

## GENERAL CONDITIONS OF PURCHASE

### SOLE AGREEMENT

Unless otherwise agreed to in writing these terms and conditions the Order") and any contract which may be specified in the Order represent the only conditions upon which Telkom SA SOC Limited, Registration Number: 1991/005476/30 ("Telkom") will procure the items or services specified in the Order (the "Supplies") from the person to whom this Order is addressed (the "Supplier"). In the event of any inconsistency between this Order and any contract, the provisions of the contract shall prevail.

### 2 DEFINITIONS

In the General Conditions of Purchase the terms below shall have the following meanings, unless it is inconsistent with the context of the Order:

- 2.1 "GENERAL CONDITIONS OF PURCHASE" means this order between Telkom and the Supplier;
- 2.2 "DELIVERY" means delivery in accordance with the conditions of the Order at the stated delivery point;
- 2.3 "SUPPLIES" means any services, equipment, goods, items or materials to be delivered by the Supplier in terms of the Order;
- 2.4 "SUPPLIER" means the party with whom Telkom places the Order and includes the Supplier's successors and permitted assignees; and
- 2.5 "TELKOM" means Telkom SA SOC Limited, Registration Number 1991/005476/30, a listed state owned company duly registered in accordance with the laws of the Republic of South Africa, with its registered address at 152 Johannes Ramokhoase Street, Telkom Towers North, Pretoria.

### 3 FIXED PRICE

The price stated in the Order shall be regarded as fixed and is invariable and not subject to adjustments unless otherwise agreed between the parties in writing.

### 4 DELIVERY TIME OR DATE

Subject to clause 18 (Amendment of Order), the delivery time or date stated in the Order shall be regarded as fixed and the Supplier shall adhere strictly thereto.

### 5 ORDER CONTROL NUMBER

The Order number stated in the Order shall be indicated clearly on all documentation and packaging.

### 6 CANCELLATION OF ORDER

Should the Supplier fail to deliver the Supplies at the time agreed to, or should the Supplier not comply with any other essential condition of the Order, Telkom shall be entitled to cancel the Order summarily in writing, without any adverse cost implications for Telkom. Telkom shall also be entitled to terminate the Order for convenience by giving the Supplier 15 (fifteen) days' written notice of its intention to do so.

### 7 DISPATCH OF SUPPLIES

The Supplier shall ensure that the Supplies are dispatched to the address stated in the Order and transportation of the Supplies shall be at the Supplier's risk.

### 8 SPECIFICATIONS

The Supplier shall ensure that the Supplies shall in all respects be in accordance with the requirements and stipulations set out in the Order. All materials and consumable items shall be new and unused, unless otherwise agreed to in writing.

### 9 GUARANTEE

Save for consumables, the Supplier guarantees the workmanship and materials of the Supplies, that the Supplies and any components thereof will be free of any defects for a period of at least 12 (twelve) months after the acceptance thereof by Telkom, reasonable wear and tear excepted.

### 10 PAYMENT

- 10.1 Telkom shall pay to the Supplier the agreed fees in accordance with the invoicing and payment provisions set out below. Notwithstanding any other provisions contained herein, the Supplier shall not provide any Supplies to Telkom and Telkom shall not incur any liability to the Supplier, including the obligation to make any payment, until the Supplier has been provided with a valid purchase order by Telkom in respect of the Supplies to be provided.
- 10.2 Telkom does not allow advance payments to the Supplier.
- 10.3 The Supplier shall deliver to Telkom the invoice in respect of the Supplies provided, where applicable, the proof of delivery ("POD") in respect of the Supplies delivered and the statement, reflecting the invoices delivered to Telkom in the previous calendar month/s, on or before the 5th (fifth) day of the following calendar month.

10.4 The Supplier shall deliver the invoice and the statement to:

Telkom SA SOC Limited  
Accounts Payable  
Private Bag X145  
Pretoria, 0001

10.5 Telkom shall only be liable to make payment to the Supplier upon receipt of all the documents contemplated in clause 10.3 (Payment).

10.6 It is specifically recorded that no liability to pay shall arise until such time as the correct and complete documentation as envisaged in clause 10.3 (Payment) have been received by Telkom.

10.7 Telkom shall pay the Supplier on the last business day of the calendar month following the month the correct and complete documentation as envisaged in clause 10.3 (Payment) have been received by Telkom. If the correct and complete documentation is not received by Telkom as envisaged in clause 10.3 (Payment), payment will only be made to the Supplier on the last day of the calendar month in which the correct and complete documentation as envisaged in clause 10.3 (Payment) have been received by Telkom.

10.8 Telkom shall make all payments electronically to the Supplier's bank account. The Supplier shall furnish the particulars set out below to Telkom not less than 30 (thirty) days before payment is due:

Name of account holder  
Account number  
Name of bank  
Branch code  
Address  
Routing number/sort code/ASA number

10.9 If the Supplier is registered as a South African VAT vendor in terms of the VAT Act, the Parties guarantee that they are and will remain registered for Value Added Tax (VAT) in terms of the Value Added Tax Act, Act 89 of 1991 as amended ("VAT Act"). Invoices issued by the Supplier will be original tax invoices, complying with the requirements of the VAT Act before payment will be effected. The amounts payable exclude VAT and VAT at the rate applicable on the date of invoicing will be payable in addition to such amounts. The name, address and VAT registration number of the Supplier and the name, address and VAT Registration number of Telkom will appear on all tax invoices.

10.10 Telkom shall be entitled to deduct settlement discounts (if any) agreed upon by the parties from any amount owing to the Supplier and/or set off any amounts owing by the Supplier to Telkom against any amount Telkom owes to the Supplier.

10.11 At all material times, the Supplier shall comply with all tax laws of the Republic of South Africa, and where applicable, comply with the tax laws applicable to the relevant taxes in its country of residence. Telkom shall at any time be entitled to request proof of such compliance from the Supplier and the Supplier shall be obliged to produce such proof, failing which Telkom shall be entitled to terminate the Order.

10.12 For foreign currency invoices, the consideration and VAT amounts, as well as the conversion rate of foreign currency invoices, shall be reenacted in South African Rand (ZAR) on the tax invoices, as per the requirements of Section 20 (4) and (5) of the VAT Act. The amounts of the VAT and the consideration shall be converted to ZAR on the date the tax invoice is issued. With effect from 1 September 2012, the exchange rate to be used on foreign currency tax invoices is the daily exchange rate as published on the South African Reserve Bank ("SARB") website. The daily exchange rate is the weighted average of the SARB's daily rates at approximately 10:30 a.m. The information is published on the following website <https://www.resbank.co.za/Pages/default.aspx>

10.13 Payment of an invoice shall not prevent Telkom from subsequently disputing all or any of the fees in good faith whether during or after the term of the Order.

## 11 CLAIMS FOR PAYMENT

All claims shall be submitted in the prescribed manner within 90 (ninety) days after finalisation of Delivery, in accordance with clause 10 (Payment), failing which Telkom may, in its sole discretion, refuse to accept any claim.

## 12 STATUTORY COSTS

VAT and/or equivalent taxes in other countries which will be payable at the applicable rate must appear as a separate line item on the tax invoice.

## 13 LIABILITY FOR PATENT RIGHTS

The Supplier herewith indemnifies Telkom and holds it harmless in respect of any claims arising from infringement or alleged infringement of patents, trademarks and other protective rights of a similar nature.

## 14 LIABILITY FOR COSTS, DAMAGES OR EXPENSES

Telkom may deduct all costs, damages or expenses, or any other amount for which the Supplier is liable in terms of the Order, from moneys due to or becoming due to the Supplier in terms of any subsequent Orders or the contract between the Supplier and Telkom. Telkom is herewith irrevocably and *in rem suam* authorised thereto.

## 15 TELKOM'S RIGHTS

No amount paid by Telkom in settlement of an account, nor postponement of the delivery or completion date as may be granted by Telkom, shall affect or prejudice Telkom's rights against the Supplier, nor relieve the Supplier of his obligations, nor be interpreted as approval of the Supplies delivered.

## 16 DISCLOSURE OF INFORMATION

The existence of this Order will not be confidential but the Supplier may not make known any information concerning this Order to anyone, including the press, without Telkom's written approval.

## 17 RESPONSIBILITY FOR DEVIATIONS

The Supplier shall accept responsibility for any deviation from the Order arising from a misunderstanding or incorrect information, irrespective of how it was obtained, except for any incorrect information provided by Telkom to the Supplier in writing.

## 18 AMENDMENT OF ORDER

No amendment or change to the Order shall be permitted without the written approval of Telkom.

## 19 CESSION OF CONTRACTS

The Supplier may not, without the prior written approval of Telkom, cede, delegate, relinquish or transfer to anyone his rights and/or obligations in terms of this Conditions of Purchase. Telkom reserves the right to cede, delegate or transfer to a third person its rights or obligations in terms of the Conditions of Purchase, subject to such conditions as Telkom may deem appropriate.

## 20 PACKING OF MATERIALS

The Supplier shall at all times adhere to Telkom's packaging requirements and specifications. Containers and packing materials are not returned to the Supplier. Packaging of Supplier delivered to Telkom stores must be clearly labeled with the Order number, item numbers and the quantities of units in each container.

## 21 ARBITRATION

21.1 All disputes between the parties shall, when all efforts to resolve such dispute by negotiation have failed, be referred to the High Court of South Africa (North Gauteng High Court), save if the Parties agree to refer the dispute to arbitration as envisaged in clause 21.3 (Arbitration).

21.2 The party declaring the dispute shall be obliged, prior to referring the matter to the High Court or to arbitration, deliver written notice to the other party giving full details in respect of the alleged disputes to enable the other party to fully appreciate the nature and extent of the alleged dispute.

21.3 In the event that the parties agree to refer a dispute to arbitration, such arbitration shall be held in accordance with the Rules of the Arbitration Foundation of Southern Africa by an arbitrator or arbitrators appointed by the Foundation. The parties shall choose Pretoria as the place of arbitration.

21.4 This clause shall not preclude either party from obtaining interim relief on an urgent basis from a court of competent jurisdiction pending the decision of the arbitrator.

21.5 The parties irrevocably agree that the decision in arbitration proceedings:

21.5.1 shall be final and binding upon the parties subject to review if the arbitrator made a manifest error or appeal in terms of the Rules of the Arbitration Foundation of Southern Africa;

21.5.2 shall be carried into effect; and

21.5.3 may be made an order of any court of competent jurisdiction.

## 22 INSOLVENCY

Telkom may terminate this Order forthwith or, at its option, seek performance by any such appointed person if: (a) the Supplier passes a resolution for its winding-up or a court of competent jurisdiction makes an order for the Supplier to be wound up or dissolved or the Supplier is otherwise dissolved; or (b) an administrator is appointed or an administration order is made in relation to the Supplier or a receiver or an administrative receiver is appointed over, or an encumbrancer takes possession of or sells the whole or part of the Supplier's undertaking, assets, rights or revenue; or (c) the Supplier is unable to pay its debts or is deemed unable to pay its debts within the meaning of the Insolvency Act; or (d) the Supplier enters into an arrangement, compromise or composition in satisfaction of its debts with its creditors or any class of them or takes steps to obtain a moratorium or makes an application to a court of competent jurisdiction for protection from its creditors. e) adopts a resolution to voluntarily begin with business rescue proceedings or is placed under business rescue proceedings by a competent court. For the avoidance of doubt, Telkom shall not be entitled to terminate this Order pursuant to this term where a resolution by the Supplier or court order that the Supplier be wound up is for the purpose of a *bona fide* reconstruction or amalgamation.

## 23 AFTER SALES SERVICE

The Supplier shall provide replacement parts necessary to ensure the uninterrupted operation of the Supplies supplied for a period of 5 (five) years from delivery of any particular item of the Supplies and if requested by Telkom, it shall make these parts available to a third party maintainer of Telkom's choice at the same price as if the parts had been supplied to Telkom. The Supplier undertakes to provide a maintenance service for the Supplies, should Telkom so request, on terms to be agreed. If this Order so indicates, the Supplier will provide a warranty service for the Supplies to a level agreed with Telkom.

## 24 NOTICES and DOMICILIUM

Notices under these terms shall be delivered by hand to the relevant address overleaf or sent to them by registered mail or may be served by facsimile to the number overleaf with confirmation by registered mail in which event notice shall be deemed served on receipt by the sender of such confirmation.

## 25 LAW

This Order shall be governed and interpreted in accordance with the law of the Republic of South Africa and shall be subject to the jurisdiction of the South African courts to which the Supplier hereby irrevocably submits but without prejudice to Telkom's right to take proceedings against the Supplier in other jurisdictions.

## 26 GENERAL

Headings are included in this Order for convenience only.

If any term herein be held illegal or unenforceable, the validity or enforceability of the remaining terms shall not be affected.

No failure or delay by Telkom to enforce any rights under this Order will operate as a waiver thereof by Telkom.

All rights and remedies available to Telkom under this Order shall be in addition to, not to the exclusion of, rights otherwise available at law.