



PROCUREMENT TERMS AND CONDITIONS

For Purchase of Goods and/or Services

1. **Introduction**

These terms and conditions ("Conditions") shall:-

1.1 apply to the purchase of Products and/or Services for and on behalf of Mobile Telephone Networks (Pty) Ltd ("MTN") whereby:

1.1.1 a Purchase Order (PO) has been approved; or

1.1.2 the Products and/or Services procured amount to the value stated in the relevant or related MTN Purchase Order.

1.2 be in substitution for any oral arrangements made between MTN and the supplier;

1.3 prevail over any inconsistent terms or conditions contained in or referred to in the supplier's quotation, proposal or acceptance or correspondence or elsewhere or implied by trade custom or practice or course of dealing;

1.4 the acceptance of the Purchase Order will be deemed as acceptance of these terms and conditions; and

1.5 No addition to or variation of or exclusion or attempted exclusion of these Conditions or any of them shall be binding upon MTN unless in writing and signed by a duly authorized representative of MTN.

2. **Proposal**

The Supplier acknowledges and agrees that MTN has appointed the Supplier on the basis of the proposal and quotation ("Proposal") submitted to MTN and that the Proposal is accurate and complete in all material respects, and is not misleading.

3. **Specifications**

Pending the conclusion of the agreement between MTN and the Supplier, the Supplier shall provide Products and/or Services in accordance with these Conditions and agreed Specifications, Drawings and/or Scope of Work.

4. **Supplier Responsibilities**

4.1 Supplier shall provide Products and/or Services that are consistent with these Conditions, Specifications, Drawings and/or Scope of Work, of a professional nature, and that comply with generally accepted industry service standards and current statutory requirement and/or regulation as Gazetted.

4.2 Supplier will ensure that its specific, relevant and applicable personnel assigned to perform the Services are familiar with the applicable Specifications and/or Scope of Work and these Conditions and have the requisite expertise, capabilities and authority and that they co-operate fully with the personnel of MTN in relation to the provision of the Products or Goods or Services

4.3 Supplier shall take reasonable precautions to ensure that its personnel adhere to those specific policies and procedures (including but not limited to access control, security, occupational health and safety, information systems security, anti fraud, travel, telephone and internet usage) of MTN, which MTN will provide to Supplier's personnel (where applicable) on request in writing from time to time.

4.4 The Supplier undertakes that all Services shall be performed with all due care in a timely and professional manner by properly skilled personnel of the Supplier.

4.5 Supplier warrants that the Products shall be of the best available design, of the best quality, material and workmanship, be without fault and conform in all respects with the Specifications, Scope of Work and/or patterns supplied or advised by MTN to the Supplier or as marketed and/or sold to MTN. At any time prior to delivery of the Products to MTN, MTN shall have the right to inspect and test the Products and/or Goods. If the Products and/or Goods fail to comply with the MTN and/or Supplier Specifications as sold or Proposed to MTN then MTN shall be entitled to avail itself of any one or more remedies in terms of these Conditions. The Product and/or Goods shall be delivered at the MTN nominated delivery place and timeously as per MTN's instruction/s.

5. **Containers / Packing Material**

Unless otherwise stated herein, no payment shall be made for containers or packing materials or their return to the Supplier.

6. **Acceptance**

MTN shall notify the Supplier of its acceptance or non-acceptance of Product and/or Goods and/or Services in writing within 7 (seven) days of delivery of goods. In the case of Services, such acceptance shall be in terms of the acceptance testing as agreed to between the Parties from time to time. Should MTN fail to notify the Supplier, it shall be deemed MTN accepted the Product and/or Goods and/or Services.

7. **Risk**

Risk shall pass to MTN upon proof of delivery and acceptance of the Product and/or Goods and/or Services, to the correct destination in accordance with these terms and conditions.

8. Ownership

Ownership in the Product and/or Goods and/or Services shall pass to MTN upon payment of the purchase price thereof in full by MTN, unless agreed otherwise between the Parties.

9. Rejection

If the Supplier fails to comply with his obligations under the agreement, MTN may reject any part of the Products/ or Goods/or Services by giving written notice to the Supplier as stated in point 7 above specifying the reason for rejection and whether replacement of Goods/ or Products/or Services or re-work is required and within the stipulated time.

In the case of Goods/ or Products delivered, MTN may return the rejected Goods/or Products to the Supplier at the Supplier's risk and expense. Any money paid to the Supplier in respect of the Goods/or Products not replaced within the time required, together with the costs of returning rejected Goods/or Products to the Supplier and obtaining replacement Goods/or Products from a third party shall be paid by the Supplier to MTN.

In the case of Services, the Supplier shall correct non-conformances/defects as indicated by MTN. If the supplier delays to correct the non-conformance/defect, MTN may have the non-conformance/defect corrected by a third party at the Suppliers costs.

10. Indemnity

The Supplier indemnifies MTN against all actions, suits, claims, demands, costs, charges and expenses arising in connection therewith arising from the negligence, infringement of intellectual or legal rights or breach of statutory duty of the Supplier, his subcontractors, agents or servants, or from the Supplier's defective design, materials or workmanship. The Supplier indemnifies MTN against claims, proceedings, compensation and costs payable arising out of an infringement by the Supplier of the rights of others.

11. Warranty

Without prejudice to any other rights of MTN under these conditions, the Supplier warrants that the Product and/or Goods and/or Services are fit for the purpose for which they are intended and that they will remain free from defects for a period of one year (unless otherwise stated in the agreement) from acceptance of the Product and/or Goods and/or Services by MTN. If a defect/non-conformance is found with the Product and/or Goods and/or Services within this period, the Supplier shall rectify the defect/non-conformance within an agreed time period, free of cost to MTN. Should the Supplier delay to correct the defect, MTN may have the defect corrected by other people at the Suppliers cost. The Supplier shall use reasonable skill and care to provide the Services as described in the contract.

12. Charges and Payment

12.1 The Supplier shall provide Products and/or Services to MTN at a fixed price; the total price for the relevant Products and/or Services shall be the price, as set out in the Purchase Order. The Price shall be paid to the Supplier in instalments as set out in the Purchase Order, with the payment of each instalment by MTN being conditional on the Supplier having achieved the corresponding project milestones or proof of deliver of Product and/or Goods and /or Service. Upon the achievement of a project milestone in respect of which an instalment is due by MTN, the Supplier shall invoice MTN for the proportion of the Price as may then be payable supported by proof of delivery of Product and/or Goods and/or Services signed by authorised MTN Manager.

12.2 The Supplier shall obtain MTN's written approval prior to incurring any Expenses not specified in the Purchase Order.

12.3 The Expenses shall be invoiced by the Supplier and reimbursed by MTN, provided that each relevant invoice is accompanied by the original receipt pertaining to the Expenses in question supported by proof of prior written approval from MTN.

12.4 MTN shall pay each invoice properly due, issued and submitted to it by the Supplier, within 30 (thirty) days from date of statement which is comprised of all invoices raised for a particular month.

12.5 The Prices shall be fixed and firm and free from all and any escalation for the term.

12.6 MTN Payment terms are 30 (thirty) days from date of statement unless prior arrangement or agreement has been made by the supplier with MTN.

13. Applicable Law

This Purchase Order is subject to the laws of the Republic of South Africa.