for the services requested, then the supplier must provide an official signed letterhead in the supplier's name, stating the reason and related ICASA exemption clause.

36.2 The ICASA license must remain valid for the contract period, unless the vendor has been granted an ICASA exemption

### **37. Call Center/Helpdesk**

37.1 The supplier must have a call centre or/and helpdesk throughout the contract period,

37.2 The call centre must be available 24/7 365 Days to log regular and service impact calls.

37.3 The call centre and/or helpdesk must be operated and managed by the supplier. Should a bidder use a 3<sup>rd</sup> party infrastructure then the call centre and/or helpdesk cannot be that 3<sup>rd</sup> party service provider.

### **38. Account/Contract Resources**

38.1 Suppliers must have the required resources to ensure the account is managed, services are delivered and contract adhered to:

- Account Manager – Overall management of the account.
- Service Delivery Manager - Ensure all services are being delivered and issues resolved.

### **39. Interconnect Fees for calls between Schedule A and B**

39.1 Suppliers of Schedule A and B need to ensure that calls between Schedule A and Schedule B numbers, must carry no call rate usage charge to the City throughout the contract.

### **40. Porting of Geographic and Non-geographic numbers**

40.1 Suppliers must have the ability port the city's current non-geographic numbers to the supplier's network, i.e. 0800, 0860, 0861, and 0862

40.2 Furthermore, the supplier must have the ability to provision new non-geographic numbers, including the ability to provide reverse billing such as toll free and share call throughout the contract

### **41. Contract duration and transition period**

- 41.1 It is the intention of the City of Cape Town to award this tender for a period of ten (10) years, subject to Section 33 of The Local Government Municipal Finance Management Act 56 of 2003 as this tender will impose financial obligations on the City for a period longer than the three (3) financial years. The tender period is initially valid for the 3- financial years thereafter the additional 7-years that is addressed in this tender document is subject to City of Cape Town's Council approval via the Section 33 process
- 41.2 The last 2 years (Year 9 and Year 10) will be for the purpose of migrating (transition) the existing services from the suppliers of this contract to the new replacement contract / suppliers. During this transition phase the city expects the primary and standby bidders of this contract to co-operate with the new replacement service provider to ensure transition and migration of services.

## **42. Protection of Personal Information**

The Purchaser's Information Officer who is responsible for overseeing questions in relation to data protection may be contacted at [Popia@capetown.gov.za](mailto:Popia@capetown.gov.za).

By submitting a tender to the City of Cape Town, (and by concluding any ensuing related agreement with the City of Cape Town, if applicable), the Supplier thereby acknowledges and unconditionally agrees:

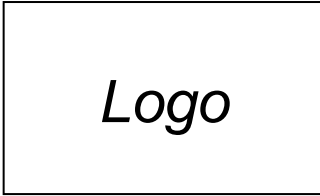
- 42.1 that the supplier has been informed of the purpose of the collection and processing of its personal information as defined in the Protection of Personal Information Act of 2013 ("**POPIA**"), which, for the avoidance of doubt is for, and in relation to, the tender process and the negotiation, conclusion, performance and enforcement of the ensuing agreement, if applicable, as well as for the City of Cape Town's reporting purposes;
- 42.2 to the collection and processing of the supplier's personal information by the City of Cape Town and agrees to make available to the City of Cape Town, all information reasonably required by the City of Cape Town for the above purposes;
- 42.3 that the personal information the City of Cape Town collects from the supplier or about the supplier may be further processed for other activities and/or purposes which are lawful, reasonable, relevant and not excessive in relation to the purposes set out above, for which it was originally collected;
- 42.4 that, the supplier indemnifies the City of Cape Town and its officials, employees, and directors and undertakes to keep the City of Cape Town and its officials, employees, and directors indemnified in respect of any claim, loss, demands, liability, costs and expenses of whatsoever nature which may be made against the City of Cape Town (including the costs incurred in defending or contesting any such claim) in relation to the supplier or the supplier's employees', representatives' and/or sub-suppliers' non-compliance with POPIA and/or the City of Cape Town's failure to obtain the supplier's consent or to notify the supplier of the reason for the processing of the supplier's personal information;
- 42.5 to the disclosure of the supplier's personal information by the City of Cape Town to any third party, where the City of Cape Town has a legal or contractual obligation to disclose such personal information to the third party (or a legitimate interest exists therein);
- 42.6 that, under POPIA, the supplier may request to access, confirm, request the correction, destruction, or deletion of, or request a description of, personal information held by the City of Cape Town in relation to you, subject to applicable law; and
- 42.7 that under POPIA, subject to applicable law, the supplier also has the right to be notified of a personal information breach and the right to object to, or restrict, the City of Cape Town's processing of its personal information.

## **43 Review Clause**

- 43.1 This Agreement is valid for a **period from date of commencement (not prior to 01 July 2024) to 30 June 2034**. This Agreement shall be reviewed once every three years; however, in lieu of a review during any period specified, the current Agreement will remain in effect. The purchaser reserves the right to reduce or increase the scope of works according to the dictates of the budget, to terminate this contract, and/or to review and terminate this contract as is contemplated in Section 116(1)(b)(iii) of the Local Government: Municipal Finance Management Act 56 of 2003, without adjustment to the agreed rates, sums or fees and without payment of any penalty or surcharge in this regard. The supplier shall however

be entitled to pro-rata payment for all goods and/or services carried out in terms of any adjustment to the Scope of Work or, in the case of termination, payment for good delivered.

- 43.2 As required by section 116(2)(b) of the Local Government: Municipal Financial Management Act 56 of 2003, the City shall monitor the performance of the supplier/supplier on at least a monthly basis, and the supplier agrees to provide the City with its full cooperation in this regard.



*Letterhead of supplier's Insurance Broker*

Date \_\_\_\_\_

CITY OF CAPE TOWN  
City Manager  
Civic Centre  
12 Hertzog Boulevard  
Cape Town  
8000

Dear Sir

**TENDER NO.:**                   **192S/2022/23**

**TENDER DESCRIPTION:**   **SUPPLY OF VOIP SERVICES TO CITY OF CAPE TOWN**

NAME OF SUPPLIER: \_\_\_\_\_

I, the undersigned, do hereby confirm and warrant that all the insurances required in terms of the abovementioned contract have been issued and/or in the case of blanket/umbrella policies, have been endorsed to reflect the interests of the CITY OF CAPE TOWN with regard to the abovementioned contract, and that all the insurances and endorsements, etc., are all in accordance with the requirements of the contract.

I furthermore confirm that all premiums in the above regard have been paid.

Yours faithfully

Signed: \_\_\_\_\_

For: \_\_\_\_\_ (Supplier's Insurance Broker)

---

## PART 3: GENERAL CONDITIONS OF CONTRACT

---

(National Treasury - General Conditions of Contract (revised July 2010))

### TABLE OF CLAUSES

1. Definitions
2. Application
3. General
4. Standards
5. Use of contract documents and information; inspection
6. Patent rights
7. Performance security
8. Inspections, tests and analysis
9. Packing
10. Delivery and documents
11. Insurance
12. Transportation
13. Incidental services
14. Spare parts
15. Warranty
16. Payment
17. Prices
18. Contract amendments
19. Assignment
20. Subcontracts
21. Delays in the supplier's performance
22. Penalties
23. Termination for default
24. Dumping and countervailing duties
25. Force majeure
26. Termination for insolvency
27. Settlement of disputes
28. Limitation of liability
29. Governing language
30. Applicable law
31. Notices
32. Taxes and duties
33. National Industrial Participation Programme (NIPP)
34. Prohibition of restrictive practices

#### 1. Definitions

1. The following terms shall be interpreted as indicated:
  - 1.1 'Closing time' means the date and hour specified in the bidding documents for the receipt of bids.
  - 1.2 'Contract' means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
  - 1.3 'Contract price' means the price payable to the supplier under the contract for the full and proper performance of his or her contractual obligations.
  - 1.4 'Corrupt practice' means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.
  - 1.5 'Countervailing duties' are imposed in cases in which an enterprise abroad is subsidised by its government and encouraged to market its products internationally.
  - 1.6 'Country of origin' means the place where the goods and/or services were mined, grown or produced or from which the services are supplied. Goods and/or services are produced when, through

manufacturing, processing or substantial and major assembly of components, a commercially recognised new product results that is substantially different in basic characteristics or in purpose or utility from its components.

- 1.7 'Day' means calendar day.
- 1.8 'Delivery' means delivery in compliance with the conditions of the contract or purchase order.
- 1.9 'Delivery ex stock' means immediate delivery directly from stock actually on hand.
- 1.10 'Delivery into consignee's store or to his site' means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or purchase order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
- 1.11 'Dumping' occurs when a private enterprise abroad markets its goods and/or services on its own initiative in the RSA at lower prices than that of the country of origin, and which action has the potential to harm the local industries in the RSA.
- 1.12 'Force majeure' means an event beyond the control of the supplier, not involving the supplier's fault or negligence, and not foreseeable. Such events may include, but are not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
- 1.13 'Fraudulent practice' means a misrepresentation of facts in purchase order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive the bidder of the benefits of free and open competition.
- 1.14 'GCC' means the General Conditions of Contract.
- 1.15 'Goods and/or services' means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 1.16 'Imported content' means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his sub Suppliers) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.
- 1.17 'Local content' means that portion of the bidding price which is not included in the imported content, provided that local manufacture does take place.
- 1.18 'Manufacture' means the production of products in a factory using labour, materials, components and machinery, and includes other, related value-adding activities.
- 1.19 'Purchase order' means an official written purchase order issued for the supply of goods and/or services or works or the rendering of a service.
- 1.20 'Project site', where applicable, means the place indicated in bidding documents.
- 1.21 'Purchaser' means the organisation purchasing the goods and/or services.
- 1.22 'Republic' means the Republic of South Africa.
- 1.23 'SCC' means the Special Conditions of Contract.
- 1.24 'Services' means those functional services ancillary to the supply of the goods and/or services, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance, and other such obligations of the supplier covered under the contract.

1.25 'Written' or 'in writing' means handwritten in ink or any form of electronic or mechanical writing.

## **2. Application**

- 2.1 These general conditions are applicable to all bids, contracts and purchase orders, including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.
- 2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.
- 2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

## **3. General**

- 3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable, a non-refundable fee for documents may be charged.
- 3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from [www.treasury.gov.za](http://www.treasury.gov.za).

## **4. Standards**

- 4.1 The goods and/or services supplied shall conform to the standards mentioned in the bidding documents and specifications.

## **5. Use of contract documents and information; inspection.**

- 5.1 The supplier shall not, without the purchaser's prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for the purposes of such performance.
- 5.2 The supplier shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC clause 5.1, except for purposes of performing the contract.
- 5.3 Any document, other than the contract itself, mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier's performance under the contract if so required by the purchaser.
- 5.4 The supplier shall permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

## **6. Patent rights**

- 6.1 The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from the use of the goods and/or services or any part thereof by the purchaser.

## **7. Performance Security**

- 7.1 Within 30 (thirty) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in the SCC.
- 7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.
- 7.2 The performance security shall be denominated in the currency of the contract or in a freely convertible

currency acceptable to the purchaser, and shall be in one of the following forms:

- a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or
- b) a cashier's or certified cheque.

7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than 30 (thirty) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified in the SCC.

## **8. Inspections, tests and analyses**

8.1 All pre-bidding testing will be for the account of the bidder.

8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or Supplier shall be open, at all reasonable hours, for inspection by a representative of the Department or an organisation acting on behalf of the Department.

8.3 If there are no inspection requirements indicated in the bidding documents and no mention of such is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.

8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.

8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.

8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.

8.7 Any contract supplies may on or after delivery be inspected, tested or analysed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier, who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do comply with the requirements of the contract. Failing such removal, the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.

8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 23 of the GCC.

## **9. Packing**

9.1 The supplier shall provide such packing of the goods and/or services as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods and/or services' final destination and the absence of heavy handling facilities at all points in transit.

9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, specified in the SCC, and in any subsequent instructions purchase ordered by the purchaser.

## **10. Delivery and documents**

10.1 Delivery of the goods and/or services shall be made by the supplier in accordance with the terms specified in the contract. The details of shipping and/or other documents to be furnished by the supplier are specified in the SCC.

10.2 Documents to be submitted by the supplier are specified in the SCC.

## **11. Insurance**

11.1 The goods and/or services supplied under the contract shall be fully insured, in a freely convertible currency, against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified in the SCC.

## **12. Transportation**

12.1 Should a price other than an all-inclusive delivered price be required, this shall be specified in the SCC.

## **13. Incidental Services**

13.1 The supplier may be required to provide any or all of the following services, including additional services (if any) specified in the SCC:

- (a) performance or supervision of on-site assembly, and/or commissioning of the supplied goods and/or services;
- (b) furnishing of tools required for the assembly and/or maintenance of the supplied goods and/or services;
- (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods and/or services;
- (d) performance or supervision or maintenance and/or repair of the supplied goods and/or services, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
- (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods and/or services.

13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods and/or services, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.

## **14. Spare parts**

14.1 As specified in the SCC, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:

- (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and
- (b) in the event of termination of production of the spare parts:
  - (i) Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
  - (ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

## **15. Warranty**

15.1 The supplier warrants that the goods and/or services supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods and/or services supplied under this contract shall have no defect arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications), or from any act or omission of the supplier, that may develop under normal use of the supplied goods and/or services in the conditions prevailing in the country of final destination.

15.2 This warranty shall remain valid for 12 (twelve) months after the goods and/or services, or any portion thereof, as the case may be, have been delivered to and accepted at the final destination indicated in

the contract, or for 18 (eighteen) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in the SCC.

15.3 The purchaser shall notify the supplier promptly, in writing, of any claims arising under this warranty.

15.4 Upon receipt of such notice, the supplier shall, within the period specified in the SCC and with all reasonable speed, repair or replace the defective goods and/or services or parts thereof, without costs to the purchaser.

15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified in the SCC, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

## **16. Payment**

16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in the SCC.

16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfilment of any other obligations stipulated in the contract.

16.3 Payments shall be made promptly by the purchaser, but in no case later than 30 (thirty) days after submission of an invoice or claim by the supplier.

16.4 Payment will be made in Rand unless otherwise stipulated in the SCC.

## **17. Prices**

17.1 Prices charged by the supplier for goods and/or services delivered and services performed under the contract shall not vary from the prices tendered by the supplier in his bid, with the exception of any price adjustments authorized in the SCC or in the purchaser's request for bid validity extension, as the case may be.

## **18. Contract Amendments**

18.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.

## **19. Assignment**

19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.

## **20. Subcontracts**

20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contract if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.

## **21. Delays in the supplier's performance**

21.1 Delivery of the goods and/or services and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.

21.2 If at any time during the performance of the contract, the supplier or its sub Supplier(s) should encounter conditions impeding timely delivery of the goods and/or services and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his or her discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.

- 21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.
- 21.4 The right is reserved to procure, outside of the contract, small quantities of supplies; or to have minor essential services executed if an emergency arises, or the supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.
- 21.5 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.
- 21.6 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without cancelling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods and/or services not supplied in conformity with the contract and to return any goods and/or services delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods and/or services as may be required to complete the contract and, without prejudice to his other rights, be entitled to claim damages from the supplier.

## **22. Penalties**

- 22.1 Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods and/or services or to perform the services within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods and/or services or unperformed services, using the current prime interest rate, calculated for each day of the delay until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC Clause 23.

## **23. Termination for default**

- 23.1 The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:
- (a) if the supplier fails to deliver any or all of the goods and/or services within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;
  - (b) if the supplier fails to perform any other obligation(s) under the contract; or
  - (c) if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.
- 23.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner as it deems appropriate, goods and/or services, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods and/or services, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.
- 23.3 Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.
- 23.4 If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than 14 (fourteen) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated 14 (fourteen) days the purchaser may regard the intended penalty as not objected against and may impose it on the supplier.
- 23.5 Any restriction imposed on any person by the Accounting Officer/Authority will, at the discretion of the Accounting Officer/Authority, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person is or was, in the opinion of the Accounting Officer/Authority, actively associated.

- 23.6 If a restriction is imposed, the purchaser must, within 5 (five) working days of such imposition, furnish the National Treasury with the following information:
- (i) the name and address of the supplier and/or person restricted by the purchaser;
  - (ii) the date of commencement of the restriction;
  - (iii) the period of restriction; and
  - (iv) the reasons for the restriction.

These details will be loaded in the National Treasury's central database of suppliers or persons prohibited from doing business with the public sector.

- 23.7 If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, Act 12 of 2004, the court may also rule that such person's name be endorsed on the Register for Tender Defaulters. When a person's name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period of not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction, and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website.

## **24. Anti-dumping and countervailing duties and rights**

- 24.1 When, after the date of bid, provisional payments are required, or anti-dumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidised import, the State is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favourable difference shall, on demand, be paid forthwith by the Supplier to the State, or the State may deduct such amounts from moneys (if any) which may otherwise be due to the Supplier in regard to supplies or services which he or she delivered or rendered, or is to deliver or render in terms of the contract or any other contract or any other amount which may be due to him or her.

## **25. Force majeure**

- 25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if, and to the extent that, his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.
- 25.2 If a force majeure situation arises, the supplier shall notify the purchaser promptly, in writing, of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

## **26. Termination for insolvency**

- 26.1 The purchaser may at any time terminate the contract by giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the purchaser.

## **27. Settlement of Disputes**

- 27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve such dispute or difference amicably, by mutual consultation.
- 27.2 If, after 30 (thirty) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.

27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.

27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.

27.5 Notwithstanding any reference to mediation and/or court proceedings herein,

- (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
- (b) the purchaser shall pay the supplier any monies due to the supplier.

## **28. Limitation of Liability**

28.1 Except in cases of criminal negligence or wilful misconduct, and in the case of infringement pursuant to Clause 6:

- (a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and
- (b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

## **29. Governing language**

29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.

## **30. Applicable Law**

30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in the SCC.

## **31. Notices**

31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail, and any other notice to him shall be posted by ordinary mail, to the address furnished in his bid or to the address notified later by him in writing; and such posting shall be deemed to be proper service of such notice.

31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice

## **32. Taxes and Duties**

32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, licence fees, and other such levies imposed outside the purchaser's country.

32.2 A local supplier shall be entirely responsible for all taxes, duties, licence fees, etc., incurred until delivery of the contracted goods and/or services to the purchaser.

32.3 No contract shall be concluded with any bidder whose tax matters are not in purchase order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.

## **33. National Industrial Participation (NIP) Programme**

33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.

## **34 Prohibition of Restrictive practices**

- 34.1 In terms of section 4 (1) (b) (iii) of the Competition Act, Act 89 of 1998, as amended, an agreement between or concerted practice by firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder(s) is/are or a Supplier(s) was/were involved in collusive bidding (or bid rigging).
- 34.2 If a bidder(s) or Supplier(s), based on reasonable grounds or evidence obtained by the purchaser, has/have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act, Act 89 of 1998.
- 34.3 If a bidder(s) or Supplier(s) has/have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and/or terminate the contract in whole or part, and/or restrict the bidder(s) or Supplier(s) from conducting business with the public sector for a period not exceeding 10 (ten) years and/or claim damages from the bidder(s) or Supplier(s) concerned.

---

## PART 4: SPECIFICATIONS

---

### 4.1 INTRODUCTION

The objective of this tender is to appoint voice telecommunication service providers with whom the City will be able to procure voice telecommunications services as specified in the following sections as and when needed.

The city wishes to appoint VoIP Service Provider (primary supplier) for outgoing calls and as the default provider for incoming calls, they city may purchase order services from the standby suppliers for business continuity, backup and redundancy services.

The city has an internal VoIP network with two aggregation voice hubs, one at Keller House Switching centre in the Cape Town CBD and the other Bellville Switching Centre (Bellville Civic Centre):

- Keller House, Corner of Loop and Wale Street Cape Town CBD (-33.922939, 18.417639)
- Bellville Civic Centre, Corner Voortrekker and Oos Street, Bellville (-33.903429, 18.637654)

### 4.2 SCHEDULE A. SUPPLY OF VOIP SERVICES

#### 4.2.1. SUPPLY OF FIBRE CONNECTIVITY BETWEEN CITY SITE/S AND SERVICE PROVIDER (SCHEDULE A.1.1 – A.1.4 AND A.1.5 – A.1.8)

The City intends to purchase order at least two (2) physical fibre links from the primary supplier and/or additional fibre links from the standby suppliers. These links will be used to provide Voice VoIP Services, the links must terminate at the following primary locations, known as **Option A**:

- **Keller House**, Corner of Loop and Wale Street Cape Town CBD (-33.922939, 18.417639)
- **Bellville Civic Centre**, Corner Voortrekker and Oos Street, Bellville (-33.903429, 18.637654)

At contract commencement the City may opt to instead have the two fibre links terminate at the following two locations instead, known as **Option B**:

- **Cape Town Civic Centre Data Centre** Network Room (-33.92087518434042, 18.42886381213812)
- **Goodwood Data Centre** Network Room (-33.896410291502406, 18.56209030758278)

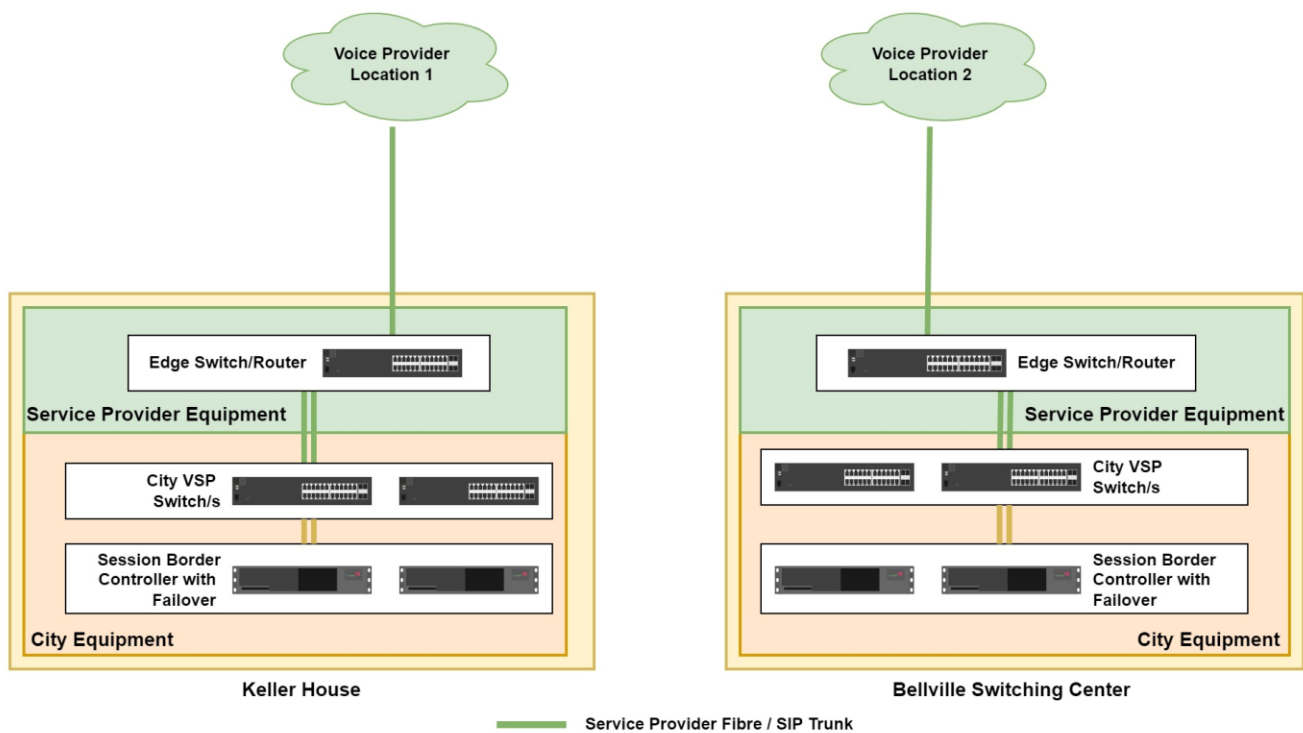
All suppliers are to ensure that they are able to deliver at a minimum fibre links to the 4 locations listed above also known as Option A and Option B.

Furthermore, should the city have opted for Option A at contract commencement, the city may decide to migrate to Option B during the contract period due to voice infrastructure being relocated. In this case the city may either continue to make use Option A services, or cancel the Option A service.

Each fibre link:

- Fibre link cannot be shared with other data services, link is only for VoIP traffic (SIP Trunks)
- Fully managed and provided by the supplier, fibre remains the property of the service provider.
- Each physically capable of transporting up to 400 – 600 SIP Channels
- Supplier must monitor and report on the capacity and availability of the fibre link
- Each fibre link must terminate on its own Edge Device/s (Router or Switch), to be provided by the supplier.
- The city will provide rack space and power for the device/s
- The device/s must terminate on the City's VSP Switch (RJ45 10/100/1000Mbps or Fibre single or multi mode), the City's VSP switch will then terminate on the City's Session purchase order Controller.
- The supplier device/s must be fully managed, supported, monitored by the supplier
- Supplier must alert the City' Telecoms TOC of any issues regarding the physical link and edge device, i.e. outage, utilization. Alerts must be done via email, SMS or telephone call. Upon contract commencement the service provider/s will be made aware of the city's TOC processes.

Design reference:



#### 4.3 SCHEDULE A. - VOIP SERVICE (SCHEDULE A.1.9 – A.1.12)

It is the intention of the city to purchase order at least 1 SIP Trunk per fibre link, i.e. either Option A or/and Option B. The city will purchase order the appropriate number of SIP Channels within these trunks, at the time of advert the City may opt to purchase order between 300 - 500 SIP Channels per trunk. The two trunks will be used to transport the city's incoming and outgoing VoIP calls.

The SIP trunk/s interconnection provided must comply with the following minimum requirements:

- SIPv2 according to RFC3261
- SIP port 5060
- G.729 codec with no VAD
- 20-byte payload size (10ms packetization time)
- RTP/UDP ports between 16384 and 32767
- Send E.164 format all 10 digits for both called and calling number
- For DTMF to work, using in-band RFC2833 compliant method
- Fax codec - T38 and G711 fall-back
- Signalling transport protocol - UDP
- RTP Transport – UDP
- Early offer
- SIP OPTIONS

The SIP Trunk Service must offer failover, within the site or between the two specified sites. The primary point of interconnection (or incoming/outgoing calls) with the service provider will be Keller House for Option A and Cape Town Civic Data Centre for Option B, whilst the Bellville Switching Centre and Goodwood Data Centre will act as the site failover points for either option:

- The responsibility lies on the service provider to manage, monitor and automatically execute failover in the event of a VoIP service disruption for incoming calls to the City
- From time to time the City may request a manual failover for the purposes of BCP testing and maintenance work.
- The City will be responsibility for the failover of outgoing call from one SIP trunk to the other.

The City expects to retain its current number range. It will therefore be expected that the primary supplier must be able to manage geographic and non-geographic number porting and manage the number range accordingly (Schedule 15J). The supplier need to make sure that number porting is part of the pricing as the city will not pay any additional costs for this other than pricing that's submitted as part of the pricing schedule. The city will expect the service provider to manage the complete number porting process on behalf of the city.

Service providers must be able to assign and administer new number ranges as and when required at least in blocks of 100. The City will take charge of its own number range, and allocate numbers at its own discretion.

The service provider must by default advertise (CLI) of all individual numbers, control of which numbers are masked will be done by the City's VoIP systems.

The service provider must offer fraud detection as part of the VoIP rental, and alert the City of suspicious behavior. Should fraud activity be detected for international dialing, service provider should have the ability block international calling until issue is resolved.

The City reserves the right to redirect its outgoing calls to the standby service provider in the event of:

- Any SIP Trunk service outage or any other issues related to the service provider
- Business Continuity testing on at regular intervals.

The service to be provided includes installation, hardware, and maintenance of the service and interconnect service and any specialized equipment required; routing outgoing voice calls originating from the City's network, and delivering incoming and accepting outgoing calls to and from numbers in the City's number range to the voice aggregation hubs.

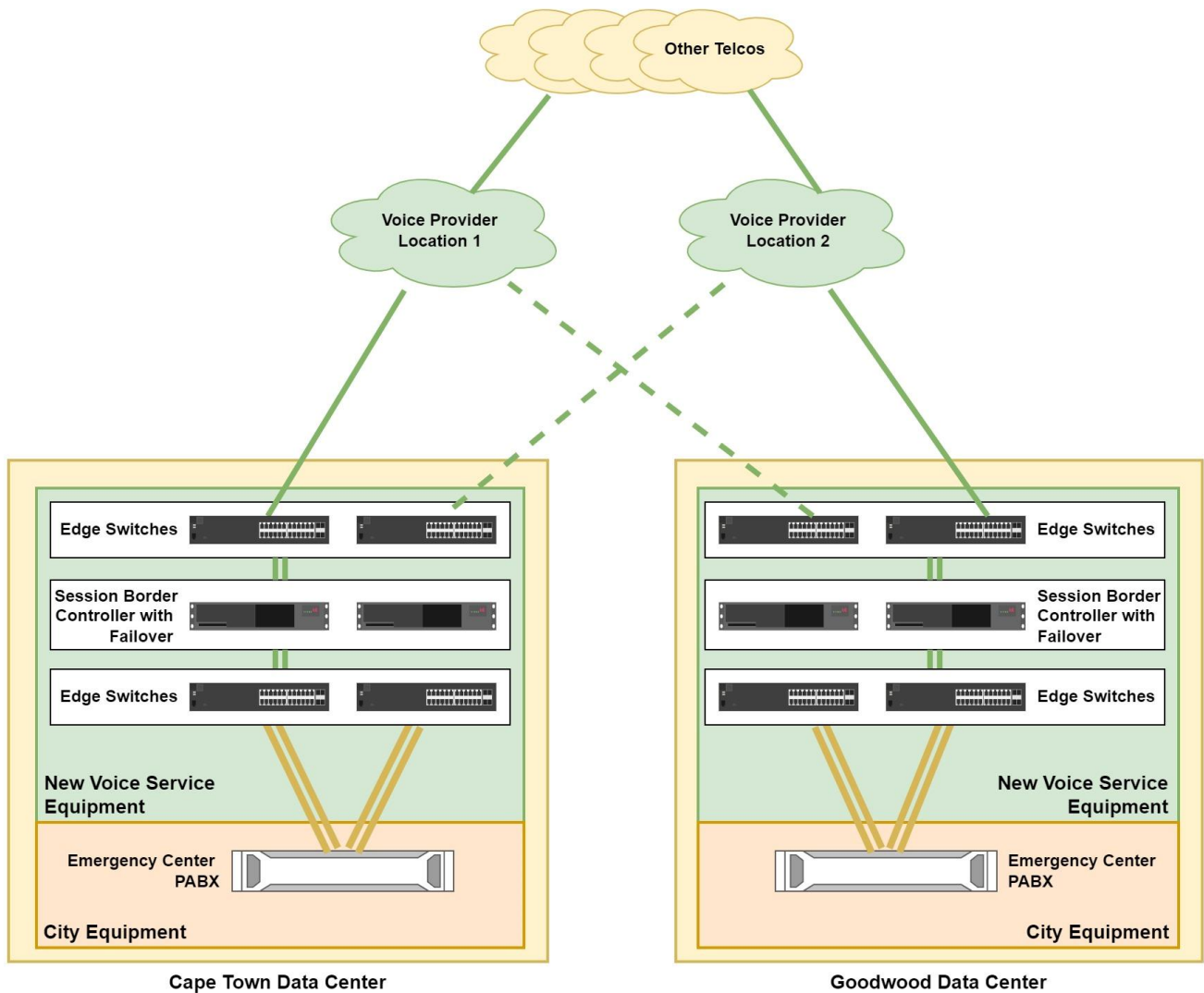
Any interconnect calls between this service (Option A/B - Corporate Calls) and service provider/s of Schedule B (VoIP Service) must be considered on-net, and carry no cost to the city (call usage). Please see Schedule 15H confirmation.

#### **4.4 SCHEDULE B. – SUPPLY OF VOIP SERVICE FOR CITY'S EMERGENCY CALL CENTER**

The City of Cape Town runs a 24/7 Emergency Call Centre commonly referred to as 107 or EPIC (Emergency Policing Incident Control). The call centre is responsible for servicing and dispatching various emergency calls such incidents of fire, disaster, law enforcement and traffic, thus the availability of the call centre is critical. The emergency call centre is located at **Goodwood TMC (-33.896410291502406, 18.56209030758278), also known as Goodwood Data Centre (GWDC)**

The city requires a separate highly available and redundant VoIP service infrastructure that is independent from the city's corporate VoIP service (Schedule A) and on a complete separate networking infrastructure, to provide incoming and outgoing calls for city's emergency numbers (services).

Technical Reference Design:



<b>Overall</b>
Service Provider will be responsible for delivering the call from Voice Providers (Including Telkom 107 land lines) to the City's VSP Switch or Session purchase order Controller (if managed by service provider).
99.0% uptime per calendar month of call delivery to City's VSP Switch or Session purchase order Controller, service providers are to design, provide infrastructure/labour and price there solution to adhere to this uptime
24/7 Support, maintenance and monitoring
All infrastructure (fibre, equipment) provided by the service provider as part of the service will remain the property of the vendor, the city is only procuring the service.
<b>Connectivity</b>

Fibre connectivity from voice service provider, as per design:

- **Voice Provider location 1 to Cape Town Civic Centre Data Centre Network Room (CDC):** GPS - 33.92087518434042, 18.42886381213812
- **Voice Prover Location 2 to Goodwood Data Centre Network Room (GWDC):** GPS - 33.896410291502406, 18.56209030758278

Additional failover if required:

- **Voice Prover Location 1 to Goodwood Data Centre Network Room (GWDC):** GPS - 33.896410291502406, 18.56209030758278
- **Voice Provider location 2 to Cape Town Civic Centre Data Centre Network Room (CDC):** GPS - 33.92087518434042, 18.42886381213812

**Please note: If the primary service provider for both schedules A and B is the same provider, then this additional fibre for this service cannot be shared.**

Suppliers may include additional connectivity redundancy options, i.e. radio link. But is under no obligation to do so.

Each fibre will used to carry the SIP Trunk and channels (incoming/outgoing calls), and not be shared with any other services.

At time of publishing the City expects the service to handle 100 - 150 concurrent calls

Each fibre link must terminate on its own Edge Device/s (Router or Switch), to be provided by the supplier as part of once-off and rental costs

The city may use its own Session purchase order controllers and/or switches, however the city may opt to procure Session purchase order Controllers (with redundancy and failover) and switches or equivalent as part of this schedule for each location for security and call routing.

Should the City decide to procure this service:

- The city expect the SBC/switches to handle 100-150 concurrent calls.
- Must have high availability failover, per site, and site failover
- Must be fully managed and maintained by service provider, including maintenance renewals.
- The city expect to the service provider to configure and maintain additional SIP trunks that may terminate on the SBC from other providers, such as Schedule C.

The city will provide rack space and power for the device/s

Power to these devices will be supplied by the city, thus power failures as a result of city infrastructure will not impact the service providers uptime obligation.

While the city takes extreme measures to secure its data centres, the city will not be held responsible for:

- Damage to service providers devices, regardless of reason (including power surges); and
- Theft

It is thus in the interest of the service providers to make sure that there service offering caters for this and that they are covered for any property loss and replacement.

## **Equipment**

The service provider device/s must be fully managed, supported, monitored by the supplier
<b>VoIP Service</b>
The responsibility lies on the service provider to manage, monitor and automatically execute failover in the event of a VoIP service disruption for incoming (and outgoing if SBC is procured via service provider) calls to the city
From time to time the city may request a manual failover for the purposes of BCP testing and maintenance work.
Service provider will be responsible for porting the city's emergency and non-emergency numbers to this service, including any special numbers (Schedule 15J)
Service provider must have capability to provide additional numbers, when requested (Schedule 15J)
Any interconnect calls between this service and Option A and B (Corporate Calls of Schedule A) must be considered on-net, and carry no cost to the city (call usage).  Please see schedule 15H confirmation
<b>Monitoring and Support</b>
The service provider will engage directly with "107 and EPIC" voice support team to resolve any incoming/outgoing voice issues.
Service provider as part of the service will provide the necessary resources to maintain and support the service. <ul style="list-style-type: none"> <li>• Unlimited hours per month for support, consultation and maintenance</li> <li>• 24 x 7 Availability of technical resource/s to resolve issues</li> <li>• Service Delivery Manager that will be responsible for escalation management.</li> </ul>
Service provider must provide monthly reports i.e. <ul style="list-style-type: none"> <li>• Number calls</li> <li>• Number of concurrent calls hourly, daily, weekly.</li> <li>• Calls Durations statistics</li> <li>• Call quality, i.e. jitter, MOS.</li> <li>• Dropped calls</li> <li>• SIP trunk availability</li> </ul> <p>Service providers may use any tools necessary to provide statistics and performance</p>
Supplier must alert the City' Telecoms TOC of any issues regarding the physical link and edge device, i.e. outage, utilization. Alerts must be done via email, SMS or telephone call. Upon contract commencement the service provider/s will be made aware of the city's TOC processes

**4.5 SCHEDULE C. - SUPPLY 107 SHORT CODE EMERGENCY NUMBER FROM LANDLINES**

The City of Cape Town runs a 24/7 Emergency Call Centre commonly referred to as 107 or EPIC (Emergency Policing Incident Control). The call centre is responsible for servicing and dispatching various emergency calls such as incidents of fire, disaster, law enforcement and traffic, thus the availability of the call centre is critical. The emergency call centre is located at Goodwood TMC (-33.896410291502406, 18.56209030758278), also known as Goodwood Data Centre (GWDC).

Citizens within the City of Cape Town boundaries are able to call the Emergency Services various telephone numbers from landlines and mobile networks. One of those numbers is the "107" short code number.

The 107 short code number is available from Telkom Landlines only, when the public calls this number within the City of Cape Town boundaries the calls are forwarded/redirected to a City of Cape Town geographic (021) number via SIP Trunk/s (VoIP).

Bidders are to take note of the award methodology, the City has the right to not award this schedule if there is no longer a need for the service at the time of evaluating the tender.

Specifications of services:

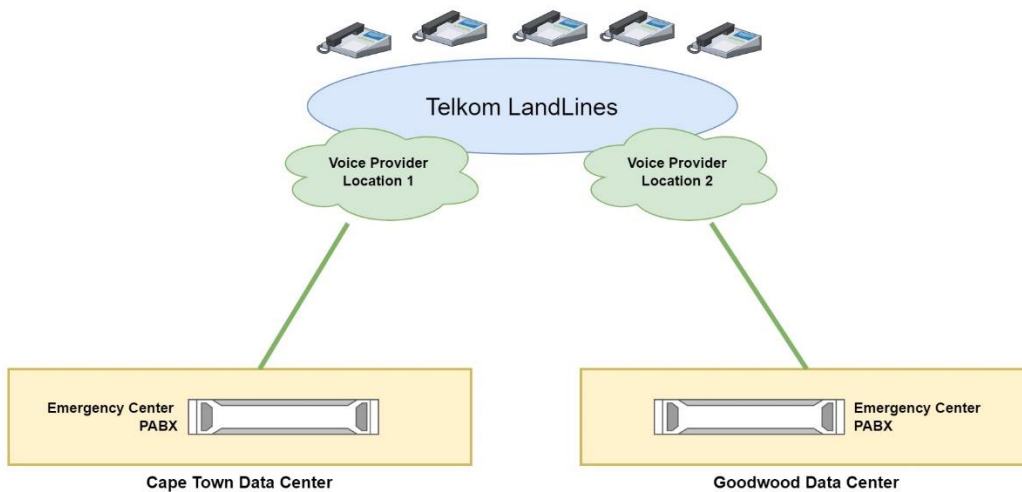
- The City of Cape Town requires a service provider/s to provide this ongoing service, so that the City may continue providing the 107 number service from Telkom landlines only.
- Provide the existing short code dialling number "107" from Telkom landlines only within the City of Cape Town boundaries and forward to an on-net trigger number.
- No call charge for the Telkom landline subscriber (caller)
- On-net trigger number/s must be supplied and will be configured on the City's PABX. The city will then forward the call to its emergency centre PABX.
- The call/s must be forwarded directly from the Telkom Voice network to the City via private fibre/SIP trunk and must not incur any interconnect fees.
- Any fibre/SIP trunk service must be private and dedicated and cannot traverse the internet.
- City expect the SIP Trunk service to cater for 50-100 concurrent incoming calls from 107 short dialling number
- SIP Trunk/fibre service must terminate at two separate locations listed below, with SIP Trunk failover.
  - Cape Town Civic Centre Data Centre Network Room (-33.92087518434042, 18.42886381213812)
  - Goodwood Data Centre Network Room (-33.896410291502406, 18.56209030758278), Primary link
- The links will terminate from the vendors equipment on to the City's VSP Switch (RJ45), which will in turn connect to the City's Session purchase order Controllers.
- Service will not be used for outgoing (egress) calls.

Bidders must consider all items below as part of the request which must be included in the once-off and/or monthly of the fibre connectivity and SIP trunk service:

- SIP Trunk service, i.e. Trunk and channels
- One standard reverse call rate attached to the 107 (if applicable).
- Fibre, router, QoS, Priority support rentals and installation
- Labour rates for support and installation if needed.

Should the a bidder be the primary provider for both Schedule B and Schedule C (this schedule) then the City may opt to use the primary bidder's same fibre connectivity and SIP trunk/s in Schedule B to provide this service.

For Reference:



#### 4.6 VOICE BILLING AND REPORTING

Appointed service provider/s must provide the following information on a monthly basis for all services:

- Export of Call detail record (CDR). The CDR must contain the following information for all calls made but not limited to:
  - Call made Date
  - Call Made Time
  - Duration (seconds)
  - Originating City of Cape Town Number
  - Terminated Number
  - Terminated Service Provider
- SIP Trunk utilization, availability and quality of service statistics and reports on demand.
- Monthly Account Consolidation Invoice that contains:
  - Vendor information
  - City of Cape Town Purchase order Number
  - Previous month closing balance
  - Payments received
  - Month's expenditure
  - Closing Balance
- Monthly Service Rental Detail Invoice in PDF and Excel format that contains (list of all service):
  - Vendor Information
  - Account Number
  - Service Number
  - City of Cape Town agreement/item/line number for service (City of Cape Town will provide information per service awarded to vendor)
  - Service Type
  - Description of Service or data line speed
  - Distance Band (if applicable)
  - Monthly Rental
  - Discount on service (if applicable due to penalties)

The service providers should provide a monthly invoice, summarizing the call usage as below, furthermore a detailed report should be included showing a breakdown of call duration to all operators as well:

Terminating Service Provider	Charge / Min as per tender rate	Duration (s)	Cost (excl VAT)
On Net			
Telkom			
Telkom Mobile			
Liquid			
Vodacom			
MTN			
Cell C			
International			
Special Numbers			
Other Operators			
Share Call (0860 – reverse rate to city)			
Toll Free (0800 – reverse rate to city)			
Other Rever Rate			
<b>TOTAL COST</b>			

#### 4.7 RESPONSE AND RESOLUTION TIMES

Call Priority definitions that the city expects suppliers to adhere to:

Severity	Description
<b>P1</b>	Total outage, no voice services or service, i.e. no incoming and/or outgoing calls
<b>P2</b>	Voice services or service degradation with severe impact
<b>P3</b>	Voice services failure or degradation but no or little impact
<b>P4</b>	All other voice or service related queries
<b>Change Requests</b>	Internal change requests to city owned/rented infrastructure will follow the City's Change Request process.

Severity	Time to Respond	Time to Restore	Penalty points
P1	10 Minutes	30 Minutes	1 penalty point for not meeting "time to restore", there after: 1 penalty point for every "time to restore" issue is not resolved
P2	30 Minutes	2 Hours	
P3	1 Hour	48 Hours	
P4	24 Hours	NA	

Performance level	Description	Target	Penalty
PL1	Uptime for <u>VOIP Service</u> (that is incoming and/or outgoing calls)*	99.0% per month	1 penalty point for every 0.5% below target

\* Downtime will be measured from the time city reports the issue up until both city and service provider confirms services is restored. At contract commencement service provider may use its own tools to measure uptime and voice quality, but this will be at no additional cost to the city other than the prices submitted in pricing schedules.

Suppliers are to take note of the penalty points applied when the response times and/or targets are breached. The city reserves the right to extend the resolution time at the city's own discretion, the city may decide not to apply any or all penalty points for individual calls at its own discretion, this may apply under certain conditions whereby the city agrees that the service disruption is beyond the supplier's control or the supplier has provided valid reasons and action plan to resolve issue/s. Please refer to the (22) Penalty clause under the Special conditions of contract as to how the penalty points will be applied.

#### 4.8 REPORTING OBLIGATIONS

Performance reviews and reporting

- The supplier/s and city will agree at contract commencement of the date and time of the monthly performance review, services and operational meetings.
- The supplier/s will be responsible for scheduling the performance review sessions, preferably a virtual session.
- The supplier/s will be responsible for taking and distributing these minutes. Minutes must be distributed within 7 days from meeting date.
- The supplier/s shall provide the city with the following reports at each monthly meeting:
  - Number of outages
  - Availability, Performance and utilization reports of all links where applicable, physical links, call statistics.

#### 4.9 CALL CENTRE / HELPDESK

Suppliers must have a call centre or/and helpdesk, the call centre must be available 24/7 365 days to log regular and service impact calls. Furthermore, the call centre and/or helpdesk must be operated and managed by the bidder. Should a bidder use a 3<sup>rd</sup> party infrastructure then the call centre and/or helpdesk cannot be that 3<sup>rd</sup> party service provider.

Suppliers are to submit, either with their tender submission (attached to Schedule 15F), or within a specified timeframe after being requested to do so; proof of the call centre and helpdesk, which can be:

- Call logging process on official supplier's letterhead; or
- Call logging process on official supplier's brochure

#### 4.10 ACCOUNT / CONTRACT RESOURCES

Suppliers must have the required resources to ensure the account is managed, services are delivered and contract adhered to:

- Account Manager – Overall management of the account.
- Service Delivery Manager - Ensure all services are being delivered and issues resolved.

In purchase order to determine whether the bidder has the required skilled resources as per the required specifications, suppliers MUST submit the completed Schedule 15G either with their tender submission or within a specified timeframe after being requested to do so.

#### 4.11 CONTRACT DURATION AND TRANSITION PERIOD

It is the intention of the City of Cape Town to award this tender for a period of ten (10) years, subject to Section 33 of The Local Government Municipal Finance Management Act 56 of 2003 as this tender will impose financial

obligations on the City for a period longer than the three (3) financial years. The tender period is initially valid for the 3- financial years thereafter the additional 7-years that is addressed in this tender document is subject to City of Cape Town's Council approval via the Section 33 process

The last 2 years (Year 9 and Year 10) will be for the purpose of migrating (transition) the existing services from the suppliers of this contract to the new replacement contract / suppliers. During this transition phase the city expects the primary and standby bidders of this contract to co-operate with the new replacement service provider to ensure transition and migration of services.

#### **4.12 TRADE NAMES OR PROPRIETARY PRODUCTS**

Bid specifications may not make any reference to any particular trade mark, name, patent, design, type, specific origin or producer, unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words "or equivalent".

**SUPPLIERS MUST NOTE THAT WHEREVER THIS DOCUMENT REFERS TO ANY PARTICULAR TRADE MARK, NAME, PATENT, DESIGN, TYPE, SPECIFIC ORIGIN OR PRODUCER, SUCH REFERENCE SHALL BE DEEMED TO BE ACCOMPANIED BY THE WORDS 'OR EQUIVALENT'**

#### **4.13. EMPLOYMENT OF SECURITY PERSONNEL**

All security staff employed by the supplier on behalf of the CCT or at any CCT property must be registered with Private Security Industry Regulatory Authority (PSIRA). Proof of such registration must be made available to the CCT's agent upon request.

#### **4.14. FORMS FOR CONTRACT ADMINISTRATION**

The supplier shall complete, sign and submit with each invoice, the following:

- a) Monthly Project Labour Report (**Annex 14.1**).
- b) B-BBEE Sub-Contract Expenditure Report (**Annex 14.2**).
- c) Joint Venture Expenditure Report (**Annex 14.3**).

The Monthly Project Labour Report must include details of all labour (including that of sub-suppliers) that are South African citizens earning less than R350.00 per day, as adjusted from time to time (excluding any benefits), who are employed on a temporary or contract basis on this contract in the month in question.

In addition to the Monthly Project Labour Report the Supplier shall simultaneously furnish the CCT's Agent with copies of the employment contracts entered into with such labour, together with certified copies of identification documents, proof of attendance in the form of attendance register or timesheets as well as evidence of payments to such labour in the form of copies of payslips or payroll runs. If the worker is paid in cash or by cheque, this information must be recorded on the envelope and the worker must acknowledge receipt of payment by signing for it and proof of such acknowledgement shall be furnished to the CCT's Agent.

The Monthly Project Labour Reports shall be completed and submitted in accordance with the instructions therein.

The **B-BBEE Sub-Contract Expenditure Report** is required for monitoring the supplier's compliance with the sub-contracting conditions of the **Preference Schedule**.

The Joint Venture Expenditure Report is required for monitoring the joint venture's/consortium/partnership compliance with the percentage contributions of the partners as tendered, where the joint venture/consortium/partnership has been awarded preference points in respect of its consolidated B-BBEE scorecard.

**PART 5 : PRICING SCHEDULE**

No	Description	Unit	Rate / Price per Unit (ZAR excl. VAT)		
			<u>Primary</u> Mobile Telephone Networks (Pty) Ltd t/a MTN (Pty)	<u>Standby 1</u> Dimension Data (Pty) Ltd	<u>Standby 2</u> Vox Telecommunicat ion (Pty) Ltd t/a Vox
A.1.1	Keller House Fibre	Once off			R 2998.00
A.1.2	Bellville Switching Centre Fibre	Once off			R 2998.00
A.1.3	Cape Town Data Centre Fibre (CDC)	Once off			R 2998.00
A.1.4	Goodwood Data Centre Fibre (GWDC)	Once off			R 2998.00
A.1.5	Keller House Fibre	Monthly			R 5720.88
A.1.6	Bellville Switching Centre Fibre	Monthly			R 5720.88
A.1.7	Cape Town Data Centre Fibre	Monthly			R 5720.88
A.1.8	Goodwood Data Centre Fibre	Monthly			R6244.88

No	Description	Unit	Rate / Price per Unit (ZAR excl. VAT)		
			Primary Mobile Telephone Networks (Pty) Ltd t/a MTN (Pty)	Standby 1 Dimension Data (Pty) Ltd	Standby 2 Vox Telecommunicat ion (Pty) Ltd t/a Vox
A.1.9	SIP Trunk Setup	Once off per trunk			R 271.12
A.1.10	SIP Trunk Rental	Per Month/trunk			R 588.32
A.1.11	SIP Channel Setup	Once off per channel			R 0.00
A.1.12	SIP Channel Rental	Per Month per channel			R 0.00
A.1.13	Additional Edge Device for Fibre Termination	Once off			0.00
A.1.14	Additional Edge Device for Fibre Termination	Per month			R 349.00
A.1.15	ShareCall (0860) Number	Once off			R 0.00
A.1.16	ShareCall (0860) Number	Per Month			R 0.00
A.1.17	Toll Free (0800) Number	Once off			R 0.00
A.1.18	Toll Free (0800) Number	Per Month			R 0.00
A.1.19	Number porting – individual number	Per number			R 40.00
A.1.20	Number porting - number range	Per range			R 577.00
A.2.1	On Net	Per Minute			R0.00
A.2.2	Telkom	Per Minute			R 0.11
A.2.3	Telkom Mobile	Per Minute			R 0.18
A.2.4	Liquid	Per Minute			R 0.18
A.2.5	Vodacom	Per Minute			R 0.14
A.2.6	MTN	Per Minute			R 0.14
A.2.7	Cell C	Per Minute			R 0.18
A.2.8	International	Per Minute			R 1.29
A.2.9	Special Numbers	Per Minute			R 0.35
A.2.10	Other Operators	Per Minute			R 0.47
A.2.11	Share Call (0860 – reverse rate to city)	Per Minute			R 0.16
A.2.12	Toll Free (0800 – reverse rate to city)	Per Minute			R0.50
A.2.13	Other Reverse Rate	Per Minute			R 1.60

No	Description	Unit	Rate / Price per Unit (ZAR excl. VAT)		
			Primary Mobile Telephone Networks (Pty) Ltd t/a MTN (Pty)	Standby 1 Vox Telecommunicati on (Pty) Ltd t/a Vox	Standby 2 Dimension Data (Pty) Ltd
B.1.1	Goodwood Data Center Fibre - Primary (to Servicer provider location 1)	Once off	R 3780.00	R 1499.00	R 7820.00
B.1.2	Goodwood Data Center – Secondary (to Service provider location 2)	Once off	R 3780.00	R 6999.00	R 7820.00
B.1.3	Cape Town Data Center Fibre - Primary (to Service provider location 1)	Once off	R 3780.00	R 1499.00	R 7820.00
B.1.4	Cape Town Data Center – Secondary (to Service Provider location 2)	Once off	R 3780.00	R 6999.00	R 7820.00
B.1.5	Goodwood Data Centre Fibre - Primary (to Servicer provider location 1)	Per month	R 8604.00	R 2971.88	R 10748.27
B.1.6	Goodwood Data Centre – Secondary (to Servicer provider location 2)	Per month	R 6117.40	R 2549.00	R 5377.00
B.1.7	Cape Town Data Centre Fibre - Primary (to Servicer provider location 1)	Per month	R 9530.00	R 3356.88	R 10748.27
B.1.8	Cape Town Data Centre – Secondary (to Servicer provider location 2)	Per Month	R 6540.40	R 2549.00	R 5377.00
B.1.9	SIP Trunk Setup	Once off per trunk	R 0.00	R 67.78	R 0.00
B.1.10	SIP Trunk Rental	Per Month/trunk	R 0.00	R 147.08	R 0.00
B.1.11	SIP Channel Setup	Once off per channel	R 0.00	R 0.00	R 0.00
B.1.12	SIP Channel Rental	Per Month per channel	R 0.00	R 0.00	R 0.00
B.1.13	Session Border Controller (with failover)	Once off	R 98 000.00	R274 397.56	R164 400.00
B.1.14	Session Border Controller (with failover)	Per month	R 10 710.00	R 4827.00	R 4963.00

No	Description	Unit	Rate / Price per Unit (ZAR excl. VAT)		
			Primary Mobile Telephone Networks (Pty) Ltd t/a MTN (Pty)	Standby 1 Vox Telecommunicati on (Pty) Ltd t/a Vox	Standby 2 Dimension Data (Pty) Ltd
B.1.15	Edge Voice Switch	Once off		R 10 197.00	
B.1.16	Edge Voice Switch	Per month		R 530.00	
B.1.17	ShareCall (0860) Number	Once off		R 0.00	
B.1.18	ShareCall (0860) Number	Per Month		R 0.00	
B.1.19	Toll Free (0800) Number	Once off		R 0.00	
B.1.20	Toll Free (0800) Number	Per Month		R 0.00	
B.1.21	Number porting – individual number	Per Number		R 40.00	
B.1.22	Number porting - number range	Per Range		R 577.00	
B.2.1	On Net	Per Minute		R 0.00	
B.2.2	Telkom	Per Minute		R 0.11	
B.2.3	Telkom Mobile	Per Minute		R 0.18	
B.2.4	Liquid	Per Minute		R 0.18	
B.2.5	Vodacom	Per Minute		R 0.14	
B.2.6	MTN	Per Minute		R 0.14	
B.2.7	Cell C	Per Minute		R 0.18	
B.2.8	International	Per Minute		R 1.29	
B.2.9	Special Numbers	Per Minute		R 0.35	
B.2.10	Other Operators	Per Minute		R 0.40	
B.2.11	Share Call (0860 – reverse rate to city)	Per Minute		R 0.18	
B.2.12	Toll Free (0800 – reverse rate to city)	Per Minute		R 0.50	
B.2.13	Other Reverse Rate	Per Minute		R 1.60	

**PART 6- OCCUPATIONAL HEALTH AND SAFETY AGREEMENT**

192S/2022/2023 SUPPLY OF VOIP SERVICES TO CITY OF CAPE TOWN

**(11) OCCUPATIONAL HEALTH AND SAFETY AGREEMENT**

**AGREEMENT MADE AND ENTERED INTO BETWEEN THE CITY OF CAPE TOWN (HEREINAFTER CALLED THE "CCT") AND**

Vox TELECOMMUNICATIONS (PTY) LTD  
(Supplier/Mandatory/Company/CC Name)

**IN TERMS OF SECTION 37(2) OF THE OCCUPATIONAL HEALTH AND SAFETY ACT, 85 OF 1993 AS AMENDED.**

I, [REDACTED], representing [REDACTED], as an employer in its own right, do hereby undertake to ensure, as far as is reasonably practicable, that all work will be performed, and all equipment, machinery or plant used in such a manner as to comply with the provisions of the Occupational Health and Safety Act (OHSA) and the Regulations promulgated thereunder.

I furthermore confirm that I am/we are registered with the Compensation Commissioner and that all registration and assessment monies due to the Compensation Commissioner have been fully paid or that I/We are insured with an approved licensed compensation insurer.

COID ACT Registration Number: [REDACTED]

OR-Compensation-Insurer: [REDACTED] Policy No.: [REDACTED]

I undertake to appoint, where required, suitable competent persons, in writing, in terms of the requirements of OHSA and the Regulations and to charge him/them with the duty of ensuring that the provisions of OHSA and Regulations as well as the Council's Special Conditions of Contract, Way Leave, Lock-Out and Work Permit Procedures are adhered to as far as reasonably practicable.

I further undertake to ensure that any subcontractors employed by me will enter into an occupational health and safety agreement separately, and that such subcontractors comply with the conditions set.

I hereby declare that I have read and understand the Occupational Health and Safety Act of 1993 and undertake to comply therewith at all times.

Signed at [REDACTED] on the 01 day of [REDACTED] 2022

[REDACTED]  
Witness

[REDACTED]  
Mandatory

Signed at [REDACTED] on the [REDACTED] day of [REDACTED] 20 [REDACTED]

[REDACTED]  
Witness

[REDACTED]  
for and on behalf of  
City of Cape Town

---

## PART 7- CONTRACT PRICE ADJUSTMENT AND/OR RATE OF EXCHANGE VARIATION

---

192S/2022/2023 SUPPLY OF VOIP SERVICES TO CITY OF CAPE TOWN

<b>Schedule 8: Contract Price Adjustment and/or Rate of Exchange Variation</b>
--

- 8.1 The Contract Price Adjustment mechanism and/or provisions relating to Rate of Exchange Variation, contained in this schedule is compulsory and binding on all tenderers.
- 8.2 Tenderers are not permitted to amend, vary, alter or delete this schedule or any part thereof unless otherwise stated in this schedule, failing which the tender offer shall be declared non-responsive.
- 8.3 Tenderers are not permitted to offer firm prices except as provided for in the Price Schedule, and if the tenderer offers firm prices in contravention of this clause the tender offer shall be declared non-responsive.
- 8.4 Any claim for an increase in the Contract price shall be submitted in writing to the:
- Director Supply Chain Management, City of Cape Town,  
P O Box 655, Cape Town, 8000  
or  
by email to: [CPA.Request@capetown.gov.za](mailto:CPA.Request@capetown.gov.za) and [Abubakr.saban@capetown.gov.za](mailto:Abubakr.saban@capetown.gov.za).  
**2 calendar months prior** to the end of the municipal financial year that is 30 June, tenderers will only be entitled to one price adjustment per financial year.
- 8.5 The CCT reserves the right to withhold payment of any claim for contract price adjustment while only provisional figures are available and until the final (revised) figures are issued by the relevant authority.
- 8.6 When submitting a claim for contract price adjustment a supplier shall indicate the actual amount claimed for each item. A mere notification of a claim for contract price adjustment without stating the new price claimed for each item shall, for the purpose of this clause, not be regarded as a valid claim.
- 8.7 The CCT reserves the right to request the supplier to submit auditor's certificates or such other documentary proof as it may require in order to verify a claim for contract price adjustment. Should the supplier fail to submit such auditor's certificates or other documentary proof to the CCT within a period of **30 (thirty) days** from the date of the request, it shall be presumed that the supplier has abandoned his claim.
- 8.8 The effective date of any price increases granted will be the date on which the abovementioned documentation/claim is submitted or, by agreement between the Contractor and the City, a subsequent date on which the price increase will be effective.
- 8.9 In instances where the Contractor's price claimed is less than entitled, the lesser price will be accepted.
- 8.10 The CCT reserves the right to apply the indices available at the date of the claim submitted by the Contractor.
- 8.11 **Process that will be followed:**
- Contractor submits all the documentation indicated above prior to the effective date of the variation.
  - The City will consider the variation and based on the documentary evidence, the City may approve the variation.
  - Letters authorising the price variation will be communicated to the contractor indicating the effective date.
  - All purchase orders for the contracted goods shall be issued at, and the Goods supplied, invoiced and paid for at the contract unit prices approved for that period and no further contract price adjustment claims will be considered, irrespective of the actual month of delivery and whether or not deliveries were subject to any manufacturing or delivery delays.
  - All purchase orders from the effective date will be generated at the approved contract

price. Purchase orders placed prior to the effective date will not be varied.

#### **8.12 Price Adjustment Mechanism for pricing schedule A Table A.1 and schedule B Table B.1:**

- 8.12.1 The Contract Price as per GCC shall remain **Firm** from date of commencement of the contract till 30 June 2025 and no claims for contract price adjustment will be considered during this period subject to the provisions in the price schedule.
- 8.12.2 Subject to 8.12.1. Above, Contract Price Adjustment will be applicable as from commencement of the month July 2025. Contractors shall be entitled to claim contract price adjustment as follows:
- 8.12.3 **20%** of the **tendered** rate will remain fixed for the duration of the contract.
- 8.12.4 **80%** of the year on year rate will be subject to adjustment **annually** based on the average percentage of 12 months as published by STATSSA: Consumer Price Index (P0141–Table B2 – CPI headline year-on-year rates) as follows:

**From start of July 2025 to the end of the Jun 2026:** Subject to contract price adjustment in accordance with the **Consumer Price Index (P0141–Table B2 – CPI headline year-on-year rates)**. **Base month** for the price adjustment shall be three (3) calendar months prior to the date of commencement. The **end month** shall be three (3) calendar months prior to June 2025.

**From start of July 2026 to end of the June 2027:** Subject to the contract price adjustment in accordance with the **Consumer Price Index (P0141–Table B2 – CPI headline year-on-year rates)**. **Base month** for the price adjustment shall be three (3) calendar months prior to July 2025. The **end month** shall be three (3) calendar months prior to June 2026.

**From start of July 2027 to end of the June 2028:** Subject to the contract price adjustment in accordance with the **Consumer Price Index (P0141–Table B2 – CPI headline year-on-year rates)**. **Base month** for the price adjustment shall be three (3) calendar months prior to July 2026. The **end month** shall be three (3) calendar months prior to June 2027.

**From start of July 2028 to end of the June 2029:** Subject to the contract price adjustment in accordance with the **Consumer Price Index (P0141–Table B2 – CPI headline year-on-year rates)**. **Base month** for the price adjustment shall be three (3) calendar months prior to July 2027. The **end month** shall be three (3) calendar months prior to June 2028.

**From start of July 2029 to end of the June 2030:** Subject to the contract price adjustment in accordance with the **Consumer Price Index (P0141–Table B2 – CPI headline year-on-year rates)**. **Base month** for the price adjustment shall be three (3) calendar months prior to July 2028. The **end month** shall be three (3) calendar months prior to June 2029.

**From start of July 2030 to end of the June 2031:** Subject to the contract price adjustment in accordance with the **Consumer Price Index (P0141–Table B2 – CPI headline year-on-year rates)**. **Base month** for the price adjustment shall be three (3) calendar months prior to July 2029. The **end month** shall be three (3) calendar months prior to June 2030.

**From start of July 2031 to end of the June 2032:** Subject to the contract price adjustment in accordance with the **Consumer Price Index (P0141–Table B2 – CPI headline year-on-year rates)**. **Base month** for the price adjustment shall be three (3) calendar months prior to July 2030. The **end month** shall be three (3) calendar months prior to June 2031.

**From start of July 2032 to end of the June 2033:** Subject to the contract price adjustment in accordance with the **Consumer Price Index (P0141–Table B2 – CPI headline year-on-year rates)**. **Base month** for the price adjustment shall be three (3) calendar months prior to July 2031. The **end month** shall be three (3) calendar months prior to June 2032.

**From start of July 2033 to end of the June 2034:** Subject to the contract price adjustment in accordance with the **Consumer Price Index (P0141–Table B2 – CPI headline year-on-year rates)**. **Base month** for the price adjustment shall be three (3) calendar months prior to July 2032. The **end month** shall be three (3) calendar months prior to June 2033.

The **average CPI percentage** will be calculated, the base month to the end month (both included) divided by the number of months.

**Example:**

The claim will be based on the **average** between the "base month" and the "end month" e.g.:  
 $7+6+9+6 = 28$  ( $28/4$ ) = 7 therefore the claim will be 7%.

**8.13 Price Adjustment Mechanism for pricing schedule A Table A.2 and schedule B Table B.2, i.e. call rates:**

8.13.1 The Contract Price as per GCC shall remain **Firm** from date of commencement of the contract till 30 June 2025 and no claims for contract price adjustment will be considered during this period subject to the provisions in the price schedule.

8.13.2 Subject to 8.13.1. Above, Contract Price Adjustment will be applicable as from commencement of the month July 2025. Contractors shall be entitled to claim contract price adjustment as follows:

The City is aware that the services requested on this tender, (i.e. VoIP) are continuously decreasing according to historical trends that are due to market conditions, technology changes and advancements, any contract adjustment request to increase the price/s will only be accepted once investigated and deemed acceptable to the City, furthermore:

- Requests must be submitted at least 2 calendar months before municipal financial year end (30 June)
- Submit the list of items to be adjusted including the old and new pricing and % difference
- Detailed motivation for the increase, including market comparison trends within the context of South African VoIP Pricing
- New price list for same or similar items as per what the bidder advertises and charges other customers.
- Bidder agrees to provide the city with evidence that the price increase will apply to all its other customers.
- Any increase due to interconnect increase must be ICASA approved.

8.13.3 The city is requesting pricing over a 10 (ten) year period. As technology cost reduce due to market changes and technology advancements, the city in turn may request updated/refresher pricing from tenderers over the contract period should the city feel that the current pricing is not in line or above market related pricing.



---

## **PART 8- INFORMATION PROVIDED BY SUPPLIER**

---

All of the aforementioned/supporting information, as submitted/provided by the Supplier for **TENDER NO: 192S/2022/23 - SUPPLY OF VOIP SERVICES TO CITY OF CAPE TOWN** are incorporated into this Memorandum of agreement by the mere reference thereof.