

## **NETWORK CARRIER AND INFRASTRUCTURE SERVICES AGREEMENT**

### **TERMS AND CONDITIONS**

#### **TOWER D / V / I / S**

**Notes to Bidder:**

- 1 This agreement and its appended documents comprise 4 (four) structural layers :**
  - a. At the highest level is the "Main Agreement" running from page 7 to page 54;**
  - b. The next order of document in the hierarchy is a "Schedule";**
  - c. Below a Schedule is an "Appendix";**
  - d. Falling below an Appendix is the final and most subordinate layer which is an "Attachment".**
- 2 Wherever "x" appears in the designation of any Schedule, Appendix or Attachment, it should read such as referring to "D", "V" "I" or "S" in line with the Tower(s) for which you are submitting a Proposal.**
- 3 This agreement does not constitute a final agreement between the Parties. SARS reserves the right to amend same, at its own discretion, at any point prior to signature hereof.**

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## TERMS AND CONDITIONS

This Agreement, effective as of \_\_ \_\_\_\_, 20\_\_ ("**Effective Date**"), is entered into by and between the South African Revenue Service, an organ of State established in terms of the South African Revenue Service Act, 1997 (Act No. 34 of 1997) with its registered address located at its Pretoria Head Office, 299 Bronkhorst Street, Nieuw Muckleneuk, 0181, the Republic of South Africa ("**SARS**") and, \_\_\_\_\_, a company incorporated under the laws of the Republic of South Africa, with its registered address located at \_\_\_\_\_, the Republic of South Africa ("**Service Provider**"). As used in this Agreement, "**Party**" means either SARS or Service Provider, as appropriate, and "**Parties**" means SARS and Service Provider. The Parties agree that the following are the terms and conditions under which SARS agrees to purchase and Service Provider agrees to provide, the Services. Capitalised terms have the meanings given to them in **Schedule A (Glossary)**.

**[Note to Bidder: the above fields will be completed on contract award]**

## 1 BACKGROUND AND OBJECTIVES

### 1.1 Background

This Agreement is being made and entered into with reference to the following:

SARS requires the provision of:

- 1.1.1 Data Carrier Services **[Note to the Bidder: Tower D];**
- 1.1.2 Voice Carrier Services **[Note to the Bidder: Tower V];**
- 1.1.3 Internet and Hosting Services **[Note to the Bidder: Tower I];** and
- 1.1.4 SMS Carrier Services **[Note to the Bidder: Tower S]**

as more fully described herein and in the Schedules hereto.

- 1.2 Service Provider warrants that it has and will continue throughout the Term of this Agreement to have, the resources, skills, qualifications and experience necessary to perform and manage the Services to the highest standards prevailing in the Data Carrier / Voice Carrier / Internet and Hosting provider / Wireless application service provider industry at whatever volumes SARS may from time to time require in terms of the requirements of the Agreement.
- 1.3 In reliance on these statements and representations, SARS has selected and, subject to the terms of this Agreement, hereby appoints the Service Provider as its vendor to provide the Services described herein during the Term, which appointment the Service Provider accepts.

**[Note to the Bidder: Detail of the Tower(s) which have been awarded to the Bidder will be inserted in the final version of the Agreement. The Bidder is referred to the document: SARS RFP 14-2016 1-1 Network Carrier and Infrastructure Services]**



**Summary Guidelines Instructions and Conditions.doc for details of the Towers, and the awards that may be made within each.]**

**1.4 Objectives**

SARS and Service Provider have agreed upon the following specific goals and objectives for this Agreement:

- 1.4.1 to provide SARS the Services in a manner that is intended to create and maintain a high level of user satisfaction in line with the Service Levels;
- 1.4.2 to achieve significant cost savings for SARS without any degradation in the quality of the Services;
- 1.4.3 to appropriately contain SARS's risk, including with respect to (i) sustained service delivery; (ii) cost containment; (iii) changes in law, the technology available to provide the Services, technology employed by SARS, SARS's processes or the like; (iv) SARS's ability to transition the Services to itself or a Third Party at termination or expiration of this Agreement; and (v) security of Confidential Information, including validation and integrity protection;
- 1.4.4 to procure the Services under a flexible and scalable arrangement pursuant to which SARS's consumption reflects its needs as they may change from time to time;
- 1.4.5 to procure the Services for Charges that (i) reflect SARS's consumption, (ii) are predictable and controllable, (iii) decline over the Term, and (iv) are at or below the South African market price for similar services therefore throughout the Term (v) tariffs charged to SARS shall not exceed any retail price advertised by the Service Provider, except for special offers of less than 90 (ninety) days duration; (vi) is not on commercial terms that are less favourable than that offered by the Service Provider its other customers;
- 1.4.6 to establish a successful contractual relationship between the Parties that is flexible and highly responsive to SARS's changing requirements over the Term;
- 1.4.7 to provide SARS with expertise including that which is required to identify, analyse, recommend, provide and implement, among other things, new technologies and processes;
- 1.4.8 to provide SARS with Services that improve over the Term; and
- 1.4.9 to enable Service Provider and its Subcontractors to earn a reasonable return on their investment and a reasonable profit from the performance of the Services provided that the Service Provider meets its obligations under the Agreement, including performing the Services in terms of the Performance Standards.

**1.5 Construction**

The provisions of this clause 1 are intended to be a general introduction to this Agreement and will not be used to expand the scope of either Party's rights and obligations under this Agreement or to alter the plain meaning of the terms and conditions of this Agreement. However, to the extent the terms and conditions of this

Agreement do not address a particular circumstance or are otherwise unclear or ambiguous, such terms and conditions are to be interpreted and construed so far as to give effect to the provisions in clause 1.4. Certain other rules of construction are set out in **Schedule A (Glossary)**.

## **2 AGREEMENT STRUCTURE AND ORDER OF PRECEDENCE**

- 2.1 This Main Agreement provides a framework for, and the general terms applicable to, the Services that Service Provider will provide to SARS under this Agreement. This Main Agreement is supplemented with Schedules, Attachments and Appendices.

### **2.2 Schedules, Attachments and Appendices**

The Schedules are the first level documents attached to the Main Agreement. The Appendices are documents attached to the Schedules. The Attachments are documents attached to the Appendices.

By written agreement, the Parties may, from time to time, include under the Main Agreement, Schedules, Attachments and Appendices pertaining to New Services as well as amendments to particular Services provided by the Service Provider to SARS under the Agreement.

The provisions of the Main Agreement will apply to all Schedules, Attachments and Appendices issued thereunder.

### **2.3 Order of precedence**

- 2.3.1 Any conflict between the provisions of the various clauses of the Main Agreement, the Schedules, Appendices and Attachments will be resolved in accordance with the following order of precedence (in descending order of priority):
- 2.3.1.1 in the event of conflict between the Main Agreement and Schedules, Appendices and/or Attachments, the Main Agreement will prevail;
  - 2.3.1.2 in the event of conflict between the Schedules and Appendices and/or Attachments, the Schedules will prevail; and
  - 2.3.1.3 in the event of conflict between the Appendices and Attachments, the Appendices will prevail.
- 2.3.2 In the event of a conflict between any provision in Schedule B or the Appendices to Schedule B and Schedules B-x or the Appendices to Schedule B-x, the provision of Schedule B-x or the Appendices to Schedule B-x will prevail.
- 2.3.3 For the avoidance of doubt it is recorded that the terms of one Schedule, Appendix or Attachment will not apply to any other Schedule, Appendix or Attachment to the extent they are in conflict.

**[Note to Bidder: the references to the Schedules and their Appendices that are applicable to the Tower(s) awarded to the successful Bidder will be inserted prior to signature]**

### 3 TERM

#### 3.1 Term

The term of this Agreement will begin on the Effective Date and will expire on the 5th (fifth) anniversary of the Effective Date of the Agreement, unless: (i) the Agreement is terminated earlier in accordance with this Main Agreement in which case the Agreement will expire on such earlier termination date; or (ii) extended under clause 3.2 in which case the Agreement will expire at the end of such Renewal Term ("**Term**"). It is recorded that the term of a Work Order or purchase order may not extend beyond the Term. No new Work Orders or purchase orders may be concluded after Termination of the Agreement.

#### 3.2 Extension

Upon giving notice to Service Provider no less than 60 (sixty) days prior to the then-current applicable expiration date of the Agreement, SARS will have the right to extend the Term no more than twice for a period of 12 (twelve) months or such shorter period as SARS may deem necessary on the terms and conditions (including) the Charges pursuant to **Schedule D (Charges, Invoicing and Payments)** then in effect.

### 4 SERVICES

#### 4.1 Summary of Services

The Services to be provided by the Service Provider are set forth in this Agreement (including the applicable Schedules, Appendices and Attachments hereto) as amended from time to time, for the duration of the Term. The Services are detailed in **Schedule B-x** hereto and may, subject to approval by SARS and inclusion in a Schedule executed pursuant to this Agreement, include one or more of the following functional areas of scope:

- 4.1.1 Data Carrier Services: the detailed scope of the Data Carrier Services are set forth in **Schedule B-D**;
- 4.1.2 Voice Carrier Services: the detailed scope of the Voice Carrier Services is set forth in **Schedule B-V**;
- 4.1.3 Internet and Hosting Services: the detailed scope of the Internet and Hosting Services are set forth in **Schedule B-I**; and
- 4.1.4 SMS Carrier Services: the detailed scope of the SMS Carrier Services is set forth in **Schedule B-S**.

**[Note to the Bidder: The above is intended as a short summary of the Tower(s) which may be awarded, i.e. Tower D; V; I and/or S, whichever is applicable. Provisions not applicable to the Tower awarded to the successful Bidder will be deleted prior to signature.]**

#### 4.2 Definition and Scope of Services

4.2.1 In addition to the provisions of clause 4.1 above, the term "**Services**" will refer to and will include the duties, services, activities, Deliverables, functions and responsibilities to be provided or to be performed by the Service Provider for SARS as described in or otherwise required under **Schedule B-x (\_\_\_\_\_ SOW)** or elsewhere in the Agreement and as amended from time to time in accordance with this Agreement. **[Note to the Bidder: This clause will include a reference to the SOW that describes the Tower(s) for which the Agreement is being concluded]**

4.2.2 The Services will include:

4.2.2.1 Transition Services, where applicable;

4.2.2.2 the provision of New Services and/or Projects upon the conclusion of a Work Order;

4.2.2.3 services related to Managed SARS Third Party Contracts;

4.2.2.4 performance that is compliant with SARS procedures and policies;

4.2.2.5 co-operating with Third Parties;

4.2.2.6 complying with the Service Levels; and

4.2.2.7 duties, services, activities, functions, infrastructure and responsibilities required for the proper performance and provision of the Services, even if not specifically described in this Agreement, other than the Dependencies.

4.2.3 In each of the instances above, the term "**Services**" will refer to and include such services, functions and responsibilities as they may evolve during the Term and as they may be supplemented, enhanced, modified or replaced including to keep pace with changes in SARS business and advances in technology and processes available to Service Provider, all in accordance with and subject to the terms and conditions of this Agreement and where applicable as set out in a Work Order as detailed in **Appendix E-5**.

#### 4.3 Provision of Services

4.3.1 The Transition Services will start on the Effective Date unless otherwise agreed between the Parties. The Services will start on the Commencement Date and will at all times be provided in accordance with and subject to the terms and conditions of the Agreement and the Performance Standards.

4.3.2 For the avoidance of doubt, Service Provider will perform:

4.3.2.1 the Services and functions listed in the Agreement;

4.3.2.2 the Services (including all steps and tasks) detailed in **Schedule B-x** and/or any other Schedule or Appendix issued in terms of the Agreement; and

4.3.2.3 any steps and tasks required to perform the Services, even if such steps and tasks have not been listed or described in the Agreement

so as to ensure that SARS receives and realises the benefit of the Services.

- 4.3.3 The Service Provider will perform the Services diligently, in a timely manner, and in accordance with the Performance Standards and time schedules set forth or referred to in the Agreement. The Service Provider will promptly notify SARS upon becoming aware of any incident or circumstances that may reasonably be expected to jeopardise the performance or timely performance of any part of the Services. Notwithstanding anything to the contrary contained in the Agreement, the Service Provider will not take or authorise any action that results in a reduction of the scope of or degradation in the quality and timeliness of the performance of the Services during the term of the Agreement.
- 4.3.4 The Service Provider will for the duration of the Agreement (a) use all Commercially Reasonable Efforts to improve the quality and efficiency of the provision of the Services, and (b) ensure that the Charges are such that the Services are cost effective to SARS. The Service Provider will be required to implement all necessary formal processes to facilitate improvement of the Services. The Service Provider will ensure that the Charges comply with the provisions of **Schedule D (Charges, Invoicing and Payments)**.
- 4.3.5 The manner in which the Services are developed and provided will be such that they are easily scalable to support any growth of or contraction in, SARS's business for the duration of the Agreement.
- 4.3.6 The Service Provider will continue to perform its obligations under the Agreement, including the performance of the Services, without any interruptions, including during any dispute between the Parties.
- 4.3.7 The Service Provider will perform the Services in accordance with and subject to the provisions of **Schedule E (Governance)**.

#### 4.4 **Enhance Capabilities and Effectiveness**

The Services will be provided in a manner that enhances SARS's ability to deliver high-quality, cost-effective services. The technology utilised by the Service Provider will provide SARS with industry leading levels of functionality and performance.

#### 4.5 **Cost Predictability**

The Service Provider will ensure predictable charges with no unanticipated price increases over time, so that factors affecting the Service Provider's invoiced charges to SARS remain within SARS's control.

#### 4.6 **Improve and Maintain Technology**

Service Provider will implement alternative technologies to deliver the Services to SARS in order to maintain competitiveness in the quality and scope of Services available to SARS and to take advantage of market cost efficiencies. Service Provider will, at its own cost, refresh all technology used to provide the Services as is necessary to perform the Services in accordance with the terms of the Agreement and to meet the Service Levels.

#### 4.7 Services to Governmental Entities

- 4.7.1 Service Provider will make the Services under this Agreement (including at the Service Levels and for the Charges), including New Services and/or Projects, available to other Governmental Entities subject to compliance by the relevant Governmental Entity to applicable legislation.
- 4.7.2 SARS will provide Service Provider with 30 (thirty) days prior written notice (or such other period as the Parties may mutually agree) if it wishes to have Service Provider provide Services to other Governmental Entities; provided, however, that Service Provider will use Commercially Reasonable Efforts to commence performance of the Services to the other Governmental Entities as of the date requested by SARS.

#### 4.8 Transition Services

Service Provider will provide the Transition Services from the Effective Date as detailed in **Appendix B-1 to Schedule B** and **Appendix B-x-1 to Schedule B-x**. **[Note to the Bidder: Once finalised, this clause will include a reference to the relevant SOW(s) that have been awarded.]**

#### 4.9 New Services

- 4.9.1 Service Provider will perform New Services upon request by SARS. SARS may decide to perform New Services itself, award New Services to Service Provider, or award New Services to a Third Party Supplier at its sole discretion.
- 4.9.2 Where New Services are requested by SARS, Service Provider will commence providing such services as directed by SARS upon conclusion of a Work Order.
- 4.9.3 Service Provider will charge for New Services only as provided in clause 6 of **Schedule D (Charges, Invoicing and Payments)** or where applicable such charges as may be agreed and set out in a Work Order.

#### 4.10 Projects

- 4.10.1 Service Provider will perform Projects only upon conclusion of a Work Order.
- 4.10.2 Service Provider will perform such Projects in terms of the SARS project methodology as designated by SARS from time to time.
- 4.10.3 SARS may decide to perform Projects itself, award Projects to Service Provider, or award Projects to a Third Party Supplier at its sole discretion.
- 4.10.4 Service Provider will charge for Projects only as provided in clause 7 of **Schedule D (Charges, Invoicing and Payments)** or where applicable such charges as may be agreed and set out in a Work Order signed by both Parties. For purposes of clarity, the fact that one or both of the Parties may refer to an aggregation of work as a project will not cause such aggregation to be treated as a Project. Such an aggregation will only be treated as a Project if it is a Project as defined in **Schedule A (Glossary)**.

#### 4.11 Proposals and Quotations

- 4.11.1 Where SARS requests Service Provider to provide a proposal and / or quotation in respect of any proposed Services, Service Provider will:
- 4.11.1.1 furnish SARS with a detailed written proposal and / or quotation upon which will be stated an all-inclusive price for such services (with the components of the quoted pricing being specified), the technical specifications of all Deliverables, the details as to the date until which the quotation will be open for acceptance by SARS and any other information required by SARS; and
  - 4.11.1.2 within 1 (one) Business Day, provide SARS, in writing or by email, with a committed date for the delivery of the proposal and / or quotation referred to in 4.11.1. The Service Provider will deliver the proposal and / or quotation, complete in every respect on or before the committed date.
- 4.11.2 It is specifically recorded that no terms and conditions contained in any proposal and / or quotation will have any force and effect. It is the intention of the Parties that on acceptance of any proposal and / or quotation by SARS a Work Order be concluded in accordance with this Agreement.

#### 4.12 Co-operation with SARS and Third Parties

- 4.12.1 Service Provider acknowledges that SARS may have outsourced certain of its services and business processes, related and/or ancillary to the Services, to Third Parties and that SARS may outsource certain other functions to other Third Parties. Service Provider will, at no additional cost and as part of the Services, co-ordinate, co-operate and consult with such Third Parties and SARS regarding the performance of the Services so that Service Provider and the Third Parties provide services to SARS in as seamless a manner as is reasonably possible.
- 4.12.2 Service Provider will use Commercially Reasonable Efforts to ensure that all facilities, services, equipment, Software, Service Provider Personnel and other resources (including those provided by SARS) (collectively, the "**Resources**") utilised by Service Provider or approved by Service Provider for utilisation by SARS in connection with the Services, will be successfully integrated and interfaced, and will be compatible with, the services, equipment, networks, Software, Third Party personnel, enhancements, upgrades, modifications and other resources that are being provided or recommended by Third Party Suppliers (collectively, the "**Third Party Resources**"). Further, Service Provider will use Commercially Reasonable Efforts to ensure that none of the Services or other items provided to SARS by Service Provider will be adversely affected by any such Resources and/or Third Party Resources, whether as to functionality, speed, service levels, interconnectivity, reliability, availability, performance, response times or similar measures.
- 4.12.3 To the extent that SARS performs any of the Services or functions itself, or retains Third Parties to do so, Service Provider will co-operate with SARS or any such Third Party Supplier, which co-operation will include:
- 4.12.3.1 providing reasonable access to any facilities and/or Resources being used to provide the Services;

- 4.12.3.2 providing such information regarding the Services as SARS and/or the Third Party Supplier may request;
- 4.12.3.3 where applicable, and where required by SARS, providing the Services until completion of the successful Transition of the Services from Service Provider to SARS and/or the Third Party Supplier;
- 4.12.3.4 providing operational data (including documentation, schedules, and Service Level performance data); and
- 4.12.3.5 providing such other services set out in **Schedule F (Disengagement Assistance)**.
- 4.12.4 When engaging a Third Party Supplier as contemplated in this clause 4.12, SARS will use reasonable efforts to require the Third Party Supplier (i) to comply with Service Provider's reasonable security requirements; (ii) to the extent such Third Party Supplier will be performing work on Service Provider-owned, licensed or leased Software or hardware, to comply with Service Provider's reasonable work standards, methodologies and procedures; provided, however, that SARS may disclose to Third Party Supplier such Service Provider-owned, licensed or leased Software or hardware as SARS deems necessary.
- 4.12.5 Service Provider will immediately notify SARS if an act or omission of such a Third Party Supplier may cause a problem or delay in providing the Services and will co-operate with SARS and such Third Party Supplier to prevent or circumvent such problem or delay.

## 5 PERFORMANCE OF SERVICES BY SUBCONTRACTORS

- 5.1 Service Provider may not in any way (including by entering into a partnership, alliance or outsourcing arrangement for this purpose) subcontract its obligations under the Agreement without the prior written consent of SARS and where SARS provides such consent the Supplier may not subcontract more than 25% (twenty-five percent) of the value of this Agreement to any other enterprise that does not have an equal or higher B-BBEE status level than the Supplier, unless the Subcontractor is an Exempted Micro Enterprise that has the capability and ability to perform the Services.
- 5.2 The provisions of clause 26.9.1 notwithstanding, SARS will be entitled at its sole discretion to withhold approval in respect of the appointment of any Subcontractor to whom Service Provider intends to delegate the performance of a material part of the Services.
- 5.3 Where SARS has consented to the appointment of a Subcontractor as contemplated in clause 5.1 above, the agreements between Service Provider and its Subcontractors relating to the subcontracting of the Services ("**Subcontract**") will contain materially the same terms and conditions as this Agreement to the extent such terms and conditions are relevant to the services to be provided by the Subcontractor (including a restriction on the Subcontractor's right to further subcontract its obligations without SARS's prior written consent).
- 5.4 In no event will Service Provider be relieved of its obligations under this Agreement as a result of its use of any Subcontractors. Service Provider will at all times be responsible to SARS for fulfilment of all Service Provider's obligations under this Agreement and will



remain SARS's sole point of contact regarding the Services, including with respect to payment.

- 5.5 Service Provider will supervise the activities and performance of each Subcontractor and will be liable for any act or failure to act by such Subcontractor which causes any harm, loss or damage to SARS.
- 5.6 If SARS determines that the performance or conduct of any Subcontractor is unsatisfactory or if it can be reasonably established or determined that concerns exist regarding the Subcontractor's ability to render future performance because of changes in the ownership, management, and/or financial condition of the Subcontractor, or there have been material misrepresentations regarding the Subcontractor on the strength of which SARS's consent was granted for the appointment of such Subcontractor, SARS may notify Service Provider of its determination in writing, indicating the reasons therefore, in which event Service Provider will promptly take all necessary actions to remedy the performance or conduct of such Subcontractor or, subject to the terms of this clause 5, replace such Subcontractor with another Subcontractor acceptable to SARS.
- 5.7 Service Provider will not disclose SARS's Confidential Information to a Subcontractor without SARS's prior written approval and until such Subcontractor or prospective Subcontractor has executed an agreement including provisions at least as rigorous and restrictive as the confidentiality provisions set out in clause 15 below and also complied with the integrity and security competence provided for in clause 16 below.

## 6 SERVICE LEVELS

Service Provider will provide the Services in accordance with the Service Levels and Service Level Credits detailed in **Schedule C (Service Levels)**; a Work Order. Service Provider's performance of the Services will be measured against these Service Levels.

## 7 REQUIRED RESOURCES

### 7.1 Service Provider Sites

- 7.1.1 Service Provider is responsible for providing (at its own expense) any space it requires to provide the Services.
- 7.1.2 Service Provider will maintain and enforce, at the Service Provider Sites, safety and physical security procedures that are at least equal to the highest of the following: (i) the procedures required to meet Service Provider's obligations under this Agreement (including its obligation to protect Confidential Information from unauthorised access); (ii) industry standard procedures for locations similar to the Service Provider's locations; (iii) SARS's procedures applicable to similar locations, including procedures relating to physical access to restricted areas within a SARS environment, as of the Effective Date; (iv) Service Provider's procedures applicable to similar locations, as such procedures may change from time to time; and (v) the procedures set out in **Schedule B-D (Data Carrier Services SOW)** and **Schedule B-I (Internet and Hosting Services SOW)** [Note to the Bidder: This last sub-clause is not relevant to Tower V or S.]

- 7.1.3 Service Provider will permit SARS Personnel (including the personnel of any SARS agents and representatives) and SARS Third Party Suppliers to enter into those portions of the Service Provider Sites used to provide the Services. Such SARS Personnel and SARS Third Party Suppliers will comply with Service Provider's reasonable security and confidentiality requirements.

## 7.2 Resources

Service Provider will provide all Resources, excluding SARS-provided resources, required for Service Provider to perform the Services in terms of the Agreement (including the Performance Standards) at whatever volumes are from time to time required by SARS, provided that the Service Provider Personnel provided to perform the Services in terms of the Agreement shall have undergone the integrity and security competence exercise referred to in clause 16 of this Agreement.

## 7.3 Use of Resources

Service Provider will use all Resources as are necessary to provide the Services in an efficient, cost-effective and non-wasteful manner.

## 7.4 No SARS Representations and Warranties Regarding Resources

- 7.4.1 SARS makes no representations regarding the SARS assets it owns, leases or licences from Third Parties, or the SARS facilities, including any furnishings, telephonic hardware, and computer hardware (collectively the "**SARS Assets**"). Accordingly, should SARS make available the SARS Assets to Service Provider such assets will be made available on an 'as is, where is' basis, with no warranties whatsoever, including with respect to the condition, state of repair, quality, fitness for a particular purpose or merchantability thereof.
- 7.4.2 SARS makes no representations and warranties regarding any Third Party Intellectual Property including with respect to the likelihood that Service Provider will be able to obtain the Required Consent, the cost of obtaining the Required Consent, or the fitness for purpose of such Third Party Intellectual Property.
- 7.4.3 Service Provider remains fully responsible for the performance of the Services in terms of this Agreement (including Performance Standards) without regard to (i) the condition or suitability of any SARS Assets, SARS Intellectual Property and / or Third Party Intellectual Property (ii) Service Provider's ability to obtain 1 (one) or more Required Consents; and (iii) to the performance or non-performance by any of SARS's suppliers, licensors or lessors.

## 7.5 Managed SARS Third Party Contracts

**[Note to the Bidder: No Managed SARS Third Party Contracts are envisaged at Effective Date, but may be required during the Term.]**

- 7.5.1 When and to the extent that SARS requires the Service Provider to provide Managed SARS Third Party contract management services and where SARS obtains the right to disclose the terms of a Managed SARS Third Party Contract to Service Provider, Service Provider will manage the applicable Managed SARS Third Party's performance of services for SARS under such contract, including with

respect to the Managed SARS Third Party's compliance with the terms of the contract addressing service levels and pricing.

- 7.5.2 If Service Provider becomes aware of a breach of, or has a concern with a Third Party's performance under, a Managed SARS Third Party Contract, it will immediately (i) notify SARS; (ii) provide recommendations to SARS regarding the appropriate course of action; and (iii) take such actions as SARS may direct in writing. Service Provider will not take any action or communicate in any way with the applicable Managed SARS Third Party if there is reason to believe there is a breach of the Managed SARS Third Party Contract unless it obtains SARS's prior written approval.
- 7.5.3 Subject to clause 7.5.2, Service Provider will use Commercially Reasonable Efforts to resolve any performance problems by the Managed SARS Third Party under each Managed SARS Third Party Contract.
- 7.5.4 Should SARS require Managed Third Party Services from Service Provider, such services will be provided as a New Service.

## **8 SERVICE PROVIDER PERSONNEL**

### **8.1 Health, Safety and Security**

- 8.1.1 Service Provider will ensure that Service Provider Personnel will at all times, whilst on SARS's premises, adhere to the standard health, safety and security procedures and guidelines applicable to SARS Personnel, as amended from time to time and which will be made available to Service Provider on request, it being incumbent on Service Provider to ensure that it regularly requests and obtains the latest versions of such procedures and guidelines. Should SARS at any time have reason to believe that any member of Service Provider Personnel is failing to comply with such standard health, safety and security procedures and guidelines, SARS will be entitled to deny such member access to any or all of SARS's premises and require Service Provider to replace such member without delay.
- 8.1.2 Service Provider will register with the Compensation Commissioner as required by the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993). Documentary proof of such registration and/or a letter of good standing from the Compensation Commissioner must be made available to SARS upon request.
- 8.1.3 SARS's security requirements and regulations include, *inter alia*, the right to search (i) the person of any member of Service Provider Personnel; (ii) any container in the possession of Service Provider Personnel; and (iii) any vehicle driven by Service Provider Personnel, whilst Service Provider Personnel are on-site at any premises of SARS. Service Provider will obtain an undertaking from Service Provider Personnel irrevocably agreeing to submit to such searches and consents to such searches by SARS or any person duly appointed by SARS to undertake such searches.
- 8.1.4 Service Provider hereby agrees and undertakes, in terms of section 37(2) of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993) ("OSHA"), to ensure that Service Provider and Service Provider Personnel comply with the

aforesaid Act. Service Provider accepts sole responsibility for all health and safety matters relating to the provision of the Services, or in connection with, or arising out of such Services including –

- 8.1.4.1 providing for the health and safety of Service Provider Personnel and ensuring that Service Provider Personnel at all times adhere to the OSHA, and the terms and conditions of this Agreement; and
- 8.1.4.2 ensuring that neither SARS Personnel nor any Third Party's health and safety is endangered in any way by Service Provider's activities or conduct in providing the Services.

## 8.2 Key Service Provider Personnel and Key Service Provider Positions

- 8.2.1 The Key Service Provider Positions and Key Service Provider Personnel are detailed in **Appendix E-1 to Schedule E (Governance)**. **[Note to the Bidder: The Bidder is required to populate Appendix E-1 in accordance with the notes to the Bidder in Appendix E-1 as a mark-up to the contract].**
- 8.2.2 Before assigning an individual to a Key Service Provider Position, Service Provider will notify SARS of the proposed assignment, introduce the individual to the appropriate SARS representatives (and, upon request, provide such representatives with the opportunity to interview the individual) and provide SARS with a *curriculum vitae* and other information about the individual which may be reasonably requested by SARS. If SARS in good faith objects to the proposed assignment, the Parties will attempt to resolve SARS's concerns on a mutually agreeable basis. If the Parties are not able to resolve SARS's concerns within 5 (five) Business Days of SARS so objecting or such longer period as SARS may in writing agree, Service Provider will not assign the individual to that position or to any other position on the SARS account and will propose, for approval by SARS, the assignment of an alternative individual of suitable ability and qualifications and who has undergone the integrity and security competence as provided for in clause 16 of this Agreement.
- 8.2.3 Service Provider Personnel filling Key Service Provider Positions may not be removed from the SARS account until SARS has approved a suitable replacement and such replacement has been properly trained and made familiar with the SARS account.
- 8.2.4 In the case of an unforeseen Key Service Provider Position vacancy, the Service Provider will promptly fill the vacant Key Service Provider Position with an appropriately qualified and trained individual in accordance with clause 8.2.2 above, subject to such individual undergoing integrity and security competence as provided for in clause 16 of this Agreement.

## 8.3 Service Provider Program Executive and Transition Manager

- 8.3.1 Service Provider will appoint a Service Provider Program Executive who will have the full authority necessary to perform his or her functions pursuant to the Agreement, which includes the obligation to ensure that the full scale and scope of Service Provider's resources are brought to bear on the Services when necessary.
- 8.3.2 The Service Provider Transition Manager will report directly to the Service Provider

Program Executive.

- 8.3.3 The Service Provider Program Executive and the Service Provider Transition Manager will be Key Service Provider Positions.

#### 8.4 Turnover of Service Provider Personnel

Service Provider agrees that it is in both Parties' best interests for Service Provider to keep the turnover rate of the Service Provider Personnel at a low level, particularly in respect of Service Provider Personnel performing important Service components. Accordingly, Service Provider will use Commercially Reasonable Efforts to limit Service Provider Personnel turnover.

#### 8.5 Removal of Service Provider Personnel

Service Provider will promptly remove from the SARS account any Service Provider Personnel whose presence or involvement in the SARS account is determined by SARS and/or Service Provider to be detrimental to the Services or to the SARS work environment, including any Service Provider Personnel who is found not to be compliant with the provisions of clause 16 of this Agreement.

#### 8.6 Continuing Obligation to Perform

Service Provider will remain fully responsible for the provision of the Services in terms of the Agreement (including the Performance Standards) notwithstanding, among other things: (i) SARS's unwillingness to approve 1 (one) or more proposed assignments of individuals to Key Service Provider Positions; (ii) turnover of Service Provider Personnel including Key Service Provider Personnel; or (iii) the removal by SARS and/or Service Provider of Service Provider Personnel including under clause 8.5 above.

#### 8.7 Transition

Service Provider will provide the Transition Services as detailed in **Appendix B-x-1 to Schedule B-x**.

### 9 SARS'S RESPONSIBILITIES

#### 9.1 Responsibilities

SARS's responsibilities under the Agreement ("**Dependencies**") are set out in **Appendix B-x-2 (Tower x Dependencies)**. **[Note to the Bidder: As part of your Proposal, you must identify in the appropriate Appendix any Dependencies with respect to the Towers for which you are submitting a Proposal for consideration by SARS.]** For the avoidance of doubt, SARS will not be responsible for any tasks, functions or the like under the Agreement other than the Dependencies.

#### 9.2 Excused Performance

- 9.2.1 Service Provider will promptly notify SARS upon becoming aware that SARS has failed to perform, or is reasonably likely to fail to perform, a Dependency.

9.2.2 Service Provider's failure to perform any of its obligations under the Agreement (including a failure to perform an obligation within the timeframes required under this Agreement) will be excused if and to the extent that:

9.2.2.1 such failure by Service Provider would not have occurred but for SARS's failure to perform its Dependencies;

9.2.2.2 such failure by SARS directly and materially adversely affects or affected Service Provider's timely performance of its obligations under the Agreement;

9.2.2.3 Service Provider provides SARS with prompt written notice of such non-performance in accordance with clause 9.2.1 and uses Commercially Reasonable Efforts to perform notwithstanding SARS's failure to perform, including by way of Workarounds or other means; and

9.2.2.4 Service Provider demonstrates to SARS's reasonable satisfaction that SARS's failure had a direct, material adverse impact on Service Provider's ability to perform its obligations in accordance with the Agreement.

9.2.3 To the extent any delay in performance by Service Provider is excused under this clause 9.2, the deadlines for its performance will be extended for a reasonable period of time to accommodate the delay actually and reasonably caused by SARS's failure to perform a Dependency in accordance with this Agreement.

9.2.4 Service Provider will be excused from the assessment of a Service Level Credit to the extent set forth in clause 3.7 of **Schedule C (Service Levels)**.

## 10 GOVERNANCE

The Parties will comply with their respective obligations set forth in **Schedule E (Governance)**.

## 11 CHARGES/PRICING

All Charges for the Services, as well as invoicing and payment terms, are set out in **Schedule D (Charges, Invoicing and Payments)**.

## 12 INTELLECTUAL PROPERTY RIGHTS

### 12.1 SARS Intellectual Property

12.1.1 SARS retains all right, title and interest in and to the SARS Intellectual Property. As of the Effective Date, Service Provider is granted a non-exclusive licence for the continued duration of this Agreement to perform any lawful act including the right to use, copy, maintain, modify, enhance and create derivative works of SARS Intellectual Property (including source code materials, programmer interfaces, available documentation, manuals and other materials to the extent available and necessary for the use, modification, or enhancement thereof) for the sole purpose of providing the Services to SARS. Service Provider will not be permitted to use SARS Intellectual Property for the benefit of any entities other than SARS without

the prior written consent of SARS, which may be withheld at SARS's sole discretion. Except as otherwise requested or approved by SARS, which approval will be at SARS's sole discretion, Service Provider will cease all use of SARS Intellectual Property as of the termination or expiration date of this Agreement or the date of completion of the Services where such date is earlier.

## 12.2 Intellectual Property developed during the Term

- 12.2.1 SARS will have all right, title and interest in all Intellectual Property developed or generated for SARS in the course of providing the Services ("**Developed Intellectual Property**").
- 12.2.2 Service Provider hereby irrevocably assigns, transfers and conveys to SARS without further consideration all of its right, title and interest in such Developed Intellectual Property.
- 12.2.3 Service Provider agrees to execute any documents or take any other actions as may reasonably be necessary, or as SARS may reasonably request in writing, to perfect SARS's ownership of such Developed Intellectual Property, and further, hereby irrevocably grants to SARS its power of attorney *in rem suam* with the right on behalf of Service Provider to sign all such deeds and documents and to take all such actions as may be necessary for SARS to perfect its rights of ownership over such Developed Intellectual Property should Service Provider fail to comply with any such written request.
- 12.2.4 Unless otherwise agreed, where Developed Intellectual Property incorporates Service Provider Intellectual Property, systems, and processes that Service Provider did not develop in the course of providing the Services, Service Provider hereby grants SARS an irrevocable, perpetual, world-wide, fully paid-up, royalty-free, non-exclusive licence for SARS, SARS Personnel and agents to perform any lawful act, including the right to use, copy, maintain, modify, enhance and create derivative works of such Service Provider Intellectual Property insofar as it forms part of the Developed Intellectual Property.

## 12.3 Service Provider Intellectual Property

Subject to clause 12.2.4, Service Provider retains all right, title and interest in and to Service Provider Intellectual Property that is used in connection with the Services. Service Provider grants to SARS an irrevocable, perpetual, fully paid-up, royalty-free, non-exclusive licence for SARS to receive and realise the benefit of the Services during the Term and during the Disengagement Assistance Period.

## 12.4 Third Party Intellectual Property

Service Provider will neither, incorporate any Third Party Intellectual Property into any Developed Intellectual Property nor introduce into SARS's environment any Third Party Intellectual Property without first obtaining SARS's prior written consent thereto. Service Provider will, where required, be responsible for obtaining a licence on behalf of SARS, at Service Provider's cost and in SARS's name, to use such Third Party Intellectual Property from the Third Party. Service Provider is required to perform the Services in accordance with the Service Levels notwithstanding any decisions by SARS to withhold

its consent to the use of Third Party Intellectual Property and/or failure to assist in procuring the Required Consents as contemplated in clause 12.6.1 below.

## **12.5 Use of Third Party Intellectual Property licensed to SARS**

Service Provider will not use any Third Party Intellectual Property licensed to SARS whether to provide the Services to SARS or for any other purpose whatsoever, unless prior written consent was obtained from SARS and the Third Party Licensor. Service Provider acknowledges that such unauthorised use of Third Party Intellectual Property licensed to SARS may constitute a breach of the provisions of the licence agreement/s in terms of which such Third Party Intellectual Property is licensed to SARS. Should consent be granted to Service Provider to use Third Party Intellectual Property licensed to SARS, Service Provider undertakes that it will use such Intellectual Property strictly in accordance with the provisions of the relevant consent. Service Provider is required to perform the Services in accordance with the Service Levels notwithstanding any decisions by SARS to withhold its consent.

## **12.6 Required Consents and License Fees**

- 12.6.1 Service Provider will, at its cost and expense, obtain all Required Consents with respect to any Third Party Intellectual Property required by it to provide the Services.
- 12.6.2 Service Provider will be responsible for all financial liability related to licence and maintenance fees under SARS's agreements with Third Parties for the licence and maintenance of any Third Party Intellectual Property to the extent that such liability arises from Service Provider's use, support, maintenance or access to such Third Party Intellectual Property.
- 12.6.3 Service Provider will be financially responsible for any licence and maintenance fees under Service Provider's agreements with Third Parties for the licensing and maintenance of any Third Party Intellectual Property.

## **12.7 Residual Knowledge**

- 12.7.1 Nothing contained in this Agreement will restrict either Party from the use in its business activities of any generic ideas, concepts, know-how, or techniques developed or learned by such Party pursuant to this Agreement, provided that in doing so such Party does not:
  - 12.7.1.1 disclose Confidential Information to Third Parties;
  - 12.7.1.2 infringe any Intellectual Property Rights of the other Party and/or Third Parties; or
  - 12.7.1.3 use any such residual knowledge or assist or enable any Third Party to use such residual knowledge to the detriment of SARS.



#### 12.8 Licence Limitations

Except for the licence rights contained in this clause 12, neither this Agreement nor any disclosure made hereunder grants any licence to either Party or any Third Party in respect of any Intellectual Property Rights of the other Party.

### 13 CHANGE CONTROL

Service Provider will control and manage changes to all aspects of the Services and to the environment in which it provides the Services in accordance with SARS's change management standards and procedures detailed in **Schedule B-x** and **Schedule E (Governance)**.

### 14 REVIEW AND ACCEPTANCE OF DELIVERABLES

All Deliverables delivered by Service Provider to SARS pursuant to this Agreement will be subject to SARS's review, approval and acceptance requirements as may be detailed in **Schedule B-x** and **Schedule C (Service Levels)** hereto.

### 15 SAFEGUARDING OF CONFIDENTIAL INFORMATION

#### 15.1 Acknowledgment of Importance of Confidential Information

The Receiving Party acknowledges:

- 15.1.1 the great importance of the Confidential Information to the Furnishing Party and, where applicable, Third Party proprietors of such information, and recognises that the Furnishing Party and/or Third Party proprietors may suffer irreparable harm or loss in the event of such information being disclosed or used otherwise than in terms of this Agreement; and
- 15.1.2 that all Confidential Information of the Furnishing Party that comes to the knowledge of the Receiving Party is proprietary to the Furnishing Party or, where applicable, the relevant Third Party proprietor. The Receiving Party also acknowledges that nothing in this Agreement confers any rights or licence to Confidential Information on the Receiving Party.

#### 15.2 Non-Disclosure

The Receiving Party agrees:

- 15.2.1 except as permitted by this Agreement, not to disclose or publish any Confidential Information in any manner, for any reason or purpose whatsoever without the prior written consent of the Furnishing Party;
- 15.2.2 notwithstanding the foregoing, Service Provider may, subject to clause 18.6, disclose such information to 1 (one) or more Third Parties performing services required hereunder where:

- 15.2.2.1 such Third Party is performing services in terms of this Agreement;
- 15.2.2.2 such disclosure is necessary or otherwise naturally occurs in that entity's scope of responsibility; and
- 15.2.2.3 the Third Party agrees or has agreed in writing to assume the obligations described in this clause 15;
- 15.2.3 except as permitted by this Agreement, not to utilise, employ, exploit or in any other manner whatsoever use the Confidential Information for any purpose whatsoever without the prior written consent of the Furnishing Party and, in the event that the Confidential Information is proprietary to a Third Party, it will also be incumbent on the Receiving Party to obtain the consent of such Third Party;
- 15.2.4 to restrict the dissemination of the Confidential Information only to those of its personnel who are actively involved in activities for which use of Confidential Information is authorised and then only on a 'need to know' basis and the Receiving Party will initiate, maintain and monitor internal security procedures reasonably acceptable to the Furnishing Party to prevent unauthorised disclosure by its personnel;
- 15.2.5 to take all practical steps, both before and after disclosure, to impress upon its personnel who are given access to Confidential Information the secret and confidential nature thereof; and
- 15.2.6 notwithstanding the foregoing, SARS may disclose to Third Parties the Confidential Information of Service Provider to the extent required to exercise its rights under this Agreement (including **Schedule F (Disengagement Assistance)**) provided SARS obtains the written agreement of such Third Party to a confidentiality agreement materially consistent with the confidentiality provisions set out in this clause 15.

### 15.3 Standard of Care

- 15.3.1 The Receiving Party will protect the Confidential Information of the Furnishing Party in the manner that it employs to protect its own Confidential Information. In no event will the Receiving Party use less than Commercially Reasonable Efforts to protect the confidentiality of the Confidential Information of the Furnishing Party.
- 15.3.2 Service Provider will ensure that no Service Provider Personnel or unauthorised parties access any Confidential Information unless it must do so to perform the Services.
- 15.3.3 In addition, Service Provider will implement on or before the Effective Date, and thereafter maintain, appropriate safeguards against the unauthorised access to, and destruction, loss, or alteration of, SARS data in Service Provider's possession and to which the Service Provider may have access. Such safeguards must be acceptable to SARS and in accordance with all policies and procedures of SARS regarding data access, privacy and security and no less rigorous than the most rigorous of the practices maintained by SARS or Service Provider as of the Effective Date.
- 15.3.4 In the event that SARS grants Service Provider permission to remotely access

SARS's hardware, Software, Internet facilities, data, electronic communications facilities and/or network facilities, Service Provider will adhere to all SARS's policies applicable to remote access, which are available to Service Provider on request.

#### **15.4 Procure Undertakings from Personnel**

- 15.4.1 Service Provider will ensure that each of the Service Provider Personnel execute the SARS Oath / Affirmation of Secrecy, prior to performing any of the Services under this Agreement or being given access to any facilities used to perform the Services.
- 15.4.2 Service Provider will ensure that the Service Provider Personnel who have access to Confidential Information of SARS give a written undertaking in favour of SARS in regard to the Confidential Information on substantially the same terms and conditions contained within this Agreement in a form prescribed by SARS prior to access to any Confidential Information.
- 15.4.3 SARS will be entitled to deny Service Provider Personnel access to SARS Facilities or prevent Service Provider Personnel from conducting any work in relation to the Services should SARS not be in receipt of the SARS Oath / Affirmation of Secrecy or the integrity screening report referred to in clause 16.1.2 and, if required by SARS, a signed undertaking on such terms and conditions as determined by SARS.
- 15.4.4 Service Provider's failure to provide the undertaking and the SARS Oath / Affirmation of Secrecy or the integrity screening report referred to in clause 16.1.2, referred to in this clause 15.4 and/or SARS's failure to receive such undertaking will in no way detract from Service Provider's obligations in terms of this Agreement.
- 15.4.5 Service Provider will comply with and will procure that all Service Provider Personnel comply with all security measures imposed by SARS regarding security and access to the SARS Facilities, including SARS's integrity and security competence requirements provided for in clause 16 of this Agreement.

#### **15.5 Exceptions**

The Parties acknowledge that subject to Applicable Law this clause 15 will not be applicable where the Receiving Party discloses the Confidential Information to attorneys or auditors, provided that (i) such disclosure is reasonably required by the Receiving Party for the purposes of conducting its business activities; and (ii) the auditors agree in writing to be bound by the provisions of this clause 15 and complete and submit the SARS Oath / Affirmation of Secrecy to SARS.

#### **15.6 Disclosure Required by Law, Regulation or Court Order**

In the event that the Receiving Party is required to disclose the Confidential Information of the Furnishing Party in terms of a requirement or request by operation of law, regulation or court order but only to the extent so disclosed and only in the specific instance and under the specific circumstances in which it is required to be disclosed, the Receiving Party will:

- 15.6.1 advise the Furnishing Party thereof in writing prior to disclosure, if possible;
- 15.6.2 take such steps to limit the extent of the disclosure to the extent that it lawfully and reasonably practically can;
- 15.6.3 afford the Furnishing Party a reasonable opportunity, if possible, to intervene in the proceedings; and
- 15.6.4 comply with the Furnishing Party's requests as to the manner and terms of any such disclosure.

#### **15.7 Loss of Confidential Information**

In the event of any unauthorised disclosure or loss of, or inability to account for any Confidential Information of the Furnishing Party, the Receiving Party will promptly:

- 15.7.1 notify the Furnishing Party in writing;
- 15.7.2 at its own expense take such actions as may be necessary or reasonably requested by the Furnishing Party to minimise the violation; and
- 15.7.3 at its own expense co-operate in all reasonable respects with the Furnishing Party to minimise the violation and any damage resulting there from.

#### **15.8 Return of Confidential Information**

SARS may at any time on written instruction to Service Provider require that Service Provider immediately return to SARS, in a form reasonably acceptable to SARS, and thereafter destroy all remaining copies of SARS Confidential Information in possession of the Service Provider's personnel, agents or Subcontractors (including where applicable by electronically deleting the same in such manner that it is completely and utterly irretrievable). In addition SARS may instruct that the Service Provider furnishes a written statement to the effect that upon such return it has not retained in its possession or under its control, either directly or indirectly, any such Confidential Information or material and has fully complied with the foregoing return and destruction obligations.

### **16 INTEGRITY AND SECURITY COMPETENCE**

#### **16.1 Background Verification**

- 16.1.1 As a confirmation of a Service Provider Personnel's citizenship, criminal record status, credit-worthiness, academic qualifications and membership of professional associations, the Service Provider shall conduct a background vetting on every Service Provider Personnel whom it intends to delegate/assign to SARS for the fulfilment of its obligations in terms of this Agreement.
- 16.1.2 The Service Provider shall provide SARS with a screening report for each member of its Personnel referred to in clause 16.1.1 above prior to Commencement Date, or where it is impossible to provide the report prior to Commencement Date, the Service Provider shall refrain from delegating Service Provider Personnel for this purpose without it first providing such a report to SARS.

- 16.1.3 The screening reports referred to in 16.1.2 above, shall be issued by a reputable screening agency. **[Note to Bidder: the list of screening agencies acceptable to SARS will be agreed between the Parties prior to Effective Date]**
- 16.1.4 The validity of such screening reports referred to in 16.1.2 shall not be older than 12 (twelve) months as at Commencement Date and shall be updated as reasonably required by SARS from time to time.
- 16.1.5 The Service Provider shall provide SARS with suitable, fit and proper Service Provider Personnel as a replacement of the individual member whose updated report reveals evidence that he/she no longer meets SARS's integrity and security competence requirements.
- 16.1.6 The report referred to in 16.1.2 above must include the verification of the following, amongst others:
- 16.1.6.1 Citizenship, including residency status
  - 16.1.6.2 Criminal activity report
  - 16.1.6.3 Credit record
  - 16.1.6.4 Academic qualifications including matric certificate or equivalent record
  - 16.1.6.5 Professional association memberships
- 16.2 SARS reserves the right to verify any such report(s) provided by the Service Provider.

## 17 SECURITY COMPETENCE

The Service Provider Personnel delegated/assigned to provide Services to SARS in terms of this Agreement who have access, or who are reasonably expected to have access, to SARS's Confidential Information or SARS's restricted areas shall at all times during the subsistence of this Agreement, be subject to SARS policies and procedures regarding integrity, competence, security.

## 18 WARRANTIES

### 18.1 Competitive Prices

Service Provider warrants that (i) the tariffs charged to SARS shall not exceed any retail price advertised by the Service Provider, except for special offers of less than 90 (ninety) days duration; (vii) it will not offer the Services to SARS on commercial terms that are less favourable than that offered by the Service Provider its other customers; and (iii) tariffs charged to SARS shall not exceed any retail price advertised by the Service Provider, except for special offers of less than 90 (ninety) days duration.

**18.2 Work Standards**

Service Provider warrants that the Services will be performed with promptness and diligence and executed in a workmanlike manner, in terms of the practices and professional standards used in well-managed operations performing services similar to the Services.

**18.3 Manner of Performance**

Service Provider warrants that the Services will at all times be performed in a manner which will (i) not diminish SARS's reputation; and (ii) not be detrimental to SARS,

**18.4 Business Continuity Services**

Service Provider warrants that it has suitable and tested Business Continuity Plans in place in order to ensure continuity of the Services in the event of a Disaster.

**18.5 Service Provider Personnel**

18.5.1 Service Provider warrants that it will use adequate numbers of qualified individuals with suitable training, education, experience, and skill to perform the Services in terms of this Agreement and the Performance Standards.

18.5.2 Service Provider further warrants that it shall ensure that Service Provider Personnel undergo and comply with the integrity and security competence requirements provided for in clause 16 above.

**18.6 Protecting SARS Confidential Information**

18.6.1 Service Provider warrants that it will at all times comply with its obligations to establish and maintain such procedures as may be necessary to ensure that all Confidential Information to which Service Provider has access is not accessible to unauthorised persons, is not altered, lost or destroyed and it is capable of being retrieved only by persons duly authorised by SARS.

18.6.2 Service Provider hereby further warrants in favour of SARS that it will at all times strictly comply with all Applicable Laws relating to the protection of data and personal information, including the Tax Administration Act, 2011 (Act No. 28 of 2011) and any other tax act administered by the Commissioner for SARS, and with all the provisions and requirements of policies and procedures, as amended from time to time, for the protection of Confidential Information (including encryption standards) and any further requirements of which SARS may, from time to time, advise Service Provider in writing, or which may be required by Applicable Laws, whether within the Republic of South Africa or elsewhere in the world. The SARS Confidential Information protection policies and procedures will be made available to Service Provider on request. It is incumbent on Service Provider to ensure, for the duration of this Agreement, that (i) it remains fully cognisant of Applicable Laws relating to data and personal information protection; and (ii) requests and obtains from SARS the latest versions of the SARS Confidential Information protection policies and procedures.

18.6.3 Service Provider hereby further warrants that it will not, at any time copy, compile, collect, collate, process, mine, store, transfer, alter, delete, interfere with or in any other manner use the Confidential Information for any purpose other than to provide the Services to SARS.

18.6.4 Service Provider further warrants that it will ensure that all its systems and operations which it uses to provide the Services, including all systems on which Confidential Information is copied, compiled, collected, collated, processed, mined, stored, transmitted, altered or deleted or otherwise used as part of providing the Services, will at all times be of at least the minimum standard required under Applicable Law and further be of a standard no less than the standards which are in compliance with best practice for the protection, control and use of such data.

#### 18.7 Non-Infringement

Service Provider warrants that:

18.7.1 it will perform its responsibilities under the Agreement in a manner that does not infringe or constitute an infringement or misappropriation of any patent, copyright, trademark, trade secret or other intellectual property or proprietary rights of SARS and/or any Third Party; and

18.7.2 the assets it uses to perform the Services will not infringe, or constitute an infringement or misappropriation of, any patent, copyright, trademark, trade secret or other intellectual property or proprietary rights of SARS and/or any Third Party.

#### 18.8 Authorisation

**[Note to Bidder: The successful Bidder will be required to obtain a Board Resolution authorising the successful Bidder's signatory to enter into this Agreement]**

18.8.1 Each Party warrants to the other that it has the requisite authority to enter into this Agreement.

18.8.2 The Service Provider further warrants that as at the Effective Date and during the Term: (i) it has all the necessary licences, certificates, authorisations and consents required under the laws of the Republic of South Africa or under any other applicable jurisdiction for the provision of the Services under this Agreement; and (ii) it will comply with all legal requirements and with the terms and conditions of all licences, certificates, authorisations and consents required for the provision of the Services.

#### 18.9 Inducements

Each Party warrants to the other that it has not violated any Applicable Laws, regulations or policies of the other of which it has been given notice, regarding the offering of unlawful inducements in connection with this Agreement.

#### 18.10 Disabling Code

Service Provider warrants that:

- 18.10.1 it will not use, or authorise Service Provider Personnel Third Parties, to use any code that would have the effect of disabling or otherwise shutting down all or any portion of the Services; and
- 18.10.2 with respect to any disabling code that may be part of any Software in any way related to the provision of the Services, Service Provider will not invoke, or authorise Service Provider Personnel or a Third Party to invoke, such disabling code at any time, including upon expiration or termination of this Agreement for any reason.

#### 18.11 Service Level Measurement

Service Provider warrants that the steps, tools, processes, workflows and interfaces provided in **Appendix C-x** for measuring Service Provider's performance against the Service Levels will, on a Service Level by Service Level basis, produce a system of measuring Service Provider's performance against the Service Level that is at least as automated and objective as the most automated and objective system for measuring a similar service level deployed in a comparable, well-managed commercial environment by a professional service provider performing services similar to the Services.

#### 18.12 Tax Compliance

- 18.12.1 Service Provider warrants that as of the Effective Date it and its Subcontractors are in full compliance, and throughout the Term will remain in full compliance, with all Applicable Laws relating to taxation in South Africa.
- 18.12.2 Service Provider undertakes that it will inform SARS should it become aware that Service Provider and/or any of its Subcontractors are not tax compliant.
- 18.12.3 If SARS becomes aware of any such tax non-compliance of Service Provider and/or its Subcontractors and should such non-compliance not be remedied within 3 (three) months (or such other shorter period as the Applicable Law may prescribe) after SARS has given notice to Service Provider to remedy such non-compliance, such non-compliance will be deemed to constitute a material breach of this Agreement by the Service Provider.
- 18.12.4 SARS will be entitled to all remedies (including termination for cause) provided for in this Agreement pursuant to a material breach hereof by the Service Provider or SARS may in the alternative (at its sole discretion) upon written notice, require the Service Provider to remedy the material breach. In the case of non-compliance by a Subcontractor the Service Provider will ensure that the Subcontractor immediately ceases providing Services to SARS. SARS will have no liability to Service Provider with respect to a termination under this clause 18.12.4.
- 18.12.5 Service Provider further warrants that Service Provider will deliver to SARS on the Effective Date and each anniversary thereof during the Term a valid tax clearance certificate issued for the then-current year in respect of the Service Provider and each Subcontractor. A copy of Service Provider's tax clearance certificate valid as of the Effective Date is attached hereto as **Schedule J (Service Provider's Tax Clearance Certificate)**. If Service Provider fails to provide such certificates (i) in respect of itself and not due to any failure by SARS in the production of the certificate, SARS may terminate the Agreement on 30 (thirty) days' notice; and (ii) in respect of any Subcontractor, and not due to any failure by SARS in the



production of the certificate, SARS may direct Service Provider to procure that the Subcontractor immediately ceases providing Services pursuant to the subcontract. SARS will have no liability to Service Provider with respect to a termination under this clause 18.12.5.

#### 18.13 Legal and Regulatory Compliance

18.13.1 Service Provider warrants that it and its Subcontractors are and will remain for the duration of this Agreement, fully cognisant of and compliant with any relevant legislative or regulatory requirements (as may be amended from time to time) and/or rulings or codes of practice of any competent authority or industry body that has jurisdiction over the provision of or is relevant to the Services and/or Deliverables under the Agreement.

18.13.2 Service Provider will, within 14 (fourteen) days of the Effective Date, furnish SARS with copies of all regulated licences (including all amendments and renewals as well as copies of all radio frequency spectrum licences) granted to Service Provider by the Independent Communications Authority of South Africa and which are required by Service Provider for the provision of the Services to SARS. The details of all licence terms and conditions and other obligations imposed on Service Provider which are not contained in Service Provider's licences must be furnished in writing by Service Provider to SARS.

#### 18.14 Broad-Based Black Economic Empowerment Compliance

Service Provider undertakes and warrants that it and its Subcontractors are and will remain for the duration of this Agreement, fully cognisant of and compliant with the obligations detailed in **Schedule H (Broad-Based Black Economic Empowerment)**.

#### 18.15 Documentation

Service Provider warrants that it will provide and maintain such documentation as is authored by or on behalf of the Service Provider so that it (i) accurately reflects the operations and capabilities of any corresponding Deliverables; (ii) is accurate, complete and written in a manner easily understood by SARS; and (iii) is promptly updated from time to time to reflect any change.

#### 18.16 Conflicts of Interest

18.16.1 Service Provider warrants that neither it nor any member of the Service Provider Personnel:

18.16.1.1 will have or will acquire any direct or indirect contractual, financial, business or other interest or advantage that would conflict in any manner or degree with Service Provider's performance of its duties and responsibilities to SARS under this Agreement and Service Provider will promptly inform SARS of any such interest that may be incompatible with the interests of SARS;

18.16.1.2 has used or will use the authority provided or to be provided under this Agreement to improperly obtain financial gain, advantage or benefit;

- 18.16.1.3 has used or will use any SARS Confidential Information acquired in connection with this Agreement to obtain financial gain, advantage or benefit;
  - 18.16.1.4 has accepted or will accept anything of value or an inducement that could provide a financial gain, advantage or benefit, based on an understanding that the actions of the Service Provider or Service Provider Personnel on behalf of SARS could be influenced thereby; and
  - 18.16.1.5 has paid or agreed to pay any Person any fee, commission, percentage, brokerage fee, gift or any other consideration, that is contingent upon or resulting from the award or execution of this Agreement, save for such remuneration as is paid to *bona fide* Service Provider Personnel working solely for the Service Provider or any of the Service Provider's Subcontractors.
- 18.16.2 Service Provider warrants that it will not attempt to influence any SARS Personnel by the direct or indirect offer of anything of value or an inducement.

## 19 INSURANCE AND RISK OF LOSS

### 19.1 Insurance

- 19.1.1 Service Provider will, at its own cost and expense, during the Term have and maintain in force, to the reasonable satisfaction of SARS, sufficient short-term insurance cover to cover all of its obligations and liabilities under this Agreement, consistent with acceptable and prudent business practices, including:
  - 19.1.1.1 insurance cover, in accordance with Service Provider's insurance cover as of the date of last signature of this Agreement as disclosed to SARS and attached hereto as **Schedule K (Service Provider's Insurance Policies)**, affording sufficient cover in order to cover Service Provider's potential liability in terms of clause 19.1.1; and
  - 19.1.1.2 run-off cover identical to that contemplated in clause 19.1.1 above, for a period of 2 (two) years, subsequent to termination or expiration of the term of this Agreement.

### 19.2 SARS Right to Acquire Insurance in Certain Circumstances

Without limiting the generality of SARS's rights and remedies hereunder, in the event of a failure by Service Provider to maintain any insurance required hereunder, or to provide evidence of renewal at least 3 (three) Business Days prior to expiration of the applicable insurance cover, on 3 (three) Business Days' notice to Service Provider, SARS may purchase the requisite insurance and deduct the costs thereof from any amounts owed to Service Provider under this Agreement.

### 19.3 Risk of Loss

Service Provider will be responsible for risk of loss of, and damage to, any hardware, Software or other assets of SARS that it may have in its possession or under its control.

Any hardware or Software in the possession or control of Service Provider's Subcontractors or agents (including couriers, freight companies and the like) will be deemed to be under the control of the Service Provider.

## **20 INDEMNITIES**

### **20.1 Indemnity by Service Provider**

Service Provider hereby indemnifies, holds harmless and agrees to defend SARS and SARS Personnel from any and all Losses arising from or in connection with, any of the following:

- 20.1.1 all claims and any actions taken against SARS in respect of Service Provider's non-compliance with legislation and regulations within the scope and responsibility of Service Provider's provision of the Services.
- 20.1.2 Third Party claims attributable to Service Provider's breach of its obligations with respect to clause 15 and 18.6;
- 20.1.3 Third Party claims attributable to theft, fraud or other unlawful activity or any negligent, wilful or fraudulent misconduct by Service Provider or Service Provider Personnel, and claims attributable to errors or omissions for which Service Provider is required to insure under clause 19.1.1 to the extent of the insurance required there under;
- 20.1.4 Third Party claims of infringement of any patent, trade secret, trademark, copyright or other proprietary rights, arising out of or relating to the Services, any deliverable and/or technology used and/or provided by Service Provider or its Subcontractors to provide the Services other than technology and Software owned or provided by SARS;
- 20.1.5 Third Party claims of infringement of any patent, trade secret, trademark, copyright or other proprietary rights, alleged to have occurred because of hardware or Software provided to Service Provider by SARS to the extent arising from a change in the use or configuration of such hardware or Software by Service Provider or its Subcontractors on or after Effective Date;
- 20.1.6 Third Party claims arising from breach of an agreement between Service Provider and a Subcontractor or supplier (including claims by the Subcontractor or supplier);
- 20.1.7 Third Party claims arising from (i) Service Provider's failure to observe or perform any duties or obligation in terms of any law, licence, certificate and/or authorisation relating to any legislation governing labour brokers, personal services companies or personal services trusts and (ii) any Service Provider Personnel instituting any action against SARS in terms of the Labour Relations Act, 1995 (Act No. 66 of 1995), in each case in the event that, in the performance of the Services, Service Provider is found to be a labour broker, personal services company, or a personal services trust;
- 20.1.8 claims brought by any Service Provider Personnel based upon any act by Service Provider, its employees, agents and/or its Subcontractors on or after the Effective Date including, without limitation, any claim arising from clauses 8.2.2 and 8.5, any

claim relating to the failure to appoint or promote employees by Service Provider, claims for wages, benefits, discrimination or harassment of any kind, wrongful termination and/or refusal to pay severance or notice pay or termination payments upon leaving Service Provider's employ;

- 20.1.9 Third Party claims arising from or related to the death or bodily injury of any agent, employee, customer, business invitee, or business visitor or other person caused by the negligent or wilful conduct of Service Provider;
- 20.1.10 Third Party claims arising from or related to damage to tangible personal or real property including computer data, data loss or any other damage, notwithstanding the form in which any such action is brought (e.g. contract, delict or otherwise), to the extent such injuries or damages arise directly or indirectly from acts, errors or omissions that constitute negligence, wilful misconduct or a contravention of law, by Service Provider and/or Service Provider Personnel; and
- 20.1.11 any Third Party claim, demand, charge, action, cause of action, or other proceeding asserted against SARS in SARS's capacity as an employer of a person resulting from an act or omission of Service Provider.

## 20.2 **Infringement**

If any item used by Service Provider to provide the Services becomes, or in Service Provider's reasonable opinion is likely to become, the subject of an infringement or misappropriation claim or proceeding, Service Provider will, in addition to indemnifying SARS as provided in clause 20.1 and to the other rights SARS may have under this Agreement or otherwise, promptly take the following actions, at no additional charge to SARS, in the listed order of priority: (i) secure the right to continue using the item; (ii) replace or modify the item to make it non-infringing, provided that replacement or modification must not degrade performance or quality or increase SARS's costs; or (iii) remove the item from the Services in which case Service Provider's charges will be equitably adjusted to reflect such removal.

## 20.3 **Indemnification Procedures**

With respect to Third Party claims, the following procedures will apply:

- 20.3.1 **Notice:** Promptly after receipt of notice of the commencement or threatened commencement of any civil, criminal, administrative, or investigative action or proceeding involving a claim in respect of which SARS may seek indemnification in terms of this clause 20, SARS will notify the Service Provider of such claim in writing. Failure to so notify the Service Provider will not relieve the Service Provider of its obligations under this Agreement except to the extent that it can demonstrate damages attributable to such failure. Within 15 (fifteen) days after receipt of notice from SARS relating to any claim, but (to the extent possible) not later than 10 (ten) days before the date on which any response to a complaint or summons is due, the Service Provider will notify SARS in writing if the Service Provider elects to assume control of the defence and settlement of that claim ("**Notice of Election**").

- 20.3.2 **Procedure Following Notice of Election:** If the Service Provider delivers a Notice of Election relating to any claim within the required notice period, the Service Provider will be entitled to have sole control over the defence and settlement of such claim; provided that (i) SARS will be entitled to participate in the defence of such claim and to employ counsel at its own expense to assist in the handling of such claim; and (ii) the Service Provider will obtain the prior approval of SARS before entering into any settlement of such claim or ceasing to defend against such claim. After the Service Provider has delivered a Notice of Election relating to any claim in terms of the preceding paragraph, the Service Provider will not be liable to SARS for any legal expenses incurred by SARS in connection with the defence of that claim. In addition, the Service Provider will not be required to indemnify SARS for any amount paid or payable by SARS in the settlement of any claim for which Service Provider has delivered a timely Notice of Election if such amount was agreed to without the consent of the Service Provider.
- 20.3.3 **Procedure Where No Notice of Election Is Delivered:** If the Service Provider does not deliver a Notice of Election relating to any claim within the required notice period, SARS will have the right to defend the claim in such manner as it may deem appropriate, at the cost and expense of the Service Provider. The Service Provider will promptly reimburse SARS for all such costs and expenses.
- 20.3.4 Regardless of the provisions of this clause 20.3 (i) SARS will be entitled, prior to permitting the Service Provider control over the defence and settlement of the claim in terms of clause 20.3.2 above, to require the Service Provider to furnish SARS with security in such form and to such amount as SARS at its discretion may require to ensure that SARS is able to meet the full value of all amounts and costs which may be awarded against SARS or for which SARS may become liable; and (ii) SARS will be entitled to withdraw control of the defence and settlement of the claim if SARS at its discretion but acting reasonably, considers that any act or omission of the Service Provider or the control of the defence and settlement by the Service Provider may in any way be adverse to SARS's good name and reputation.

## **21 LIABILITY**

### **21.1 General Intent**

Subject to the specific provisions of this clause 21 and any countervailing provisions in this Agreement, it is the intent of the Parties that each Party will be liable to the other Party for any actual damages incurred by such Party as a result of the other Party's failure to perform its obligations in the manner required by this Agreement.

### **21.2 Liability Restrictions**

- 21.2.1 Subject to clause 21.2.3 below, in no event will a Party be liable for indirect, special, consequential, punitive or exemplary damages or lost profits, or lost revenues, even if such Party has been advised of the possibility of such damages in advance.
- 21.2.2 Subject to clause 21.2.3, each Party's liability to the other Party with respect to a claim or series of related claims, losses, damages or liability in any way arising out

of this Agreement, regardless of form or cause of action, will be limited to all Losses which constitute direct and/or general damages.

21.2.3 The limitations set out in clauses 21.2.1 and 21.2.2 will not apply with respect to:

- 21.2.3.1 damages occasioned by the wilful misconduct or negligence of Service Provider and/or Service Provider Personnel;
- 21.2.3.2 damages occasioned by a Party's breach of clause 15;
- 21.2.3.3 damages occasioned by (i) unlawful termination of this Agreement or (ii) abandonment of the Services by Service Provider in whole or in part;
- 21.2.3.4 claims of personal injury or death, including indemnification for a Third Party personal injury claim;
- 21.2.3.5 Service Level Credits; and
- 21.2.3.6 damages occasioned by a claim against which Service Provider indemnifies SARS.

21.2.4 Each Party will have a duty to mitigate damages for which the other Party is responsible.

### 21.3 Force Majeure

21.3.1 Neither Party will be liable for any default or delay in the performance of its obligations under this Agreement if and to the extent that: (i) the default or delay is caused, directly or indirectly, by fire, flood, elements of nature or acts of God, or any other cause beyond the reasonable control of the Party; and (ii) the non-performing Party is without fault and the default or delay could not have been prevented by reasonable precautions ("**Force Majeure Event**"). Subject to clause 21.3.2, in such event, the non-performing Party is excused from further performance for as long as such circumstances prevail and provided the non-performing Party continues to use its Commercially Reasonable Efforts to recommence performance. Any Party so delayed will notify the Party to whom performance is due and describe the circumstances causing the delay.

21.3.2 If a Force Majeure Event substantially prevents or delays performance of the Services or any part thereof necessary for the performance of SARS functions that SARS at its discretion reasonably believes to be critical at reasonable levels of service for more than 5 (five) consecutive days (or such longer period as SARS may agree at its sole discretion), then at SARS's option, SARS may:

- 21.3.2.1 at its expense procure the Services in question from an alternate source, in which case SARS will be relieved of its obligation to pay Service Provider for such Services for so long as Service Provider's performance is impaired;
- 21.3.2.2 terminate the portion of the Agreement affected as of a date specified by SARS and the Charges will be equitably reduced to reflect the termination of the terminated Services; or
- 21.3.2.3 if a substantial portion of the Services is affected, terminate the Agreement

as of a date specified by SARS in a written notice to Service Provider.

- 21.3.3 Termination of the Agreement under clause 21.3.2 will not be treated as a termination for convenience. SARS will have no liability to Service Provider for terminating the Agreement.
- 21.3.4 Service Provider will not be entitled to rely on the provisions of this clause 21.3 as a result of any failed performance by Subcontractors, unless the Subcontractor's failure to perform was caused by a Force Majeure Event and the Subcontractor has made and continues to use its Commercially Reasonable Efforts to recommence performance.

## **22 AUDITS**

### **22.1 Audit Rights**

- 22.1.1 Service Provider and its Subcontractors will maintain a complete audit trail of financial and non-financial transactions resulting from the Agreement. Service Provider will provide to SARS, its internal or external auditors, inspectors and regulators access at all reasonable times to any facility or part of a facility at which either Service Provider or any of its Subcontractors is providing the Services, to Service Provider Personnel, and to equipment, Software, personnel, data, records and documentation, including agreements between Service Provider and its Subcontractors, relating to the Services for the purpose of performing audits and inspections of either Service Provider or its Subcontractors to (i) verify the accuracy of Service Provider's Charges and invoices; (ii) verify the accuracy of payments by or credits from Service Provider; (iii) verify the accuracy of price changes to the extent such changes are determined by reference to Service Provider's costs or changes thereto; (iv) verify the integrity of, and examine the systems that process, store, support and transmit SARS data; (v) examine Service Provider's performance of the Services, including verifying compliance with the Performance Standards; (vi) verify compliance with the terms of the Agreement; (vii) satisfy the requirements of any legislative, judicial or regulatory authority having jurisdiction; (viii) to the extent applicable to the Services performed by Service Provider and/or the Charges therefore, examining (a) practices and procedures, (b) systems, (c) general controls, and (d) the efficiency of Service Provider's operation; and (ix) any other audit reasonably required by SARS.
- 22.1.2 SARS will not use a competitor of Service Provider to perform an audit under this clause 22 without Service Provider's prior approval; provided, however, that the Parties specifically agree that the audit arms of the major accounting firms will not be treated as competitors of Service Provider.
- 22.1.3 Service Provider will provide to the auditors, inspectors and regulators such assistance as they may require, including installing and operating audit Software. In the case of audits other than audits conducted by or on behalf of legislative, judicial or regulatory authorities, SARS's audits will not unreasonably interfere with Service Provider's normal course of business and will comply with the Service Provider's reasonable confidentiality requirements.
- 22.1.4 Unless SARS has a good faith suspicion of fraud, SARS will provide Service Provider with reasonable notice for audits other than security audits and audits

conducted by or on behalf of legislative, judicial or regulatory authorities. Audits will take place during Business Hours, provided that security audits and audits conducted by or on behalf of legislative, judicial or regulatory authorities may take place outside normal business hours at SARS's sole discretion.

- 22.1.5 All costs incurred by SARS in performing audits of Service Provider will be borne by SARS unless any such audit reveals a material inadequacy or material deficiency in respect of the scope of the audit exercise conducted, in which event the cost of such audit will be borne by Service Provider.
- 22.1.6 If an audit reveals an overcharge, Service Provider will promptly refund the overcharge plus interest at the Agreement Interest Rate or 15% (fifteen percent) per annum, whichever is the highest, from the date of payment of the overcharge through the date the overcharge is refunded by Service Provider.
- 22.1.7 All Subcontractors will be obliged to comply with the provisions of this clause 22. If Service Provider seeks to hire a Subcontractor, and such prospective Subcontractor does not grant SARS the audit rights described in this clause 22, Service Provider will (i) notify SARS of the prospective Subcontractor's refusal to grant such rights, (ii) identify the audit rights the prospective Subcontractor is willing to grant, and (iii) obtain SARS's review and approval of such subcontract. SARS reserves the right to withhold its approval of any subcontract at its sole discretion, and Service Provider will be obliged to continue providing the Services in accordance with the Performance Standards, notwithstanding SARS's decision to withhold such approval.

## 22.2 Audit Follow-Up

- 22.2.1 Following an audit or examination, SARS or its external auditors will meet with Service Provider to obtain factual concurrence with issues identified in the audit or examination.
- 22.2.2 Within 10 (ten) Business Days following the provision to Service Provider of the findings of an audit, whether by way of a meeting or the delivery of the audit report by the auditors, or an audit report by Service Provider's auditors, the Service Provider will provide SARS with a plan ("**Audit Response Plan**") to address shortcomings or deficiencies raised in such audit findings attributable to Service Provider. The Audit Response Plan will identify the steps that Service Provider will take to remedy such shortcomings and deficiencies and include a completion date for such steps detailed in the Audit Response Plan. With SARS written approval, Service Provider will implement such Audit Response Plan at Service Provider's cost and expense. Service Provider will report monthly to SARS on the status of the implementation of any Audit Response Plan. Failure to complete the Audit Response Plan on or before the completion date included in such Audit Response Plan will be deemed to be a material breach of the Agreement.
- 22.2.3 Service Provider will promptly make available to SARS the results of any reviews or audits conducted by Service Provider, its Affiliates or their Subcontractors, agents or representatives (including internal and external auditors) to the extent such findings reflect conditions and events relating to the Services.
- 22.2.4 Promptly after the issuance of any audit report or findings issued under clause 22.2.3, the Parties will meet to review such report or findings and to agree on how



to respond to the suggested changes.

### 22.3 Records Retention

Service Provider will maintain and provide SARS with access to the records, documents and other information required to meet SARS's audit rights under the Agreement until the later of (i) 5 (five) years after expiration or termination of the Agreement, (ii) all pending matters related to the Agreement are closed, or (iii) such longer period as required by Applicable Law.

## 23 BENCHMARKING

23.1 SARS has the right, at its option and not more than once in each successive 12 (twelve) month period during the Term but not at all in the first 12 (twelve) months of the Term, to initiate a benchmarking process, in respect of some or all of the Services, in order to evaluate and measure the extent to which SARS is receiving the Services competitively. Such benchmarking exercise includes evaluating the following:

- 23.1.1 general service levels applicable in the Data Carrier / Voice Carrier / Internet and hosting provider / Wireless application service provider industry [**Note to Bidder: the appropriate Tower will be selected at the time of finalising the contract**] including those Service Levels set forth in this Agreement, and to ensure that the Service Provider's achievement with regard to such service levels fall into the best (most favourable to SARS) quartile of assessed service levels of service providers benchmarked in the benchmarking exercise; and / or
- 23.1.2 the Charges set forth in this Agreement, and to ensure that such Charges fall into the lowest (most favourable to SARS) quartile of assessed charges made for similar services to the Services, including the Service Levels, by service providers benchmarked in the benchmarking exercise.

### 23.2 General Rules for Benchmarking

- 23.2.1 SARS may request a benchmark for any specific Service component or in respect of all of the Services. SARS will appoint the Benchmarker to conduct the benchmarking exercise. The Parties agree that Gartner and Compass may be appointed as the Benchmarker and Service Provider hereby approves the appointment of either Gartner or Compass.
- 23.2.2 Service Provider agrees (as part of the Services) to co-operate fully with the Benchmarker performing the benchmarking exercise and to promptly provide all data, documentation, records and resources necessary or relating to the provision of the Services to SARS requested by the Benchmarker.
- 23.2.3 SARS will direct the Benchmarker to select a representative sample of transactions to use in the benchmarking, which may include some transactions for which Service Provider is also a service provider and to perform any normalisation that the Benchmarker deems at its sole discretion to be necessary.
- 23.2.4 The Benchmarker will enter into a confidentiality agreement with the Parties on terms reasonably acceptable to both Parties prior to being provided with Confidential Information of either Party.

- 23.2.5 The Benchmarker will be directed to use Commercially Reasonable Efforts to complete its analysis within 90 (ninety) days after its engagement, to the extent practical.
- 23.2.6 Unless otherwise agreed by the Parties, the Benchmarker will perform the benchmarking exercise in accordance with the Benchmarker's documented methodologies and procedures which will be provided to the Parties prior to the commencement of the benchmarking exercise. The Benchmarker may (but is not obligated to) discuss such methodologies and process with the Parties. Any such discussions will be with both Parties simultaneously. The Benchmarker will be free to reflect or not to reflect the Parties' input at its discretion.

### 23.3 Benchmarking findings

- 23.3.1 At the end of each such benchmarking process the Benchmarker will make recommendations as to the required improvements and acceptable time scales for the implementation thereof and Service Provider will (as part of the Services) be obliged to implement such recommendations in accordance with those time scales at no additional cost to SARS. Each Party will be provided a reasonable opportunity to review, comment on and request changes in the Benchmarker's proposed findings. The Benchmarker will have sole discretion as to how it addresses such comments and requests. Following such review and comment, the Benchmarker will issue a final report of its findings and conclusions.
- 23.3.2 For the avoidance of doubt and notwithstanding any benchmarking results or recommendations, there will be no adjustment to any Charges having the effect of an increased amount payable by SARS or any adjustment of any Service Levels having the effect of the performance of the Services being less favourable to SARS as a result of the benchmarking exercise.
- 23.3.3 If a benchmarking exercise reveals that the performance under the Agreement is less favourable than that of benchmarked service providers falling into quartile of best performance, then the Service Levels will be adjusted to eliminate such variance or additional Service Levels will be incorporated into **Schedule C (Service Levels)** and its Appendices to ensure the performance of the Services would fall into the best quartile of benchmarked service providers. The adjustments to Service Levels or the incorporation of additional Service Levels will be made according to the recommendations, including timelines, made by the Benchmarker provided that should the Service Provider dispute the recommendations made by the Benchmarker, such dispute must be resolved in accordance with clause 24.
- 23.3.4 If a benchmarking exercise reveals that the Charges under the Agreement exceed those charges made for any component of the Services by service providers not falling into the quartile of lowest charges the Service Provider will reduce the Charges sufficiently to ensure the Charges fall into the quartile of lowest Charges amongst the benchmarked service providers provided that should the Service Provider dispute the recommendations made by the Benchmarker, such dispute must be resolved in accordance with clause 24.
- 23.3.5 SARS will be responsible for the Benchmarker's charges in respect of a benchmarking exercise unless that benchmarking exercise reveals the Charges are to be reduced as contemplated in 23.3.4, in which case Service Provider will reimburse SARS for the Benchmarker's charges. If a benchmarking exercise does

not show that Charges are required to be reduced, findings will be and will remain the Confidential Information of SARS. Except as aforesaid, each Party will bear its own direct costs in relation to the benchmarking exercise.

- 23.3.6 If the Parties fail to reach agreement on the implementation of the adjustment set out in clause 23.3.3 or 23.3.4, SARS will have the right, in addition to any remedies it may have in terms of this Agreement, to terminate the Agreement early by providing a notice of termination to the Service Provider setting forth the applicable Termination Date. A termination of the Agreement under this clause 23.3.6 will not be treated as a termination for convenience. SARS will have no liability to Service Provider for terminating the Agreement.

## **24 DISPUTE RESOLUTION**

A dispute of whatsoever nature between the Parties arising out of or in connection with this Agreement, including disputes: (i) as to the validity, existence, enforceability, interpretation, application, implementation, breach, termination or cancellation of this Agreement; (ii) as to the Parties' rights and/or obligations in terms of this Agreement; or (iii) in connection with any documents furnished by the Parties in terms of this Agreement, will be finally settled as provided in this clause 24.

### **24.1 Informal Dispute Resolution**

- 24.1.1 Prior to the initiation of formal dispute resolution procedures, the Parties will first attempt to resolve their dispute informally in accordance with the procedure set forth in this clause 24.1.
- 24.1.2 Upon the written request of a Party, any dispute, which arises between the Parties, will be referred to a joint committee consisting of a senior representative nominated by each Party. The joint committee will meet as often as the Parties reasonably deem necessary in order to gather and furnish to the other all information with respect to the matter in issue that the Parties believe to be appropriate in connection with its resolution.
- 24.1.3 The nominated representatives of the Parties will discuss the problem and attempt to resolve the dispute without the necessity of any formal proceeding. During the course of discussion, all reasonable requests made by one Party to another for non-privileged information, reasonably related to this Agreement, will be honoured in order that each of the Parties may be fully advised of the other Party's position. The specific format for the discussions will be left to the discretion of the joint committee.
- 24.1.4 Formal proceedings for the resolution of a dispute may not be commenced until the nominated representatives of the Parties conclude in good faith that amicable resolution through continued negotiation of the matter does not appear likely.
- 24.1.5 In the event that the informal dispute resolution process fails, a Party may either approach a competent court for relief or alternatively the Parties may, by agreement, refer the dispute to formal dispute resolution in accordance with clause 24.2. Once the Parties have committed to formal dispute resolution, the Parties irrevocably consent to any proceedings in terms thereof.

## 24.2 Formal Dispute Resolution

Any dispute which is not resolved in the manner referred to in clauses 24.1, may be submitted to binding arbitration before a single arbitrator and will be subject to the rules of the Arbitration Foundation of Southern Africa or its successor-in-title ("AFSA").

24.2.1 The arbitrator will, if the dispute is:

24.2.1.1 primarily an accounting matter, be an independent practising accountant of not less than 10 (ten) years standing as such;

24.2.1.2 primarily a technical matter, be an independent technical expert of not less than 10 (ten) years' experience in the electronic communications and related environments;

24.2.1.3 primarily a legal matter, be an attorney of not less than 15 (fifteen) years standing as such or a practising senior counsel.

24.2.2 The Parties will, within 3 (three) Business Days of the date on which the arbitration is demanded, agree in writing as to the nature of the dispute and the identity of the arbitrator to be appointed. Should the Parties be unable to reach agreement as contemplated within such 3 (three) Business Day period, the arbitrator will (irrespective of the nature of the dispute) be appointed by the Chairman of the AFSA upon request by either Party. The appointment of the arbitrator (whether by agreement or by the Chairman of AFSA or its successor-in-title as contemplated in the preceding sentence) will be final and conclusive and may not subsequently be challenged on any grounds by either Party.

24.2.3 The arbitration will be held as soon as is reasonably possible, with a view to completion within 30 (thirty) days of it being demanded.

24.2.4 Promptly after appointment of the arbitrator, either Party will be entitled to call upon the arbitrator to set: (i) the date(s) on which the arbitration is to be held; and (ii) the procedure that will govern the arbitration. The arbitration proceedings will be held in Johannesburg, Republic of South Africa.

24.2.5 Any order or award that may be made by the arbitrator:

24.2.5.1 will be final and binding;

24.2.5.2 will be carried into effect; and

24.2.5.3 may be made an order of any competent court.

## 24.3 Interim Relief

Nothing in this clause 24 will preclude either Party from obtaining interim relief on an urgent basis from a court of competent jurisdiction.

#### 24.4 Continued Performance

SARS reserves the right to withhold payment of amounts it disputes in good faith under clause 3.3 of **Schedule D (Charges, Invoicing and Payments)**, and to terminate the Agreement while the dispute is being resolved. Each Party agrees to continue performing its obligations under this Agreement while any dispute is being resolved, unless SARS terminates the Agreement as aforesaid.

## 25 TERMINATION

### 25.1 Termination for Cause by SARS

25.1.1 SARS may, by giving notice to Service Provider, terminate this Agreement, in whole or in part (provided that SARS will not terminate the Agreement in part unless the Services being terminated include the Services with respect to which the termination for cause occurred), as of a date set out in the notice of termination, in the event that:

25.1.1.1 Service Provider commits a material breach of this Agreement, which breach is not cured within 30 (thirty) days after notice of breach from SARS to Service Provider;

25.1.1.2 Service Provider commits a material breach of this Agreement that is not capable of being cured within 30 (thirty) days;

25.1.1.3 Service Provider commits a non-material breach of this Agreement, which breach is not cured within 60 (sixty) days after notice of breach from SARS to Service Provider;

25.1.1.4 Service Provider regularly commits breaches of this Agreement and fails to prevent reoccurrences of such breaches within 30 (thirty) days after notice from SARS to Service Provider, that such breaches together with any future breach will collectively constitute a material breach;

25.1.1.5 Service Provider fails to meet the same Service Level for 3 (three) consecutive months, or if Service Provider fails to meet the same Service Level for 4 (four) months, not necessarily consecutive, out of any 12 (twelve) consecutive month period; and/or

25.1.1.6 Service Provider is placed under provisional or final liquidation; placed under judicial management; or enters into an arrangement with its creditors.

25.1.2 In the case of a termination of the Agreement in part, the charges payable under this Agreement will be reduced in terms of clause 13 of **Schedule D (Charges, Invoicing and Payments)** to reflect the partial termination of the Agreement.

25.1.3 SARS may immediately terminate this Agreement, by giving notice to Service Provider, if Service Provider fails to comply with clauses 18.6 or 18.12.

25.1.4 SARS will have no liability to Service Provider with respect to a termination under this clause 25.1.

## **25.2 Termination for Cause by Service Provider**

- 25.2.1 In the event that SARS fails to pay Service Provider undisputed amounts or amounts which have been finally adjudged to be due under this Agreement and fails to make such payment within 90 (ninety) days of the later of (i) notice from Service Provider of the failure to make such payment; or (ii) the date that an amount is finally adjudged to be due under the Agreement, then Service Provider may, by giving notice to SARS, terminate this Agreement as of a date set out in the notice of termination.
- 25.2.2 Service Provider will have no right to terminate this Agreement other than in accordance with the provisions of clause 25.2.1 above.

## **25.3 Termination for Convenience**

Unless otherwise agreed between the Parties or otherwise provided in this Agreement SARS may terminate this Agreement in whole or in part for convenience and without cause at any time by giving Service Provider at least 90 (ninety) days prior notice designating the Termination Date. SARS will have no liability to Service Provider with respect to such termination.

## **25.4 Termination upon Sale, Acquisition, Merger or Change of Control**

In the event of a sale, acquisition, merger, or other change of Control of Service Provider where such Control is acquired, directly or indirectly, in a single transaction or series of related transactions, or in the event of a sale of all or substantially all of the assets of Service Provider in a single or series of related transactions, then SARS may terminate this Agreement by giving Service Provider at least 90 (ninety) days prior written notice and designating a date upon which such termination will be effective. SARS will have no liability to Service Provider with respect to such termination.

## **25.5 Extension of Termination Effective Date**

SARS will, not later than 90 (ninety) days (or 30 (thirty) days in the case of a termination for cause) prior to expiration or termination of the Agreement, have the option to require that Service Provider continues to provide some or all of the Services for a fixed term of up to 180 (one hundred and eighty) days following the effective date of expiration or termination of the Agreement on the terms and conditions (including price as adjusted for inflation under clause **Error! Reference source not found.** of **Schedule D (Charges, Invoices and Payments)**) then in effect.

## **25.6 Disengagement Assistance**

The Parties will comply with their respective obligations set forth in **Schedule F (Disengagement Assistance)**.

## 26 GENERAL

### 26.1 Destructive Elements

Service Provider undertakes that it will use all Commercially Reasonable Efforts to ensure that no Bugs, Destructive Elements or similar items are coded or introduced into the systems used to provide the Services, and/or into any SARS systems. In the event a Bug or a Destructive Element is found, the Service Provider will at no additional charge to the extent commercially reasonable, assist SARS to reduce the effects of such Bug or Destructive Element and, if such Bug or Destructive Element causes a loss of operational efficiency or loss of data, to mitigate and restore such losses.

### 26.2 Binding Nature and Assignment

This Agreement will be binding on the Parties hereto and their respective successors and assigns. Neither Party may assign this Agreement without the consent of the other, except that SARS may assign its rights and obligations under this Agreement without the approval of Service Provider to another Government Entity.

### 26.3 Non-Solicitation

During the Term, and for a period of 1 (one) year thereafter, Service Provider will not directly solicit or encourage, or attempt to solicit or encourage any employee of SARS to leave the employment of SARS unless prior consent is obtained from SARS.

### 26.4 Entire Agreement; Amendment

26.4.1 Any commitments made by Service Provider in its response to the Request for Proposal, which is attached hereto as **Schedule G (Service Provider Proposal)**, will be deemed binding on Service Provider. Notwithstanding anything to the contrary stated in the Service Provider's response, in the event of a conflict between the Service Provider's response and this Agreement, the Agreement will prevail and nothing in the Service Provider's response will in any way limit SARS's rights or expand SARS's obligations under this Agreement.

26.4.2 This Agreement, including any Schedules, Appendices and Attachments referred to herein and attached hereto, each of which is incorporated herein for all purposes, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements, whether written or oral, with respect to the subject matter contained in this Agreement.

26.4.3 Any standard documents maintained by Service Provider (whether or not filed with a government agency and including those published from time to time on a Service Provider web site) will be effective only for the purpose of providing a technical description of Service Provider's standard service offerings. Any terms or conditions (including service levels, service credits, charges, conditions of usage, indemnification, limits on liability and exclusive remedies, ownership and intellectual property rights, or suspension and termination rights) set out in any other documents will have no effect on, nor will vary, supersede, cancel, amend, modify or supplement the terms and conditions of the Agreement.

- 26.4.4 No variation or consensual cancellation of this Agreement, including of this clause, and no addition to this Agreement will be of any force or effect unless reduced to writing and signed by the Parties or their duly authorised representatives.

## 26.5 Compliance with Applicable Laws

### 26.5.1 Governing Law:

This Agreement will in all respects (including its existence, validity, interpretation, implementation, termination and enforcement) be governed by the laws of the Republic of South Africa.

### 26.5.2 General Obligation:

Each Party will perform its obligations in a manner that complies with the Applicable Laws (including identifying and procuring required permits, certificates, approvals and inspections).

### 26.5.3 SARS's Rules and Regulations:

Service Provider will perform its obligations in a manner that complies with SARS's safety, security, environmental and health rules and regulations as from time to time identified by SARS to Service Provider.

### 26.5.4 Monitoring and Changes to Law:

- 26.5.4.1 As part of the Services, Service Provider will monitor Applicable Laws that apply to comparable service providers generally, Third Party service providers generally and corporations in South Africa generally to identify any proposed changes to Applicable Law. Service Provider will remain responsible for communications with and participation in any governmental or regulatory body having jurisdiction over the Service Provider, or any industry body in which the Service Provider participates.
- 26.5.4.2 Upon identifying or being notified by SARS of a change or proposed change described in clause 26.5.4.1, Service Provider will promptly analyse the impact of such change or proposed change on the Services, notify SARS of such impact, and propose changes to the Services to SARS, if any, that are, or in the case of a proposed change may be, required. Service Provider will be solely responsible for any fees, costs or expenses incurred in this regard. SARS will promptly review such proposal, and upon SARS's approval, Service Provider will promptly implement such changes to the Services as well as any other changes requested by SARS and reasonably required as a consequence of a change described in clause 26.5.4.1.
- 26.5.4.3 In the event that Service Provider establishes to SARS's reasonable satisfaction that a change in Applicable Laws after the Effective Date (other than a change in Applicable Laws described in clause 26.5.4.1) directly and materially increases the cost to Service Provider of providing the Services in terms of the Service Levels, Service Provider will be entitled to propose amendments to appropriate clauses of **Schedule D (Charges, Invoicing and Payments)** under which Service Provider's charges would be increased on a prospective basis, but not in excess of the amount required for Service



Provider to recover the additional costs solely and directly attributable to the change in Applicable Laws under this clause 26.5.4.3. If SARS is unwilling to agree to such an increase in Service Provider's charges, SARS may terminate the affected Service, or the Agreement in whole, as of a date set out in a notice from SARS to Service Provider. Such a termination will not be treated as a termination for convenience and SARS will not be liable for the payment of any termination fees.

26.5.5 Non-Compliance:

26.5.5.1 If either Party is charged with non-compliance of any Applicable Laws, the Party charged with such non-compliance will promptly notify the other Party of such charges in writing.

26.5.5.2 Service Provider will be solely responsible for any fines and penalties imposed on Service Provider or SARS resulting from Service Provider's failure to comply with the provisions of this clause 26.5.

26.6 Notices

26.6.1 Each Party chooses as its *domicilium citandi et executandi* for all purposes of this Agreement, including for purposes of serving any court process or other documents, giving any notice or making any other communications will be as follows:

In the case of SARS: Office of the Commissioner

Block A

299 Bronkhorst Street

Nieuw Muckleneuk

Pretoria.

0181

(marked for the urgent attention of the Group Executive,  
Corporate Legal Services)

Facsimile: Office of the Commissioner

(012) 422 5250 (marked for the urgent attention of the  
Executive, Corporate Legal Services)

with a copy to: **[to be completed upon finalisation]**

In the case of Service Provider: **[to be completed upon finalisation]**

Facsimile: **[to be completed upon finalisation]**

with a copy to: [to be completed upon finalisation]

- 26.6.2 All notices, requests, demands, and determinations under this Agreement (other than routine operational communications), will be valid and effective only if in writing. Such notices, requests, demands and determinations under this Agreement will be deemed duly given only when delivered by hand during ordinary Business Hours to a responsible person at the addressee's *domicilium*. Such notices, requests, demands and determinations under this Agreement may also be sent by facsimile to the facsimile number set out in clause 26.6. Notices, requests, demands and determinations sent by facsimile and received prior to 13h00 on a Business Day will be deemed duly given on such Business Day; notices, requests, demands and determinations sent by facsimile and received at other times will be deemed duly given on the first Business Day following the date that such facsimile is received.
- 26.6.3 Either Party may by notice to other Party change its *domicilium* to another physical address in the Republic of South Africa and the change will take effect on the seventh day after the date when the notice is duly given.
- 26.6.4 The Parties record that whilst they may correspond via email during the currency of this Agreement for operational reasons, no formal notice required in terms of this Agreement, nor any amendment of or variation to this Agreement may be given or concluded via email.

## 26.7 Relationship of Parties

- 26.7.1 Service Provider, in rendering the Services, is acting as an independent contractor. Neither Party is an agent of the other or has any authority to represent the other as to any matters, except as expressly authorised in this Agreement.
- 26.7.2 Neither Party's personnel will be deemed personnel of the other Party.
- 26.7.3 Nothing contained in this Agreement will be construed as creating any company, close corporation, joint venture, partnership or association of any kind involving SARS or Service Provider or their Affiliates; nor is anything contained in this Agreement to be construed as creating or requiring any continuing relationship or commitment on a Party's or its Affiliates' behalf with regard to the other Party and its Affiliates other than as specifically set out herein.
- 26.7.4 Unless expressly authorised by this Agreement, neither of the Parties (nor their respective agents) will have the authority or right, nor will any Party hold itself out as having the authority or right, to assume, create or undertake any obligation of any kind whatsoever, express or implied, on behalf of or in the name of the other Party.

## 26.8 Restatement and Severability

In the event that any provision of this Agreement conflicts with the law under which this Agreement is to be construed or if any such provision is held invalid by an arbitrator or a court with jurisdiction over the Parties, such provision will be deemed to be restated to reflect as nearly as possible the original intentions of the Parties in terms of Applicable Laws, or if not possible, then to be severed from the remainder of the Agreement. The remainder of this Agreement will remain in full force and effect.

## **26.9 Consents and Approval**

- 26.9.1 Any approval, acceptance, consent or similar action required to be given by either Party in terms of this Agreement will, unless specifically otherwise stated or stated to be at the discretion of a Party, not be unreasonably withheld.
- 26.9.2 Written approval for operational purposes may be given by a duly authorised person via email.
- 26.9.3 An approval, acceptance, consent or similar action by a Party (including of a plan or deliverable) under this Agreement will not relieve the other Party from responsibility for complying with the requirements of this Agreement, nor will it be construed as a waiver of any rights under this Agreement, except as and to the extent otherwise expressly provided in such written approval or consent. For example, where this Agreement sets forth a standard by which a plan is to be developed, Service Provider will be responsible for complying with such requirement and will not be deemed to be relieved of it merely because SARS has approved such plan.

## **26.10 Penalties**

Wherever a provision of this Agreement stipulates for, or operates as, a penalty in favour of SARS, (i) Service Provider waives, to the fullest extent permitted by law, any right it may have to claim a reduction of such penalty and (ii) SARS will be entitled to at any time claim damages in lieu of such penalty.

## **26.11 Waiver of Default and Cumulative Remedies**

- 26.11.1 A delay or omission by either Party hereto to exercise any right or power under this Agreement will not be construed to be a waiver thereof. A waiver by either of the Parties hereto of any of the undertakings to be performed by the other or any breach thereof will not be construed to be a waiver of any succeeding breach thereof or of any other undertaking herein contained. No waiver by SARS will be valid unless reduced to writing and signed by the SARS Contract Executive or his or her designee.
- 26.11.2 Except as otherwise expressly provided herein, all remedies provided for in this Agreement will be cumulative and in addition to and not in lieu of any other remedies available to either Party at law, in equity or otherwise.

## **26.12 Survival**

Any provision of this Agreement which contemplates performance or observance subsequent to any termination or expiration of this Agreement will survive any termination or expiration of this Agreement and continue in full force and effect.

## **26.13 Public Disclosures**

- 26.13.1 No advertising or publicity matter of either Party having or containing any reference to the other Party or in which the name of the other Party is mentioned (except announcements intended solely for internal distribution or to meet legal or regulatory requirements beyond the reasonable control of the disclosing Party) will

be made by or for a Party or Subcontractors without first obtaining written approval from the other Party.

- 26.13.2 Service Provider may not use the SARS logo or any other service marks or trademarks of SARS.

**26.14 Third Party Beneficiaries**

Except as set out in this Agreement, this Agreement is entered into solely between, and may be enforced only by, SARS and Service Provider. This Agreement will not be deemed to create any rights in Third Parties, including suppliers and customers of a Party, or to create any obligations of a Party to any such Third Parties.

**26.15 Undertaking against Cession, Pledging and Assignment**

Service Provider will not, without SARS's prior consent, assign, cede, transfer, pledge, hypothecate or otherwise encumber its rights to receive payments from SARS under this Agreement for any reason whatsoever.

**26.16 Performance Bond**

- 26.16.1 Service Provider will post on the Effective Date, a performance bond ("**Performance Bond**") by a financial institution approved by SARS and in the form prescribed by SARS, or if SARS does not prescribe a form, in a form proposed by Service Provider and approved by SARS at its sole discretion. Notwithstanding the generality of the above, such Performance Bond will secure Service Provider's obligations in an amount equal to :

**[Note to the Bidder:**

**For Towers D, V and I the Performance Bond will be equal to the lesser of R10,000,000 (Ten Million Rand) per Tower awarded to the Bidder or the total of the charges that will be made by the Service Provider for Services under this Agreement in the first 12 (twelve) months of the Term.**

**For Tower S the Performance Bond will be equal to the lesser of R2,000,000 (Two Million Rand) per Tower awarded to the Bidder or the total of the charges that will be made by the Service Provider for Services under this Agreement in the first 12 (twelve) months of the Term.]**

- 26.16.2 SARS will be entitled to make a claim for payment from the Performance Bond in the event that:

- 26.16.2.1 the Service Provider materially breaches this Agreement, and the breach is reasonably capable of being remedied and Service Provider fails to remedy such breach within 30 (thirty) days of being called upon by SARS to do so;
- 26.16.2.2 the breach is not capable of being remedied;
- 26.16.2.3 an event occurs in respect of which this Agreement permits SARS to recover a penalty or similar service credit from the Service Provider and the Service Provider fails to pay such penalty when it is due in terms of this Agreement;

and/or

- 26.16.2.4 Service Provider is placed under provisional or final liquidation; placed under judicial management; enters into an arrangement with its creditors; or Service Provider enters into business rescue procedures under Chapter 6 of the Companies Act, 2008 (Act No. 71 of 2008).
- 26.16.2.5 For the avoidance of doubt, any claim that SARS may be entitled to make under the Performance Bond will be subject to (i) the indemnities and limitations of liability contained in clauses 20 and 21 and (ii) the Performance Bond claims procedure contained in this clause 26.16.
- 26.16.3 The Service Provider will not be absolved of any of its obligations and liabilities under this Agreement by virtue of it having furnished the Performance Bond.
- 26.16.4 If SARS intends to en-cash the Performance Bond, it must demand, on 15 (fifteen) days' written notice, payment from the Service Provider, specifying:
  - 26.16.4.1 the cause of the claim, and
  - 26.16.4.2 the amount claimed.
- 26.16.5 If the Service Provider fails to make payment as per SARS's demand in clause 26.16.4 or fails to lodge a dispute in accordance with clause 24 within 15 (fifteen) days of receipt of SARS's notice in accordance with clause 26.16.4, SARS will be entitled to encash the Performance Bond with immediate effect.
- 26.16.6 If SARS encashes the Performance Bond in terms of clause 26.16.2, SARS will be entitled to recover from the proceeds of the Performance Bond all of (i) SARS's Losses occasioned by the Service Provider; (ii) all amounts for which the Service Provider is liable in terms of any indemnities given by it to SARS; (iii) all penalties which SARS is entitled to impose upon Service Provider; (iv) all legal costs which SARS is entitled to recover from Service Provider in asserting SARS's rights under this Agreement and the Performance Bond; and (v) any other amounts which may be owing by Service Provider to SARS, of whatever nature and however arising; provided always that the provisions of this clause 26.16.6 will never be construed as in any way limiting SARS's right of recovery to the full value of the Performance Bond.
- 26.16.7 In the event of SARS:
  - 26.16.7.1 cancelling the Agreement pursuant to any matter referred to in clause 26.16.2, after SARS has recovered all amounts which may be owing to SARS by Service Provider in terms of clause 26.16.6, SARS will pay the balance, if any, to Service Provider;
  - 26.16.7.2 not cancelling the Agreement pursuant to any matter referred to in clause 26.16.2 Service Provider will deliver to SARS, within 10 (ten) Business Days of SARS's written instruction, a new Performance Bond for the same value as that of the original Performance Bond (and for which purpose clause 26.16 will again apply, *mutatis mutandis*) against delivery of which SARS will pay to the Service Provider the balance, if any, of the amounts remaining from the previous Performance Bond following SARS's recovery of the amounts owing to it in terms of clause 26.16.6.

26.16.8 The Performance Bond will automatically be revoked on expiry of a period of 6 (six) months after Termination of the Agreement.

**26.17 Covenant of Good Faith**

Each Party agrees that, in its respective dealings with the other Party under or in connection with this Agreement, it will, to the extent not otherwise specifically stated, act reasonably and act in good faith.

**[Remainder of page intentionally blank.]**

IN WITNESS WHEREOF SARS and **[Service Provider name]** have each caused this Agreement to be signed and delivered by its duly authorised officer.

**[Service Provider name]**

By: \_\_\_\_\_

Printed:

Title:

Date:

South African Revenue Service

By: \_\_\_\_\_

Printed:

Title:

Date:

South African Revenue Service

By: \_\_\_\_\_

Printed:

Title:

Date:

South African Revenue Service

By: \_\_\_\_\_

Printed:

Title:

Date:

South African Revenue Service

By: \_\_\_\_\_

Printed:

Title:

Date:



## SCHEDULE A: GLOSSARY

### 1 DEFINITIONS

- |     |                                |   |
|-----|--------------------------------|---|
| 1.1 | <b>Actual Performance</b>      | means, in respect of each Service Level, Service Provider's actual performance of the Services against such Service Level.  |
| 1.2 | <b>Access Circuit</b>          | means a dedicated permanent digital leased line or alternative transmission medium, provided by a network operator provided such network operator has the necessary licences to provide such service(s);  |
| 1.3 | <b>Adjustment Date</b>         | has the meaning set out in clause 2.3 of <b>Schedule D (Charges, Invoicing and Payments)</b> .  |
| 1.4 | <b>Affected Services</b>       | has the meaning set out in clause 1.1.3 of <b>Appendix B-1: Common Transition Services</b> .  |
| 1.5 | <b>Affiliate</b>               | means, with respect to any entity, any other entity controlling, controlled by or under common Control with such entity. The term " <b>Affiliate</b> " will also include (i) a subsidiary of such entity, as the term " <b>subsidiary</b> " is defined in section 3 of the Companies Act, 2008 (Act No. 71 of 2008), as amended, and (ii) any foreign company which, if it were registered under such Act, would fall within the ambit of such term.  |
| 1.6 | <b>Agreement</b>               | means the Main Agreement together with all Schedules, Appendices, Attachments and other documents attached thereto or referenced therein.   |
| 1.7 | <b>Agreement Interest Rate</b> | means the bank lending rate set by the South African Reserve Bank from time to time.  |
| 1.8 | <b>Anti-Spam</b>               | means measures aimed at preventing the entry of unsolicited and unwanted email.   |
| 1.9 | <b>Applicable Law</b>          | <p>means any of the following, from time to time, to the extent it applies to a Party (including, as applicable, Affiliates and Subcontractors of a Party), or the Services (including the performance, delivery, receipt or use of the Services, as applicable and wherever occurring):</p> <ul style="list-style-type: none"> <li>(a) any statute, regulation, policy, by-law, ordinance or subordinate legislation (including treaties, multinational conventions and the like having the force of law);</li> <li>(b) South African common law;</li> </ul> |

- (c) any binding court order, judgment or decree;
  - (d) any applicable industry code, policy or standard enforceable by law; and
  - (e) any applicable direction, policy or order that is given by a regulator (other than SARS's directions or policies given as a customer of the Services).
- 1.10 **At Risk Amount** has the meaning set out in clause 3.1.2 of **Schedule C (Service Levels)**.
- 1.11 **ATM** means Asynchronous Transfer Mode transport layer (a telecommunications concept standard for carriage of a complete range of user traffic, including voice, data, and video signals).
- 1.12 **Audit Response Plan** has the meaning set out in clause 22.2.2 of the **Main Agreement**.
- 1.13 **Benchmarker** means an independent industry recognised benchmarking service provider designated by SARS and approved by Service Provider (such approval not to be unreasonably withheld).
- 1.14 **BRI** means Basic Rate Interface.
- 1.15 **Bug** means any error, flaw or mistake in the program of a Deliverable's source code which in any way prevents the Deliverable from functioning correctly.
- 1.16 **Business Continuity Plan** means the plan or plans which contain detailed and specific requirements to be performed by the Service Provider in the event of a Disaster occurring.
- 1.17 **Business Day** means any day between and including Monday and Friday except official public holidays in South Africa.
- 1.18 **Business Hours** means 08h00 through 17h00 on a Business Day.
- 1.19 **Charges** means the amounts payable by SARS to Service Provider under **Schedule D (Charges, Invoicing and Payments)** together with its Appendices, Attachments and any other documents attached thereto or referenced therein.
- 1.20 **Commencement Date** means the date on which Service Provider is to assume full responsibility for performing the Services accordance with this Agreement (including the Performance Standards). ***[Note to Bidder: This will be the agreed date by which all transitioning of service delivery for the Services from SARS or the incumbent service provider(s) to the successful Bidder must be completed. SARS expects to have committed calendar dates for the applicable Commencement Dates agreed for the respective Towers***

***before signing and specified in the Agreement when it is executed.]***

**1.21 Commercially  
Reasonable Efforts**

means taking such steps and performing in such a manner as a well-managed entity would undertake where such entity was acting in a determined, prudent, and reasonable manner to achieve the particular result for its own benefit provided always that such steps are within the reasonable control of the Party.

**1.22 Confidential  
Information**

(a) means in relation to SARS, subject to sub-clause (c) immediately below in this definition, any information or data of any nature, whether provided orally or in writing or otherwise obtained and in any format or medium, which –

(i) is “taxpayer information”, which means any information provided by a taxpayer or obtained by SARS in respect of the taxpayer, including biometric information;

(ii) is ‘SARS Confidential Information’ as defined and regulated in accordance with Chapter 6 of the Tax Administration Act, 2011, (Act No 28 of 2011), i.e.

- personal information about a current or former SARS official, whether deceased or not;
- information subject to legal professional privilege vested in SARS;
- information that was supplied in confidence by a third party to SARS the disclosure of which could reasonably be expected to prejudice the future supply of similar information, or information from the same source;
- information related to investigations and prosecutions described in section 39 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000);
- information related to the operations of SARS, including an opinion, advice, report, recommendation or an account of a consultation, discussion or deliberation that has occurred, if—
  - the information was given, obtained or prepared by or for SARS for the purpose of assisting to formulate a policy or take a decision in the exercise of a power or performance of a duty conferred or imposed by law; and

- the disclosure of the information could reasonably be expected to frustrate the deliberative process in SARS or between SARS and other organs of state by—
    - inhibiting the candid communication of an opinion, advice, report or recommendation or conduct of a consultation, discussion or deliberation; or
    - frustrating the success of a policy or contemplated policy by the premature disclosure thereof;
  - information about research being or to be carried out by or on behalf of SARS, the disclosure of which would be likely to prejudice the outcome of the research;
  - information, the disclosure of which could reasonably be expected to prejudice the economic interests or financial welfare of the Republic or the ability of the government to manage the economy of the Republic effectively in the best interests of the Republic, including a contemplated change or decision to change a tax or a duty, levy, penalty, interest and similar moneys imposed under an act administered by the Commissioner of SARS;
  - information supplied in confidence by or on behalf of another state or an international organisation to SARS;
  - a computer program, as defined in section 1 (1) of the Copyright Act, 1978 (Act No. 98 of 1978), owned by SARS; and
  - information relating to the security of SARS buildings, property, structures or systems.
- (iii) by its nature, content, or circumstances of disclosure is or ought reasonably to be identifiable by Service Provider as confidential (including by reason of such information not being generally known to, or readily ascertainable by, Third Parties generally) and/or proprietary to SARS, including (l) data, financial information, information independent contractors and suppliers of SARS and Governmental Entities; processes and plans of SARS and Governmental Entities; projections, manuals, forecasts, and analysis of SARS and

Governmental Entities; Intellectual Property owned by or licensed to SARS or a Governmental Entity; (II) information relating to the knowledge, know-how, show-how, expertise, trade secrets and activities of SARS; (III) any information which SARS (without creating a presumption that only so designated information is confidential), acting reasonably, may designate in writing, at the time of disclosure to Service Provider, as being confidential information; and (IV) and any other information of SARS or Governmental Entities which would be regarded by a reasonable person to be confidential or proprietary in nature;

- (iv) SARS or any person acting on behalf of SARS discloses or provides (or has previously disclosed or provided) to Service Provider (including Service Provider Personnel, Third Party service providers or agents, as applicable) or which Service Provider (including Service Provider Personnel, Third Party service providers or agents, as applicable) otherwise becomes aware of in connection with this Agreement or as a result of the provision or receipt of Services under this Agreement, and which information will include this Agreement;
- (b) means in relation to Service Provider, subject to sub-clause (c) immediately below in this definition, any information or data of any nature, whether provided orally or in writing and in any format or medium, which is clearly designated in writing by Service Provider, at the time of disclosure to SARS, as being Confidential Information, and which written designation is in each case acknowledged by SARS, by SARS initialling such designation;
- (c) does not include information that (i) is lawfully publicly available to, or lawfully in the Receiving Party's possession, at the time of disclosure thereof by the Furnishing Party (whether before or after the Effective Date) to the Receiving Party; or (ii) is independently developed or learned by the Receiving Party without reference to or use of the Confidential Information of the Furnishing Party; or (iii) is in or enters the public domain without breach of this Agreement or any other obligation owed by the Receiving Party to the Furnishing Party; (iv) the Receiving Party receives from a Third Party without restriction on disclosure and without breach of a non-disclosure obligation; provided always that notwithstanding the foregoing –

- (i) the onus will at all times rest on the Receiving Party to establish that such information falls within such exclusions;
- (ii) the information disclosed will not be deemed to be within the foregoing exclusions merely because such information is embraced by more general information that is publicly available or in a Party's possession;
- (iii) any combination of features will not be deemed to be within the foregoing exclusions merely because individual features are publicly available or in a Party's possession, but only if the combination itself is publicly available or in a Party's possession; and
- (iv) the determination of whether information is Confidential Information will not be affected by whether or not such information is subject to, or protected by, common law or statute related to copyright, patent, trademarks or otherwise.

**1.23 Configuration Management**

means the ITIL discipline embodied by the Configuration Management Procedures and Configuration Management Services.

**1.24 Control**

and its derivatives means, with regard to any entity, the right or power to dictate the management of and otherwise control such entity by any of:

- (a) holding directly or indirectly the majority of the issued share capital or stock (or other ownership interest if not a corporation) of such entity ordinarily having voting rights;
- (b) controlling the majority of the voting rights in such entity; or
- (c) having the right to appoint or remove directors holding a majority of the voting rights at meetings of the board of directors of such entity.

**1.25 Cost Review Meeting**

has the meaning set out in clause 1.5.1 of **Schedule D (Charges, Invoicing and Payments)**.

**1.26 CPI**

CPI (or its equivalent successor in title) as published by Statistics South Africa. Should Statistics South Africa cease publishing the CPI or substantially change the content or format thereof SARS will by notice to Service Provider substitute another appropriate measure.

**1.27 Critical Deliverables**

means those milestones, activities, actions and projects

identified as such in this Agreement including, without limitation, in **Appendix C-x to Schedule C (Service Levels)**.

- 1.28 Critical Service Level** means the Service Level established in respect of any Critical Deliverable.
- 1.29 CSU/DSU device** means a channel service unit / data service unit which is a digital-interface device used to connect a data terminal equipment device such as a router to a digital circuit. The channel service unit / data service unit implements two different functions. The channel service unit is responsible for the connection to the telecom network while the data service unit is responsible for handling the interface with the data terminal equipment.
- 1.30 Customer Provisioning Portal** means a Service Provider provided portal which is accessible by SARS via a secure Internet connection to provide functionality by which SARS can place orders and review order progress and order history as defined in **Schedule B-x [Note to Bidder: where x is a reference to the Tower]**.
- 1.31 Data Carrier Services** has the meaning set out in clause 1 of **Schedule B-D (Data Carrier Services SOW)**.
- 1.32 Data Traffic** means a communication flow on the Network that is not Voice Traffic.
- 1.33 Deliverable** means any tangible or intangible object, material or service to be produced for or provided to SARS by the Service Provider as part of the Services pursuant to this Agreement.
- 1.34 Destructive Element** means any computer code, device, procedures, routines, mechanisms, method or means, including any virus, Trojan horse, back door, worm, lock-up, time lock, time bomb, logic bomb or disabling code, drop dead device, that:
- (a) causes the unplanned interruption, disruption, distortion (including aesthetic disruptions or distortions) of the Services or accessibility to, use or operation of any –
    - (i) Deliverables;
    - (ii) item of Intellectual Property forming part of or related to any Deliverable;
    - (iii) item of Intellectual Property arising out of or pursuant to the rendering of any Services under this Agreement; or
    - (iv) systems, networks, Software, firmware or computer hardware and peripherals, wide area network, or local area network of Service Provider or SARS or SARS data

contained therein ((a)(i) to (a)(iv) inclusive hereinafter for the purposes of this “**Destructive Element**” definition collectively referred to as the “**Components**”), or is designed to interrupt, disrupt, distort (including aesthetically disrupt or distort) the aforementioned;

- (b) alters, damages, erases, disables or causes to cease functioning (including by the elapsing of a period of time, exceeding an authorised number of copies, advancement to a particular date or other numeral), harms, destroys, disrupts, impedes or inhibits the use or operation of any of the Components or is designed to alter, disable, cause to cease functioning, harm, impede or inhibit (including aesthetically alter, harm, impede or inhibit) the aforementioned);
- (c) otherwise blocks authorised access to any of the Components or is designed to block access to the aforementioned;
- (d) interferes with, or is designed to interfere with, the delivery of the Services to SARS;
- (e) is intended or designed to permit any party access to or the use of any of the Components to cause any of the effects described above (inclusive); or
- (f) can erase, cause damage or corrupt data, storage media, programs, equipment or communications, or otherwise interfere with operations of any Components;
- (g) any other form of destructive coding and/or device, including those which result in aesthetical disruptions or distortions.

1.35 <b>Developed Intellectual Property</b>	has the meaning set out in clause 12.2.1 of the Main Agreement.
1.36 <b>Dependency</b>	bears the meaning set out in clause 9.1 of the Main Agreement. All Dependencies are set forth in <b>Appendix B-x-2</b> of the relevant SOW
1.37 <b>Disaster</b>	means the likely, partial or complete loss of a Service or facility where such Service or facility is unrecoverable through normal back-up and recovery processes and where the physical location from where Services are provided have to move in order for the full provision of Services to continue.
1.38 <b>Disengagement</b>	has the meaning set out in clause 1.1 of the <b>Schedule F</b>



<b>Assistance</b>	<b>(Disengagement Assistance).</b>
1.39 <b>Disengagement Assistance Manager</b>	has the meaning set out in clause 1.8.1 of the <b>Schedule F (Disengagement Assistance).</b>
1.40 <b>Disengagement Assistance Period</b>	means the period commencing 6 (six) months prior to expiration of this Agreement, or commencing on any notice of termination and continuing through the effective date of expiration (as it may be extended in terms of the Main Agreement) or, if applicable, through the effective date of termination (as such effective date may be extended in terms of the Agreement) and ending up to 12 (twelve) months after such date as is necessary to successfully complete Disengagement Assistance.
1.41 <b>Disengagement Assistance Plan</b>	means the disengagement assistance plan(s) to be developed in accordance with <b>Schedule F (Disengagement Assistance).</b>
1.42 <b>DNS-MX</b>	means the mail exchange record within the domain name system that specifies a mail server responsible for accepting the mail on behalf of a recipient's domain.
1.43 <b>Effective Date</b>	has the meaning set out in the preamble of the <b>Main Agreement.</b>
1.44 <b>Email/Content Filtering Services</b>	means the services described in paragraph 7 of <b>Schedule B-I (Internet and Hosting Services SOW);</b>
1.45 <b>Extraordinary Event</b>	has the meaning set out in clause 11.2 of <b>Schedule D (Charges, Invoicing and Payments).</b>
1.46 <b>Firewall</b>	means a system (comprising of hardware and Software) designed to prevent unauthorized access to or from a private network.
1.47 <b>Force Majeure Event</b>	has the meaning set out in clause 21.3 of the <b>Main Agreement.</b>
1.48 <b>Furnishing Party</b>	means the Party who furnishes or otherwise makes available such Party's Confidential Information to the other Party (including such other Party's employees, Affiliates, Subcontractors, Third Party Suppliers and agents, as applicable) or on whose behalf such Party's Confidential Information is furnished or otherwise made available to the other Party (including such other Party's employees, Affiliates, Subcontractors, Third Party Suppliers and agents, as applicable).
1.49 <b>Governmental Entity</b>	for the purpose of this Agreement, this refers to an organ of state as defined in the Constitution of South Africa, 1996, i.e. any department of state or administration in the national, provincial or local sphere of government; or any other functionary or institution (i) exercising a power or performing a

	function in terms of the Constitution or a provincial constitution; or (ii) exercising a public power or performing a public function in terms of any legislation, but does not include a court or a judicial officer;
1.50 <b>Hosted Environment Network Support Services</b>	has the meaning set out in clause 4.6 of Schedule B-I (Internet and Hosting Services SOW)
1.51 <b>ICASA</b>	means the Independent Communications Authority of South Africa, an independent regulatory body of the South African government, established in accordance with the Independent Communications Authority of South Africa Act, 2000 (Act No 13 of 2000), to regulate both the telecommunications and broadcasting sectors in the public interest.
1.52 <b>Impact</b>	has the meaning set out in <b>Appendix E-4 (SARS Red Alert Process)</b> .
1.53 <b>Inactive Component</b>	has the meaning set out in <b>Schedule B-x [Note to Bidder: where x is a reference to the Tower]</b> .
1.54 <b>Incident</b>	means any event that is not part of the standard operation of a Service (including a fault with hardware or Software or a failure to successfully complete a batch job on time) and that causes, or may cause, an interruption to, or a reduction in, the quality of that Service.
1.55 <b>Incumbent Service Provider</b>	means the service provider who rendered the Services or part thereof to SARS immediately before the Effective Date.
1.56 <b>Intellectual Property</b>	means all computer programs, Software, source code, object code, programmer interfaces, specifications, operating instructions, compilations, lists, databases, systems, operations, processes, methodologies, technologies, algorithms, techniques, methods, designs, circuit layouts and mask-works, plans, reports, data, works protected under the Copyright Act, 1978 (Act No. 98 of 1978), works of authorship, video recordings, audio recordings, photographs, models, samples, substances, trade secrets, formulae, know-how, show-how, Confidential Information, concepts and ideas of any nature (including of a technical, scientific, engineering, commercial, strategic, financial, marketing or organisational nature), inventions, discoveries, drawings, notes, manuals, documentation, training materials, job aids, trademarks, service marks, logos, slogans, corporate, business and trade names, domain names, trade dress, brand names and other indicia of origin, regardless of whether Intellectual Property Rights actually inhere in any such items, and any other tangible or intangible items in which Intellectual Property Rights may inhere, as may exist anywhere in the world and any applications for registration of such intellectual property, and includes all Intellectual Property Rights in any of the foregoing.

1.57 <b>Intellectual Property Rights</b>	<p>means all rights of whatever nature and how described in respect of Intellectual Property, including:</p> <ul style="list-style-type: none"> <li>(a) all patents and other patent rights, including divisional and continuation patents, utility models;</li> <li>(b) rights in and to inventions, whether patentable or not;</li> <li>(c) rights in trademarks, service marks, logos, slogans, corporate, business and trade names, trade dress, brand names and other indicia of origin;</li> <li>(d) rights in designs, topography rights, rights in circuit layouts and mask-works;</li> <li>(e) copyright, including all copyright in and to computer programs;</li> <li>(f) rights in Internet domain names, reservations for Internet domain names, uniform resource locators and corresponding Internet sites;</li> <li>(g) rights in databases and data collections;</li> <li>(h) know-how, show-how, trade secrets and confidential information, in each case whether or not registered and including applications for the registration, extension, renewal and re-issuance, continuations, continuations in part or divisionals of, any of these and the right to apply for any of the foregoing, all claims for past infringements, and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of these which may subsist anywhere in the world.</li> </ul>
1.58 <b>Internet and Hosting Services</b>	means the services described in paragraph 1 of <b>Schedule B-I (Internet and Hosting Services SOW)</b> .
1.59 <b>IP</b>	means Internet protocol and is an electronic communications protocol used on networks, enabling the transmission of data packets, from one end system to another based on address information carried in the message.
1.60 <b>ISO (number)</b>	Means the International Organisation for Standardisation standard designated by the number following the letters ISO.
1.61 <b>ITIL</b>	means the Information Technology Infrastructure Library published by the UK Office of Government Commerce (" <b>OGC</b> "), and any natural successor organisations to the OGC, from time to time, together with the associated published codes of practice (including DISC PD005 and any updates and amendments thereto) and best practice guides published by

	the IT Service Management Forum (ITSMF) from time to time, including any natural successor organisations to the ITSMF.
1.62 <b>Key Service Provider Personnel</b>	means the personnel approved by SARS to fill the Key Service Provider Positions. The Key Service Provider Positions and Service Provider Personnel approved to fill such positions as of the Effective Date are set out in <b>Appendix E-1</b> .
1.63 <b>Key Service Provider Positions</b>	has the meaning as set out in clause 8.2 of the Main Agreement.
1.64 <b>Known Error</b>	means an identified Problem for which a temporary Workaround or permanent solution has been identified.
1.65 <b>Local Access Circuit</b>	means the connections between SARS's premises and the POP of the exchange carrier.
1.66 <b>Losses</b>	means all losses, liabilities and damages arising from claims (whether actual or threatened) and all related costs and expenses (including legal fees, disbursements and costs of investigation, litigation, settlement, and judgment), fines, interest and penalties.
1.67 <b>Main Agreement</b>	means the <b>Network Carrier and Infrastructure Agreement Terms and Conditions</b> .
1.68 <b>Managed SARS Third Party</b>	means a Third Party Supplier who has entered into a Managed SARS Third Party Contract.
1.69 <b>Managed SARS Third Party Contract</b>	means a contract between SARS and a Managed SARS Third Party that Service Provider is to oversee and manage. <b>[Note to the Bidder: To be completed upon finalisation of Agreement if required]</b>
1.70 <b>Minimum Call Fee</b>	means, where applicable, the minimum fee charged by a third party for connecting a voice call (even where the duration of a call is less than the number of seconds covered by the minimum fee).
1.71 <b>Monitoring and Reporting Portal</b>	means a Service Provider provided portal which is accessible by SARS via a secure Internet connection to provide monitoring and reporting functionality as defined in <b>Schedule B-x [Note to Bidder: where x is a reference to the Tower]</b> .
1.72 <b>MPLS</b>	means multi-protocol label switching methods that provide for forwarding of IP traffic using a label. This label instructs the Routers and the switches in the network where to forward the packets based on pre-established IP routing information.
1.73 <b>New Services</b>	means any services closely associated with the provision of the Services and that are not included in the definition of the Services. New Services will be provided in accordance with clause 4.9 of the Main Agreement and as set out in a Work Order.

1.74 <b>Notice of Election</b>	has the meaning set out in clause 20.3.1 of the Main Agreement.
1.75 <b>OGC</b>	has the meaning set out in the definition of ITIL in this <b>Schedule A: Glossary</b> .
1.76 <b>Out-of-Band</b>	means, with reference to control; measurement; and signalling network traffic, that it is carried in bandwidth separately allocated to the bandwidth allocated to SARS. This will have the necessary implication that the bandwidth requested for a circuit by SARS will be fully available to SARS and that it will not be reduced by the carriage of control, measurement and signalling traffic that the Service Provider requires for the management of the circuit.
1.77 <b>Party or Parties</b>	has the meaning set forth in the preamble to the Main Agreement.
1.78 <b>Pass Through Expense</b>	means an expense charged by a Third Party Supplier for goods or services which relates to the Services, is purchased by Service Provider on behalf of SARS, and SARS agrees to pay on a Pass Through Expense Basis.
1.79 <b>Pass Through Expense Basis</b>	means the actual and reasonable amount charged or invoiced by the applicable Third Party for Pass Through Expenses without the addition of, or separate charge for, any margin, mark-up, administrative or other similar fee.
1.80 <b>Performance Bond</b>	has the meaning given to it in clause 26.16 of the <b>Main Agreement</b> .
1.81 <b>Performance Standard</b>	means a quantitative or qualitative level of service specified in this Agreement as to which Service Provider's performance of the Services must conform. Performance Standards include Service Levels.
1.82 <b>Person</b>	means any person or entity, whether an individual, trustee, corporation, partnership, limited partnership, company (whether incorporated or not), trust, organisation, business association, firm, joint venture, Governmental Entity or other governmental unit, agency or other body.
1.83 <b>Personnel Rates</b>	means the applicable Charges by skill set for Services performed on a Time and Materials Basis as set out in <b>Appendix D-4 to Schedule D (Charges, Invoicing and Payments)</b> .
1.84 <b>Point of Presence (POP)</b>	means the point of the Service Provider shared infrastructure network to which its customer's circuits terminate.
1.85 <b>PRI</b>	means Primary Rate Interface.

- 1.86 **Problem** means the unknown underlying cause of one or more Incidents.
- 1.87 **Process and Procedures Library** means the comprehensive and detailed manual described in clause 4.5 of **Schedule E (Governance)**, including processes and procedures applicable to the Services.
- 1.88 **Project** means a set of tasks and other work relating to the Services that is requested by SARS after the Effective Date and performed by the Service Provider thereafter so long as:
- (a) the work is discrete and non-recurring;
  - (b) the work requires start-up, planning, execution and closure;
  - (c) the completion of the work is likely to result in a change to the environment in which the Services are provided; and
  - (d) the work is not required for Service Provider to:
    - (i) meet the Performance Standards,
    - (ii) implement changes to the environment required as a result of benchmarking under the Agreement;
    - (iii) meet Service Provider's currency (including refresh) obligations under the Agreement, or
    - (iv) meet any other obligations of Service Provider under this Agreement.
- Projects must be contained in a Work Order in accordance with **Appendix E-5**.
- The Parties may agree to refer to other aggregations of work that do not meet the requirements of this definition of the term Projects as projects. In such case, such projects will be in scope and will not attract additional charges and will not necessarily be set out in a Work Order.
- 1.89 **Proposal** means the Service Provider's response to the Request for Proposal 14-2016 as attached in **Schedule G**.
- 1.90 **PSTN** means the public switched telecommunications network;
- 1.91 **Receiving Party** means the Party receiving Confidential Information from the Furnishing Party.
- 1.92 **Red Alert** A high severity Incident that meets the criteria set out in **Appendix E-4**.

1.93 <b>Red Alert Process</b>	The process for dealing with high severity Incidents as set out in <b>Appendix E-4</b> .
1.94 <b>Remedy</b>	is the BMC Incident, problem and change management product Remedy ITSM.
1.95 <b>Renewal Term</b>	has the meaning set out in clause 3.2 of the Main Agreement.
1.96 <b>Replacement Service</b>	has the meaning set out in clause 6.2 of <b>Schedule D (Charges, Invoicing and Payments)</b> .
1.97 <b>Reports</b>	means the reports to be provided by Service Provider in accordance with the Agreement.
1.98 <b>Request for Proposal</b>	means SARS's Request for Proposal number 14-2016 for Network Carrier and Infrastructure Services.
1.99 <b>Required Consent</b>	means, with respect to Third Party Intellectual Property or any other resource provided to SARS under contract, those consents and approvals necessary to effect Service Provider's assumption of financial, administrative and operational responsibility, or Service Provider's access and use thereof, as applicable.
1.100 <b>Resolve</b>	means to correct an Incident, Problem or Known Error so that the affected Service is recovered and restored (and in the case of Incidents, Problems or Known Errors affecting supported hardware or supported Software, the relevant supported hardware or supported Software is operating correctly), or a Workaround is otherwise successfully implemented, and that the end user or SARS support group has confirmed such resolution in accordance with the provisions of the Process and Procedures Library and the Configuration Management database has been appropriately updated to reflect the Incident and its Resolution. " <b>Resolution</b> " and " <b>Resolved</b> " will have corresponding meanings.
1.101 <b>Resources</b>	has the meaning set out in clause 4.12.2 of the Main Agreement.
1.102 <b>Router</b>	means a network layer device that uses one or more metrics to determine the optimal path along which network traffic should be forwarded. Routers forward packets from one network segment to another based on network layer information.
1.103 <b>Run Down Period</b>	means the earlier of – <ul style="list-style-type: none"> <li>(a) a period of 6 (six) months before the expiry of the Term; and</li> <li>(b) the period commencing upon SARS's dispatch of a notice of termination.</li> </ul>

1.104 <b>SARS</b>	has the meaning set out in the preamble to the Main Agreement.
1.105 <b>SARS Assets</b>	has the meaning set out in clause 7.4.1 of the Main Agreement.
1.106 <b>SARS Contract Executive</b>	means the one individual designated by SARS to whom all Service Provider communications concerning this Agreement will be addressed. SARS may change the SARS Contract Executive from time to time during the Term upon notice to Service Provider.
1.107 <b>SARS Disengagement Assistance Manager</b>	has the meaning set out in clause 1.8.2 of the <b>Schedule F (Disengagement Assistance)</b> ;
1.108 <b>SARS Hosted Environment</b>	has the meaning set out in clause 6.1.1 of <b>Schedule B-I (Internet and Hosting Services SOW)</b>
1.109 <b>SARS Oath / Affirmation of Secrecy</b>	means the document attached as <b>Schedule M</b> as amended by SARS from time to time.
1.110 <b>SARS Personnel</b>	means any employees, officers, contractors or consultants of SARS other than Service Provider Personnel.
1.111 <b>SARS PPS&amp;G</b>	means SARS's policies, procedures, processes, standards, guidelines, and other similar issuances (including any updates, amendments or revisions) that are applicable to the Services or Service Provider from time to time. The SARS PPS&G are specified in <b>Appendix E-3 (SARS PPS&amp;G)</b> of <b>Schedule E (Governance)</b> .
1.112 <b>SARS Site</b>	means a campus, office or other physical location lease, owned or occupied by SARS.
1.113 <b>SARS Software</b>	means – <ul style="list-style-type: none"> <li>(a) Software owned by SARS and modifications made thereto during the Term; and</li> <li>(b) Software developed by or for, or acquired by, SARS during the Term and modifications thereto during the Term. SARS Software will include Software developed during the course of Service Providers performance of a Project or a New Service, to the extent such Software is developed by Service Provider and SARS.</li> </ul>
1.114 <b>Security Incident</b>	means an adverse security-related event in which there was a loss of data confidentiality, disruption of data or system integrity as well as denial of service attacks, malicious code, unauthorised access and inappropriate usage.
1.115 <b>Security Procedures</b>	has the meaning set forth in clause 8.1.2 of <b>Schedule B-I (Internet and Hosting Services SOW)</b> .



1.116 <b>Security Services</b>	has the meaning set forth in clause 8.1.1 of <b>Schedule B-I (Internet and Hosting Services SOW)</b> .
1.117 <b>Service Coverage Hours</b>	means the hours during the Service Coverage Period that is designated by SARS for the relevant Device or other Supported Asset.
1.118 <b>Service Coverage Period</b>	has the meaning set out in <b>clause 1.3.2 of Schedule C (Service Levels)</b> ;
1.119 <b>Service Level</b>	means the quantitative standards of performance of certain of the Services that Service Provider is required to satisfy under <b>Schedule C (Service Levels)</b> .
1.120 <b>Service Level Credit</b>	means an amount by which SARS is entitled to reduce the Charges payable by it as contemplated in clause 1.4.1 of <b>Schedule C (Service Levels)</b> and as determined in accordance with the provisions of <b>Schedule C (Service Levels)</b> and <b>Appendix C-x</b> .
1.121 <b>Service Level Credit Increment</b>	has the meaning set out in clause 3.2.2 of <b>Schedule C (Service Levels)</b> .
1.122 <b>Service Level Failure</b>	means in respect of a Service Level where Actual Performance fails to meet or exceed such Service Level in the relevant month.
1.123 <b>Service Level Report</b>	has the meaning set out in clause 2.3.1 of <b>Schedule C (Service Levels)</b> .
1.124 <b>Service Level Target</b>	has the meaning given in clause 3.2.2(b) of <b>Schedule C (Service Levels)</b> .
1.125 <b>Service Provider</b>	has the meaning set out in the preamble to the <b>Main Agreement</b> .
1.126 <b>Service Provider Data Centre</b>	means the Service Provider's data centre facility in which the SARS Hosted Environment is located and which complies to the requirements set out in 6.1.3 of <b>Schedule B-I (Internet and Hosting Services SOW)</b> .
1.127 <b>Service Provider Personnel</b>	means any Affiliate, Subcontractor or agent and any staff employed by or on behalf of Service Provider (or any Affiliates , Subcontractor or agent) who perform any of the Services.
1.128 <b>Service Provider Policies</b>	has the meaning set out in clause 4.4.1.1.2 of <b>Schedule E (Governance)</b> .
1.129 <b>Service Provider Program Executive</b>	means a person designated by the Service Provider who will (i) serve as Service Provider's single point of accountability for the Services; and (ii) have day-to-day authority for ensuring Service Provider's fulfilment of its obligations under the Agreement and SARS's satisfaction with the Services. The

	Service Provider Program Executive will be a senior member of the Service Provider Personnel who will have the authority to act on behalf of Service Provider and its Subcontractors.
1.130 <b>Service Provider Proposal</b>	means the Service Provider's formal response to the Request for Proposal 14-2016 as per <b>Schedule G</b> .
1.131 <b>Service Provider Site</b>	means a physical location from which Service Provider or a Subcontractor is performing any of the Services, excluding any SARS Sites.
1.132 <b>Service Provider Supported Hardware</b>	means hardware owned or leased and used by Service Provider in order for Service Provider to perform the Services.
1.133 <b>Services</b>	has the meaning set forth in clause 4 of the <b>Main Agreement</b> .
1.134 <b>SMS Carrier Services</b>	has the meaning set out in clause 1 of <b>Schedule B-S (SMS Carrier Services SOW)</b> ;
1.135 <b>Software</b>	means any elements of coding or computer programs (including related documentation and media), including as applicable the object code and/or source code and without limit to whether the software is operating system software, applications Software, Tools, firmware or otherwise.
1.136 <b>SOW</b>	means Statement of Work set out in <b>Schedule B</b> and/or <b>Schedule B-x [Note to Bidder: where x is a reference to the Tower]</b> .
1.137 <b>Steering Committee</b>	has the meaning set out in clause 4.1 of <b>Schedule E (Governance)</b> .
1.138 <b>Subcontract</b>	has the meaning set out in clause 5.3 of the Main Agreement.
1.139 <b>Subcontractor</b>	means a Third Party (including a Service Provider Affiliate) to whom Service Provider subcontracts or otherwise delegates any Service Provider obligations to perform any of the Services (including subcontractors of a Subcontractor) provided that such Third Party has been approved for such purpose by SARS in accordance with the <b>Main Agreement</b> . For clarity, "Subcontractor" excludes parties for whom the Service Provider acts as a value-added reseller in terms of a reseller agreement with a bulk supplier / distributor of utilities.
1.140 <b>Successor</b>	means SARS or any replacement service provider designated by SARS that replaces the Service Provider as the service provider to SARS of the Services or part of the Services.
1.141 <b>Term</b>	has the meaning set out in clause 3.1 of the Main Agreement.
1.142 <b>Terminated Services</b>	means the Services or part of the Services that are no longer to be performed by Service Provider and instead are to be performed by a Successor at the end of the Term, including where such Services are replaced by alternative Services or

New Services.

- 1.143 Termination Date** means the effective date of termination or expiration pursuant to clause 25 of the Main Agreement as it may be extended by SARS pursuant to clauses 3.2 and 25.5 of the Main Agreement.
- 1.144 Third Party** means a Person other than SARS, a Governmental Entity, Service Provider or its Affiliates.
- 1.145 Third Party Intellectual Property** means all Intellectual Property that is owned or controlled by a Third Party and –
- (a) licensed to SARS;
  - (b) used by Service Provider to perform the Services;  
or
  - (c) incorporated or embedded in any Deliverable or any Intellectual Property forming part of or related to any Deliverable.
- 1.146 Third Party Resources** has the meaning set out in clause 4.12.2 of the Main Agreement.
- 1.147 Third Party Supplier** means a Third Party that is a licensor of Software, lessor of equipment, or supplier of other goods or services to SARS (or to a Governmental Entity that is receiving Services under this Agreement) from time to time, including such Third Party's employees, agents, Affiliates, Subcontractors and Third Party suppliers. Third Party Suppliers exclude any Affiliate, Subcontractor (direct or indirect), or other agents of Service Provider to the extent involved in performing or delivering the Services under contract (direct or indirect) with Service Provider.
- 1.148 Time and Materials Basis** means compensation to Service Provider, where and to the extent additional work is expressly authorised to be paid in this manner under this Agreement, as follows:
- (a) at the Personnel Rates for the actual time expended on such work; and
  - (b) on a Pass Through Expenses Basis for material or incidental costs incurred in performing such work.
- 1.149 Tool** means any Software tool or process used to deliver the Services.
- 1.150 Transition** means the process of transferring the Services from the Incumbent Service Provider to the Service Provider in accordance with the provisions of **Appendix B-x-1**.
- 1.151 Transition Deliverable** the applicable technical and functional specifications and/or

<b>Criteria</b>	standards, which have been developed by the Service Provider and approved by SARS.
<b>1.152 Transition Manager</b>	means the individual assigned by SARS on the one hand and the individual assigned by Service Provider on the other hand (and as approved by SARS) to manage Service Provider's performance of Transition.
<b>1.153 Transition Plan</b>	means a plan setting forth the steps the Service Provider will take to transition the performance and delivery of the Services from Incumbent Service Provider; SARS; and / or any existing Third Party Suppliers to SARS, as applicable, to Service Provider. Such plan will identify critical milestones, a timetable for accomplishing such milestones, the resources Service Provider will deploy to accomplish the Transition, the facilities to which the Services are to be transitioned and any relevant, mutually agreed SARS retained responsibilities
<b>1.154 Transition Services</b>	means the transition services, further set out in <b>Appendix B-1</b> and <b>Appendix B-x-1</b> .
<b>1.155 Transition Tests</b>	means testing by SARS of the Transition deliverable to determine whether such Transition deliverable complies with and conforms to the Transition Deliverable Criteria.
<b>1.156 Unit Rates</b>	means the price for each unit of product as defined in the specifications set out in <b>Schedule D (Charging, Invoicing and Payments)</b> .
<b>1.157 Urgency</b>	has the meaning set out in <b>Appendix E-4 (SARS Red Alert Process)</b> .
<b>1.158 VAT</b>	means value-added tax as levied from time to time in terms of the Value-Added Tax Act, 1991 (Act No. 89 of 1991).
<b>1.159 Voice Carrier Services</b>	has the meaning set out in clause 1 of <b>Schedule B-V (Voice Carrier Services SOW)</b> ;
<b>1.160 WASPA</b>	means Wireless Application Service Providers' Association.
<b>1.161 WASPA's Code of Conduct</b>	Means WASPA's code of conduct as amended from time to time.
<b>1.162 Workaround</b>	means in respect of an Incident or Problem that the Incident or Problem is avoided either by implementing a temporary fix or by using a technique so that SARS is not reliant on the particular aspect of the Service (or the relevant hardware, Software or part thereof) that is affected by the Incident or Problem.
<b>1.163 Work Order</b>	means a work order substantially in the form and fulfilling the requirements of <b>Appendix E-5 (Form of Work Order)</b> and describing at least (i) the details of the New Services and or Projects to be performed under this Agreement, (ii) the amount,

schedule and method of payment (subject to the provisions of Schedule D), (iii) start and end date or where applicable to the timeframes for performance, (iv) where applicable the completion and acceptance criteria, (v) any applicable Service Levels and Service Level Credits, etc. A Work Order will only be binding of the Parties once the Work Order has been signed by duly authorised representatives of both Parties and the receipt of a purchase order issued in accordance with SARS's procurement policies and procedures.

1.164 24x7x365

means at all times.

## 2 INTERPRETATION

### 2.1 Construction

In this Agreement, a reference to:

2.1.1 a statutory provision, includes a reference to:

2.1.1.1 the statutory provision as modified or re-enacted from time to time (whether before or after the Effective Date); and

2.1.1.2 any subordinate legislation made under the statutory provision (whether before or after the Effective Date);

2.1.2 persons or entities, includes a reference to natural persons, any body corporate, association, trust, partnership or other entity or organization;

2.1.3 a person or entity, includes a reference to that persons or entity's successors or assigns;

2.1.4 a Schedule, Appendix or Attachment unless the context otherwise requires, is a reference to a schedule, appendix or attachment to this Agreement; and

2.1.5 the singular includes the plural and vice versa, unless the context otherwise requires.

### 2.2 Other

2.2.1 Wherever a term is defined in this Agreement anywhere outside of this **Schedule A**, such term will bear the meaning so assigned to it throughout this Agreement wherever it appears in the title case.

2.2.2 Technical terms that are not contained in the definitions set out above have their generally understood meaning in the electronic communication and information technology industries and, if used in ITIL, then in ITIL.

2.2.3 The headings in this Agreement will not affect the interpretation of this Agreement.

2.2.4 This Agreement will not be construed against either Party as a result of that Party having drafted or proposed the relevant clause.

- 2.2.5 The words "include" and "including" mean "include without limitation" and "including without limitation". The use of the words "include" and "including" followed by a specific example or examples will not be construed as limiting the meaning of the general wording preceding it.
- 2.2.6 Whenever any person is required to act "as an expert and not as an arbitrator" in terms of this Agreement, then –
- 2.2.6.1 the determination of the expert will (in the absence of manifest error) be final and binding;
  - 2.2.6.2 subject to any express provision to the contrary, the expert will determine the liability for his or her charges, which will be paid accordingly;
  - 2.2.6.3 the expert will be entitled to determine such methods and processes as he or she may, at his or her sole discretion, deem appropriate in the circumstances provided that the expert may not adopt any process which is manifestly biased, unfair or unreasonable;
  - 2.2.6.4 the expert will consult with the relevant Parties (provided that the extent of the expert's consultation will be at his or her sole discretion) prior to rendering a determination; and
  - 2.2.6.5 having regard to the sensitivity of any confidential information, the expert will be entitled to take advice from any person considered by him or her to have expert knowledge with reference to the matter in question.
  - 2.2.6.6 Notwithstanding the above SARS, in its sole election, will be entitled to bring any matter under consideration by an expert before the North Gauteng High Court, Pretoria and the Service Provider hereby submits to the jurisdiction of that court.
- 2.2.7 All references to:
- 2.2.7.1 hours will be to actual hours during a calendar day and not to Business Hours;
  - 2.2.7.2 time will be to local time at the site at which the Service is being received;
  - 2.2.7.3 days, months and quarters will be to calendar days, calendar months and calendar quarters, respectively.
- 2.2.8 Where a time period is specified by a number of Business Days it will exclude the first Business Day and include the last Business Day.

## **SCHEDULE B: COMMON SERVICES SOW**

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Appendix B-1	Common Transition Services
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## SCHEDULE B

### COMMON SERVICES SOW

#### 1 INTRODUCTION

Service Provider will provide the Services described in this **Schedule B** and the **Appendices to this Schedule B** in conjunction with the Services described in:

- 1.1 **Schedule B-D**, and the **Appendices to Schedule B-D**;
- 1.2 **Schedule B-V**, and the **Appendices to Schedule B-V**;
- 1.3 **Schedule B-I**, and the **Appendices to Schedule B-I**; and
- 1.4 **Schedule B-S**, and the **Appendices to Schedule B-S**.

**[Note to Bidder: the references to the Schedules and their Appendices that are not applicable to the Tower awarded to the successful Bidder will be deleted prior to signature]**

#### 2 GENERAL

##### 2.1 General Principles

Without limiting Service Provider's specific obligations under this Agreement, the following are included in the Services:

- 2.1.1 compliance with commercially reasonable requirements of ISO 20000, ISO 17799 and ISO 27001;
- 2.1.2 compliance with the SARS PPS&G;
- 2.1.3 the use of good housekeeping professionalism in the maintenance of any office, work or storage space, that SARS makes available to the Service Provider for the purposes of providing the Services, or other SARS Sites, switch rooms and closets, and items of Service Provider Supported Hardware; and
- 2.1.4 compliance with good engineering practices.

##### 2.2 Management of Service Provider

SARS may appoint an agent to manage Service Provider's performance under the Agreement on SARS's behalf. Service Provider acknowledges and expressly agrees that SARS's appointed agent may be a service provider that is a competitor of Service Provider in certain geographies or with respect to certain services. Service Provider agrees to co-operate with SARS's agent and to execute such agent's instructions that are within the scope of the Services.



### 2.3 SARS's Agent

At SARS's request, Service Provider will agree to act as SARS's agent in ordering electronic communications services from Third Parties that are necessary to provide electronic communications services and to perform service management functions with respect to such Third Party services, all at no additional charge to SARS.

## 3 COMMON OPERATIONAL REQUIREMENTS

### 3.1 Service Management Services

In addition to the requirements for the Service Provider to provide service management service specified in this Agreement, Service Provider is also required to follow any additional service management processes it needs to follow in order to satisfy the Performance Standards. Moreover, Service Provider is required to comply with its responsibilities under **Appendix E-4 (SARS Red Alert Process)** in the event of certain high-impact Incidents affecting the Services.

### 3.2 Integration with SARS Service Management Processes

The Service Provider is required to receive Incidents and Changes from, and log Incidents and Changes to, the SARS Incident and Change management system.

**[Note to Bidder: the Service Provider must either integrate its service management system(s) with the SARS Remedy system or purchase sufficient licences for the Service Provider to work directly on the SARS Remedy system].**

### 3.3 Alerting

- 3.3.1 Service Provider will alert SARS in the event of an unscheduled outage and escalate in accordance with the escalation procedures set out in clause 8.4.
- 3.3.2 Service Provider will recommend to SARS, on a monthly basis, thresholds and settings that will improve the process of alerting SARS to failures or potential failures that affect or may affect the Services and, on SARS's acceptance, implement and include such recommendations into the Service Provider monitoring and reporting procedures and systems.
- 3.3.3 Service Provider will provide automatic alerts to SARS based on Service Provider recommended thresholds and priorities as approved by SARS, in accordance with alerting procedures determined by SARS, of events and Incidents that affect or are likely to affect the Services, including any event indicating operational performance outside thresholds set by SARS. The alerts provided to SARS must be filtered by the Service Provider so that SARS does not receive duplicate alerts for the same underlying event. Such alerts must include those indicating traffic, errors, capacity utilisation, round trip times, jitter and packet loss in excess of defined thresholds. The notification of such alerts must be capable of being delivered by SMS and email and to be reflected on the Monitoring and Reporting Portal.

## 4 SINGLE POINT OF CONTACT

Service Provider will provide a SPOC for all contacts ("**Contacts**") between the Parties relating to the performance, receipt and use of the Services as described in this clause 4. The SPOC will provide primary support for resolution of Incidents, Problems or requests relating to the Services and will provide a seamless interface for other communications or activities relating to the Services. The SPOC will provide SARS with support relating to the Services through the SPOC.

### 4.1 Contacts

- 4.1.1 Service Provider will keep a record of all Contacts. Contacts may relate to known or suspected Incidents or Problems, requests for Changes or New Services, or questions relating to the use of the Services.
- 4.1.2 Service Provider will report to SARS monthly on the number and disposition of Contacts received. Contacts will be categorised as follows: (i) Incidents or Problems relating to the Services; (ii) questions relating to the Services; (iii) requests for Changes; (iv) other issues or questions relating to the Services; or (v) issues or questions that do not relate to the Services.
- 4.1.3 With respect to telephonic Contacts, the SPOC will as far as reasonably possible immediately resolve such Contacts without transferring or escalating the Contact.

### 4.2 Resources

Service Provider will ensure that Service Provider Personnel providing SPOC functions will be trained in, or will otherwise be made knowledgeable about, the Services, the environments and SARS. Service Provider will provide sufficient numbers of Service Provider Personnel with the requisite training to be able to address SARS's specific issues and questions. Service Provider will develop and maintain a knowledge base to aid the Service Provider Personnel providing SPOC functions to do so.

### 4.3 Hours of Service

Service Provider will provide contact information so that the Service Provider Personnel providing SPOC functions can be accessed as appropriate on a 24x7 basis.

## 5 INCIDENT MANAGEMENT SERVICES

Service Provider will perform Incident Management, including the Services described in this clause 5 (collectively, the "**Incident Management Services**"). Service Provider will perform the Incident Management Services in accordance with the processes and procedures set forth herein and in **Schedule C (Service Levels)** or the applicable SARS PPS&G, interfacing seamlessly and non-disruptively with such applicable SARS PPS&G.

### 5.1 Incident Management Procedures

#### 5.1.1 Development

By at least 60 (sixty) days prior to the Commencement Date, Service Provider will prepare for SARS's review and approval detailed Incident Management processes and procedures for the Services. Such Service Provider Incident Management processes and procedures will interface seamlessly with the applicable SARS PPS&G and the other SARS processes. Service Provider will incorporate SARS's comments on such processes and procedures and include such revised procedures in the Process and Procedures Library promptly but in no event later than thirty (30) days after SARS has provided such comments ("**Incident Management Procedures**"). The Incident Management Procedures will be based on the processes and procedures set forth in this clause 5 and, to the extent consistent with the processes and procedures set forth in this clause 5, Service Provider's standard processes and procedures that it uses to perform Incident management services for other customers.

- 5.1.2 Service Provider will follow the Incident Management Procedures from the date that they have been approved by SARS. Before such date, the Services Provider will follow the processes and procedures regarding Incident Management that are set forth in this clause 5 supplemented with Service Provider's own standard processes and procedures (to the extent they are not inconsistent with this clause 5).

5.1.3 Updates

Service Provider will promptly update the Incident Management Procedures to reflect any changes in the applicable SARS PPS&G. Service Provider will submit the revised Incident Management Procedures to SARS for its review and approval in the same manner as set forth in clause 5.1.1 above.

## 5.2 Incident Recording

5.2.1 Recording Incidents.

Service Provider will record Incidents in the Incident tracking system immediately upon their earliest detection. Manners in which an Incident may be detected include: by (i) a member of SARS personnel, the SPOC or Service Provider Personnel; (ii) a system; (iii) the SARS Service Desk.

5.2.2 Checking for the Same or Similar Incidents.

When recording an Incident, so as to avoid recording the same Incident as separate Incidents, Service Provider will first check to see if there are similar open Incidents. If there are and they concern the same Incident, Service Provider will update the Incident information and link the newly reported Incident to the existing Incident record. If this is not a report of an already open or closed Incident, then Service Provider will open a new Incident. If this is the report of a new Incident but there have been other similar Incidents, this will be noted and addressed (including being made a part of the Incident Management reporting to SARS). Service Provider will identify and analyse the reasons for any differences in the effectiveness of the resolution for similar Incidents.

5.2.3 Incident Tracking System.

At all times during the Term Service Provider will utilise an electronic Incident tracking system capable of capturing and storing appropriate information relating to each Incident, including the information specified in this clause 5 as being stored in such Incident tracking system.

5.3 **Classification**

All Incidents will be classified in accordance with the process set forth in this clause 5.3. Service Provider will comply with the then-current SARS PPS&G relating to Incident Management and will interface closely with SARS so as to correctly identify and classify Incidents.

5.3.1 Process.

In the first instance, Service Provider will make such classification in accordance with SARS's then-current Impact and Urgency classifications in accordance with the SARS PPS&G. Such classifications as of the Effective Date are set out in **Appendix E-4 (SARS Red Alert Process)**. If there is a disagreement as to the priority level that should be assigned to an Incident, the priority level will be that prescribed by SARS in its reasonable judgment.

5.3.2 Re-categorisation of Recurring Incidents.

Service Provider will re-categorise recurring Incidents to a higher Impact and Urgency classifications in accordance with the Incident Management Procedure.

5.3.3 Incident Record.

Service Provider will create and maintain an Incident record for each Incident containing details of the Incident symptoms, an initial Incident categorisation, and the Impact of the Incident. Service Provider's records of Incidents will be designed to enable Service Provider to measure and improve the affected processes, provide information required for other Service Management processes, and report on progress.

5.4 **Communications**

Service Provider will keep the applicable SARS contact persons (as then specified in the Process and Procedures Library and escalation procedures) apprised of the status of Incident Management activities on an on-going basis in accordance with the notification and escalation processes set forth in the Incident Management Procedure. Service Provider's obligations in such regard will include:

5.4.1 documenting and maintaining in the Incident Management Procedures processes and procedures for notifying affected parties, including SARS, of Incidents, escalation paths, contacts and timescales;

5.4.2 alerting SARS of any Incidents in accordance with the Incident Management Procedures;

- 5.4.3 informing the SARS Incident Manager about the estimated maximum time to Resolve the Incident, and apprising him or her of progress on an on-going basis;
- 5.4.4 at SARS's request, providing SARS with a preliminary report of the Incident on an expedited basis;
- 5.4.5 updating status in the relevant record in the Incident tracking system promptly upon any developments occurring so that it is current on a real time basis; and
- 5.4.6 notifying the SARS Incident Management team promptly in accordance with the Incident Management Procedure in the event that an Incident is likely to require a Problem Investigation, including informing the SARS Problem Management team.

## 5.5 Resolution and Recovery

- 5.5.1 Service Provider will resolve Incidents and return the affected Services to full performance in accordance with this Agreement, including the Performance Standards, as soon as possible but in no event later than to meet any applicable Service Levels with the least possible impact on the operations of SARS. The Service Provider will give priority over all other work to effect the resolution and recovery of SARS Incidents including the giving of the highest priority to the printing of test prints required to be made in the resolution process.
- 5.5.2 Service Provider will provide SARS with prior notice of any temporary Workaround or permanent solution that:
  - (a) may have a further impact on the Services and / or on SARS;
  - (b) represents a departure from SARS's processes; or
  - (c) materially increases or is likely to materially increase the workload of SARS personnel or SARS systems or SARS's costs.

The implementation of every temporary Workaround or permanent solution will be subject to the Operational Change Management Procedure. Without limiting the generality of the foregoing, Service Provider will identify and describe all other temporary Workarounds in the morning report submitted by Service Provider on the next Business Day after the Workaround was implemented.

- 5.5.3 In addition to the Incident Management Procedures, Service Provider will follow the processes described in **Appendix E-4 (SARS Red Alert Process)** in regard to Severity One Incidents (as defined therein).

## 5.6 Completion and Closure of Incidents

- 5.6.1 An Incident will not be Resolved until all Changes, the date and time of resolution, the final classification and priority of the Incident, the Services/ functions that were affected and any Workarounds have been captured on the Service Provider's Incident tracking system.
- 5.6.2 When an Incident has been resolved, Service Provider will record the Incident as completed and communicate this fact to SARS.

- 5.6.3 Service Provider will participate in Incident post mortem and improvement activities to prevent the re-occurrence of the Incident and to improve the Incident Management process.

## 5.7 Incident Management Services Outputs

The outputs of Incident Management Services include:

- 5.7.1 Incident Management Procedures;
- 5.7.2 up-to-date records in the Service Provider's Incident tracking system (updated with information about each Incident relating to status, solutions, and Workarounds);
- 5.7.3 Change request records implemented to Resolve Incidents; and
- 5.7.4 management information relating to Incident Management Services as requested by SARS from time to time (e.g. status, updates, efficiency and effectiveness, other management or performance metrics).

## 6 PROBLEM MANAGEMENT SERVICES

Service Provider will perform Problem Management including the services described in this clause 6 (collectively, the "**Problem Management Services**") and will do so in accordance with the processes and procedures set forth or referred to herein and in a manner that interfaces seamlessly and non-disruptively with the applicable SARS PPS&G. In performing the Problem Management Services, Service Provider will minimise the adverse effect of Problems on SARS's operations, the Services and proactively minimise the Impact, and prevent the occurrence, of Problems.

### 6.1 Problem Management Procedures

#### 6.1.1 Development

By at least 60 (sixty) days prior to the Commencement Date, Service Provider will prepare for SARS's review and approval detailed Problem Management processes and procedures for the Problem Management Services. Such processes and procedures will interface seamlessly with the applicable SARS PPS&G and the other Service Management processes. Service Provider will incorporate SARS's comments on such processes and procedures and include such revised processes and procedures in the Process and Procedures Library promptly but in no event later than thirty (30) days after SARS has provided such comments ("**Problem Management Procedures**"). The Problem Management Procedures will be based on the processes and procedures set forth in this clause 6 and, to the extent consistent with the processes and procedures set forth in this clause 6, Service Provider's standard processes and procedures that it uses to perform Problem Management services for other customers.

- 6.1.2 Service Provider will follow the Problem Management Procedures from the date that they have been approved by SARS. Before such date, the Services Provider will follow the processes and procedures regarding Problem Management that are set forth in this clause 6 supplemented with Service Provider's own standard processes and procedures (to the extent they are not inconsistent with this clause

6).

#### 6.1.3 Updates

Service Provider will promptly update the Problem Management Procedures to reflect any changes in the applicable SARS PPS&G. Service Provider will submit the revised Problem Management Procedures to SARS for its review and approval in the same manner as set forth in clause 6.1.1.

### 6.2 Proactive Problem Management

Service Provider will use Commercially Reasonable Efforts to proactively prevent Problems, including by means of performing trend analysis and identifying potential Incidents before they occur. Service Provider will use Commercially Reasonable Efforts to prevent failures from spreading. Service Provider will identify and investigate weaknesses of infrastructure components.

### 6.3 Problem Control

Service Provider will be responsible for identifying Problems and investigating their root cause in accordance with the terms of this clause 6.3 ("**Problem Control**"). When the Problem investigation has identified the root cause of a Problem and a resolution to the Problem, the Problem will be classified as a Known Error. In performing Problem Control, Service Provider will perform the following services:

#### 6.3.1 Problem Identification and Recording

Service Provider will associate Incidents caused by one or more Problem(s) with such Problem(s), including Incidents that recur or are expected to recur, as well as any single significant Incident.

#### 6.3.2 Problem Classification

Service Provider will analyse Problems and classify them in accordance with SARS's then-current Impact and Urgency classifications. The SARS Impact and Urgency classifications as of the Effective Date are set forth in **Appendix E-4 (SARS Red Alert Process)**. The analysis will include an Impact analysis assessing the seriousness of the Problem and its effect on the Services. Service Provider will confer with SARS in formulating these classifications and categorizations. If there is a disagreement as to the priority level that should be assigned to a Problem, the priority level will be that prescribed by SARS in its reasonable judgment. Factors to be considered in determining the classification of a Problem will include:

- (a) category: identifying the relevant domain, for example hardware or Software;
- (b) impact on the business;
- (c) urgency: extent to which deferral of the solution is acceptable;
- (d) priority; and

- (e) status e.g. Problem, Known Error, Resolved, closed pending post-implementation review.

These classifications and categorisations will be updated to reflect any changes during the Resolution of the Problem. For example, new Incidents may increase the Impact and Urgency and accordingly Priority of a Problem.

### 6.3.3 Problem Investigation and Resolution

- (a) Service Provider will investigate and diagnose each Problem to achieve Resolution.
- (b) Service Provider will perform the Error Control activities described below in clause 6.4.
- (c) If a temporary fix requires modification of infrastructure, Service Provider will implement it in accordance with the Operational Change Management Procedures.
- (d) Service Provider will comply with and interface with SARS's Problem Management processes and procedures.
- (e) Service Provider will correctly identify Problems and investigate and monitor the Problem(s) to Resolution.
- (f) Service Provider will conduct a formal root cause analysis to identify the origin of each Problem that: (i) gave rise to a Service Level Failure; (ii) resulted from a Severity One Incident; or (iii) repeat Incident.
- (g) Once Service Provider has identified the root cause of a Problem and a method of resolving it, such Problem will be classified as a Known Error. Service Provider will record all Known Errors against the current and potentially affected Services in addition to the component at fault and any Workarounds. Known Errors will not be closed until they have been Resolved.
- (h) Service Provider will use Commercially Reasonable Efforts to eliminate the root cause of each of the types of Problems specified in clause 6.3.3(f) and prevent recurrence of such Problem, including by means of performing a detailed review of each such Problem.
- (i) Service Provider will facilitate Problem Management investigations and reviews of Problems, including identifying Problem trends.
- (j) Service Provider will participate in cross-functional Problem determination activities, including facilitating Problem Management review and Problem Management investigation meetings as reasonably required by SARS.
- (k) Service Provider will adhere to the mutually agreed Problem escalation path for each Problem severity group.



- (l) Service Provider will take 'ownership' for all Problems assigned to Service Provider by SARS, including using Commercially Reasonable Efforts to manage Third Party Suppliers where necessary in order to determine the root cause of and / or resolve the Problem.
- (m) Service Provider will report to SARS during the normal reporting cycle the results of any root causes analyses conducted with respect to Problems that were not the result of a Severity One Incident or did not cause a Service Level Failure.
- (n) Service Provider will report to SARS daily Service Provider's progress in conducting root causes analyses on each Problem that gave rise to a Service Level Failure or was the result of a Severity One Incident.
- (o) Service Provider will conduct all root cause analyses in accordance with the applicable procedures set forth in the Process and Procedures Library.
- (p) With respect to each Problem that:
  - (i) gave rise to a Service Level Failure; or
  - (ii) (results from a Severity One Incident,

Service Provider will provide SARS with: (1) a plan for correcting such failure and preventing its recurrence; (2) reasonable evidence that the Problem has been corrected and will not recur, and (3) a detailed explanation of Service Provider's contingency plan.

#### **6.4 Error Control**

Service Provider will monitor and manage Known Errors until they are successfully resolved ("**Error Control**"). Service Provider will perform Error Control in accordance with the Operational Change Management Procedures and evaluate the changes in a post-implementation review, as described in clause 6.5. Service Provider will monitor and report on all Known Errors from their identification through to their resolution.

#### **6.5 Problem Closure and Post-Implementation Review**

When they are resolved, Service Provider will record Problems and Known Errors as resolved. Only SARS will close Problems. Once implemented, all Changes to resolve Problems and Known Errors will be reviewed in a post-implementation review. SARS will not close the Problem until (i) the post-implementation review has been completed, (ii) any other steps mandated under the relevant SARS PPS&G have been completed, and (iii) the Parties agree (acting reasonably) that the Change(s) was (were) implemented in such a fashion so as to Resolve the Problem or Known Error. In such case, all related Problem and Known Error records, together with their associated Incident records, will be closed by SARS. For Problems designated as major, in SARS's reasonable judgment, a separate major problem review will promptly be undertaken jointly by Service Provider and SARS to identify:

- (a) what was done well;

- (b) what was done badly;
- (c) how it can be done better in future; and
- (d) further steps Service Provider should take to prevent a recurrence.

## 6.6 Communications

Service Provider will keep applicable SARS contacts apprised of the status of Problem Management activities in accordance with the Problem Management Procedure notification and escalation processes. Service Provider's obligations will include:

- 6.6.1 alerting SARS of any Problems in accordance with the Service Levels; and
- 6.6.2 at SARS's request, providing a preliminary report of the Problem on an expedited basis to SARS.

## 6.7 Problem Management Services Outputs

The outputs of Problem Management Services include:

- (a) Problem Management Procedures;
- (b) a Known Error database, which is a subset of the Problem Management system;
- (c) up-to-date Problem records (updated with information about status, Known Errors, solutions and/or Workarounds);
- (d) closed Problem records (once the root cause has been eliminated and the Problem Resolved);
- (e) matching of Incidents to Problems and Known Errors;
- (f) Problem reports indicating history and status of Problems, categorised by type, time period and status as reasonably requested by SARS; and
- (g) management information relating to Problem Management Services as requested by SARS from time to time (e.g. status, updates, efficiency and effectiveness, other management or performance metrics).

# 7 OPERATIONAL CHANGE MANAGEMENT SERVICES

## 7.1 Introduction

- 7.1.1 Service Provider will perform Operational Change Management, including the Services described in this clause 7 ("**Operational Change Management Services**") and will do so in accordance with the processes and procedures set forth or referred to herein and in a manner that:

- (a) interfaces seamlessly and non-disruptively with the SARS PPS&G relating to Operational Change Management and the other Service Management processes;
- (b) facilitates the efficient and prompt handling of any Changes made by Service Provider; and
- (c) facilitates making Changes quickly and with the least possible impact on the operations of SARS or on the affected users.

7.1.2 A **"Change"** is any modification, alteration, or other change made by Service Provider to:

- (a) the Services;
- (b) the manner, means or format in which Service Provider supplies and delivers the Services, including any work product, forms, reports, data feeds or other outputs of the Services; or
- (c) the Service Provider environment, but only if the Change impacts the SARS environment, SARS's receipt or use of the Services, or the Charges or Pass Through Expenses.

Examples of Changes include changes to systems or processes, configuration changes, changes in technology, changes to environmental parameters and changes to policies or procedures.

7.1.3 Service Provider will notify SARS in advance of any change that will or will potentially affect the Services and use Commercially Reasonable Efforts to ensure that SARS is impacted as minimally as possible by such activities.

7.1.4 Service Provider will notify SARS of any changes to the means of providing the Services.

7.1.5 Service Provider will develop a process to interface its change management processes with the SARS Operational Change Management Procedures and processes.

7.1.6 After the implementation of, or any change to, a component of the Services the Service Provider will allow SARS to perform acceptance testing for 5 (five) Business Days. Acceptance testing is defined to be successful if the network has operated for 5 (five) Business Days, uninterrupted by defect, and performing as described in the specific functional requirements.

7.1.7 If Service Provider intends to conduct any planned change, including any scheduled maintenance activity, that could result in a disruption of the Services to SARS then:

- 7.1.7.1 if such a change will, or potentially will, only affect the Services delivered to SARS, then the Service Provider will notify SARS of the nature, scope and potential impact of the change by raising a change request in the SARS Incident and Change Management system and only proceed with such change with SARS's approval; or

7.1.7.2 if such a change will potentially affect the services delivered to more than one of Service Provider's clients then Service Provider must:

7.1.7.2.1 in the case of major changes or changes affecting more than one SARS site, provide SARS with notice at least 10 (ten) Business Days in advance and provide SARS with the opportunity to lodge an objection with the Service Provider (which objection the Service Provider will consider and provide SARS with timeous feedback); and

7.1.7.2.2 in the case of changes affecting a single SARS site, provide SARS with at least 3 (three) Business Days' notice in advance.

7.1.7.3 Should it be critical to perform emergency maintenance outside the aforementioned maintenance windows, Service Provider will, where practically possible, notify SARS of such emergency maintenance in accordance with clause 7.1.7.2. If not practically possible to provide SARS with the required notification, Service Provider will provide reasonable notice to SARS or will inform SARS of the emergency maintenance within:

7.1.7.3.1 5 (five) minutes after the emergency maintenance has begun, should any of the Services be affected; or

7.1.7.3.2 30 (thirty) minutes after the emergency maintenance has begun, should the Services not be affected.

7.1.7.4 Downtime experienced by SARS without the required notice periods having been given by the Service Provider to SARS as set out in clause 7.1.7.2 will be regarded as unscheduled downtime.

7.1.8 No Change may commence without the prior approval of the SARS Change Advisory Board ("**SARS CAB**").

(a) SARS will not unreasonably withhold its approval for Changes solely to the Service Provider environment under clause 7.1.2(c) provided that (i) Service Provider puts SARS in the position it would have been had any adverse effects (including operational and economic) not resulted from such Change, and (ii) the impact on SARS, the Services or the SARS environment is not material.

(b) SARS may withhold approval for, in its sole discretion, any other Change.

## **7.2 Operational Change Management Procedures**

7.2.1 By at least 60 (sixty) days prior to the Commencement Date, Service Provider will prepare for SARS's review and approval detailed operational change management processes and procedures for the Operational Change Management Services. Such processes and procedures will interface seamlessly with the applicable SARS PPS&G and the other Service Management Processes. Service Provider will incorporate SARS's comments on such procedures and include such revised processes and procedures in the Process and Procedures Library promptly but in

no event later than thirty (30) days after SARS has provided such comments ("**Operational Change Management Procedures**"). The Operational Change Management Procedures will be based on the processes and procedures set forth in this clause 7.2, and, to the extent consistent with the processes and procedures set forth in this clause 7.2, Service Provider's standard processes and procedures that it uses to perform operational change management services for other customers.

- 7.2.2 Service Provider will follow the Operational Change Management Procedures from the date that they have been approved by SARS. Before such date, the Services Provider will follow the processes and procedures that are set forth in this clause 7.2 supplemented with Service Provider's own standard processes and procedures (to the extent they are not inconsistent with this clause 7.2).
- 7.2.3 Service Provider will promptly update the Operational Change Management Procedures to reflect any Changes in the applicable SARS PPS&G. Service Provider will submit the revised Operational Change Management Procedures to SARS for its review and approval in the same manner as set forth in clause 7.1.1 above.
- 7.2.4 The Operational Change Management Procedures must meet the following requirements:
  - (a) the Operational Change Management Procedures will include a set of sub-processes designed to: (i) manage and control the response to planned Changes; (ii) control creation and execution of plans for approved projects, including reporting on progress and issues; (iii) ensure that ownership responsibilities for resources will be properly exercised; and (iv) assess the potential operational impact of Changes on SARS;
  - (b) the Operational Change Management Procedures will embody the principle that Changes may only be commenced after approval by the SARS CAB.
  - (c) The Operational Change Management Procedures will include procedures for co-ordinating Change activity with SARS's operational change procedures as set out in the applicable SARS PPS&G consistent with clause 7.1.2. As part of such co-ordination, Service Provider will invoke the SARS Operational Change Management Procedures for each Change; provide any required information, notices or updates; provide or participate in (as requested by SARS) assessments, evaluations or analyses of the proposed Change, including its Impact and Urgency; seek SARS approvals and provide for SARS reviews when mandated (for example, approvals will be required to proceed with planning a Change and subsequently to implement such Change); promptly notify SARS of status updates and any problems in implementation; and participate in post-implementation reviews or verifications. In doing so, Service Provider will adhere to the relevant timescales specified in the applicable SARS PPS&G or otherwise specified by SARS;

- (d) the Operational Change Management Procedures will facilitate a high degree of co-ordination and communication across SARS business units and facilitate measures to minimise the business Impact and risk to SARS of any Change activity;
- (e) the Operational Change Management Procedures will provide processes for managing conflicts of timing, resources and priorities;
- (f) the Operational Change Management Procedures will enable the clear assignment of responsibility for individual Changes to be established and maintained throughout the change process, with regular and applicable progress updates communicated back to those affected; and
- (g) the Operational Change Management Procedures will include an emergency change process for any Changes that must be implemented in less than the minimum scheduled change period provided for by the applicable SARS PPS&G, including for a Change that is judged by SARS as to have a material operational impact and is classified by SARS as 'urgent' and a Change needed in response to an Incident.

### 7.3 Processing Changes

#### 7.3.1 Recording

Service Provider will record or log all requests for change ("**Requests for Change**" or "**RFC**"). When an RFC is submitted in order to diagnose or resolve an Incident, Problem or Known Error, Service Provider will also link the RFC to the related Incident, Problem or Known Error.

#### 7.3.2 Acceptance

- (a) After recording the RFC, the Parties will make an initial assessment to determine if such RFC is unclear, irrational, impractical or unnecessary and, if so, reject it.
- (b) Service Provider will record on the RFC all the CI's that are related to, or impacted by, the RFC.
- (c) Service Provider will update the change record to include the information required for further processing (e.g., implementation plan).

#### 7.3.3 Classification

- (a) Once an RFC has been accepted, the Parties will determine the Impact and Urgency (and thereby risk). The presumptive timing for implementing the RFC is specified by the SARS PPS&G according to the risk of the RFC. Deviations in timing may only be made with SARS's prior approval in its sole discretion.
- (b) Impact and Urgency are defined in **Appendix E-4 (SARS Red Alert Process)**.

#### 7.3.4 Planning and Approval

- (a) All Changes will be implemented only after Service Provider has obtained the required approvals in accordance with the applicable SARS PPS&G. Where Service Provider has obtained the required approvals for the design of a standard Change, Service Provider will not be required to obtain SARS's approval for further implementations of such standard Change so long as there are no alterations to the design of the standard Change. The other Change Management Procedures relating to implementing a Change will apply to each implementation of a standard Change (e.g. co-ordination and requirements regarding scheduling the implementation of the Change, any required testing, etc.).
- (b) Service Provider will plan all Changes and list them on SARS's forward schedule of changes ("**FSC**"). Service Provider will submit to SARS for inclusion in the FSC pertinent details of all Changes and their planned implementation dates.

#### 7.3.5 Executing Changes

- (a) Build Phase
  - (i) Where applicable, Service Provider will plan and execute a specific building phase for Changes.
  - (ii) Service Provider will prepare a sufficiently detailed back-out plan (i.e., a plan describing the process to be followed to reverse a Change) ("**Back-out Plan**") before implementing any Change that could have an adverse impact (as determined by SARS) on SARS, the Services, taxpayers or SARS constituents if the Change is not successful or cannot be completed on time. Such Back-out Plan will include:
    - a. fall-back procedures if it is necessary to reverse a Change due to a failure;
    - b. modification and escalation lists;
    - c. Workaround plans; and
    - d. risk assessments.
  - (iii) Service Provider will prepare a sufficiently detailed communication plan before implementing any Change that impacts taxpayers.
  - (iv) Service Provider will prepare a sufficiently detailed implementation plan for all Changes.

(b) Testing

- (i) Before implementing any Changes (or as otherwise mutually agreed in a specific instance), Service Provider will test the back-out procedure; Change implementation; and envisaged result of the Change. In conducting such testing, Service Provider will give due consideration to any change criteria defined by the SARS CAB.
- (ii) Service Provider will not implement Changes without first conducting testing that is independent of the testing conducted by the builders of the Change. Such testing will consist of user acceptance testing for any Changes unless otherwise agreed.
- (iii) Unless SARS agrees otherwise with respect to a particular Change, Service Provider will develop for SARS's approval a test plan and acceptance criteria for each Change. Service Provider will proactively recommend objective test criteria for approval by SARS and the determination as to whether a test was successful will be made on the basis of whether the test results met the applicable acceptance criteria for the testing effort as set out in the relevant test plan.
- (iv) Service Provider's Commercially Reasonable Efforts in fulfilling its testing obligations for Changes will include performing testing on such components in as near real life conditions as is according to SARS's instructions.

(c) Implementing

- (i) After completing the building and testing activities described in clauses 7.3.5(a) and 7.3.5(b), Service Provider will implement the Change, after obtaining the necessary approvals to implement, in accordance with this clause 7.3.5(c) and conduct additional testing in order to verify that the implementation of the Change was successful.
- (ii) Service Provider will implement all Changes authorised by SARS. Service Provider's obligations for implementing Changes, including Changes that are incorporated into Projects that have been approved for implementation, will include:
  - a. project managing the implementation of the Change;
  - b. keeping SARS informed (through the SARS Program Manager) on an on-going basis as to the status of the implementation of the Change, including providing status reports; and



- c. mutually agreeing the applicable test requirements with SARS prior to commencing the implementation of a Change.

#### 7.3.6 Evaluation

- (a) Service Provider will evaluate all Changes after they have been implemented and apprise the SARS CAB of the results of its evaluation.
- (b) The SARS CAB will decide whether any follow-up is needed, based on considerations such as whether the Change achieved the expected objective, whether users are satisfied with the result, and whether there were any side effects.
- (c) Upon completing the RFC Service Provider will mark the RFC as completed and include the results in the post-implementation review or Change evaluation. The RFC may only be closed by SARS, and SARS will do so once SARS has verified that the Change was completed successfully.
- (d) If the Parties do not agree that the Change was successful, Service Provider will restart the Operational Change Management Procedure where it went wrong, using an approach that (i) is modified to address the failure(s) and (ii) is approved by SARS before Service Provider may recommence performing the Change.

#### 7.3.7 Implementing Urgent Changes

- (a) Service Provider will implement urgent changes in accordance with SARS's PPS&G addressing emergency or Urgent Change procedures. Where a diversion of resources of Service Provider would allow an Urgent Change to be implemented more quickly, Service Provider will apprise SARS of that option, including the consequences to the Services of diverting such resources. If SARS in its sole discretion authorises the redeployment, Service Provider will be excused for failing to perform Services in a timely fashion that the redeployed resources would have performed but solely to the extent of the impact advised by Service Provider in advance and solely to the extent Service Provider could not reasonably have performed the affected Services nonetheless using Commercially Reasonable Efforts.
- (b) Service Provider will minimise the number of urgent Changes by ensuring where possible that Changes are requested sufficiently in advance, before they become urgent.
- (c) Where possible, SARS will organise an emergency meeting of those SARS CAB members whose participation is needed to evaluate, authorise, and provide the resources for an Urgent Change.
- (d) Where time does not permit normal tests to be performed before an urgent Change is made as agreed by SARS, as soon as possible

thereafter Service Provider will complete all the required stages of the normal testing process and will update the Change records.

**7.3.8 Procedures for Submitting Changes**

Service Provider will submit all Changes in accordance with the requirements set out in the SARS PPS&G.

**7.3.9 Other Operational Change Management Responsibilities**

- (a) Service Provider will attend SARS's regularly scheduled and ad hoc meetings regarding Operational Change Management in respect of the Services when called upon to do so by SARS.
- (b) Service Provider's responsibilities with respect to Operational Change Management also include the following:
  - (i) controlling Changes and implementing Changes only as approved by SARS;
  - (ii) implementing Changes in a manner that ensures continuity;
  - (iii) communicating, scheduling and reviewing proposed Changes with SARS to minimise disruption of normal business processes;
  - (iv) collecting data on each Change attempted, including the cause of any resulting Incidents or Problems, measures taken to prevent reoccurrence, and impact on end users;
  - (v) providing an audit trail of each Change; and
  - (vi) defining the roles and responsibilities of the functional areas involved in the Operational Change Management Procedures, as well as formalising the communication process between the Parties.
- (c) Service Provider will comply with SARS's release readiness process as defined in the SARS PPS&G.

**7.4 Operational Change Management Outputs**

Service Provider will amongst others, produce the following outputs from Operational Change Management: updates to SARS's FSC; and Service Provider Operational Change Management reports.

**8 CONFIGURATION AND INVENTORY MANAGEMENT**

- 8.1 Service Provider will maintain a Configuration Management database that is accessible by SARS, and which documents the configuration and configuration requirements for the Services at each SARS location. The configuration database will be updated real-

time as the inventory is changed by any order activity or change. Service Provider will provide a mechanism to give SARS access to such Configuration Management database including queries run against the Configuration Management database to be accessible from the Monitoring and Reporting Portal. Service Provider will, in addition, provide a monthly inventory listing of all invoices for all accounts/locations for data services.

- 8.2 Service Provider will adopt SARS's existing network naming scheme with respect to the Services and will not make any changes, nor will require changes to be made, to SARS's network naming scheme without SARS's prior written approval (which SARS may withhold at its sole discretion).
- 8.3 The Service Provider will maintain detailed network topology maps with at least 3 (three) previous versions. Such documentation will include at least logical and physical maps of the network, details of the current configuration, network management guides, and system administration guides. The maps will be in a format acceptable to SARS with accompanying database inventories and accessible from the Monitoring and Reporting Portal. After a change has been made by the Service Provider, the Service Provider will update the network topology maps within 5 (five) Business Days. **[Note to Bidder: this applies to Tower D only]**

#### 8.4 Escalation

- 8.4.1 Any operational related communication relating to the Services will be escalated in accordance with the escalation procedures set out in **Appendix E-2 (Escalation Procedure)**.
- 8.4.2 As part of the escalation procedures set forth in the Process and Procedures Library, each Party will provide and update the other Party with the names and mobile phone numbers of 1 (one) or more individuals who will serve as points of contact for urgent concerns. Each Party will make a contact person available on a 24x7x365 basis.

### 9 MAINTENANCE

The Service Provider will perform preventative maintenance in respect of all Service Provider Hardware in accordance with the applicable original equipment manufacturer's guidelines and, in any case, no less frequently than annually.

The Service Provider will perform preventative maintenance in accordance with the Change Management Procedures.

### 10 SERVICE OPTIMIZATION

- 10.1 Service Provider will perform an annual cost and efficiency review of the Services and make recommendations for optimizing Services based on SARS's usage of particular components of the Services. Analysis and recommendations will be provided to SARS in writing within 1 (one) month prior to the anniversary of the Effective Date and, at a minimum, will include comprehensive analysis and recommendations for optimization.

- 10.2 SARS has the right to participate in the annual cost and efficiency review (including by using external consultants) to be conducted by Service Provider described in clause 10.1.
- 10.3 If SARS reasonably determines that Service Provider should have made a service optimization recommendation but did not, and as a result, over a 12 (twelve) month period SARS paid Service Charges totalling 2% (two percent) (or more) in excess of the Service Charges it would have paid had Service Provider made (and had SARS exercised) such recommendation, Service Provider will refund (or credit) such excess payments. The refund (or credit) will be calculated from the first day of the 12 (twelve) month period that begins 90 (ninety) days following the date that Service Provider should have submitted the written results and recommendations of the relevant annual cost and efficiency review to the date that the optimization is actually implemented.
- 10.4 If Service Provider achieves advances in technology that can substitute current products and/or services with similar features, performance, and functionality, SARS reserves the right to use Service Provider's new technology. If SARS elects to use the new technology, Service Provider will offer the services at prices and Service Levels that are commensurate with the contract terms and Charges offered in the Agreement.
- 10.5 If SARS desires to migrate the Services or a component of the Services to an alternative solution that is provided using different technology and if the Service Provider does not offer such technology or is unable to provide that technology competitively (considering terms and conditions, Service Levels, price and technical capability), then SARS may discontinue the components of the Services being replaced by the alternative solution with no liability (other than paying for Services properly provided prior to the effective date of such termination).
- 10.6 SARS will not be obligated to provide Service Provider with a first bid, last call or other such right under any circumstances, including events described in clause 10.5

## 11 TERMINATION AND DISCONNECTION

- 11.1 There will be no termination charge or liability for terminating any component of the Service(s) other than those set out in **Schedule D (Charges, Invoicing and Payments)** and its Attachments.
- 11.2 Except in cases in which a notice given by SARS expressly states otherwise, a notice of termination of the Agreement on a certain date that is delivered by SARS to Service Provider will also be deemed to be a notice of termination of each component of the Services, with the sole exception of any component of the Services as SARS at its sole discretion may elect to continue. This provision does not relieve Service Provider of providing Disengagement Assistance for the terminated Services.
- 11.3 The Service Provider will serve SARS with a written notice 14 (fourteen) days prior to the disconnection of any component of the Service. If SARS is the cause for such written notice to be served by the Service Provider, the Service Provider will provide SARS an opportunity to cure such cause prior to the disconnection of the component of the Services. If Service Provider disconnects a component of the Service without serving SARS with written notices upon SARS's instruction the Service Provider will immediately restore such component of the Service.

- 11.4 Service Provider and SARS agree that Service Provider's improper disconnection of an individual component of the Service will cause SARS to suffer significant monetary damages which are incapable of precise calculation. Accordingly, if Service Provider improperly disconnects an individual component of the Service, Service Provider will pay liquidated damages equalling 3 (three) months' Charges for the improperly disconnected component of the Service. If the Charges for the improperly disconnected component of the Service are usage based, then the liquidated damages will be equal to the average of the previous 3 (three) months' invoiced Charges.

## APPENDIX B-1: COMMON TRANSITION SERVICES

### 1 OVERVIEW OF TRANSITION SERVICES

#### 1.1 Service Provider Responsibilities

##### 1.1.1 Service Provider will from the Effective Date:

1.1.1.1 perform the services described in this **Appendix B-1** and the Transition Plan (described in clause 1.2 below) in accordance with the timelines set out in the Transition Plan, including delivering the Transition deliverables in accordance with clause 1.4 below; and

1.1.1.2 take any other steps and perform any other services that are necessary in order for Service Provider to be ready to commence performing the Services, in accordance with the Performance Standards, from the Effective Date,

(together, the “**Transition Services**”).

1.1.2 Subject to the provisions of clause 1.1.3 below, if Service Provider is unable to commence performing the Services by the Commencement Date, SARS will have the right to terminate all or part of the Services or to terminate the Agreement.

1.1.3 Should Service Provider be unable to commence performing the Services on the Commencement Date, Service Provider will, on prior written approval by SARS, be entitled to procure the performance of the Services relating to the Commencement Date (“**Affected Services**”) from a Subcontractor, subject to the provisions of clause 5 of the **Main Agreement** and thereafter provide the Affected Services to SARS through the use of the Subcontractor until such time as Service Provider is able to commence performance of the Affected Services, subject further to the following :

1.1.3.1 SARS will (where Service Provider has procured the performance of the Affected Services from a Subcontractor and such Subcontractor is performing the Affected Services in accordance with the Performance Standards) remain obligated to pay the relevant Charges, as agreed between SARS and the Service Provider, to Service Provider for Services which are being provided to SARS in accordance with the terms of this Agreement. Service Provider will be responsible for paying the relevant fees and charges of the Subcontractor(s). Service Provider will not have the right to any additional payments from SARS for costs or expenses incurred by Service Provider and Service Provider will reimburse SARS for all costs and expenses incurred by SARS in relation to the Affected Services (including salaries and other payments to SARS Personnel and fees under Third Party contracts). Such reimbursements will be set off against the Charges due under the Agreement;

1.1.3.2 Service Provider will be obliged to commence performance of the Affected

Services, without the assistance of a Subcontractor, within the shortest time period following the Commencement Date, which time period will in any event not exceed 60 (sixty) days. Should Service Provider not have commenced performance of the Affected Services itself within a period of 60 (sixty) days from the Commencement Date, SARS will have the right to terminate all or part of the Services or to terminate the Agreement; provided, however, that Service Provider will remain obligated to perform its Disengagement Assistance obligations until such obligations have been fulfilled; and

1.1.3.3 any termination pursuant to this clause will not constitute a termination for convenience or cause, and SARS will have no liability to Service Provider with respect to any such termination.

1.1.4 Service Provider will perform the Transition Services in such a manner that:

1.1.4.1 performance of the Services is transferred to Service Provider in a smooth and orderly manner, without disruption or deterioration to the Services and so that the Services continue to meet SARS's business requirements;

1.1.4.2 any unplanned disruption to the delivery of services to SARS associated with the Transition Services is minimised; and

1.1.4.3 to the extent the same is within the reasonable control of Service Provider, all costs incurred by SARS in relation to the Transition Services are minimised.

1.1.5 Save for those Transition activities expressly stated in the Agreement and/or the Transition Plan to be SARS's responsibility, Service Provider will be responsible for the successful completion of the Transition Services and overall Transition of the Services in accordance with this Agreement.

## 1.2 Transition Plan

1.2.1 Attachment B-1-1 sets out the Transition Plan as of the Effective Date. **[Note to the Bidder: Draft of plan to be completed and attached to Appendix B-1 during final contract negotiations]**. Within 10 (ten) Business Days following the Effective Date, Service Provider will develop and submit to SARS, for SARS's comment, review and approval, a granular, detailed plan, which will include a detailed description of each Transition Service (including tasks and sub-tasks ("**Transition deliverables**") and respective start and end dates ("**Transition Plan**"). The Transition Plan will be consistent with the terms of this Agreement and the Attachment B-1-1.

1.2.2 Subsequent to its review of the Transition Plan, and at any time during the period for which the Service Provider provides the Transition Services, SARS will be entitled to direct the Service Provider to amend the Transition Plan. Any amendments to the Transition Plan will be subject to SARS's approval.

1.2.3 Service Provider and SARS will each perform their respective tasks in accordance with the Transition Plan.

1.3 Service Provider will continually update and develop the Transition Plan to address the

impact of issues identified by either Party, provided, however, that all such updates will be subject to SARS's approval.

#### 1.4 Testing and delivery

##### 1.4.1 Service Provider will:

1.4.1.1 deliver each Transition deliverable in accordance with the milestones identified in the Transition Plan, such that it meets the associated Transition Deliverable Criteria and is capable of passing the Transition Tests; and

1.4.1.2 where required by SARS, demonstrate to SARS's reasonable satisfaction that the Service Provider has successfully completed the Transition Services and it is ready, prior to the Commencement Date, to commence performing the Services.

1.4.2 Upon Service Provider's delivery of a Transition deliverable, SARS will perform the Transition Tests to determine whether the Transition deliverable conforms to the Transition Deliverable Criteria. If SARS does not accept the Transition deliverable, it will provide Service Provider with written notice of its rejection (including a written description of deficiencies and non-conformities) and a period of 14 (fourteen) days in which to correct the deficiency. If Service Provider is unable to correct the deficiency and/or non-conformity within this period, then SARS may at its sole discretion elect to -

1.4.2.1 direct Service Provider to continue its efforts to make the Transition deliverable comply with the Transition Deliverable Criteria, in which case Service Provider will continue such efforts; or

1.4.2.2 accept the Transition deliverable with its deficiencies and/or non-conformities, in which case the Charges will be equitably reduced to account for such defective or non-conforming Transition deliverable.

1.4.3 Service Provider will not commence performance of the Services (other than the Transition Services) until:

1.4.3.1 the Transition Tests are passed in accordance with clause 1.4.2; or

1.4.3.2 SARS otherwise approves the commencement of Services (such approval not to be unreasonably withheld).

1.4.4 If Service Provider is prevented from delivering a Transition deliverable and the same is excused pursuant to clause 21.3 (Force Majeure) of the Main Agreement, and should SARS not elect to terminate the Agreement or part thereof as contemplated in clauses 21.3.2.2 and 21.3.2.3 of the Main Agreement, then, at SARS's election:

1.4.4.1 SARS will, having consulted with Service Provider and acting reasonably, extend the date for delivery of such Transition deliverable by a reasonable period that reflects the impact of such Force Majeure Event or failure and Service Provider will deliver such Transition deliverable by such revised date; or



1.4.4.2 Service Provider will commence performing on the Commencement Date all Services that it is able to perform and will be excused from performing those Services which are subject to the provisions of clause 21.3 (Force Majeure) of the Main Agreement.

1.4.5 If there is a delay in the Service Provider's delivery of any of the Transition Services and should the provisions of clause 1.1.3.1 not apply, SARS will not be liable for the Charges for such Transition Services (if any) until the Transition Services have been delivered and accepted by SARS.

## **2 TRANSITION MANAGEMENT**

### **2.1 Transition Managers**

2.1.1 Both Parties will use Commercially Reasonable Efforts to ensure that any issues or disputes relating to the Transition Services are resolved promptly by each Party's respective Transition Managers. Any disputes that cannot be resolved will be escalated in accordance with the Dispute Resolution Procedure detailed in clause 24 of the Main Agreement.

2.1.2 Within no later than 10 (ten) days after the Effective Date and until completion of the Transition Services to the satisfaction of SARS, Service Provider will establish and provide a Transition project office led by the Service Provider's Transition Manager, with a Transition team sufficiently staffed and experienced to manage the Transition Services.

### **2.2 Managing and Monitoring of Transition Services**

2.2.1 Service Provider will be responsible for managing, monitoring and implementing the Transition Services including:

2.2.1.1 proactively identifying, monitoring and managing any significant risks or issues in relation to the Transition Services, including:

2.2.1.1.1 developing a risk mitigation plan for risks identified;

2.2.1.1.2 instituting formal risk mitigation strategies;

2.2.1.1.3 taking appropriate preventive measures; and

2.2.1.1.4 developing contingency plans for rapid recovery from actual or potential Incidents;

2.2.1.2 managing (including project managing), co-ordinating and planning all aspects of the Transition Services (whether performed by Service Provider, SARS or any Third Party);

2.2.1.3 monitoring progress of all Transition Service tasks and responsibilities (whether the responsibility of Service Provider, SARS or any Third Party) against the Transition Plan and promptly escalating to SARS any failures (or potential failures) to perform any tasks or responsibilities, including failures by SARS or Third Parties;

- 2.2.1.4 resolving any Incidents or Problems arising with respect to the Transition Services;
  - 2.2.1.5 defining an escalation process to be used if there is a failure in any part of the Transition Services;
  - 2.2.1.6 establishing within 10 (ten) days of the date of signature of the Agreement, the necessary communications and interfaces between Service Provider, SARS and Third Parties performing services that will be replaced by the Services on the Commencement Date; and
  - 2.2.1.7 where workshops are required to facilitate the delivery of Transition Services, initiating, administering and leading the workshops (including providing SARS with advance notice of the timing, location and proposed agenda for such workshops as appropriate).
- 2.2.2 Service Provider's management and implementation of Transition Services will be subject to SARS's approval. SARS may, at its option, monitor, test and otherwise participate in the Transition Services.

## **2.3 Reports**

For the duration of Transition, Service Provider will provide SARS with a weekly detailed progress report that describes the following:

- 2.3.1 an executive level summary of the progress of the Transition Services to date, including an updated summary project plan and project highlights;
- 2.3.2 an up to date chart detailing the progress and status of all Transition Services activities;
- 2.3.3 details of all Transition deliverables, including estimated time to completion, days overdue, required completion date, actual completion date, comments and an indicator of whether the Transition deliverable is likely to be delivered on time;
- 2.3.4 a listing of all unresolved issues related to the execution of the Transition Plan, including those for which SARS has primary responsibility, along with due date, priority, an indication of the responsible Party and an assessment of the potential and actual business impact and the Transition Plan; and
- 2.3.5 any risks identified in accordance with clause 2.2.1.1 and the steps being taken to mitigate such risks.

## **2.4 Meetings**

The Transition Managers will meet on a weekly basis (or as otherwise required by SARS) during Transition to review the status of the Transition Services and to ensure that the objectives of the Transition Services are being met.

## SCHEDULE B-D: DATA CARRIER SERVICES SOW

### TABLE OF CONTENTS

Appendix B-D-1	Data Carrier Services Transition Services
Appendix B-D-2	Data Carrier Services Dependencies
Appendix B-D-3	Data Carrier Services Reports
Appendix B-D-5	Data Carrier Services Specifications as at Effective Date

## SCHEDULE B-D

### DATA CARRIER SERVICES SOW

#### 1 INTRODUCTION

Service Provider will provide, operate, manage, administer, monitor, design, engineer, optimise, support and maintain:

- 1.1 SARS's core data carrier network, including the supply of MPLS, leased line, ATM, peer-to-peer fibre, satellite and wireless technologies;
- 1.2 core network services for the SARS data carrier network such as monitoring, reporting consulting and advisory services requirements;
- 1.3 the Services described in this **Schedule B-D** and the **Appendices to this Schedule B-D**;
- 1.4 the Services described in **Schedule B** and the **Appendices to Schedule B**;
- 1.5 any other obligations of Service Provider under this Agreement relating to the Data Carrier Services (e.g., Service Levels, reporting),

save for those services, activities, functions, and responsibilities set out in Appendix B-D-2 (Data Carrier Services Dependencies)

(collectively, the "**Data Carrier Services**").

#### 2 GENERAL

##### 2.1 Equipment Ownership

At SARS's option (and to the extent not already included in the Service Provider's Unit Rates), the Service Provider will provide CSU/DSU devices and applicable multiplexing equipment that is necessary for SARS to use the Data Carrier Services, but SARS may elect to provide CSU/DSU devices and other multiplexing devices itself. As between SARS and the Service Provider, SARS will retain ownership of the equipment that is currently installed or SARS provides in the future at SARS Sites, and the Service Provider will retain ownership of other in-scope equipment that it provides.

#### 3 TRANSITION

- 3.1 Service Provider will conduct the Transition of SARS's existing electronic data communications carriage services to the Data Carrier Services in accordance with **Appendix B-D-1 (Data Carrier Services Transition)** and **Appendix B-1 (Common Transition Services)**. The Transition Plan created under such Appendices will contain certain terms, as further described in this clause 3.

- 3.2 Service Provider's Transition Plan will contain commitments regarding the timing of the Transition of various components of the Services that will accrue as a result of such Transition.
- 3.3 Service Provider will use Commercially Reasonable Efforts to Transition the Services as soon as possible but, unless otherwise agreed with SARS, not later than the Commencement Date. If any part of the Services is not transitioned by the Commencement Date and a later date for the Transition to be completed for such part has not been agreed with SARS, the Service Provider will reimburse SARS for the difference between the then current rates payable for such part of Services and the rates SARS would have been charged under the Agreement should the then current rates for such part of the Services be higher than the rates SARS would have been under the Agreement.
- 3.4 Service Provider will provide SARS with at least 10 (ten) Business Days' advance written notice of, and obtain SARS written approval for, each Service Provider-originated change made as part of the Transition that could have an impact on SARS's services in accordance with SARS's Operational Change Management Procedures.
- 3.5 In the event that SARS requests a circuit to be replaced, unless SARS requests otherwise, the Service Provider will place a disconnect order on SARS's behalf with the carrier then providing the circuit being replaced. If Service Provider fails to do so, Service Provider will be responsible for the charges associated with the circuit being replaced on and after the date that Service Provider begins billing for the replacement circuit.
- 3.6 Service Provider will perform thorough testing of each circuit at the completion of technical migration and provide written test results to SARS. Testing must include, at a minimum, connectivity and stress/load tests, acceptable performance parameters, Router/node configuration, and SARS connection performance.

#### 4 DATA CARRIER OPERATIONAL REQUIREMENTS

##### 4.1 Data Carrier Services Monitoring and Reporting

- 4.1.1 Service Provider will monitor the Data Carrier Services on an on-going basis and promptly notify SARS of any potential Incidents, Problems or other irregular issues relating to the Services in accordance with the notification and escalation procedures as set out in this SOW and in accordance with SARS PPS&G.
- 4.1.2 Service Provider will provide an interface between its network management tools and SARS's current network management tools (or those of its designated agent) Service Provider's network management tools are specified in **Schedule G (Service Provider Proposal)**.

##### 4.2 Monitoring and Reporting Portal

- 4.2.1 Service Provider will, as part of the Data Carrier Services and at no additional charge, provide a secure web-based portal (the "**Monitoring and Reporting Portal**") accessible only by Service Provider, SARS and SARS's designated agents to provide monitoring and reporting functionality. The Monitoring and Reporting Portal will be available on a 24x7x365 basis and accessible from the

Internet. The Monitoring and Reporting Portal will provide SARS with the ability to view and print on an as needed basis:

- 4.2.1.1 real-time (or near real time with no longer than 10 (ten) minutes delayed updating) status of all in-scope elements (including third party circuits terminating on the Service Provider's MPLS and point to point circuits hosted by the Service Provider) of the Data Carrier Services in a graphical topology view using SARS circuit naming conventions including:
  - 4.2.1.1.1 Up / down availability status (colour-coded)
  - 4.2.1.1.2 Capacity utilisation (by traffic type)
  - 4.2.1.1.3 Error rates
  - 4.2.1.1.4 IP traffic flow
- 4.2.1.2 up-to-date accumulated statistics (or near real time with no longer than 10 minutes delayed updating) of all in-scope elements of the Data Carrier Services over the term of the agreement including:
  - 4.2.1.2.1 Availability
  - 4.2.1.2.2 Capacity utilisation (by traffic type)
  - 4.2.1.2.3 Error rates
  - 4.2.1.2.4 IP traffic flowDetailed time interval records should be kept for at least 60 (sixty) days.
- 4.2.1.3 reports of all outages affecting the Data Carrier Services (including one-time outages and special summaries for chronic outages). Such outage reports will include at least the following details: date and location of outage; outage hours; root cause of outage; actions taken, impact, timelines, and problem resolution; associated Service Level Credits; and additionally, the following cumulative data: total number of outages, average duration of outage, average response time, and average repair time;
- 4.2.1.4 reports of all major events affecting or potentially affecting the Data Carrier Services
- 4.2.1.5 reports indicating trends by trouble ticket closure type on an as needed basis. In addition, Service Provider will identify actions that it is taking to address problem areas;
- 4.2.1.6 reports indicating trends by root cause as determined on trouble ticket closure. In addition, the record of identified actions the Service Provider is taking to address problems;
- 4.2.1.7 inventory data, including the configuration, assignments, parameters, barcodes, SARS location, logical link capacities and settings applied to all items of equipment implemented to deliver the Data Carrier Services;
- 4.2.1.8 the history of the configuration status of the network and systems.

- 4.2.2 The Monitoring and Reporting Portal must include functionality to filter all reports to certain date ranges, and other filters to limit the data selected. Summarisation functionality must allow summarisation of selectable time periods (e.g. per day, week, month year etc.). The Monitoring and Reporting Portal must include functionality to specify recipients of the report and the ability to email reports to the specified recipient email addresses at specified frequencies.

#### 4.3 Customer Provisioning Portal

- 4.3.1 Service Provider will, as part of the Data Carrier Services and at no additional charge, provide a secure web-based portal (the “**Customer Provisioning Portal**”) accessible only by Service Provider, SARS and SARS’s designated agents that will deliver the functionality detailed below for the provisioning of components of the Data Carrier Services. The Customer Provisioning Portal must include functionality to specify recipients of the report and the ability to email reports to the specified recipient email addresses at specified frequencies. The Customer Provisioning Portal will provide the following information and functionality:

- 4.3.1.1 Pricing of new installations, upgrades, downgrades and transfers of circuits.
- 4.3.1.2 Ability to request a new installation, upgrade, downgrade, transfer or cancellation of a circuit.
- 4.3.1.3 Order tracking.
- 4.3.1.4 Reporting on a full order history for all orders placed during the term including but not limited to the following information:
  - 4.3.1.4.1 Date of placement of order;
  - 4.3.1.4.2 Date of fulfilment of order;
  - 4.3.1.4.3 Details of order;
  - 4.3.1.4.4 Price of order; and
  - 4.3.1.4.5 Price of component increase /decrease.
- 4.3.1.5 Tracking and reporting on variances from the configuration as at Commencement Date.

#### 4.4 Monitoring of Inactive Components

The Service Provider will monitor the usage of all circuits and links as part of the Services. The Service Provider will notify SARS on a monthly basis of all circuits, ports or links that have carried no operational traffic for a period of 30 (thirty) consecutive days (an “**Inactive Component**”) and propose cancelling such Inactive Component. If SARS confirms the cancellation of such Inactive Components, the Service Provider will regard such confirmation as notice of cancellation and take such Inactive Component out of service on expiry of the notice period. If the Service Provider fails to report an Inactive Component to SARS timeously, the Service Provider will be liable for all charges SARS may bear for such Inactive Component in excess of the charges SARS

would otherwise have had to bear if the Service Provider had provided timeous notice and SARS had provided immediate notice of cancellation.

#### **4.5 Management Traffic**

All bandwidth requirements for management traffic as required by the Service Provider to manage circuits will not be charged for by the Service Provider to SARS and the allocation of bandwidth for such management traffic must be configured Out-of-Band.

### **5 LOCAL ACCESS CIRCUITS**

- 5.1 With respect to any Local Access Circuit SARS, at its sole discretion, may require Service Provider either to (a) provide the circuit as part of the Services or (b) use a circuit provided by a local exchange carrier designated by SARS.
- 5.2 Service Provider will be responsible for acceptance testing of any Third Party carrier interconnections. Service Provider will also be responsible for acceptance testing of services connected to SARS-provided local access.
- 5.3 Local Access Circuits that Service Provider provides will be provided solely on the terms and conditions (including Charges) set forth in the Agreement. They will be deemed to be part of the Services without regard to whether Service Provider provides them using its own facilities or otherwise.
- 5.4 Service Provider will be responsible for the performance of any local access provider whose services comprise part of the Services, including meeting installation deadlines and paying Service Credits for failures to meet Service Levels.
- 5.5 Service Provider will be solely responsible for coordinating service between SARS and any other local access providers or other relevant services contractors unless otherwise agreed to by SARS.



## **APPENDIX B-D-1: DATA CARRIER TRANSITION SERVICES**

[Note to the Bidder: This Appendix may apply to an Interim Agreement in terms of paragraph 8 of the SARS RFP 14-2016 1-1 Network Carrier and Infrastructure Summary, Guidelines, Instructions and Conditions document]

### **1 OVERVIEW OF DATA CARRIER TRANSITION SERVICES**

The transition services set out in this **Appendix B-D-1** must be performed in addition to the transition services set out in **Appendix B-1**.

### **2 DATA CARRIER SPECIFIC TRANSITION SERVICES**

[Note to Bidder: this will be populated with details of the Data Carrier specific transition prior to award]

## **APPENDIX B-D-2: DATA CARRIER SERVICES DEPENDENCIES**

**[Note to the Bidder: SARS is seeking a solution in which the Service Provider takes complete responsibility and disfavours solutions which shift responsibilities back to SARS.**

**With this in mind, please identify any dependencies on which the charges or any of Service Provider's responsibilities may depend.]**

## APPENDIX B-D-3: DATA CARRIER SERVICES REPORTS

**[Note to the Bidder:**

This schedule will be completed as part of final contract negotiations. The additional reports which the Bidder proposes as part of its solution should be specified in detail with sample output if possible, including the mode of delivery, frequency, detail of fields etc. The minimum set of reports are stated in the requirements of *RFP 14-2016 3-1 Business Requirements Specification*

The Bidder is encouraged to supply and to make available, any additional online reports that will be available on the reporting portal that will be part of the Bidder's proposed solution. The Bidder should supply details of the reports/screens/custom enquiries that will be made available. ]

## **APPENDIX B-D-4: DATA CARRIER SERVICES SPECIFICATIONS AT EFFECTIVE DATE**

**[Note to the Bidder: this schedule will be completed as part of final contract negotiations.]**

## **SCHEDULE B-V: VOICE CARRIER SERVICES SOW**

### **TABLE OF CONTENTS**

Appendix B-V-1	Voice Carrier Services Transition Services
Appendix B-V-2	Voice Carrier Services Dependencies
Appendix B-V-3	Voice Carrier Services Reports
Appendix B-V-4	Voice Carrier Services Specifications at Effective Date

## SCHEDULE B-V

### VOICE CARRIER SERVICES SOW

#### 1 INTRODUCTION

Service Provider will as Primary Voice Carrier Service Provider / Preferred Outbound Voice Service Provider. **[Note to Bidder: the applicable Voice category will be selected based on the award made to the Bidder]** provide:

- 1.1 the Services described in this **Schedule B-V** and the **Appendices to this Schedule B-V**;
- 1.2 the Services described in **Schedule B** and the **Appendices to Schedule B**;
- 1.3 any other obligations of Service Provider under this Agreement relating to the Data Carrier Services (e.g., Service Levels, reporting),
- 1.4 Analogue, PRI and BRI Lines;
- 1.5 PABX rentals;
- 1.6 Provision of incoming call numbers, routing of inbound and outbound calls and valued added services related to incoming calls (e.g. toll-free services).
- 1.7 voice over IP services;
- 1.8 wireless voice services; and
- 1.9 SIP trunking,

**[Note to Bidder: the actual Voice carrier scope awarded to the successful Bidder will be finalised based on the award of the RFP. The status of the Bidder as Preferred Outbound Voice Service Provider or Primary Voice Carrier Service Provider will be reflected in the contract based on the award of the RFP. The Bidder is referred to the Business Requirements Specification for the requirements and operation of the award of the scope of a Primary Voice Carrier Service Provider and Preferred Outbound Voice Service Provider(s)]**

save for those services, activities, functions, and responsibilities set out in **Appendix B-V-2 (Voice Carrier Services Dependencies)**

(collectively, the “**Voice Carrier Services**”).

#### 1.10 Preferred Outbound Voice Carrier Service Provider

**[Note to Bidder; this clause will be updated to reflect the terms of the actual award made]**

- 1.10.1 SARS has appointed Service Provider as the Preferred Outbound Carrier Service

Provider for Tower V at the following sites and for the following call destination types:

- 1.10.1.1 **[Note to Bidder; this list of sites will be updated to reflect the terms of the actual award made. The list of sites will include Alberton and Doornkloof]**
- 1.10.2 SARS makes no representation with regard to the volume of voice traffic that will be routed over the Service Provider's voice carrier network.
- 1.10.3 SARS undertakes to prefer to route outbound voice traffic originating from the following sites to be carried across the Service Provider's voice carrier network to the dialled destination, provided that, in SARS sole determination,:
  - 1.10.3.1 the Service Provider's rates remain competitive;
  - 1.10.3.2 the Service Provider's voice carrier is reliable and available; and
  - 1.10.3.3 the quality of calls made over the Service Provider's voice carrier is acceptable.
- 1.10.4 Notwithstanding the conditions set out in clause 1.10.3, SARS has the right to stop routing traffic over the Service Provider's voice carrier network at any time while the Service Provider's compliance with the provisions of clause 1.10.3 are under investigation by SARS.
- 1.10.5 The Service Provider agrees that no claim may be made against SARS arising from that fact that outgoing voice calls were, for any reason, not routed over the Service Provider's voice carrier network.

#### 1.11 Primary Voice Carrier Service Provider

**[Note to Bidder; this clause will be updated to reflect the terms of the actual award made]**

SARS has appointed Service Provider as the Primary Voice Carrier Service Provider for Voice Carrier Services.

- 1.11.1 SARS makes no representation with regard to the volume of inbound or outbound voice traffic that will be routed over the Service Provider's voice carrier network.
- 1.11.2 Service Provider undertakes to :
  - 1.11.2.1 provide inbound and outbound voice carrier service at all the SARS sites listed in **Schedule I (SARS Sites)**.
  - 1.11.2.2 retain the SARS numbers listed in **[Note to Bidder: this will be updated with the terms of the award]**
  - 1.11.2.3 provide PABX services at the sites listed in **[Note to Bidder: this will be updated with the terms of the award]**
  - 1.11.2.4 provide PRI/BRI circuits to the SARS sites listed in **[Note to Bidder: this will be updated with the terms of the award]**

## 2 TRANSITION

- 2.1 Service Provider will conduct the Transition of SARS's existing telecommunications carriage services to the Voice Carrier Services in accordance with **Appendix B-V-1 (Voice Carrier Services Transition)** and **Appendix B-1 (Common Transition Services)**. The Transition Plan created under such Appendices will contain certain terms, as further described in this clause 2.
- 2.2 Service Provider's Transition Plan will contain commitments regarding the timing of the Transition of various components of the Services and the financial savings that will accrue as a result of such Transition.
- 2.3 Service Provider will use Commercially Reasonable Efforts to transition all Services to its network as soon as possible after the Effective Date, but in any case not later than 6 (six) months after the Effective Date. If this date is not met, Service Provider will reimburse SARS for the difference between the current rates for such Services and the rates SARS would have been charged under the Agreement.
- 2.4 Service Provider will provide SARS with at least 10 (ten) Business Day's advance written notice of, and obtain SARS written approval for, each Service Provider-originated Hardware or Software Change to the Network that could have an impact on SARS's Services in accordance with SARS's Operational Change Management Procedures.
- 2.5 Service Provider will place a disconnect order on SARS's behalf with the carrier then providing the circuit being replaced and agree that, if Service Provider fails to do so, Service Provider will be responsible for charges associated with the circuit being replaced on and after the date that Service Provider begins billing the replacement circuit.
- 2.6 Service Provider will perform thorough testing of each circuit at the completion of technical migration and provide written test results to SARS. Testing must include, at a minimum, connectivity and stress/load tests, acceptable performance parameters, system burnout, Router/node configuration, and SARS connection performance.
- 2.7 Service Provider will accommodate SARS's existing PSTN dial plan such that no changes to the existing configuration are required.

## 3 OPERATIONAL REQUIREMENTS

### 3.1 Voice Carrier Services Monitoring and Reporting

- 3.1.1 Service Provider will monitor the Voice Carrier Services on an on-going basis and promptly notify SARS of any potential Incidents, Problems or other irregular issues relating to the Services in accordance with the notification and escalation procedures as set out in this SOW and in accordance with SARS PPS&G.
- 3.1.2 Service Provider will provide an interface between its network management tools and SARS's current network management tools (or those of its designated agent) Service Provider's network management tools are specified in **Schedule G**



**(Service Provider Proposal).****3.2 Monitoring and Reporting Portal**

**[Note to Bidder: provisions regarding the Monitoring and Reporting Portal will apply to the Primary Voice Carrier Provider only]**

3.2.1 Service Provider will, as part of the Voice Carrier Services and at no additional charge, provide a secure web-based portal (the “**Monitoring and Reporting Portal**”) accessible only by Service Provider, SARS and SARS’s designated agents to provide monitoring and reporting functionality. The Monitoring and Reporting Portal will be available on a 24x7x365 basis and accessible from the Internet. The Monitoring and Reporting Portal will provide SARS with the ability to view and print on an as needed basis:

3.2.1.1 real-time (or near real time with no longer than 10 (ten) minutes delayed updating) status of all in-scope elements of the Voice Carrier Services in a graphical topology view using SARS circuit naming conventions including:

3.2.1.1.1 Up / down availability status (colour-coded)

3.2.1.1.2 Capacity utilisation (by traffic type)

3.2.1.1.3 Error rates

3.2.1.1.4 Traffic flow

3.2.1.2 up-to-date accumulated statistics (or near real time with no longer than 10 minutes delayed updating) of all in-scope elements of the Voice Carrier Services over the term of the agreement including:

3.2.1.2.1 Availability

3.2.1.2.2 Capacity utilisation (by traffic type)

3.2.1.2.3 Error rates

3.2.1.2.4 Traffic flow

Detailed time interval records should be kept for at least 60 (sixty) days.

3.2.1.3 reports of all outages affecting the Services (including one-time outages and special summaries for severe outages) on an as needed basis. Such outage reports will include at least the following details: date and location of outage; outage hours; cause of outage; actions taken, impact, timelines, and problem resolution; associated Service Level Credits; and additionally, the following cumulative data: total number of outages, average duration of outage, average response time, and average repair time;

3.2.1.4 reports of all outages affecting the Voice Carrier Services (including one-time outages and special summaries for chronic outages). Such outage reports will include at least the following details: date and location of outage; outage hours; root cause of outage; actions taken, impact, timelines, and problem resolution; associated Service Level Credits; and additionally, the

following cumulative data: total number of outages, average duration of outage, average response time, and average repair time;

- 3.2.1.5 reports of all major events affecting or potentially affecting the Voice Carrier Services;
  - 3.2.1.6 reports of all events that were not repaired within the required time intervals;
  - 3.2.1.7 reports indicating trends by trouble ticket closure type on an as needed basis. In addition, Service Provider will identify actions that it is taking to address problem areas;
  - 3.2.1.8 reports indicating trends by root cause as determined on trouble ticket closure. In addition, the record of identified actions the Service Provider is taking to address problems;
  - 3.2.1.9 inventory data, including the configuration, assignments, parameters, barcodes, SARS location, logical link capacities and settings applied to all items of equipment implemented to deliver the Voice Carrier Services;
  - 3.2.1.10 the history of the configuration status of the network and systems.
- 3.2.2 The Monitoring and Reporting Portal must include functionality to effect role-based access, filter all reports to certain date ranges, and other filters to limit the data selected. Summarisation functionality must allow summarisation of selectable time periods (e.g. per day, week, month year etc.). The Monitoring and Reporting Portal must include functionality to specify recipients of the report and the ability to email reports to the specified recipient email addresses at specified frequencies.

### 3.3 Customer Provisioning Portal

**[Note to Bidder: provisions regarding the Customer Provisioning Portal will apply to the Primary Voice Carrier Provider only]**

- 3.3.1 Service Provider will, as part of the Voice Carrier Services and at no additional charge, provide a secure web-based portal (the “**Customer Provisioning Portal**”) accessible only by Service Provider, SARS and SARS’s designated agents that will deliver the functionality detailed below for the provisioning of components of the Voice Carrier Services. The Customer Provisioning Portal must include functionality to specify recipients of the report and the ability to email reports to the specified recipient email addresses at specified frequencies. The Customer Provisioning Portal will provide the following information and functionality:
- 3.3.1.1 Pricing of new installations, upgrades, downgrades and transfers of circuits.
  - 3.3.1.2 Ability to request a new installation, upgrade, downgrade, transfer or cancellation of a circuit.
  - 3.3.1.3 Request a change in the assignments of Service Levels or service coverage periods to SARS sites.
  - 3.3.1.4 List of active Projects and up-to-date status.

- 3.3.1.5 Decommissioning/ cancelation.
- 3.3.1.6 Order tracking (including third party orders).
- 3.3.1.7 Reporting on a full order history for all orders placed during the term including but not limited to the following information:
  - 3.3.1.7.1 Date of placement of order;
  - 3.3.1.7.2 Date of fulfilment of order;
  - 3.3.1.7.3 Details of order;
  - 3.3.1.7.4 Price of order; and
  - 3.3.1.7.5 Price of component increase /decrease.
- 3.3.1.8 Tracking and reporting on variances from the configuration as at Commencement Date.

#### 3.4 Monitoring of Inactive Components

The Service Provider will monitor the usage of all circuits and links as part of the Services. The Service Provider will notify SARS on a monthly basis of all circuits, ports or links that have carried no operational traffic for a period of 30 (thirty) consecutive days (an “**Inactive Component**”) and propose cancelling such Inactive Component. If SARS confirms the cancellation of such Inactive Components the Service Provider will regard such confirmation as notice of cancellation and take such Inactive Component out of service on expiry of the notice period. If the Service Provider fails to report an Inactive Component to SARS timeously, the Service Provider will be liable for all charges SARS may bear for such Inactive Component in excess of the charges SARS would otherwise have had to bear if the Service Provider had provided timeous notice and SARS had provided immediate notice of cancellation.

#### 3.5 Management Traffic

All bandwidth requirements for management traffic required by the Service Provider to manage circuits will not be charged for by the Service Provider to SARS and the allocation of bandwidth for such management traffic must be configured Out-of-Band.

#### 3.6 Specific Service Requirements

- 3.6.1 Service Provider will interface with SARS's current network management tools (or those of its designated agent), and the costs of doing so is included in the Charge specified in **clause 4 of Schedule D (Charges, Invoicing & Payment)**. Service Provider's network management tools are specified in **Schedule G (Service Provider Proposal)**.
- 3.6.2 Upon SARS's request, Service Provider will order, manage, and maintain Analogue, PRI and BRI services.
- 3.6.3 Service Provider will adopt SARS's existing numbering scheme with respect to the Services.

- 3.6.4 Service Provider will not make any changes to SARS's numbering scheme without SARS's prior written approval (which SARS may withhold at its sole discretion).

## **APPENDIX B-V-1: VOICE CARRIER TRANSITION SERVICES**

[Note to the Bidder: This Appendix may apply to an Interim Agreement in terms of paragraph 8 of the SARS RFP 14-2016 1-1 Network Carrier and Infrastructure Summary, Guidelines, Instructions and Conditions document]

### **1 OVERVIEW OF TRANSITION SERVICES**

The transition services set out in this **Appendix B-V-1** must be performed in addition to the transition services set out in **Appendix B-1**.

### **2 VOICE CARRIER SPECIFIC TRANSITION SERVICES**

[Note to Bidder: this will be populated with details of the Voice Carrier specific transition prior to award]

## **APPENDIX B-V-2: VOICE CARRIER SERVICES DEPENDENCIES**

**[Note to the Bidder: SARS is seeking a solution in which the Service Provider takes complete responsibility and disfavours solutions which shift responsibilities back to SARS.**

**With this in mind, please identify any dependencies on which the charges or any of Service Provider's responsibilities may depend.]**

## APPENDIX B-V-3: VOICE CARRIER SERVICES REPORTS

**[Note to the Bidder:**

**This schedule will be completed as part of final contract negotiations. The additional reports which the Bidder proposes as part of its solution should be specified in detail with sample output if possible, including the mode of delivery, frequency, detail of fields etc. The minimum set of reports are stated in the requirements of *RFP 14-2016 3-1 Business Requirements Specification***

**The Bidder is encouraged to supply and to make available, any additional online reports that will be available on the reporting portal that will be part of the Bidder's proposed solution. The Bidder should supply details of the reports/screens/custom enquiries that will be made available. ]**

## **APPENDIX B-V-4: VOICE CARRIER SERVICES SPECIFICATIONS AT EFFECTIVE DATE**

**[Note to the Bidder: this schedule will be completed as part of final contract negotiations.]**



## **SCHEDULE B-I: INTERNET AND HOSTING SERVICES SOW**

### **TABLE OF CONTENTS**

Appendix B-I-1	Internet and Hosting Services Transition Services
Appendix B-I-2	Internet and Hosting Services Dependencies
Appendix B-I-3	Internet and Hosting Services Reports
Appendix B-I-4	Internet and Hosting Services Specifications as at Effective Date

## SCHEDULE B-I

### INTERNET AND HOSTING SERVICES SOW

#### 1 INTRODUCTION

Service Provider will provide, operate, manage, administer, monitor, design, engineer, optimise, support and maintain:

- 1.1 local and international Internet bandwidth;
- 1.2 data centre services for the hosting of SARS infrastructure including the provision, maintenance and monitoring of certain network, server and storage equipment; and
- 1.3 hosted network services such as web, security, mail and other application services including but not limited to Web proxy filtering, mail and spam filtering.
- 1.4 the Services described in this **Schedule B-I** and the **Appendices to this Schedule B-I**;
- 1.5 the Services described in **Schedule B** and the **Appendices to Schedule B**;
- 1.6 any other obligations of Service Provider under this Agreement relating to the Internet and Hosting Services (e.g., Service Levels, reporting),

save for those services, activities, functions, and responsibilities set out in **Appendix B-I-2 (Internet and Hosting Services Dependencies)**

(collectively, the '**Internet and Hosting Services**').

#### 2 GENERAL

##### 2.1 General Principles

Without limiting Service Provider's specific obligations under this **Schedule B-I**, certain functions are included within the scope of the Services including:

- 2.1.1 **[Note to Bidder: reference will be made in this clause to a hosting code of practice as may be submitted in the Bidder's Proposal]**

#### 3 TRANSITION

- 3.1 Service Provider will conduct the Transition of SARS's existing Internet and hosting services to the Internet and Hosting Services in accordance with **Appendix B-D-1 (Data Carrier Services Transition)** and **Appendix B-1 (Common Transition Services)**. The Transition Plan created under such Appendices will contain certain terms, as further described in this clause 3.
- 3.2 Service Provider's Transition Plan will contain commitments regarding the timing of the

Transition of various components of the Services that will accrue as a result of such Transition.

- 3.3 Service Provider will use Commercially Reasonable Efforts to transition the Services as soon as reasonably possible but, unless otherwise agreed with SARS, not later than the Commencement Date. If any part of the Services is not transitioned by the Commencement Date and a later date for the Transition to be completed for such part has not been agreed with SARS, the Service Provider will reimburse SARS for the difference between the then current rates payable for such part of Services and the rates SARS would have been charged under the Agreement should the then current rates for such part of the Services be higher than the rates SARS would have been under the Agreement.
- 3.4 Service Provider will provide SARS with at least 10 (ten) Business Days' advance written notice of, and obtain SARS written approval for, each Service Provider-originated change made as part of the Transition that could have an impact on SARS's Services in accordance with SARS's Operational Change Management Procedures.
- 3.5 In the event that SARS requests a circuit to be replaced, unless SARS requests otherwise, the Service Provider will place a disconnect order on SARS's behalf with the carrier then providing the circuit being replaced. If Service Provider fails to do so, Service Provider will be responsible for the charges associated with the circuit being replaced on and after the date that Service Provider begins billing for the replacement circuit.
- 3.6 Service Provider will perform thorough testing of each circuit at the completion of technical migration and provide written test results to SARS. Testing must include, at a minimum, connectivity and stress/load tests, acceptable performance parameters, Router/node configuration, and customer connection performance.

## 4 OPERATIONAL REQUIREMENTS

### 4.1 Service Management Services

Except as otherwise provided herein, the Internet and Hosting Services do not include an obligation to perform the specific service management services, provided, however, that, Service Provider is required to comply with commercially reasonable requirements of ISO 20000; ISO 17799 and ISO 27001; and, in any event, Service Provider is also required to follow any additional service management processes it needs to follow in order to satisfy the Performance Standards. Moreover, Service Provider is required to comply with its responsibilities under **Appendix E-4 (SARS Red Alert Process)** in the event of certain high-impact Incidents affecting the Internet and Hosting Services.

### 4.2 Internet and Hosting Services Monitoring and Reporting

- 4.2.1 Service Provider will monitor the Internet and Hosting Services on an on-going basis and promptly notify SARS of any potential Incidents, Problems or other irregular issues relating to the Services in accordance with the notification and escalation procedures as set out in this SOW and in accordance with SARS PPS&G.
- 4.2.2 Service Provider will provide an interface between its network management tools

and SARS's current network management tools (or those of its designated agent) Service Provider's network management tools are specified in Schedule G (Service Provider Proposal).

### 4.3 Monitoring and Reporting Portal

4.3.1 Service Provider will, as part of the Internet and Hosting Services and at no additional charge, provide a secure web-based portal (the "**Monitoring and Reporting Portal**") accessible only by Service Provider, SARS and SARS's designated agents to provide monitoring and reporting functionality. The Monitoring and Reporting Portal will be available on a 24x7x365 basis and accessible from the Internet. The Monitoring and Reporting Portal will provide SARS with the ability to view and print on an as needed basis:

4.3.1.1 real-time (or near real time with no longer than 10 (ten) minutes delayed updating) status of all in-scope elements of the Internet and Hosting Services in a graphical topology view using SARS circuit naming conventions including:

4.3.1.1.1 Up / down availability status (colour-coded)

4.3.1.1.2 Capacity utilisation (by traffic type)

4.3.1.1.3 Error rates

4.3.1.1.4 IP traffic flow

4.3.1.2 up-to-date accumulated statistics (or near real time with no longer than 10 minutes delayed updating) of all in-scope elements of the Internet and Hosting Services over the term of the agreement including:

4.3.1.2.1 Availability

4.3.1.2.2 Capacity utilisation (by traffic type)

4.3.1.2.3 Error rates

4.3.1.2.4 IP traffic flow

Detailed time interval records should be kept for at least 60 (sixty) days.

4.3.1.3 reports of all outages affecting the Services (including one-time outages and special summaries for chronic outages) on an as needed basis. Such outage reports will include at least the following details: date and location of outage; outage hours; cause of outage; actions taken, impact, timelines, and problem resolution; associated Service Level Credits; and additionally, the following cumulative data: total number of outages, average duration of outage, average response time, and average repair time;

4.3.1.4 reports of all outages affecting the Internet and Hosting Services (including one-time outages and special summaries for chronic outages). Such outage reports will include at least the following details: date and location of outage; outage hours; root cause of outage; actions taken, impact, timelines, and problem resolution; associated Service Level Credits; and additionally, the

following cumulative data: total number of outages, average duration of outage, average response time, and average repair time;

- 4.3.1.5 reports of all major events affecting or potentially affecting the Internet and Hosting Services;
  - 4.3.1.6 reports of all events that were not repaired within the required time intervals;
  - 4.3.1.7 reports indicating trends by trouble ticket closure type on an as needed basis. In addition, Service Provider will identify actions that it is taking to address problem areas;
  - 4.3.1.8 reports indicating trends by root cause as determined on trouble ticket closure. In addition, the record of identified actions the Service Provider is taking to address problems;
  - 4.3.1.9 inventory data, including the configuration, assignments, parameters, barcodes, SARS location, logical link capacities and settings applied to all items of equipment implemented to deliver the Internet and Hosting Services;
  - 4.3.1.10 the history of the configuration status of the network and systems.
- 4.3.2 The Monitoring and Reporting Portal must include functionality to filter all reports to certain date ranges, and other filters to limit the data selected. Summarisation functionality must allow summarisation of selectable time periods (e.g. per day, week, month year etc.). The Monitoring and Reporting Portal must include functionality to specify recipients of the report and the ability to email reports to the specified recipient email addresses at specified frequencies.

#### 4.4 Customer Provisioning Portal

- 4.4.1 Service Provider will, as part of the Internet and Hosting Services and at no additional charge, provide a secure web-based portal (the “**Customer Provisioning Portal**”) accessible only by Service Provider, SARS and SARS’s designated agents that will deliver the functionality detailed below for the provisioning of components of the Internet and Hosting Services. The Customer Provisioning Portal must include functionality to specify recipients of the report and the ability to email reports to the specified recipient email addresses at specified frequencies. The Customer Provisioning Portal will provide the following information and functionality:
- 4.4.1.1 Pricing of new installations, upgrades, downgrades and transfers of circuits.
  - 4.4.1.2 Pricing of IMACDs.
  - 4.4.1.3 Ability to order the provisioning of a new Service or change to an existing Service.
  - 4.4.1.4 Order tracking.
  - 4.4.1.5 Reporting on a full order history for all orders placed during the term including but not limited to the following information:

- 4.4.1.5.1 Date of placement of order;
  - 4.4.1.5.2 Date of fulfilment of order;
  - 4.4.1.5.3 Details of order;
  - 4.4.1.5.4 Price of order; and
  - 4.4.1.5.5 Price of component increase /decrease.
- 4.4.1.6 Tracking and reporting on variances from the configuration as at Commencement Date.

#### 4.5 Monitoring of Inactive Components

The Service Provider will monitor the usage of all circuits and links as part of the Services. The Service Provider will notify SARS on a monthly basis of all circuits, ports or links that have carried no operational traffic for a period of 30 (thirty) consecutive days (an “**Inactive Component**”) and propose cancelling such Inactive Component. If SARS confirms the cancellation of such Inactive Components the Service Provider will regard such confirmation as notice of cancellation and take such Inactive Component out of service on expiry of the notice period. If the Service Provider fails to report an Inactive Component to SARS timeously, the Service Provider will be liable for all charges SARS may bear for such Inactive Component in excess of the charges SARS would otherwise have had to bear if the Service Provider had provided timeous notice and SARS had provided immediate notice of cancellation.

#### 4.6 Hosted Environment Network Support

- 4.6.1 The Service Provider will provide personnel certified to provide the SARS Hosted Environment with network support (“**Hosted Environment Network Support Services**”) as and when requested by SARS and as set out in this clause 4.6.
- 4.6.2 The Service Provider will provide SARS with a fixed allocation of Hosted Environment Network Support Services hours per calendar month. The fixed allocation in a month will be 40 (forty) hours plus the smaller of: the number of hours not used from the fixed allocation in the preceding month; and 10 (ten) hours.
- 4.6.3 Service Provider will maintain personnel on standby to provide the Hosted Environment Network Support Services on a 24x7x365 basis.
- 4.6.4 Service Provider will provide scheduled Hosted Environment Network Support Services as requested by SARS with a 2 (two) Business Day notice at the SARS Hosted Environment.
- 4.6.5 Service Provider will provide unscheduled Hosted Environment Network Support Services in response to a callout by SARS in accordance with the Service Levels specified in **Appendix C-I of Schedule C (Service Levels)**.
- 4.6.6 SARS may at any time terminate for convenience; adjust the number of hours; or change the skills and certification requirements for the Hosted Environment Network Support Services, by giving 60 (sixty) days prior written notice

notwithstanding clause 25.3 of the Main Agreement, to the Service Provider. In such event the Service Provider will refund SARS all fees paid in advance in respect of hours which SARS has not yet utilised.

**[Note to Bidder: The precise skills and certifications to be provided by the Service Provider as part of Hosted Environment Network Support Services will be documented in a Work Order at the time of contract finalisation. The Work Order will be based on the Bidder's specific response to the Hosted Environment Network Support Services section in its Proposal]**

#### 4.7 Management Traffic

All bandwidth requirements for management traffic required by the Service Provider to manage circuits will not be charged for by the Service Provider to SARS and the allocation of bandwidth for such management traffic must be configured Out-of-Band.

### 5 INTERNET ACCESS SERVICES

Service Provider will provide SARS with access to the Internet on a 24x7x365 basis at the bandwidths specified by SARS and in accordance with the Performance Standards. The Service Provider will, at regular intervals during the Term, but in any event no less frequently than every 3 (three) months, investigate and propose ways to SARS in which to minimise Internet traffic over SARS's wide area network by directing Internet traffic to the Service Provider's closest POP.

#### 5.1 Paths

Service Provider will maintain the availability of a logical path between the Service Provider's premises and North America, between the Service Provider's local South African facilities and Europe, and between North America and Europe. Service Provider will provide access to the Internet via satellite as a back-up should one or more of such paths be unavailable.

5.1.1 Service Provider will dynamically route inbound and outbound IP packets to take the best route in terms of performance and availability;

5.1.2 Service Provider will provide SARS with value-added services, including:

5.1.2.1 bandwidth management services, which will enable SARS to manage and control its bandwidth requirements remotely via the Internet;

5.1.2.2 prioritisation services, which will allow SARS to prioritise traffic from and to the Internet; and

5.1.2.3 granular statistics services, which will enable SARS to view detailed information regarding the flow of Internet traffic and individual usage statistics of the Service by SARS End Users.

## 5.2 Reporting

Service Provider will provide SARS with the following statistics on a monthly basis accessible from the Monitoring and Reporting Portal:

- 5.2.1 average bandwidth utilisation of the Internet access over daily, weekly and monthly intervals;
- 5.2.2 total incoming and outgoing kilobytes of Internet Data Traffic over daily, weekly and monthly intervals; and
- 5.2.3 total outages per month with respect to Internet access.

## 5.3 Management

The Service Provider will:

- 5.3.1 maintain primary and secondary Domain Name Servers (DNS) and manage domain name registrations and changes on behalf of SARS;
- 5.3.2 maintain news, cache and FTP servers on the Service Provider premises for SARS's use, provided that such services will not be for the exclusive use of SARS, but will be part of the overall services that Service Provider provides to its customer base;
- 5.3.3 assign SARS Internet Protocol (IP) addresses from the Service Provider allocated block of IP addresses upon request, provided that SARS supplies Service Provider with the requisite information required by the issuing authorities to enable them to supply ranges of IP addresses; and

## 6 HOSTING SERVICES

- 6.1.1 Service Provider will provide SARS with secure, dedicated vault facilities to the specifications set out in **Appendix B-I-4 [Note to Bidder: this appendix will be populated at the time of contract finalisation]** at the Service Provider's data centre to house SARS server, network and storage infrastructure and, Service Provider Supported Hardware and other Hardware designated by SARS. The vault together with the equipment and infrastructure, including software, housed in the vault are collectively the "**SARS Hosted Environment**". Service Provider will provide sufficient connectivity and bandwidth from the SARS Hosted Environment to the Internet.
- 6.1.2 Service Provider will ensure that all the necessary facilities are in place to minimise downtime of the SARS Hosted Environment in order to meet the Performance Standards. These facilities will at a minimum include:

- 6.1.2.1 adequate air-conditioning in accordance with the specifications of the



manufacturers of any SARS equipment located at Service Provider's facilities;

- 6.1.2.2 an uninterruptible power supply (UPS), battery power and diesel generator capabilities capable of supplying the SARS Hosted Environment;
  - 6.1.2.3 environmental monitoring system;
  - 6.1.2.4 controlled physical access to the SARS Hosted Environment and
  - 6.1.2.5 fire extinguishing equipment.
- 6.1.3 Service Provider will ensure that at all times during the Term its hosting facilities, within which the SARS Hosted Environment is hosted, continue to meet -----  
**[Note to Bidder: the Service Provider Data Centre in which the SARS Hosted Environment is hosted must continue to meet the standards (e.g. Tier 3) as represented in its Proposal. This clause will be completed with the relevant standards set out in the successful Bidder's Proposal]**
- 6.1.4 Service Provider will permit SARS Personnel or SARS's agents access to the SARS Hosted Environment in accordance with the Service Provider's access procedures and only if an authorised SARS official has granted such personnel access specifically.
- 6.1.5 Service Provider will provide a public De-militarised Zone (DMZ) for Web solutions protected by a dedicated Firewall. Service Provider will configure the Firewall as per SARS's specifications allowing for secure hosting behind this Firewall.
- 6.1.6 Service Provider will through its command centre inform SARS of any failures with regular updates on Incident or Problem status in accordance with the Incident Management Procedures and Problem Management Procedures.

## 7 EMAIL/CONTENT FILTERING AND ANTI-SPAM

- 7.1.1 Service Provider will provide filtering and Anti-Spam services as described in this clause 7 based on the content of Simple Mail Transfer Protocol (SMTP) messages and their attachments. Service Provider will inspect all SMTP messages originating from, or sent to, the SARS network and transmit, quarantine, delete or block messages based on their structure or content and in accordance with pre-defined filtering rules specified by SARS.
- 7.1.2 Service Provider will host the Hardware and Software that comprise the filtering and Anti-Spam solution. Such filtering and Anti-Spam solution will include local networking connecting the system components to the Service Provider backbone, a server hosting facility, an administrative interface for SARS to view blocked/quarantined/deleted messages, and a Web-based online reporting utility and a support service.
- 7.1.3 Service Provider will dedicate the filtering and Anti-Spam solution instance to SARS by utilising dedicated hardware architecture, hosted in the Service Provider Data Centre.
- 7.1.4 Service Provider will provide redundancy, including load balancing, across the

filtering and Anti-Spam solution.

- 7.1.5 Service Provider will back up the configuration of the filtering and Anti-Spam solution (including SARS's pre-defined filtering rules) on an incremental basis daily and on a full basis weekly.
- 7.1.6 Service Provider will spool email messages if the host/recipient cannot be reached.
- 7.1.7 Service Provider will monitor inbound and outbound queues and if such queues exceed pre-defined thresholds, Service Provider will take the necessary action to investigate the cause and effect remediation.
- 7.1.8 Service Provider will support a variety of anti-virus scanning packages to ensure a comprehensive approach to anti-virus management, and will make use of best of breed Anti-Spam technologies to ensure unsolicited bulk emails are blocked. **[Note to Bidder: the products proposed in the Bidder's Proposal will be recorded during the finalisation of the contract]**
- 7.1.9 Service Provider will provide SARS with a management console for purposes of connecting to the filtering and Anti-Spam solution, viewing/releasing blocked email messages, and setting notifications.
- 7.1.10 Service Provider will provide for rule customisation according to, but not limited to, the following file-types:
  - 7.1.10.1 images;
  - 7.1.10.2 video;
  - 7.1.10.3 sound;
  - 7.1.10.4 SPAM;
  - 7.1.10.5 pornographic SPAM;
  - 7.1.10.6 dangerous attachments (e.g. .exe, macro or password protected files);
  - 7.1.10.7 malicious code;
  - 7.1.10.8 malicious activities and
  - 7.1.10.9 JAVA scripts.
- 7.1.11 Service Provider will provide SARS with the ability to set attachment file size limitations including the ability to store and forward large files outside Business Hours.
- 7.1.12 Service Provider will provide SARS with the ability to create exception rules for which filtering rules will not apply, customisable for incoming and outgoing messages.
- 7.1.13 At SARS's request, Service Provider will change SARS DNS MX records.
- 7.1.14 Service Provider will make reports relating to the email filtering solution available to

SARS through the Monitoring and Reporting Portal. Such reports will include historical data for the previous 2 (two) months. Service Provider will enable SARS to generate reports relating to filtering in respect of unique time periods. Service Provider will enable SARS to sort data contained in reports according to size of message, number of email messages incoming per End User, and number of email messages outgoing per End User. Without limiting the generality of the foregoing, Service Provider will make the following reports available through the Monitoring and Reporting Portal, per domain or per End User, as applicable:

- 7.1.14.1 top End Users across all domains;
- 7.1.14.2 transmitted attachments per domain, including size of each attachment separated into incoming and outgoing messages;
- 7.1.14.3 transmitted attachments per End User, including size of each attachment separated into incoming and outgoing messages;
- 7.1.14.4 mail generated per domain, including incoming and outgoing total volumes and number of messages; and
- 7.1.14.5 email traffic by End User, including sent and received mail, time, subject and size.

## 7.2 Maintenance

- 7.2.1 The Service Provider will perform preventative maintenance in respect of all Service Provider Hardware in accordance with the applicable original equipment manufacturer's guidelines and, in any case, no less frequently than annually;

## 8 SECURITY SERVICES

### 8.1 Introduction

- 8.1.1 Service Provider will perform security services as part of the Services, including the Services described in this clause 8 ('**Security Services**') and will do so in accordance with the SARS PPS&G and in a manner that interfaces seamlessly and non-disruptively with SARS's processes and procedures for Security Services.
- 8.1.2 Within 60 (sixty) days after the Effective Date Service Provider will develop and deliver to SARS for its review and approval procedures ('**Security Procedures**') detailing how Service Provider will implement its responsibilities under this clause 8 and interface with SARS, which procedures will be consistent with the SARS PPS&G. Service Provider will implement any reasonable SARS comments on such procedures and include such procedures in the Process and Procedures Library. Service Provider will keep such procedures current throughout the Term in accordance with clause 4.5 of **Schedule E (Governance)** by proposing changes for SARS's review and approval and incorporating SARS's reasonable comments. Service Provider will follow the then current Security Procedures in its performance of the Security Services.

## 8.2 Personnel Security

Service Provider will be responsible for ensuring that Service Provider Personnel are suitably screened and trained and that they comply with the Security Procedures. Service Provider's responsibilities in such regard will include:

- 8.2.1 Before assigning any Service Provider Personnel to the SARS account, Service Provider will: (a) screen such personnel in accordance with SARS PPS&G and (b) cause such personnel to execute and deliver to SARS the SARS Oath / Affirmation of Secrecy.
- 8.2.2 After terminating the employment of any Service Provider Personnel or transferring such personnel from the SARS account to other work, Service Provider eliminate any risk to the Services by, amongst other actions, denying such personnel access to any part of the environment from which the Services are provided to SARS.
- 8.2.3 Service Provider will ensure that the Service Provider Personnel are suitably trained so as to be able to follow the Security Procedures and perform the Security Services for which they are responsible.
- 8.2.4 Service Provider will discipline Service Provider Personnel who violate the Security Procedures in accordance with Service Provider's disciplinary procedures, and taking into account the applicable South African labour legislation.

## 8.3 Access Control

Service Provider will control access to the SARS Hosted Environment in accordance with this clause 8.3 Service Provider's responsibilities in such regard will include:

- 8.3.1 Service Provider will restrict access to the SARS Hosted Environment to those who are duly authorised to access it, including by conducting periodic audits to verify that access lists are accurate and up to date.
- 8.3.2 Service Provider will configure the Firewalls dedicated to SARS in accordance with SARS's requirements.
- 8.3.3 Service Provider will maintain network security barriers (Firewalls, dial-in services, switching devices, and Routers) applicable to the Services as described in this **Schedule B-I (Internet and Hosting Services SOW)**.
- 8.3.4 Service Provider will restrict remote access to the SARS Hosted Environment by Service Provider Personnel to such remote access as is permitted by SARS's principles of least privilege and need-to-know.
- 8.3.5 Service Provider will periodically modify SNMP community strings and change the local passwords applicable to each item of Service Provider Supported Hardware in accordance with industry best practices, provided that no less than 14 (fourteen) days prior to any such change Service Provider will provide SARS Personnel designated by SARS with an itemized list of all revised SNMP community strings and local passwords applicable to SARS.
- 8.3.6 Service Provider will deny access to sensitive information or resources by

unauthorised users and prevent malicious events or actions that will lead to access being denied to authorised users. This will include securing and controlling access to the SARS Hosted Environment, ensuring that only those who are duly authorised to access the SARS Hosted Environment are able to access it, ensuring that access through the SARS Hosted Environment to systems data and applications is restricted to authorised users, and preventing over-loading of devices that would interfere with the efficient use of the Internet. Notwithstanding the foregoing, Service Provider will not be responsible for maintaining the physical security of SARS's end of the Access Circuit on SARS's premises.

- 8.3.7 Service Provider will administer Firewall technology utilizing a work flow process that requires separation of duties for defining, approving, and deploying configurations. In such regard, a security administrator will be responsible for defining device configuration files; another administrator, who will be a member of SARS Personnel, will be responsible for approving the configuration files; and a network operator will be responsible for deploying the resulting configuration to a device.
- 8.3.8 Service Provider will establish control practices, e.g., trusted exchange of passwords, tokens or cryptographic keys, designed to verify the authenticity of a counter-party providing electronic instructions or transactions that could affect the SARS Hosted Environment or permit the counter-party to gain access to the SARS Hosted Environment. Such control practices will be included among the Security Services Procedures.
- 8.3.9 Service Provider will manage all relevant cryptographic keys (as designated by SARS).
- 8.3.10 Service Provider will establish and maintain appropriate safeguards against the unauthorised access, destruction, loss or alteration of SARS Confidential Information under the management of Service Provider that will be no less rigorous than the more rigorous of: (i) the standards required by SARS policies with respect to the protection of its information and data; or (ii) the standards applicable to Service Provider's own data.
- 8.3.11 Service Provider will develop, maintain, and support processes and procedures to secure and prevent unauthorised access to the SARS Hosted Environment so as to protect the confidentiality, integrity, and security of SARS Confidential Information that is transmitted through Service Provider Supported Hardware. Service Provider will not give other parties access to Service Provider Supported Hardware that carries Data Traffic without SARS's prior written consent except in the response to an emergency Incident, but only to the extent necessary to restore the Service Provider Supported Hardware and then in accordance with emergency procedures that Service Provider will document as part of the Process and Procedures Library, as approved by SARS. The Process and Procedures Library will also incorporate the procedures by which SARS will notify Service Provider of SARS-authorised Third Party access to the Service Provider Supported Hardware.
- 8.3.12 Service Provider will manage security for the Service Provider Supported Hardware including, subject to SARS's approval, implementing and maintaining access requests and access rights lists and managing IDs, passwords, and logons. Service Provider will ensure that adequate security is in place to prohibit unauthorised access to the SARS Hosted Environment and will provide, on

request, the up-to-date list of all authorised Service Provider personnel and End Users who have access rights to the Service Provider Supported Hardware.

#### **8.4 Security Configuration Management**

Service Provider will integrate Security Services in its performance of Configuration Management and be responsible for managing the integrity and security of the build and configuration of the Service Provider Supported Hardware. Service Provider's responsibilities in such regard will include:

- 8.4.1 Service Provider will ensure that all Service Provider Supported Hardware and Service Provider Supported Software adhere to the relevant Security Procedures;
- 8.4.2 Service Provider will proactively recommend steps to improve the security of the SARS Hosted Environment;
- 8.4.3 Service Provider will back up all configurations and encrypt such back-ups to ensure that the configuration back-ups are protected from any unauthorised access;
- 8.4.4 Service Provider will destroy or degauss media that was used as data storage for back-ups and that is no longer required by SARS, and SARS will inform Service Provider, in writing, of which media should be destroyed and which media should be retained, as well as the date for this to take place as is published from time to time in the SARS PPS&G with the proviso that Service Provider is notified of such changes. In this regard, Service Provider will ensure that no SARS data is resident on any Service Provider workstations or Web Servers unless authorised in writing, in advance, by SARS.

#### **8.5 Security Surveillance and Monitoring**

Service Provider will be responsible for security surveillance and monitoring with respect to the SARS Hosted Environment. Service Provider's responsibilities in such regard will include:

##### **8.5.1 Monitoring Data Traffic**

As part of Service Provider's obligations to monitor the SARS Hosted Environment, Service Provider will monitor Data Traffic to prevent unauthorised intrusions to the SARS Hosted Environment and deny access to any attempted intrusions.

##### **8.5.2 Monitoring Security Violations**

Service Provider will monitor and immediately report all security violations detected on the SARS Hosted Environment or the Service Provider Supported Hardware.

##### **8.5.3 Monitoring Access to the SARS Hosted Environment**

Service Provider will monitor and log all routine access to, and exceptions on (e.g., unauthorised access), the SARS Hosted Environment. Service Provider will provide access to SARS to interrogate such logs for audit trail and forensic purposes, provided that Service Provider may exclude from such logs information

relating exclusively to other customers of Service Provider and not relevant for SARS's purpose.

## **8.6 Vulnerabilities**

Service Provider will be responsible for identifying security vulnerabilities and making recommendations to upgrade the security of the SARS Hosted Environment. Service Provider's responsibilities in such regard will include:

- 8.6.1 Service Provider will proactively identify any security vulnerability issues on the SARS Hosted Environment and will notify SARS through the Incident Management Procedures of the same.
- 8.6.2 If either Party becomes aware, or suspects, that an item or part of the SARS Hosted Environment has security vulnerability, such Party will promptly inform the other Party of such security vulnerability and the informed Party will resolve, patch or otherwise repair the security vulnerability. In this respect, Service Provider will liaise with the manufacturer or provider of the relevant item(s) or SARS or Third Parties to patch or repair such security vulnerability as necessary.
- 8.6.3 Service Provider will proactively monitor on an on-going basis the bulletins and notices issued by relevant manufacturers or licensors of Service Provider Supported Hardware, Service Provider Supported Software, and security specialists and will make recommendations for upgrades, patches and the like to SARS to improve the security of the SARS Hosted Environment and ensure that the SARS Hosted Environment is protected from security threats for which there are counter-measures available. Service Provider will immediately implement any recommended security vulnerability counter-measures after obtaining SARS's approval in writing to do so, and the Operational Change Management Procedures will apply in implementing such countermeasures.
- 8.6.4 Service Provider will not create security vulnerabilities in the SARS Hosted Environment or other systems used to provide the Services.

## **8.7 Support for Security Tests Undertaken by SARS or Third Party Suppliers**

Service Provider will be responsible for co-operating with SARS and Third Party Suppliers who wish to conduct security tests and to correct security weaknesses identified by such tests, provided that access to Service Provider systems, process, and intellectual property by Third Party Suppliers will be limited to the extent that the Third Party Supplier is not a competitor of the Service Provider in the scope of these services. Service Provider's responsibilities in such regard will include:

- 8.7.1 SARS may, at its own cost, perform penetration testing, vulnerability scanning or other security testing, or nominate a Third Party Supplier to do so, from time to time.
- 8.7.2 Service Provider's nominated security representative and support staff will provide reasonable assistance and co-operation to enable them to complete such security testing.
- 8.7.3 Service Provider will resolve all security weaknesses and breaches identified correctly in the relevant security tests within the timescales reasonably designated

by SARS at Service Provider's cost.

- 8.7.4 Service Provider will resolve any identified weaknesses or breaches, so that SARS may conduct post-assessment testing at Service Provider's cost to confirm that the identified security weaknesses and breaches have been resolved.

## 8.8 Security Tests Undertaken by Service Provider

Service Provider will be responsible for conducting certain security tests in respect of the SARS Hosted Environment itself and for reporting the results of such tests to SARS. Service Provider's responsibilities in such regard will include:

- 8.8.1 Service Provider will conduct the following security tests, at the frequency set out in the table below:

Testing Activity	Frequency
Health checking - capturing and analysing the security configuration settings	Quarterly
Security process review - a check to ensure that all security processes are in place and being performed	6 (six) monthly
Security technical testing of the SARS Hosted Environment.	Annually

- 8.8.2 Service Provider will describe the processes for such tests and include such description in the Security Procedures.
- 8.8.3 Service Provider's nominated security representative will provide, on request, SARS's nominated security representatives with results of such tests, as well as with the results of any other penetration tests or vulnerability scanning undertaken by Service Provider to the extent relating to the Services.

## 8.9 Security Incident Management

Service Provider will be responsible for providing Security Incident management. Service Provider's responsibilities in such regard will include:

- 8.9.1 Service Provider will create, provision, and operate a formal Security Incident response capability. Service Provider's obligations in such regard will include:
- 8.9.1.1 Preparing for SARS's review and approval a formal Security Incident response plan. The Security Incident response plan will include procedures for handling suspected and potential weaknesses and Security Incidents, as well as confirmed Security Incidents.
- 8.9.1.2 Developing for SARS's review and approval Security Incident handling and reporting procedures, based on the Security Incident response plan, including procedures for:
- (i) communicating with Third Parties, including affected individuals, about the occurrence of a Security Incident;



- (ii) selecting a team structure and staffing model;
- (iii) establishing relationships between the Security Incident response team and other groups, both internal (e.g., legal department) and external (e.g., law enforcement agencies);
- (iv) determining what services the Security Incident response team should provide;
- (v) staffing and training the response team;
- (vi) prioritising Security Incidents based on, among other factors, the criticality of the affected resources and the current and potential technical effect of the Security Incident;
- (vii) containing and eradicating Security Incidents and conducting recovery; and
- (viii) post-Security Incident activity.

8.9.2 Service Provider will report Security Incidents in accordance with the Incident Management Procedures.

8.9.3 Service Provider will minimise the frequency of Security Incidents by effectively securing the SARS Hosted Environment.

8.9.4 Service Provider will create a Security Incident database, which will contain the following information:

- 8.9.4.1 current status of the response to the Security Incident;
- 8.9.4.2 summary of the Security Incident;
- 8.9.4.3 Security Incident handling actions;
- 8.9.4.4 log of actions taken in regard to the Security Incident by all handlers;
- 8.9.4.5 contact information for all involved parties;
- 8.9.4.6 list of evidence gathered in regard to the Security Incident;
- 8.9.4.7 comments of the handlers of the Security Incident; and
- 8.9.4.8 cause of the Security Incident.

8.9.5 Corrective Action

Without limiting Service Provider's obligations under the Security Incident response plan, Service Provider will identify and implement applicable practices and controls intended to prevent recurrences of Security Incidents following such weakness, Incident or malfunction. If, after investigation of a Security Incident by SARS, SARS reasonably determines that Service Provider's standards, practices or procedures need to be amended, Service Provider will implement any actions required by SARS within a reasonable period.

#### **8.10 Security Services Relating to Physical Security**

Service Provider will be responsible for maintaining the physical security of Service Provider Sites and any Service Provider Supported Hardware residing at any such sites. Without limiting the generality of the forgoing, Service Provider's responsibilities in such regard will include the following:

- 8.10.1 Service Provider will provide, maintain and utilise applicable Hardware and Software to implement applicable security solutions. Amongst other things, Service Provider will implement, operate, support, and maintain alarm systems (including applicable environmental alarms), and card controlled (or equivalent) access mechanisms at Service Provider Sites.
- 8.10.2 Service Provider will respond to Security Incidents and resolve or restore Service Provider Supported Hardware to a secure state.
- 8.10.3 Service Provider will designate and periodically review physical access lists to Service Provider Sites where Service Provider Supported Hardware dedicated to SARS is located. Service Provider will provide access to SARS Personnel as necessary for SARS to perform facilities maintenance, compliance reviews and other applicable functions, provided that Service Provider is notified in writing by SARS of personnel authorised to have such access and such personnel are bound by reasonable confidentiality undertakings with respect to Service Provider Confidential Information which may be revealed as a result of such access.
- 8.10.4 In the event that a security alarm is triggered indicating a physical security violation at the location from which the Service Provider provides the Services and which could reasonably affect such Services, Service Provider will co-operate with SARS's security representatives with respect to security alarm diagnosis and alerts and provide all available information to SARS on request.

#### **8.11 Miscellaneous Security Services**

Service Provider will be responsible for performing a number of Security Services that do not fall into the above categories. Service Provider's responsibilities in such regard will include:

- 8.11.1 To promote good security, Service Provider will separate the development and test environments from the production environment and implement recovery facilities.
- 8.11.2 Service Provider will provide SARS with input required for Operational Change Management regarding security issues relating to the Services.
- 8.11.3 Service Provider will provide reasonable support for SARS's information security awareness efforts, including information regarding the Services requested by SARS.
- 8.11.4 Service Provider will provide SARS with learning and best practices based on Service Provider's experience.
- 8.11.5 Service Provider will ensure that all Security Incidents remain confidential (in this respect all details pertaining to any such incidents will be deemed to be the

Confidential Information of SARS).

- 8.11.6 Service Provider will ensure the integrity, confidentiality and availability of all security information relating to the SARS Hosted Environment and the Services, including all security logs and records.
- 8.11.7 All connectivity established between Service Provider and SARS related to the Services will only be established after SARS has given its approval. Service Provider will annually confirm in writing the continued accuracy of all information relating to such connectivity.
- 8.11.8 In accessing SARS Sites, Service Provider will comply with the then-current SARS PPS&G. Service Provider will coordinate in advance with SARS all requests for access and co-operate with SARS's requirements.
- 8.11.9 The nominated SARS security representatives and the nominated Service Provider security representative will co-operate in sharing information regarding information security matters.
- 8.11.10 Service Provider will, either at SARS's request or with SARS's prior approval, use Commercially Reasonable Efforts to isolate and prevent unauthorised or fraudulent use of the Services through means available to Service Provider.
- 8.11.11 Service Provider will, in consultation with SARS or its designees, identify security risks and recommend and implement procedures to minimise such risks.

#### **8.12 Maintenance of Security Procedures**

Service Provider will be responsible for maintaining security and the Security Procedures as risks change due to changes in IT infrastructure, organization, and business processes; as SARS changes its security requirements; and as events warrant. Without limiting the generality of the foregoing, Service Provider will assess changes in security risks throughout the Term. SARS may at its sole discretion modify its security requirements from time to time, including on the basis of the results of such assessment or reports of Security Incidents, provided that Service Provider will not be responsible for complying with any such modified security requirements until SARS provides written notice of such procedures to Service Provider.

#### **8.13 Other Procedures Relating to Security**

##### **8.13.1 Introduction**

Where the Security Procedures cover a given security issue, Service Provider will follow the Security Procedures, but where the Security Procedures do not cover a given security issue, Service Provider will follow one of the procedures or standards indicated below.

##### **8.13.2 Other Procedures Relating to Information Security**

Where the Security Procedures do not cover an issue relating to information security, Service Provider will follow either:

- (i) Service Provider's own information security procedures;

- (ii) the information security procedures described in ITIL; or
- (iii) the information security procedures described in ISO 27001 and ISO 17799

with respect to any issue as to which only one of the above sets of procedures applies. Where two or more apply, Service Provider will follow the most rigorous as determined by mutual agreement between SARS and the Service Provider unless otherwise specified by SARS. Where such mutual agreement is not established Service Provider will follow the requirements of (iii) before those of (ii), the requirements of (ii) before those of (i) and the requirements of (iii) before those of (i).

#### 8.13.3 Processes and Procedures Relating to Physical Security

Where the Security Procedures do not cover an issue relating to physical security, Service Provider will follow either:

- (i) Service Provider's own physical security procedures; or
- (ii) the physical security procedures set forth in ISO 27001 and ISO 17799

with respect to any issue as to which only one of the above sets of procedures applies. Where two apply, Service Provider will follow the most rigorous as determined by mutual agreement between SARS and the Service Provider unless otherwise specified by SARS. Where such mutual agreement is not established Service Provider will follow the requirements of (ii) before those of (i).

## **APPENDIX B-I-1: INTERNET AND HOSTING TRANSITION SERVICES**

[Note to the Bidder: This Appendix may apply to an Interim Agreement in terms of paragraph 8 of the SARS RFP 14-2016 1-1 Network Carrier and Infrastructure Summary, Guidelines, Instructions and Conditions document]

### **1 OVERVIEW OF INTERNET AND HOSTING TRANSITION SERVICES**

The transition services set out in this **Appendix B-I-1** must be performed in addition to the transition services set out in **Appendix B-1**.

### **2 INTERNET AND HOSTING SPECIFIC TRANSITION SERVICES**

[Note to Bidder: this will be populated with details of the Internet and Hosting specific transition prior to award]

## **APPENDIX B-I-2: INTERNET AND HOSTING SERVICES DEPENDENCIES**

**[Note to the Bidder: SARS is seeking a solution in which the Service Provider takes complete responsibility and disfavours solutions which shift responsibilities back to SARS.**

**With this in mind, please identify any dependencies on which the charges or any of Service Provider's responsibilities may depend.]**

## APPENDIX B-I-3: INTERNET AND HOSTING SERVICES REPORTS

**[Note to the Bidder:**

This schedule will be completed as part of final contract negotiations. The additional reports which the Bidder proposes as part of its solution should be specified in detail with sample output if possible, including the mode of delivery, frequency, detail of fields etc. The minimum set of reports are stated in the requirements of *RFP 14-2016 3-1 Business Requirements Specification*

The Bidder is encouraged to supply and to make available, any additional online reports that will be available on the reporting portal that will be part of the Bidder's proposed solution. The Bidder should supply details of the reports/screens/custom enquiries that will be made available. ]

## **APPENDIX B-I-4: INTERNET AND HOSTING SERVICES SPECIFICATIONS AT EFFECTIVE DATE**

**[Note to the Bidder: this schedule will be completed as part of final contract negotiations.]**



## **SCHEDULE B-S: SMS CARRIER SERVICES SOW**

### **TABLE OF CONTENTS**

Appendix B-S-1	SMS Carrier Services Transition Services
Appendix B-S-2	SMS Carrier Services Dependencies
Appendix B-S-3	SMS Carrier Services Reports
Appendix B-S-4	SMS Carrier Services Specifications at the Effective Date

## SCHEDULE B-S

### SMS CARRIER SERVICES SOW

#### 1 INTRODUCTION

Service Provider will provide, operate, manage, administer, monitor, design, engineer, optimise, support and maintain:

- 1.1 the carriage of SMS messages and the infrastructure necessary for such carriage;
- 1.2 the Services described in this **Schedule B-S** and the **Appendices to this Schedule B-S**;
- 1.3 the Services described in **Schedule B** and the **Appendices to Schedule B**;
- 1.4 any other obligations of Service Provider under this Agreement relating to the SMS Carrier Services (e.g., Service Levels, reporting),

save for those services, activities, functions, and responsibilities set out in **Appendix B-I-2 (SMS Carrier Services Dependencies)**

(collectively, the '**SMS Carrier Services**').

#### 2 TRANSITION

- 2.1 Service Provider will conduct the Transition of SARS's existing SMS service provider services to the SMS Carrier Services in accordance with **Appendix B-S-1 (SMS Carrier Services Transition)** and **Appendix B-1 (Common Transition Services)**. The Transition Plan created under such Appendices will contain certain terms, as further described in this clause 2.
- 2.2 Service Provider's Transition Plan will contain commitments regarding the timing of the Transition of various components of the Services that will accrue as a result of such Transition.
- 2.3 Service Provider will use Commercially Reasonable Efforts to transition the Services as soon as possible but, unless otherwise agreed with SARS, not later than the Commencement Date. If any part of the Services is not transitioned by the Commencement Date and a later date for the Transition to be completed for such part has not been agreed with SARS, the Service Provider will reimburse SARS for the difference between the then current rates payable for such part of Services and the rates SARS would have been charged under the Agreement should the then current rates for such part of the Services be higher than the rates SARS would have been under the Agreement.
- 2.4 Service Provider will provide SARS with at least 10 (ten) Business Days' advance written notice of, and obtain SARS written approval for, each Service Provider-

originated change made as part of the Transition that could have an impact on SARS's Services in accordance with SARS's Operational Change Management Procedures.

- 2.5 Service Provider will perform thorough testing at the completion of technical migration and provide written test results to SARS. Testing must include, at a minimum, connectivity and stress/load tests, acceptable performance parameters, connection configuration, and SARS connection performance.

### 3 SARS'S OBLIGATIONS

- 3.1 Service Provider will advise SARS of such information as may be required in order to enable Service Provider to render the Service.
- 3.2 Service Provider may with SARS's prior written consent and subject to the provisions of clause 15 of the Main Agreement disclose only such information as may be legally required by a regulatory or other competent authority.
- 3.3 SARS will comply with:
- 3.3.1 the relevant provisions of any enactment, or other competent authority, as advised by Service Provider to SARS from time to time;
  - 3.3.2 any licence granted thereunder which governs the operating of electronic communications services by SARS;
  - 3.3.3 any code of practice regulating the provisions of the SMS Carrier Services;
  - 3.3.4 WASPA's Code of Conduct, in so far as it is applicable to SARS.
- 3.4 ensure that all marketing and/or promotional material issued by it or on its behalf in respect of or in connection with the Service in terms of this Agreement complies in all respects with WASPA's Code of Conduct or order of court.

### 4 SERVICE PROVIDER'S OBLIGATIONS

- 4.1 Service Provider will use all reasonable endeavours to maintain the Service 24 (twenty four) hours a day and will render the Services in accordance with the Service Levels contained in **Schedule C (Service Levels)**.
- 4.2 Service Provider may withdraw, terminate or suspend the Service to SARS if required by any network operator or by any statutory or regulatory authority or order of court. Service Provider will immediately advise SARS of the intention to withdraw, terminate or suspend the Service and will provide SARS with written reasons for such action. All fees and charges payable by SARS to Service Provider in respect of the Services will be *pro rata* reduced for the period that the Service was withdrawn, terminated or suspended.

## 5 OPERATIONAL REQUIREMENTS

### 5.1 Service Management Services

Except as otherwise provided herein, the SMS Services do not include an obligation to perform the specific service management services, provided, however, that, Service Provider is required to comply with commercially reasonable requirements of ISO 20000; ISO 17799 and ISO 27001; and, in any event, Service Provider is also required to follow any additional service management processes it needs to follow in order to satisfy the Performance Standards. Moreover, Service Provider is required to comply with its responsibilities under **Appendix E-4 (SARS Red Alert Process)** in the event of certain high-impact Incidents affecting the SMS Carrier Services.

### 5.2 SMS Carrier Services Monitoring and Reporting

- 5.2.1 Service Provider will monitor the SMS Carrier Services on an on-going basis and promptly notify SARS of any potential Incidents, Problems or other irregular issues relating to the Services in accordance with the notification and escalation procedures as set out in this SOW and in accordance with SARS PPS&G.
- 5.2.2 Service Provider will provide an interface to its network management tools with SARS's current network management tools (or those of its designated agent) Service Provider's network management tools are specified in Schedule G (Service Provider Proposal).

### 5.3 Monitoring and Reporting Portal

- 5.3.1 Service Provider will, as part of the SMS Carrier Services and at no additional charge, provide a secure web-based portal (the "**Monitoring and Reporting Portal**") accessible only by Service Provider, SARS and SARS's designated agents to provide monitoring and reporting functionality. The Monitoring and Reporting Portal will be available on a 24x7x365 basis and accessible from the Internet. The Monitoring and Reporting Portal will provide SARS with the ability to view and print on an as needed basis:
  - 5.3.1.1 real-time (or near real time with no longer than 10 (ten) minutes delayed updating) status of all in-scope elements of the SMS Carrier Services in a graphical topology view using SARS circuit naming conventions including:
    - 5.3.1.1.1 Up / down availability of circuits to the MO's
    - 5.3.1.1.2 Capacity utilisation of circuits
    - 5.3.1.1.3 Queue status
    - 5.3.1.1.4 Error rates
  - 5.3.1.2 up-to-date accumulated statistics (or near real time with no longer than 10 minutes delayed updating) of all in-scope elements of the SMS Carrier Services over the term of the agreement including:

5.3.1.2.1 Traffic volumes

5.3.1.2.2 Incidents and problems

5.3.1.2.3 Error rates

Detailed time interval records should be kept for at least 60 (sixty) days.

#### 5.4 Monitoring of Inactive Components

The Service Provider will monitor the usage of all components as part of the Services. The Service Provider will notify SARS on a monthly basis of all components that have carried no operational traffic for a period of 30 (thirty) consecutive days (an “**Inactive Component**”) and propose cancelling such Inactive Component. If SARS confirms the cancellation of such Inactive Components the Service Provider will regard such confirmation as notice of cancellation and take such Inactive Component out of service on expiry of the notice period. If the Service Provider fails to report an Inactive Component to SARS timeously, the Service Provider will be liable for all charges SARS may bear for such Inactive Component in excess of the charges SARS would otherwise have had to bear if the Service Provider had provided timeous notice and SARS had provided immediate notice of cancellation.

## 6 SECURITY SERVICES

### 6.1 Introduction

6.1.1 Service Provider will perform security services as part of the Services, including the Services described in this clause 6 (**‘Security Services’**) and will do so in accordance with the SARS PPS&G and in a manner that interfaces seamlessly and non-disruptively with SARS’s processes and procedures for Security Services.

6.1.2 Within 60 (sixty) days after the Effective Date Service Provider will develop and deliver to SARS for its review and approval procedures (**‘Security Procedures’**) detailing how Service Provider will implement its responsibilities under this clause 6 and interface with SARS, which Security Procedures will be consistent with the SARS PPS&G. Service Provider will implement any reasonable SARS comments on such Security Procedures and include such Security Procedures in the Process and Procedures Library. Service Provider will keep such Security Procedures current throughout the Term by proposing changes for SARS’s review and approval and incorporating SARS’s reasonable comments. Service Provider will follow the then-current Security Procedures in its performance of the Security Services.

## **APPENDIX B-S-1: SMS CARRIER TRANSITION SERVICES**

### **1 OVERVIEW OF TRANSITION SERVICES**

The transition services set out in this **Appendix B-S-1** must be performed in addition to the transition services set out in **Appendix B-1**.

### **2 SMS CARRIER SPECIFIC TRANSITION SERVICES**

**[Note to Bidder: this will be populated with details of the SMS Carrier specific transition prior to award]**

## **APPENDIX B-S-2: SMS CARRIER SERVICES DEPENDENCIES**

**[Note to the Bidder: SARS is seeking a solution in which the Service Provider takes complete responsibility and disfavours solutions which shift responsibilities back to SARS.**

**With this in mind, please identify any dependencies on which the charges or any of Service Provider's responsibilities may depend.]**

## APPENDIX B-S-3: SMS CARRIER SERVICES REPORTS

**[Note to the Bidder:**

This schedule will be completed as part of final contract negotiations. The additional reports which the Bidder proposes as part of its solution should be specified in detail with sample output if possible, including the mode of delivery, frequency, detail of fields etc. The minimum set of reports are stated in the requirements of *RFP 14-2016 3-1 Business Requirements Specification*

The Bidder is encouraged to supply and to make available, any additional online reports that will be available on the reporting portal that will be part of the Bidder's proposed solution. The Bidder should supply details of the reports/screens/custom enquiries that will be made available. ]



## **APPENDIX B-S-4: SMS CARRIER SERVICES SPECIFICATIONS AT EFFECTIVE DATE**

**[Note to the Bidder: this schedule will be completed as part of final contract negotiations.]**

## SCHEDULE C: SERVICE LEVELS

### Appendices and Attachments

<b>Appendix C-D</b>	Service Levels applicable to Data Carrier Services
<b>Appendix C-V</b>	Service Levels applicable to Voice Carrier Services
<b>Appendix C-I</b>	Service Levels applicable to Internet and Hosting Services
<b>Appendix C-S</b>	Service Levels applicable to SMS Carrier Services

## 1 INTRODUCTION

### 1.1 General

1.1.1 This **Schedule C (Service Levels)** and its Appendices set out the Service Levels that will apply during the Term and the method for calculating any Service Level Credits that will apply if Service Provider fails to perform the Services in accordance with such Service Levels.

- (a) **Appendix C-D** sets out the Service Levels, Critical Deliverables and Service Level Credits that apply specifically to the Data Carrier Services.
- (b) **Appendix C-V** sets out the Service Levels, Critical Deliverables and Service Level Credits that apply specifically to the Voice Carrier Services.
- (c) **Appendix C-I** sets out the Service Levels, Critical Deliverables and Service Level Credits that apply specifically to the Internet and Hosting Services.
- (d) **Appendix C-S** sets out the Service Levels, Critical Deliverables and Service Level Credits that apply specifically to the SMS Carrier Services.

**[Note to the Bidder: the relevant Appendix will be included in the final contract depending on which Tower(s) is/are awarded to the successful Bidder]**

1.1.2 The measurements and Service Levels set forth in this **Schedule C** and its Appendices will be used to measure Service Provider's performance of the Services. During the Term, new Service Levels may be added by SARS or substituted by agreement between the Parties in order to achieve a fair, accurate, and consistent measurement of Service Provider's performance of the Services.

For example, such additions or substitutions may occur in conjunction with changes to the environment and the introduction of new hardware or Software or means of Service delivery; provided, however, that where such hardware or Software or means of Service delivery is a replacement or upgrade of existing technology, there will be a presumption of equivalent or improved performance.

- 1.1.3 Service Provider will monitor its performance of the Services with respect to the Service Levels on a continuous basis.
- 1.1.4 Service Provider will measure and report on its performance of the Services with respect to the Service Levels as set out in this **Schedule C (Service Levels)**.
- 1.1.5 Any disputes regarding the accuracy of the Service Level reports produced by the Service Provider that cannot be resolved at an operational level will be escalated in accordance with the dispute resolution procedure set forth in clause 24 of the Main Agreement.

## 1.2 Service Levels

- 1.2.1 Service Provider will perform the Services in accordance with the Service Levels from the Effective Date.
- 1.2.2 From the Effective Date, Service Provider will perform the services that were performed by or provided to SARS prior to the Effective Date, and which correspond to the Services, in accordance with this **Schedule C (Service Levels)** and with at least the same degree of accuracy, completeness, efficiency, quality, responsiveness and timeliness as was provided prior to the Effective Date unless otherwise specifically provided for in this Agreement. Service Provider will perform the Services to the highest standards prevailing in the Data Carrier / Voice Carrier / Internet and hosting provider / Wireless Application service provider industry. Moreover, Service Provider will perform the Services promptly, using reasonable skill and care and in a professional and workmanlike manner. Service Provider will also perform the Services in accordance with any other Performance Standards specified in the Agreement.

## 1.3 Changes in Service Levels

The Service Levels will change in accordance with the following:

- 1.3.1 Annually upon each anniversary of the Effective Date, SARS and Service Provider will review the Service Levels and will make adjustments to them as appropriate to reflect improved performance capabilities associated with advances in the technology and methods used to perform the Services. The Service Levels will be improved over time.
- 1.3.2 A circuit may also have one of two service coverage periods (each, a 'Service Coverage Period') designated as the period of time during which Service Levels are to be measured against Service Provider's provision of the Services. The Service Coverage Periods are set forth below. SARS has designated the Service Coverage Period of each circuit as of the Effective Date in **Schedule I: SARS Sites**. If no Service Coverage Period is specified for any circuit, its Service Coverage Period will be Extended as defined in paragraph 1.3.3 below. SARS may change the designation of a circuit in terms of its Service Coverage Period

designations as provided with 60 (sixty) days' notice to the Service Provider.

### 1.3.3

Extended	07h00 – 22h00 Monday – Friday (including public holidays); and 07h00 – 17h00 Saturdays (including public holidays)
Premium	24x7x365

## 1.4 Status of Service Level Credits

The following will apply in respect of Service Level Credits:

- 1.4.1 Service Level Credits ("**Service Level Credits**") are a price adjustment for the relevant period or order as detailed below to reflect the reduced level of Service performed by Service Provider. Service Level Credits are not an estimate of the loss or damage that may be suffered by SARS as a result of the Service Level Failure.
- 1.4.2 The payment of a Service Level Credit by Service Provider is without prejudice to, and will not limit, any right SARS may have to terminate this Agreement and/or seek damages or other remedies at law resulting from such Service Level Failure and any resulting termination.
- 1.4.3 Notwithstanding the provisions of clauses 1.4.1 and 1.4.2, any claim for damages resulting from such Service Level Failure, in respect of which a Service Level Credit has already been paid, will be reduced by the amount paid to SARS in respect of that Service Level Credit.

## 2 PERFORMANCE AGAINST SERVICE LEVELS

### 2.1 Measurement

- 2.1.1 Except as otherwise set out in the description of the individual Service Level, Service Provider's performance with respect to the Service Levels will:
  - (a) commence being measured by Service Provider on the Commencement Date; and
  - (b) be measured against Service Provider's Actual Performance of the Services against the Service Levels, not merely a sampling of its performance of such Services.
- 2.1.2 Except as otherwise specifically provided herein, Service Provider will be responsible for monitoring, measuring and reporting on performance as required to apply the Service Levels, including the provision, installation and support of any automated Tools required or appropriate for such purpose. Service Provider will provide, deploy, implement, and make operational a Service Level measurement system that will collect, calculate and report data as required to determine Service

Provider's compliance with each of the Service Levels. Such Tools:

- (a) will be automatic and/or electronic, to the extent technically feasible and commercially reasonable. Service Provider acknowledges and agrees that such Tools may evolve over time as more advanced Tools with improved performance measurement capabilities become available in the marketplace;
- (b) will be acquired, implemented and maintained at Service Provider's own cost and expense; and
- (c) will be able to produce reports at a level of detail which are sufficient to verify Service Provider's compliance with the Service Levels.

2.1.3 SARS will have the right to perform an audit on the Tools described above in clause 2.1.2 in accordance with clause 22 of the Main Agreement to determine whether the Tools are functioning properly; provided however that if SARS reasonably believes that Service Provider may be in breach of the provisions of this clause, SARS may promptly initiate an audit of the Tools on reasonable notice to Service Provider.

2.1.4 The Service Level measurement system implemented by Service Provider will be documented as part of the Process and Procedures Library and the system will include the following information regarding a Service Level Failure:

- (a) the nature of the Service Level Failure;
- (b) the specific Service or Services that are impacted;
- (c) the start time and date of all Service Level Failures;
- (d) the time and date on which the Service is fully restored or is fully compliant;
- (e) the root cause of the Incident or other event that gave rise to the Service Level Failure;
- (f) the impact of the Service Level Failure on other components of the Services and associated trend analyses; and
- (g) a summary of (i) the steps Service Provider has taken to determine the root cause of the Service Level Failure; (ii) the steps Service Provider has taken to restore the Service or to restore compliance; and (iii) the steps Service Provider has taken to reduce, to the extent reasonably possible, the likelihood that such Service Level Failure will be repeated.

## **2.2 Actions on Failures**

2.2.1 In respect of any Service Level Failure, Service Provider will:

- (a) investigate, assemble, and preserve pertinent information with respect to, and report on the causes of, the Incident, including performing an

appropriate root cause analysis of each Incident which led to the Service Level Failure;

- (b) propose and execute a written corrective action plan;
- (c) advise SARS of the status of remedial efforts being undertaken with respect to such Incident. In this respect, Service Provider will track the status of such remedial efforts and make available such progress information to SARS through an electronic on-line tool;
- (d) minimise the impact of the Incident, correct it, and resume meeting the Service Level as soon as possible once it is corrected; and
- (e) use Commercially Reasonable Efforts to employ preventive measures to ensure that the Incident does not recur, including allocating additional Service Provider Personnel and resources to the performance of the Services and proposing changes to the procedures it uses to perform the Services.

2.2.2 Service Provider will, on a monthly basis, perform trend analyses on the Service Level performance data. If Service Provider or SARS identifies a trend in Service Level performance which reasonably indicates a meaningful risk of a future Service Level Failure, then Service Provider will perform a root cause analysis with respect to the trend, report to SARS on its findings and use Commercially Reasonable Efforts (as approved by SARS) to prevent the Service Level Failure from actually occurring.

### 2.3 Reporting

2.3.1 Service Provider will issue a report ("**Service Level Report**") at the end of each month during the Term, containing the quantified performance of the Service Provider for that month with respect to all the Service Levels as defined in this **Schedule C (Service Levels)**. The Service Level Report must be presented to SARS on or before the 6<sup>th</sup> (sixth) Business Day after the end of the month being reported upon.

2.3.2 As part of the monthly Service Level Report required pursuant to clause 2.3.1, Service Provider will provide SARS with a set of soft-copy reports on Service Provider's performance against the Service Levels. Detailed supporting information for each Report will be provided to SARS in soft-copy as reasonably requested by SARS.

## 3 SERVICE LEVEL CREDITS

### 3.1 Entitlement to Service Level Credits

3.1.1 Subject to clause 3.7, for each Service Level Failure occurring during the Term, the Charges for the month following the month in which the Service Level Failure occurred will be reduced by the Service Level Credits calculated in accordance with clause 3.2.

3.1.2 In no event will the total, aggregate amount of Service Level Credits payable by

Service Provider for a calendar month exceed 15% (fifteen percent) of the total of all amounts invoiced to SARS by Service Provider for such month ("**At Risk Amount**"), provided however that Pass Through Expenses invoiced in any particular month will not be taken into account in calculating such At Risk Amount.

3.1.3 If Service Provider is able to show to SARS's reasonable satisfaction that:

- (a) a single triggering event directly caused 2 (two) or more Service Level Failures in any month; and
- (b) but for such event, none of such Service Level Failures would have occurred,

then SARS will be entitled to receive only a single Service Level Credit (selected by SARS) and Service Level Credits will not apply to such other Service Level Failures.

### 3.2 Calculation of Service Level Credits

3.2.1 Each of the Service Levels set out in this **Schedule C (Service Levels)** and its Appendices constitutes a single Service Level, even if it has multiple metrics. Service Provider must satisfy each metric of those Service Levels with multiple metrics in order to satisfy the Service Level as a whole. If Service Provider fails any single metric, Service Provider will be deemed to have failed the entire Service Level.

3.2.2 Escalating Service Levels

- (a) Service Level Credits for each of the following Service Levels are determined on an escalating basis by reference to number of Business Days that an event exceeds its Service Level Target:
  - (i) PLATINUM SITE CUMULATIVE UNAVAILABILITY
  - (ii) PLATINUM SITE CUMULATIVE UNAVAILABILITY
  - (III) General

3.2.3 The "**Platinum Site Service Level**" measures the cumulative amount of time during which the data carrier network connectivity to the Platinum Site Unavailable during its applicable Service Coverage Hours during calendar month under consideration.

3.2.4 For purposes of this Service Level, "**Unavailable**" and "**Unavailability**" mean that the Data Network connectivity to the Platinum Site is not operating (i) in accordance with all of its specifications and/or specified levels of performance, and (ii) properly in any other respect. For example: not all of the features and functionality required of the connectivity are fully available; connectivity is not operating at the levels or capacities designed, configured, authorised or enabled; and/or below the agreed specifications or levels of performance.

### 3.3 Periods of Unavailability

Over and above the general definition of Unavailable and Unavailability in 1.1.2 above, the following are periods of Unavailability for a Platinum Site:

- 3.3.1 The period of time from the time no response is received within 500 (five hundred) milliseconds to a test packet sent to the Platinum Site from SARS's central data centre located in Brooklyn, Pretoria until the first time a response is received within 500 (five hundred) milliseconds to a subsequent test packet sent across the circuit will be deemed to be a period of unavailability for the circuit to the extent it falls within the Service Coverage Hours for the Platinum Site; and
- 3.3.2 Any 60 (sixty) minute period during which the error rate to the Platinum Site was measured to be greater than 2% (two per cent).

#### 3.4 Cumulative Unavailability

The Cumulative Unavailability of a Platinum Site will be the aggregate of the Platinum Sites periods of Unavailability in the measurement calendar month subject to:

- 3.4.1 periods of Unavailability that overlap with other periods of Unavailability are only counted once; and
- 3.4.2 Periods of unavailability that been scheduled for a Platinum Sites that either is approved in advance by SARS or is otherwise permitted under the applicable SARS PPS&G will be excluded from the periods of Unavailability.

#### 3.5 Service Level Measure and Service Level Credit

The Platinum Site Cumulative Unavailability Service Level will be measured using Service Provider's network monitoring system.

Measure	Service Level Target
Platinum Site Cumulative Unavailability Service Level	= (Zero) hours per calendar month during the Service Coverage Period for every Platinum Site.

Service Level Credit parameters	
Service Level Credit	75% (seventy-five percent) of the monthly fee for connectivity to the Platinum Site for which a Platinum Site Cumulative Unavailability Service Level exceeds the Service Level Target;
Service Level Credit Increment	50% (fifty percent) of the monthly fee for connectivity to the Platinum Site for every increment of 4 hours that the Platinum Site Cumulative



	Unavailability exceeds the Service Level Target
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### 3.6 Example

If a Platinum Site is Unavailable during a calendar month for two periods of 5 hours and 4 hours respectively during the Platinum Site's Service Coverage Period then the Platinum Site's Cumulative Unavailability will be equal to 9 hours (=5+4hours). The Service Level Credit will be calculated as being:

175% of the monthly fee for data connectivity to the Platinum Site. (75% for missing the Service Level Target of 0 hours; a further 50% for missing the Service Level Target by 4 hours; and a further 50% for missing the Service Level Target by a further 4 hours.

- (iv) INDIVIDUAL CIRCUIT CUMULATIVE  
UNAVAILABILITY SERVICE LEVEL
- (v) CORE NETWORK OUTAGE SERVICE LEVEL
- (vi) GENERAL OBLIGATIONS SERVICE LEVEL
- (vii) MONITORING AND REPORTING PORTAL  
UNAVAILABILITY
- (viii) OUTBOUND VOICE CARRIER OUTAGE SERVICE LEVEL
- (ix) MONITORING AND REPORTING PORTAL  
UNAVAILABILITY

**[Note to Bidder: Service Levels (i) to (vii) are applicable to the Towers as they are set out in the Appendices relevant to a particular Tower]**

- (b) Each measured event has a maximum allowable elapsed time within which it must be completed ("**Service Level Target**"). If the event is not completed within the Service Level Target then:
  - (i) a Service Level Credit to the value specified, either a percentage of a specified charge will be payable to SARS or a specified fixed amount will be payable to SARS; and
  - (ii) for each further period by which the completion of the event exceeds the Service Level Target the Service Level Credit payable to SARS will increase by the value specified (the "**Service Level Credit Increment**"), either a percentage of a specified charge or a specified fixed amount.

3.6.1 All Service Level Credits will be set off against the first monthly invoice following the month in which the Service Level Failure(s) occurred. Service Level Credits arising in respect of the last month of the Term will be withheld out of the final payment due.

### 3.7 Excused Performance

3.7.1 Where Service Provider can establish to the reasonable satisfaction of SARS that:

- (a) the cause of its failure or the extent to which it failed to achieve a Service Level was a factor or factors outside of the reasonable control of Service Provider;
- (b) Service Provider would have achieved such Service Level or would not have failed the Service Level to the same extent that it did but for such factor(s);

- (c) Service Provider used Commercially Reasonable Efforts to perform and achieve that Service Level notwithstanding the presence and impact of such factor(s); and
- (d) Service Provider is without fault in causing such factor(s),

the Service Level Credit will be reduced by the extent to which such factor(s) satisfying all of the conditions 3.7.1 (a), (b), (c) and (d) have affected the Service Level Credit.

## 4 MISCELLANEOUS

### 4.1 General Sections

Descriptions of each of the Service Levels in the 'General' Sections in the Appendices to this **Schedule C (Service Levels)** are intended to summarise each Service Level and will be subject to the full description of the Service Level set out in the remainder of the relevant clause.

## APPENDIX C-D: DATA CARRIER SERVICE LEVELS

### SERVICE LEVELS, CRITICAL DELIVERABLES AND CREDITS FOR DATA CARRIER SERVICES

#### 1 PLATINUM SITE CUMULATIVE UNAVAILABILITY

##### 1.1 General

- 1.1.1 The “**Platinum Site Service Level**” measures the cumulative amount of time during which the data carrier network connectivity to the Platinum Site Unavailable during its applicable Service Coverage Hours during calendar month under consideration.
- 1.1.2 For purposes of this Service Level, “**Unavailable**” and “**Unavailability**” mean that the Data Network connectivity to the Platinum Site is not operating (i) in accordance with all of its specifications and/or specified levels of performance, and (ii) properly in any other respect. For example: not all of the features and functionality required of the connectivity are fully available; connectivity is not operating at the levels or capacities designed, configured, authorised or enabled; and/or below the agreed specifications or levels of performance.

##### 1.2 Periods of Unavailability

Over and above the general definition of Unavailable and Unavailability in 1.1.2 above, the following are periods of Unavailability for a Platinum Site:

- 1.2.1 The period of time from the time no response is received within 500 (five hundred) milliseconds to a test packet sent to the Platinum Site from SARS’s central data centre located in Brooklyn, Pretoria until the first time a response is received within 500 (five hundred) milliseconds to a subsequent test packet sent across the circuit will be deemed to be a period of unavailability for the circuit to the extent it falls within the Service Coverage Hours for the Platinum Site; and
- 1.2.2 Any 60 (sixty) minute period during which the error rate to the Platinum Site was measured to be greater than 2% (two per cent).

##### 1.3 Cumulative Unavailability

The Cumulative Unavailability of a Platinum Site will be the aggregate of the Platinum Sites periods of Unavailability in the measurement calendar month subject to:

- 1.3.1 periods of Unavailability that overlap with other periods of Unavailability are only counted once; and
- 1.3.2 Periods of unavailability that been scheduled for a Platinum Sites that either is approved in advance by SARS or is otherwise permitted under the applicable

SARS PPS&G will be excluded from the periods of Unavailability.

#### 1.4 Service Level Measure and Service Level Credit

The Platinum Site Cumulative Unavailability Service Level will be measured using Service Provider's network monitoring system.

Measure	Service Level Target
Platinum Site Cumulative Unavailability Service Level	= (Zero) hours per calendar month during the Service Coverage Period for every Platinum Site.

Service Level Credit parameters	
Service Level Credit	75% (seventy-five percent) of the monthly fee for connectivity to the Platinum Site for which a Platinum Site Cumulative Unavailability Service Level exceeds the Service Level Target;
Service Level Credit Increment	50% (fifty percent) of the monthly fee for connectivity to the Platinum Site for every increment of 4 hours that the Platinum Site Cumulative Unavailability exceeds the Service Level Target

#### 1.5 Example

If a Platinum Site is Unavailable during a calendar month for two periods of 5 hours and 4 hours respectively during the Platinum Site's Service Coverage Period then the Platinum Site's Cumulative Unavailability will be equal to 9 hours (=5+4hours). The Service Level Credit will be calculated as being:

175% of the monthly fee for data connectivity to the Platinum Site. (75% for missing the Service Level Target of 0 hours; a further 50% for missing the Service Level Target by 4 hours; and a further 50% for missing the Service Level Target by a further 4 hours.

## 2 INDIVIDUAL CIRCUIT CUMULATIVE UNAVAILABILITY SERVICE LEVEL

### 2.1 General

- 2.1.1 The “**Individual Circuit Cumulative Unavailability Service Level**” measures on an individual circuit basis the cumulative amount of time that each individual circuit of which the Data Network is comprised is Unavailable during its applicable Service Coverage Hours of the relevant calendar month.
- 2.1.2 For purposes of this Service Level, “**Unavailable**” and “**Unavailability**” mean that the Data Network circuit is not operating (i) in accordance with all of its specifications at specified levels of performance, and (ii) properly in all other respects such that all of the features and functionality enabled on the circuit are fully available at levels or capacities as designed, configured, authorised or enabled, and at or above their specifications levels of performance.
- 2.1.3 For clarity, the circuits that are provided specifically for the connectivity to a Platinum Site are excluded from the measurement of this Service Level.

### 2.2 Periods of Unavailability

The following are periods of Unavailability for a circuit:

- 2.2.1 The period of time from the time no response is received within 500 (five hundred) milliseconds to a test packet sent to the terminating equipment on the most distant of the circuit from SARS’s central data centre located in Brooklyn, Pretoria until the first time a response is received within 500 (five hundred) milliseconds to a subsequent test packet sent across the circuit will be deemed to be a period of unavailability for the circuit to the extent it falls within the Service Coverage Hours for the circuit; and
- 2.2.2 Any 60 (sixty) minute period during which the error rate on the circuit was measured to be greater than 2% (two per cent).

### 2.3 Cumulative Unavailability

An Individual Circuit Cumulative Unavailability for a circuit will be the aggregate of the circuit’s periods of unavailability in the measurement calendar month subject to:

- 2.3.1 periods of unavailability that overlap with other periods of unavailability are only counted once; and
- 2.3.2 Downtime scheduled for a circuit that either is approved in advance by SARS or is otherwise permitted under the applicable SARS PPS&G will be excluded from the periods of unavailability.
- 2.3.3 vice Level Measure and Service Level Credit

The Individual Circuit Cumulative Unavailability Service Level will be measured using Service Provider’s network monitoring system.

Measure	Service Level Target
Individual Circuit Cumulative Unavailability	≤ the number of hours specified by the Service Level class of the circuit per calendar month during the Service Coverage Period for each circuit. (The number of hours for a circuit classified as Gold, Silver and Bronze are 2, 4 and 8 hours respectively)
Service Level Credit parameters	
Service Level Credit	75% (seventy-five percent) of the monthly fee for each circuit for which an Individual Circuit Cumulative Unavailability exceeds Service Level Target;
Service Level Credit Increment	50% (fifty per cent) of the monthly fee for each circuit for every four hours by which an Individual Circuit Cumulative Unavailability for the month exceeds the Service Level Target during the Service Coverage Period for such circuit;

#### 2.4 Example

If a Bronze circuit (Service Level Target of 8 hours) is unavailable during a calendar month for 3 periods of 4 hours, 4 hours and 5 hours respectively during the circuit's Service Coverage Period then the Individual Circuit Cumulative Unavailability will be equal to 13 hours (=4+4+5 hours). The Service Level Credit will be calculated as being:

125% of the monthly fee for the circuit. (75% for missing the Service Level Target of 8 hours and a further 50% for missing the Service Level Target by a further 4 hours)

### 3 SERVICE LEVEL: CORE NETWORK OUTAGE

#### 3.1 General

The “**Core Network Outage Service Level**” measures the impact of an Incident affecting the MPLS Service Provider network which causes the unavailability of one or more SARS sites on the SARS network at any time.

Measure	Service Level Target
Duration of a failure in the core (MPLS) network resulting in the unavailability of network connectivity of one or more of SARS's sites.	≤ 2 (two) hours

Service Level Credit parameters	
Service Level Credit	50% (fifty per cent) of the sum of the monthly MPLS bandwidth charges for the sites affected
Service Level Credit Increment	50% (fifty per cent) of the sum of the monthly MPLS bandwidth charges for the sites affected for every 2 (two) hours of unavailability in excess of the Service Level Target.

#### 3.2 Example

If an Incident in the Service Provider MPLS network results in the unavailability of 3 (three) SARS sites for a period of 5 (five) hours then the **Core Network Outage Service Level** Service Level Credit will be calculated as follows

50% of the monthly MPLS bandwidth charge for the sites for the Incident in the core MPLS network resulting in the sites being unavailable for longer than 2 (two) hours; plus

a further 50% (fifty percent) of the monthly MPLS bandwidth charge for the sites for the Incident in the core MPLS network resulting in the site being unavailable for a further 2 (two) hours in excess of the Service Level Target.

The Service Level Credit will thus be equal to 100% (one hundred percent) of the monthly fee for the total of the monthly bandwidth charges for the 3 (three) sites.



## 4 SERVICE LEVEL: GENERAL OBLIGATIONS

### 4.1 General

The “**General Obligation Service Level**” measures the Service Provider compliance with all Service Provider obligations in this Agreement. The Service Provider is expected to adhere to all obligations and deliverables contracted for in the Agreement and upon the non-performance of any obligation or non-delivery of a specified deliverable within the timeframes specified in the Agreement a Service Level Credit will be payable by the Service Provider. The General Obligations Service Level will be missed if:

- 4.1.1 SARS has given notice to the Service Provider, by delivering a written notice to the Service Provider Account Executive of the fact that an obligation in the Agreement has not been performed; and
- 4.1.2 the Service Provider fails to perform the obligation within 14 days of SARS giving such notice to the Service Provider.

The provisions of this General Obligations Service Level and / or payment by the Service Provider of Service Level Credits with regard to the General Obligations Service Level does not in any way limit any right or recourse SARS may have to enforce the performance of any obligation in this Agreement nor does it limit SARS’s right to enforce remedies for the non-performance of any obligation in this Agreement.

The payment of a Service Level Credit by the Service Provider in no way releases the Service Provider from the future timeous performance of any obligation in this Agreement.

Service Level Credit parameters	
For each obligation contained in the Agreement that is not performed within 14 (fourteen) days of the notice by SARS to the Service Provider Account Executive of the Service Provider’s failure to perform any obligation in the Agreement timeously.	R 3,000 (Three Thousand Rand)
Service Level Credit Increment	R 3,000 (Three Thousand Rand) for every 14 (fourteen) days for which the obligation contained in Agreement is not performed after notice by SARS has been given to the Service Provider Account Executive of the Service Provider’s failure to perform an obligation.

#### 4.2 Example

The Service Provider fails to deliver the annual cost and efficiency review of the Service (as detailed in paragraph 10.1 of Schedule B) to SARS within 1 (one) month of the anniversary of the Effective Date. SARS notifies the Service Provider and the Service Provider delivers the review 30 (thirty) days after being notified. Then the General Obligations Service Level Service Level Credit will be calculated as R6,000. (R3,000 for not delivering the report within 14 (fourteen) days of the notification and another R3,000 for not delivering the report within a further 14 (fourteen) days after that)

## 5 SERVICE LEVEL: MONITORING AND REPORTING PORTAL UNAVAILABILITY

### 5.1 General

The “**Monitoring and Reporting Portal Unavailability Service Level**” measures availability of the Monitoring and Reporting Portal during a reporting period. The Monitoring and Reporting portal will be deemed to be unavailable when it is not functioning in every respect, including but not limited to: the unavailability of a report; inaccuracy of data in reports drawn; and data not being updated within the time frames specified. Note that the Service Coverage Period for the Monitoring and Reporting Portal is 24x7x365.

Measure	Service Level Target
The cumulative length of time the Monitoring and Reporting Portal is unavailable during the reporting period, excluding scheduled downtime.	≤ 8 (eight) hours.

Service Level Credit parameters	
Service Level Credit	R25,000 (Twenty-five Thousand Rand).
Service Level Credit Increment	R25,000 (Twenty-five Thousand Rand). For every 8 hours the Monitoring and Reporting Portal is unavailable in excess of the Service Level Target.

## APPENDIX C-V: VOICE CARRIER SERVICE LEVELS

### SERVICE LEVELS, CRITICAL DELIVERABLES AND CREDITS FOR VOICE CARRIER SERVICES

#### 1 SERVICE LEVEL: GENERAL OBLIGATIONS

##### 1.1 General

The “**General Obligations Service Level**” measures the Service Provider compliance to all Service Provider obligations in this Agreement. The Service Provider is expected to adhere to all obligations and deliverables contracted for in the Agreement and upon the non-performance of any obligation or non-delivery of a specified deliverable within the timeframes specified in the Agreement the General Obligations Service Level will be missed if:

- 1.1.1 SARS has given notice to the Service Provider, by delivering a written notice to the Service Provider Account Executive of the fact that an obligation in the Agreement has not been performed; and
- 1.1.2 the Service Provider fails to perform the obligation within 14 days of SARS giving such notice to the Service Provider.

The provisions of this General Obligations Service Level and / or payment by the Service Provider of Service Level Credits with regard to the General Obligations Service Level does not in any way limit any right or recourse SARS may have to enforce the performance of any obligation in this Agreement nor limit SARS's right to seek remedies for the non-performance of any obligation in this Agreement.

The payment of a Service Level Credit by the Service Provider in no way releases the Service Provider from the future timeous performance of any obligation in this Agreement.

Service Level Credit parameters	
For each obligation contained in the Agreement that is not performed within 14 days of the notice by SARS to the Service Provider Account Executive of the Service Provider's failure to perform any obligation in the Agreement timeously.	R 3,000 (Three Thousand Rand)
Service Level Credit Increment	R 3,000 (Three Thousand Rand) for every 14 (fourteen) days for which

	the obligation contained in Agreement is not performed after notice by SARS has been given to the Service Provider Account Executive of the Service Provider's failure to perform an obligation.
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## 1.2 Example

The Service Provider fails to deliver the annual cost and efficiency review of the Service (as detailed in paragraph 10.1 of Schedule B) to SARS within 1 month of the anniversary of the Effective Date. SARS notifies the Service Provider and the Service Provider delivers the review 30 days after being notified. Then General Obligations Service Level Service Level Credit will be calculated as R6,000. (R3,000 for not delivering the report within 14 days of the notification and another R3,000 for not delivering the report within a further 14 days after that)

## 2 SERVICE LEVEL: OUTBOUND VOICE CARRIER OUTAGE SERVICE LEVEL

### 2.1 General

The “**Outbound Voice Carrier Outage Service Level**” measures the length of time an Outbound Voice Carrier Service is unavailable due to an Incident at a SARS Site. The outbound voice carrier service is deemed to be unavailable if all or some outgoing voice traffic is not able to be carried by the Service Provider.

Measure	Service Level Target
Cumulative duration of unavailability of an outbound voice carrier service from a SARS Site during the reporting period.	≤ 3 (three) business days

Service Level Credit parameters	
Service Level Credit	R 5,000 (Five Thousand Rand).
Service Level Credit Increment	R 5,000 (Five Thousand Rand). For every Business Day for which the outgoing voice carrier service is unavailable in excess of the Service Level Target.

### 2.2 Example

Incidents affect the outbound voice carrier network in that calls destined for mobile networks cannot be carried by the Service Provider from a SARS site for a period of 5.5 (five and a half) Business Days hours during a calendar month. The Outbound Voice Carrier Outage Service Level Credit will be calculated as follows:

R5,000 for the period of unavailability being in excess of 3 (three) Business Days; plus

R10,000 for the period of unavailability being in excess of the Service Level Target for a further 2 (two) Business Days.

The total Service Level Credit payable will therefore equal R15,000 (Fifteen Thousand Rand).

### 3 SERVICE LEVEL: MONITORING AND REPORTING PORTAL UNAVAILABILITY

#### 3.1 General

The “**Monitoring and Reporting Portal Unavailability Service Level**” measures availability of the Monitoring and Reporting Portal during a reporting period. The Monitoring and Reporting portal will be deemed to be unavailable when it is not functioning in every respect, including but not limited to: the unavailability of a report; inaccuracy of data in reports drawn; and data not being updated within the time frames specified. Note that the Service Coverage Period for the Monitoring and Reporting Portal is 24x7x365.

Measure	Service Level Target
The cumulative length of time the Monitoring and Reporting Portal is unavailable during the reporting period, excluding scheduled downtime.	≤ 8 (eight) hours.

Service Level Credit parameters	
Service Level Credit	R 25,000 (Twenty-five Thousand Rand).
Service Level Credit Increment	R 25,000 (Twenty-five Thousand Rand). For every 8 (eight) hours the Monitoring and Reporting Portal is unavailable in excess of the Service Level Target.

## APPENDIX C-I: INTERNET AND HOSTING SERVICE LEVELS

### SERVICE LEVELS, CRITICAL DELIVERABLES AND CREDITS FOR INTERNET AND HOSTING SERVICES

#### 1 INDIVIDUAL CIRCUIT CUMULATIVE UNAVAILABILITY SERVICE LEVEL

##### 1.1 General

- 1.1.1 The “**Individual Circuit Cumulative Unavailability Service Level**” measures on an individual circuit basis the cumulative amount of time that each individual circuit of which the Data Network is comprised is Unavailable during its applicable Service Coverage Hours of the relevant calendar month.
- 1.1.2 For purposes of this Service Level, “**Unavailable**” and “**Unavailability**” means that the Data Network circuit is not operating (i) in accordance with all of its specifications at specified levels of performance, and (ii) properly in all other respects such that all of the features and functionality enabled on the circuit are fully available at levels or capacities as designed, configured, authorised or enabled, and at or above their specifications levels of performance.

##### 1.2 Periods of Unavailability

The following are periods of unavailability for a circuit:

- 1.2.1 The period of time from the time no response is received within 500 milliseconds to a test packet sent across the circuit until the first time a response is received within 500 milliseconds to a subsequent test packet sent across the circuit will be deemed to be a period of unavailability for the circuit to the extent it falls within the Service Coverage Hours for that circuit; and
- 1.2.2 Any 60 (sixty) minute period during which the error rate on the circuit was measured to be greater than 2% (two per cent).

##### 1.3 Cumulative Unavailability

An Individual Circuit Cumulative Unavailability for a circuit will be the aggregate of the circuit's periods of unavailability in the measurement calendar month subject to:

- 1.3.1 periods of unavailability that overlap with other periods of unavailability are only counted once; and
- 1.3.2 Downtime scheduled for a circuit that either is approved in advance by SARS or is otherwise permitted under the applicable SARS PPS&G will be excluded from the periods of unavailability.



#### 1.4 Service Level Measure and Service Level Credit

The Individual Circuit Cumulative Unavailability Service Level will be measured using Service Provider's network monitoring system.

Measure	Service Level Target
Individual Circuit Cumulative Unavailability	≤ 8 (eight) hours per calendar month during the Service Coverage Period for each circuit.

Service Level Credit parameters	
Service Level Credit	<p>75% (seventy-five per cent) of the monthly fee for each circuit for which an Individual Circuit Cumulative Unavailability exceeds Service Level Target;</p> <p>plus</p> <p>75% (seventy-five per cent) of the monthly fee of the MPLS bandwidth charges for each circuit for which the Individual Circuit Cumulative Unavailability exceeds its Service Level Target</p>
Service Level Credit Increment	<p>50% (fifty per cent) of the monthly fee for each circuit for every four hours by which an Individual Circuit Cumulative Unavailability for the month exceeds the Service Level Target during the Service Coverage Period for such circuit.</p> <p>Plus</p> <p>50% (fifty per cent) of the monthly fee of the MPLS bandwidth charges for each circuit for every four hours by which an Individual Circuit Cumulative Unavailability exceeds Service Level Target during the Service Coverage Period for such circuit.</p>

### 1.5 Example

If a circuit is unavailable during a calendar month for 3 (three) periods of 4 (four) hours, 4 (four) hours and 5 (five) hours respectively during the circuit's Service Coverage Period then the Individual Circuit Cumulative Unavailability will be equal to 13 (thirteen) hours (=4+4+5 hours). The Service Level Credit will be calculated as being:

125% of the monthly fee for the circuit. (75% for missing the Service Level Target of 8 hours and a further 50% for missing the Service Level Target by a further 4 (four) hours;

plus

125% of the monthly MPLS bandwidth charges for the circuit. (75% for missing the Service Level Target of 8 (eight) hours and a further 50% for missing the Service Level Target by a further 4 (four) hours).

## 2 SERVICE LEVEL: GENERAL OBLIGATIONS

### 2.1 General

The "**General Obligation Service Level**" measures the Service Provider compliance to all Service Provider obligations in this Agreement. The Service Provider is expected to adhere to all obligations and deliverables contracted for in the Agreement and upon the non-performance of any obligation or non-delivery of a specified deliverable within the timeframes specified in the Agreement the General Obligations Service Level will be missed if:

- 2.1.1 SARS has given notice to the Service Provider, by delivering a written notice to the Service Provider Account Executive of the fact that an obligation in the Agreement has not been performed; and
- 2.1.2 the Service Provider fails to perform the obligation within 14 days of SARS giving such notice to the Service Provider.

The provisions of this General Obligations Service Level and / or payment by the Service Provider of Service Level Credits with regard to the General Obligations Service Level does not in any way limit any right or recourse SARS may have to enforce the performance of any obligation in this Agreement nor limit SARS's right to seek remedies for the non-performance of any obligation in this Agreement.

The payment of a Service Level Credit by the Service Provider in no way releases the Service Provider from the future timeous performance of any obligation in this Agreement.

<b>Service Level Credit parameters</b>
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For each obligation contained in the Agreement that is not performed within 14 days of the notice by SARS to the Service Provider Account Executive of the Service Provider's failure to perform any obligation in the Agreement timeously.	R 3,000 (Three Thousand Rand)
Service Level Credit Increment	R 3,000 (Three Thousand Rand) for every 14 (fourteen) days for which the obligation contained in Agreement is not performed after notice by SARS has been given to the Service Provider Account Executive of the Service Provider's failure to perform an obligation.

## 2.2 Example

The Service Provider fails to deliver the annual cost and efficiency review of the Service (as detailed in paragraph 10.1 of Schedule B) to SARS within 1 month of the anniversary of the Effective Date. SARS notifies the Service Provider and the Service Provider delivers the review 30 days after being notified. Then General Obligations Service Level Service Level Credit will be calculated as R6,000. (R3,000 for not delivering the report within 14 days of the notification and another R3,000 for not delivering the report within a further 14 days after that)

## 3 SERVICE LEVEL: MONITORING AND REPORTING PORTAL UNAVAILABILITY

### 3.1 General

The **Monitoring and Reporting Portal Unavailability Service Level** measures availability of the Monitoring and Reporting Portal during a reporting period. The Monitoring and Reporting portal will be deemed to be unavailable when it is not functioning in every respect, including but not limited to: the unavailability of a report; inaccuracy of data in reports drawn; and data not being updated within the time frames specified. Note that the Service Coverage Period for the Monitoring and Reporting Portal is 24x7x365

Measure	Service Level Target
The cumulative length of time the Monitoring and Reporting Portal is unavailable during the reporting period, excluding scheduled downtime.	≤ 8 (eight) hours.
<b>Service Level Credit parameters</b>	

Service Level Credit	R25,000 (Twenty-five Thousand Rand).
Service Level Credit Increment	R25,000 (Twenty-five Thousand Rand). For every 8 (eight) hours the Monitoring and Reporting Portal is unavailable in excess of the Service Level Target.

#### 4 SERVICE LEVEL: TIME TO RESPOND HOSTED ENVIRONMENT NETWORK SUPPORT SERVICES

##### 4.1 General

The Hosted Environment Network Support Services Service Level measures, during all hours, the time taken by the Service Provider to respond to an Incident reported by SARS to Service Provider by telephone. The Service Provider will be deemed to have responded to the Incident when a member of the Service Provider staff qualified to attend to and Resolve the Incident has made contact with the relevant SARS technical staff or the SARS member of staff reporting the Incident.

A response will be deemed to have been made if the Service Provider has made telephonic contact; or has left a voice mail message with SARS member of staff reporting the Incident containing the Service Provider's staff member's telephone contact details and has confirmed the details by email.

##### 4.2 Calculation and Definitions

The Hosted Environment Network Support Services Service Level is a per-event Service Level. For every event where the time taken to respond to an Incident (as defined above in 4.1) and exceeds the Service Level Target in the table immediately below, the applicable Service Level Credit is payable to SARS.

Measure	Service Level Target
Time to Respond (24x7x365).	30 (thirty) minutes from time SARS logged call with Service Provider.
Time to Onsite Presence at SARS Hosted Environment.	2 (two) hours from the time SARS logged call with Service Provider.
<b>Service Level Credit parameters</b>	

Service Level Credit	R5,000 (Five Thousand Rand).
Service Level Credit Increment	R2,000 (Two Thousand Rand). For every 1 (one) hour the Time to Respond or the Time to Onsite Presence at SARS Hosted Environment is in excess of the Service Level Target.

## **APPENDIX C-S: SMS CARRIER SERVICE LEVELS**

### **SERVICE LEVELS, CRITICAL DELIVERABLES AND CREDITS FOR SMS CARRIER SERVICES**

**[Note to Bidder: the Service Levels will be defined in accordance with the Bidder's Proposal]**

## SCHEDULE D: CHARGES, INVOICING AND PAYMENTS

### Appendices and Attachments

<b>Appendix D-D</b>	Charges applicable to Data Carrier Services
<b>Attachment D-D-1</b>	Transition Project Charges [this will be populated from Template TD.1]
<b>Attachment D-D-2</b>	Platinum Site Charges [this will be populated from Template TD.2]
<b>Attachment D-D-3</b>	Non-platinum Site Circuit Charges [this will be populated from Template TD.3]
<b>Attachment D-D-4</b>	MTU Satellite Charges [this will be populated from Template TD.4]
<b>Attachment D-D-5</b>	Point to point Fibre Circuit Charges [this will be populated from Template TD.5]
<b>Attachment D-D-6</b>	Satellite Backhaul Charges [this will be populated from Template TD.6]
<b>Attachment D-D-7</b>	New installation rate card [this will be populated from Template TD.7]
<b>Attachment D-D-8</b>	Personnel rates Charges [this will be populated from Template TD.8]
<b>Attachment D-D-9</b>	Annual Price Deflation [this will be populated from Template TD.9]
<b>Appendix D-V</b>	Charges applicable to Voice Carrier Services <b>[Note to Bidder. Only Attachment D-V-5 will be applicable to the contract with a Preferred Outgoing Voice Services Provider]</b>
<b>Attachment D-V-1</b>	Transition Project Charges [this will be populated from Template TV.1]
<b>Attachment D-V-2</b>	PRI / BRI line Charges [this will be populated from Template TV.2]
<b>Attachment D-V-3</b>	Analogue line Charges [this will be populated from Template TV.2]
<b>Attachment D-V-4</b>	SIP Trunk Charges [this will be populated from Template TV.3]
<b>Attachment D-V-5</b>	Outgoing Call Charges [this will be populated from Template TV.4]
<b>Attachment D-V-6</b>	Personnel rates - Voice [this will be populated from Template TV.5]
<b>Attachment D-V-7</b>	Annual Price Deflation - Voice [this will be populated from Template TV.6]
<b>Appendix D-I</b>	Charges applicable to Internet and Hosting Services
<b>Attachment D-I-1</b>	Transition Project Charges [this will be populated from Template TI.1]
<b>Attachment D-I-2</b>	Internet Access Charges [this will be populated from Template TI.2]
<b>Attachment D-I-3</b>	Hosting Services Charges [this will be populated from Template TI.3]
<b>Attachment D-I-4</b>	Personnel Rates –Internet Services [this will be populated from Template TI.4]
<b>Attachment D-I-5</b>	Annual Price Deflation – Internet Services [this will be populated from Template TI.5]
<b>Appendix D-S</b>	Charges applicable to Internet and Hosting Services
<b>Attachment D-S-1</b>	Transition Project Charges [this will be populated from Template TS.1]
<b>Attachment D-S-2</b>	SMS Carrier Charges [this will be populated from Template TS.2]
<b>Attachment D-S-3</b>	SMS Gateway Charges [this will be populated from Template TS.3]
<b>Attachment D-S-4</b>	Personnel Rates - SMS [this will be populated from Template TS.4]
<b>Attachment D-S-5</b>	Annual Price Deflation - SMS [this will be populated from Template TS.5]

**[Note to Bidder: all references to the Templates in the above table are references to templates in SARS RFP 14-2016 5-4-x Tower x Pricing Response Template (where x is the**

**Tower reference) that the Bidder will return as part of it Proposal and the Appendices and Attachments will be included during contract finalisation]**



## SCHEDULE D

## CHARGES, INVOICING AND PAYMENTS

## 1 GENERAL

## 1.1 General

- 1.1.1 This **Schedule D** describes how the Charges payable by SARS to Service Provider pursuant to this Agreement are calculated and invoiced.
- 1.1.2 The Charges will commence on the Effective Date.
- 1.1.3 The Charges are set forth in the Appendices to this **Schedule D**.
- 1.1.4 The Charges detailed in this **Schedule D**, its Appendices and Attachments are the only amounts payable by SARS to Service Provider for the Services or otherwise in connection with this Agreement and no other charges, expenses, costs or other amounts incurred by Service Provider will be chargeable to or payable by SARS to Service Provider.
- 1.1.5 Unless specifically provided otherwise in this Agreement, the Charges will include all incidental expenses (e.g. travel and lodging, document reproduction and shipping) that Service Provider incurs in performing the Services. Prices for New Services and Projects (as contemplated in clauses 6 and 7 below) and Pass Through Expenses (as contemplated in clause 9 below) must similarly include all incidental expenses.
- 1.1.6 There will be no changes to the Charges except to the extent:
  - 1.1.6.1 required under clause 1.4 below; **[Note to the Bidder: This reference is to Service Provider's obligation to reduce costs]**
  - 1.1.6.2 permitted under clause 6 below; **[Note to the Bidder: This reference is to New Services]**
  - 1.1.6.3 permitted under clause 7 below; **[Note to the Bidder: This reference is to Projects]**
  - 1.1.6.4 required under clause 2.3 below; **[Note to the Bidder: This reference is to Charge adjustments]**
  - 1.1.6.5 required under clause 11 below; **[Note to the Bidder: This reference is to Extraordinary Events]**
  - 1.1.6.6 required under clause 13 below; **[Note to the Bidder: This reference is to changes which result from SARS's partial termination of the Agreement as contemplated in clauses 25.1 and 25.3 of the Main Agreement.]**

- 1.1.6.7 required under clause 14 below; **[Note to the Bidder: This reference is to Service Level Credits]**
- 1.1.6.8 permitted by SARS under clause 26.5.4.3 of the Main Agreement **[Note to the Bidder: This reference is to changes to law.]; or**
- 1.1.6.9 required under clause 23 of the Main Agreement. **[Note to the Bidder: This reference is to Benchmarking]**
- 1.1.7 Service Provider will not be entitled to unilaterally (i) impose or seek payment of any amounts or charges under the Agreement other than the Charges, (ii) establish any new types of charges under the Agreement and/or (iii) modify any of the Charges (including the Unit Rates) under the Agreement.

## 1.2 Currency

The Charges are stated in South African Rand and will be invoiced and paid in South African Rand. The Charges are not subject to adjustment due to any currency fluctuations.

## 1.3 Taxes

- 1.3.1 All Charges and Unit Rates are VAT inclusive and include all applicable taxes, duties and levies. **[Note to the Bidder: Pricing submitted in the pricing templates must be inclusive of all duties, taxes and all applicable levies, and inclusive of VAT.]**
- 1.3.2 Each Party will be responsible for: any real estate taxes and real estate transfer taxes on real estate it acquires, owns or leases; for any wage taxes levied on wages for employees employed by the relevant Party in connection with the provision or the receipt of the Services and for taxes based on its net or gross income, in particular corporate income tax and trade tax. SARS will not be responsible for any allocation of any of the aforementioned taxes that are levied on the Service Provider.
- 1.3.3 Except for value added taxes, the general tax risk allocation principle as set out in Section 1.3.2 will apply mutatis mutandis with respect to all taxes that are not addressed in Section 1.3.2, in particular, including taxes levied outside South Africa.
- 1.3.4 The Service Provider will be responsible for any taxes levied by a regulator or other government authority that are assessed on goods and services used or consumed by the Service Provider in providing the Services. SARS will not be responsible for any allocation of taxes that are levied on goods and services used or consumed by the Service Provider in providing the Services.

## 1.4 Service Provider's Obligation to Reduce Costs

- 1.4.1 In the event that tariffs charged under this Agreement are changed by government or ICASA regulation, the Service Provider will adjust such prices to SARS appropriately as soon as possible but not later than 30 (thirty) days after such adjustment by government or ICASA regulation.

- 1.4.2 In consultation with SARS, Service Provider will continually investigate methods to reduce the Charges.
- 1.4.3 Without limiting the generality of its obligations under clause 1.4.1, Service Provider will:
  - 1.4.3.1 use Commercially Reasonable Efforts to identify methodologies, processes, solutions and technologies that SARS or the Service Provider may employ to reduce consumption, costs and to claim applicable discounts.
  - 1.4.3.2 model the effects of the methodologies, processes, solutions and technologies at different levels and mixes of consumption; and
  - 1.4.3.3 periodically report (but no less frequently than quarterly) on such efforts and make recommendations to SARS regarding steps SARS, Service Provider or both may take to reduce the Charges.

## 1.5 Cost Review Meetings

- 1.5.1 Within 60 (sixty) days prior to the Adjustment Date defined in clause 2.3 below, and at such other times as SARS may reasonably request, the Parties will meet to:
  - 1.5.1.1 formally review the Charges;
  - 1.5.1.2 formally review the extent to which Service Provider is achieving all efficiencies in its performance of the Services to the extent reasonably possible; and
  - 1.5.1.3 consider whether the Agreement is achieving its objective of providing SARS the Services in accordance with the Performance Standards at the lowest possible prices

each such meeting being referred to as a "**Cost Review Meeting**".
- 1.5.2 At each Cost Review Meeting, Service Provider will be prepared to discuss, and will discuss (i) proposals arising from Service Provider's report under clause 1.4 above; (ii) any specific issues that SARS wishes to discuss; and/or (iii) any other pertinent matter.
- 1.5.3 During Cost Review Meetings, Service Provider, having analysed the Charges in detail in advance of such review, will propose, and the Parties will discuss and consider, changes that can reasonably be expected to result in a reduction of the cost of the Services to SARS. Such changes may relate to, for example: SARS's business processes; the technology used to provide and deliver, or to receive and use, the Services; Service Provider Personnel; Service Provider's processes; and/or the selection and use of Subcontractors and Third Party service providers.
- 1.5.4 Service Provider will schedule Cost Review Meetings by giving SARS at least 45 (forty five) days prior notice. Service Provider will use Commercially Reasonable Efforts to co-ordinate with SARS before scheduling the review. The foregoing notwithstanding, SARS will be entitled to schedule a Cost Review Meeting at any time that SARS deems fit. A Cost Review Meeting will run for such period of time as is reasonably required by SARS. All Cost Review Meetings will take place at a

venue designated by SARS.

- 1.5.5 In order to prepare for and participate in any Cost Review Meeting, Service Provider will make available such resources as are reasonably required: (i) to analyse SARS consumption and the cost of the Services to SARS; (ii) to perform all of the tasks and activities described in this clause 1.5 associated with such Cost Review Meeting; and (iii) otherwise to maximise the likelihood that such Cost Review Meetings will result in a reduction in the Charges and the cost of the Services to SARS. The Parties acknowledge and agree that the application of this provision will not result in any changes to the Agreement, Services or Service Levels unless set forth in a formal amendment to the Agreement pursuant to clause 26.4.3 of the Main Agreement.
- 1.5.6 Without limiting the generality of the foregoing, at least 5 (five) Business Days prior to the commencement of each Cost Review Meeting, Service Provider will provide SARS with a draft description of any proposals Service Provider intends to make during the Cost Review Meeting, including any charges or Charge adjustments proposed by Service Provider in order to implement any such proposals, or resulting from their implementation, as well as projections of any changes to the costs of the Services to SARS resulting from such proposal.
- 1.5.7 If SARS decides (at its sole discretion) to implement any such proposals, Service Provider will promptly implement them or (at SARS request) assist SARS to implement them, as applicable.
- 1.5.8 Service Provider acknowledges and agrees that the process described in this clause 1.5 is critical to enable the Parties to achieve their price/performance objectives during the Term.

## 2 CHARGES

### 2.1 Charges – Specific Charges Requirements

- 2.1.1 Except as expressly provided otherwise in this Agreement, the only amounts payable by SARS for the Services will be the Charges and applicable taxes as and to the extent Service Provider generally charges them to its customers of similar services, provided that such amounts are specified on **Schedule D** (Charges, Invoicing, and Payments).
- 2.1.2 Unless otherwise expressly set forth in this **Schedule D** or its **Appendixes** or its **Attachments**, all installation and one-time charges for Services are waived.
- 2.1.3 Service Provider will not charge SARS to expedite for any Services ordered under the Agreement. There will be no limit on the number of requests to expedite Services.
- 2.1.4 SARS will have the right to reschedule or delay installation due dates for service elements or equipment without incurring any increased or separate charges.
- 2.1.5 Service Provider will not charge SARS for any Service Provider-supplied Third Party service components for which costs are incurred after expiry of SARS's notice of cancellation of a service component to Service Provider.

- 2.1.6 Service Provider represents and warrants that the Unit Rates and any other rates or Charges set forth in Service Provider's Proposal constitute the totality of all of the Charges (all costs to SARS are included in these rates) for all of the Data Carrier Services / Voice Carrier Services / Internet and Hosting Services / SMS Carrier. **[Note to Bidder : the applicable Tower(s) will be retained in the final Agreement]** SARS will not be liable for any amounts that are not set forth in Service Provider's Proposal for any of the Services.

## 2.2 No Minimums

No minimum charges are applicable in relation to this Agreement.

- 2.2.1 If there is an inconsistency between the Agreement and Service Provider's tariffs or other regulatory filings which preclude SARS from receiving all of the rights and benefits provided for by the Agreement, then Service Provider will amend the tariff or otherwise resolve the inconsistency to provide such rights or benefits to SARS. If the aforementioned is not possible, SARS will have the right to terminate upon 60 (sixty) days prior written notice (given at any time within 90 (ninety) days after Service Provider notifies SARS in writing of any such discrepancy) any or all of the affected Services with no liability (other than paying for Services properly provided prior to the effective date of such termination).

## 2.3 Charge adjustments

The Charges, other than regulated tariffs, will be adjusted on a date to be determined by SARS ("**Adjustment Date**") and on each anniversary thereof to take account of changes in Service Provider's labour costs and the costs of consumables, market pricing of the services and future pricing adjustment commitments as set out in **Appendix D-D-10 / Appendix D-V-7 / Appendix D-I-5 / Appendix D-S-5 [Note to Bidder: this will contain a reference to the appropriate Appendices populated with the Annual Price Deflation from the Pricing templates]**, but only to the extent set forth in this clause 2.3. The first Adjustment Date will be on the first anniversary of the Effective Date.

**[Note to Bidder: The adjustment formula for each charge set out in the Bidder's Pricing template will be included in the final contract. If the Bidder has indicated that its pricing for an item is based on a regulated tariff, then the Bidder's price must be amended to in the same proportion as the tariff has been amended and with effect from the date that the new tariff came into effect. The basis for adjustment of non-tariffed charges are set out in Table TD.10; TV.7; TI.5; TS.5 in the pricing templates to be completed as part of the in the Bidder's proposal.]**

**The Charge adjustments related to labour rates will be calculated as below where the annual adjustment percentage is the CPI headline year on year rate for the month preceding the Adjustment Date]**

- 2.3.1 The adjustments for non-tariffed charges will be calculated as follows:

$$\text{Adjusted Price} = [(1+A)*B]$$

Where:

**A =** the annual adjustment percentage at the Adjustment Date.

**B =** the price for the period immediately preceding the Adjustment Date.

2.3.2 Service Provider will calculate the applicable adjustments in accordance with this clause 2.3 and provide these adjustments to SARS within 10 (ten) Business Days of the relevant Adjustment Date.

2.3.3 Adjustments accepted by SARS will be set out in a written notice in the form of **Appendix E-7 (Record of Consensus on New Charges)** stating the new Charges and will become binding on the Parties on signature of both Parties of the Record of Consensus on New Charges notice.

### 3 INVOICING AND PAYMENT

#### 3.1 Invoicing

3.1.1 Service Provider will invoice SARS for the Charges (other than for Projects) on a monthly basis in arrears on or before the 5th (fifth) Business Day of the month following the month in which the Services were performed. Projects will be invoiced in accordance with the agreed methodology for the Project, which may be (i) monthly; (ii) upon SARS's acceptance of delivery milestones; or (iii) upon completion of the Project and acceptance thereof by SARS.

3.1.2 Each invoice will contain or have attached such information, and be in such form and on such media as SARS may reasonably request.

3.1.3 Subject to clause 3.1.4 below, invoiced Charges will be reduced: (i) by 1 (one) percent if SARS does not receive the invoice by the 20th (twentieth) day of the month in which Service Provider is obligated to deliver such invoice; and (ii) by an additional 1 (one) percent for each month thereafter.

3.1.4 Notwithstanding this Agreement, SARS will not be obliged to pay any amounts that are invoiced more than 120 (one hundred and twenty) days after the Services were rendered.

3.1.5 Each invoice will consist of or have attached:

3.1.5.1 a statement of the total amount due. In addition, at SARS's request, Service Provider will provide SARS the algorithms for the calculation of the Charges;

3.1.5.2 the Service Provider's estimate of the Charges as approved by SARS for any work performed by Service Provider Personnel on a Time and Materials Basis prior to commencement of such work;

3.1.5.3 if so requested by SARS, copies of daily time cards signed by an authorised SARS representative and the reference number generated by the SARS service desk for any work performed by Service Provider Personnel on a Time and Materials Basis;

3.1.5.4 a valid SARS purchase order number; and

- 3.1.5.5 any additional details and information reasonably specified by SARS, in the format reasonably specified by SARS from time to time.
- 3.1.6 Service Provider will send the invoices to the department designated by SARS from time to time and provide copies of the invoices to other SARS contacts as may be designated by SARS from time to time.
- 3.1.7 Service Provider will maintain complete and accurate records of, and supporting documentation for, the amounts invoiced to and payments made by SARS in accordance with International Financial Reporting Standards (IFRS).
- 3.1.8 Within 10 (ten) days after SARS's request, Service Provider will provide SARS with any other documentation or information reasonably required in order to verify (i) the accuracy of the Charges on an invoice; and (ii) its compliance with the requirements of this Agreement.
- 3.1.9 Service Provider will verify that each invoice is complete and accurate and that it conforms to the requirements of this Agreement (including by carrying out detailed checks of each invoice) before issuing the invoice to SARS.
- 3.1.10 Service Provider will provide appropriately skilled Service Provider Personnel as SARS's point of contact for answering invoicing queries. Such individuals will respond promptly to any billing queries. Prior to the issuance of each invoice and subject to compliance with the provisions of this Schedule D and the Agreement, such Service Provider Personnel will meet with the applicable SARS Personnel to review a draft of the invoice.
- 3.1.11 At no additional charge to SARS, Service Provider will review all of its invoices submitted to SARS during the first 3 (three) months of the Term and certify in writing that each invoice was calculated correctly, including using the correct Unit Rates set out in the Agreement and only invoiced for Services actually provided. Service Provider will provide this certification within 15 (fifteen) days after it submits each such invoice. If Service Provider discovers discrepancies in an invoice submitted to SARS within the first 3 (three) months pursuant to this procedure, it will reissue such invoice and such invoice will be deemed to have been 'received' (for purposes of calculating the payment due date) by SARS on the date that SARS receives the corrected invoice.
- 3.1.12 Service Provider will, at no additional charge to SARS and within 60 (sixty) days following the end of each subsequent calendar quarter, review and validate each invoice that it issued to SARS during such quarter. Service Provider will provide SARS with a reconciliation report listing the results including exception reports, errors and a complete reconciliation of invoices to actual required invoice amounts. Service Provider will promptly credit any amounts that were improperly invoiced and may issue a supplemental invoice with respect to amounts that Service Provider discovers could have been invoiced but were not invoiced.
- 3.1.13 Service Provider may round off invoiced amounts only once per invoice, at the highest summary (or aggregate) level.
- 3.1.14 Service Provider will provide SARS with the option of implementing, at any time during the Term, invoicing and payment in a mutually agreed electronic, digital, EDI or Web-based format, within 90 (ninety) days of SARS's request at no additional

cost to SARS. In addition, Service Provider will provide hard copies of invoices where required under Applicable Law and in the format, and with the information and detail, required by Applicable Law.

- 3.1.15 Service Provider will invoice all Charges within 60 (sixty) days after providing the Services giving rise to such Charges.
- 3.1.16 At a minimum Service Provider will specify Voice Unit Rates to at least 4 (four) significant digits after the decimal place.**[Note to Bidder: this is applicable to Tower V only]**
- 3.1.17 Service Provider will cease charging for a disconnected circuit or Service as of the expiration date of the cancellation notice that SARS provided for such circuit or Service to be disconnected, with any periodic Service Charges for the month of disconnected pro-rated on a day for day basis.
- 3.1.18 Service Provider will charge for a newly provisioned circuit or Service as from the first day following the day on which a satisfactory acceptance test was completed. SARS will have 2 (two) Business Days to complete acceptance testing for newly provisioned circuits.

### 3.2 Payment

- 3.2.1 SARS will pay undisputed Charges to Service Provider within 30 (thirty) days following receipt of each invoice provided such invoice is accurate and meets the requirements of this Agreement.
- 3.2.2 SARS may set off any amounts due by Service Provider pursuant to this Agreement against any Charges payable by SARS pursuant to this Agreement. If the amounts payable by Service Provider to SARS exceed the Charges payable by SARS to Service Provider pursuant to an outstanding invoice under this **Schedule D** then, at SARS's option, Service Provider will either (i) issue a credit note for the net amount which SARS may set off against any other invoices rendered by Service Provider; or (ii) pay the amount to SARS.

### 3.3 Disputed Charges and Invoicing Errors

- 3.3.1 SARS may withhold payment of Charges that SARS disputes in good faith (or, if the disputed Charges have already been paid, SARS may withhold an equal amount from a later payment), including disputes in respect of an error in an invoice or an amount paid. If SARS withholds any such amount:
  - 3.3.1.1 SARS will promptly notify Service Provider that it is disputing such Charges; and
  - 3.3.1.2 the Parties will promptly address such dispute in accordance with clause 24 of the Main Agreement.
- 3.3.2 If the dispute relates to (or, in the case of disputed charges that have already been paid, is equal to) only certain of the Charges included on an invoice, then SARS will pay the undisputed amounts in accordance with clause 3.2.1 above.
- 3.3.3 If an invoice is identified by either Party as incorrect, then Service Provider will



either issue a correct invoice if the amount has not yet been paid, or make a correction on the next invoice if the amount has been paid; provided, however, that Service Provider will refund any overpayments with interest (calculated at the Agreement Interest Rate) calculated from the date of SARS's payment to the date of the refund both dates inclusive. SARS will not be responsible for paying interest on undercharged amounts, if any.

### 3.4 Duplicate charges

- 3.4.1 If Service Provider transfers an electronic communications circuit from one carrier to another carrier, unless otherwise required and approved by SARS, Service Provider will do so in a manner such that SARS does not pay duplicate charges for such circuit (e.g., SARS would not pay for both the old circuit and the new circuit with respect to the same period of time).

## 4 CALCULATION OF CHARGES

- 4.1 **[Note to Bidder: the detailed calculation of charges will be populated from the Pricing Templates in the Bidder's Proposal]**

## 5 CHARGES ON A TIME AND MATERIALS BASIS

### 5.1 General

- 5.1.1 New Services and Projects will be charged on a Time and Materials Basis, unless otherwise agreed in a Work Order. In such cases, the time component of the time and materials charge will be the product of the units of time (e.g., hour, day) and the applicable Personnel Rates.
- 5.1.2 Personnel Rates (by skill classification) are set forth in **Appendix D-D-8 / Appendix D-V-7 / Appendix D-I-4 / Appendix D-S-4 (Personnel Rates) [Note to Bidder: this will contain a reference to the appropriate Appendices populated with the Personnel Rates from the Pricing templates]** the on an hourly, daily, and monthly basis. If a Personnel Rate for a skill classification required for the performance of the work to be performed on a Time and Materials Basis is not set out in the Appendix, Service Provider's rate for such skill set will be the rate for the next closest, lowest skill set specified in **Appendix D-D-8 / Appendix D-V-7 / Appendix D-I-4 / Appendix D-S-4 [Note to Bidder: this will contain a reference to the appropriate Appendices populated with the Personnel Rates from the Pricing templates]**.

### 5.2 Chargeable Time

- 5.2.1 For Services performed on a Time and Materials Basis, Service Provider may charge for travel time only if, and to the extent that, the Service Provider Personnel performing such Services are required to travel more than 50 (fifty) kilometres and Service Provider has used Commercially Reasonable Efforts to deploy alternative Service Provider Personnel who do not have to travel more than 50 (fifty) kilometres.

- 5.2.2 The Service Provider Personnel will accurately complete daily time sheets on a concurrent basis showing the actual time spent performing the work that is chargeable on a Time and Materials Basis.
- 5.2.3 All work to be performed on a Time and Materials Basis will be performed by Service Provider in a productive and efficient manner (including using Service Provider Personnel charged at the lowest appropriate rate).
- 5.2.4 SARS will not be charged (and will not be liable to pay) for any time spent by Service Provider Personnel in remedying Service Provider errors.

## 6 NEW SERVICES

### 6.1 Generally

In the event that any New Service is requested by SARS, Service Provider will quote to SARS a reasonable fixed or unit price for such New Service and the Parties will promptly meet to discuss such quote. If the Parties fail to reach agreement on the fixed or unit price for such New Service, SARS may elect at its sole discretion to have Service Provider perform the New Services, and Service Provider will perform the New Services, on a Time and Materials Basis at the Personnel Rates unless otherwise agreed in a Work Order.

### 6.2 Replacement Services

If a New Service, once approved by SARS, replaces any of the Services (a “**Replacement Service**”) SARS will only be charged for incremental resources and costs net of any savings or reduced costs realised from no longer performing the Service that is being replaced (including a Replacement Service that requires fewer resources, which causes the applicable Charges to be equitably reduced).

## 7 PROJECTS

In the event any Project is requested by SARS, Service Provider will quote to SARS a reasonable fixed price for such Project and the Parties will promptly meet to discuss such quote. If the Parties fail to reach agreement on the price for such project, SARS may elect at its sole discretion to have Service Provider perform the Project, and Service Provider will perform the Project on a Time and Materials Basis at the Personnel Rates.

## 8 CHANGES TO SARS STANDARDS

If after the Effective Date, SARS materially changes any of the standards under clause 4.4 of **Schedule E (Governance)** other than as part of transition and solely as a result of such change Service Provider is unable to avoid a material change to the Services, then such change to the Services will be treated as New Services (or Replacement Services, as the case may be) under **clause 6** of this **Schedule D**.

## 9 PASS THROUGH EXPENSES

- 9.1 Any Pass Through Expenses will be subject to prior approval by SARS and will be charged to SARS on a Pass Through Expense Basis. Service Provider will use Commercially Reasonable Efforts to minimise the cost of goods and services provided to SARS on a Pass Through Expense Basis.
- 9.2 Materials procured on a Pass Through Expense Basis will be acquired in SARS's name and SARS will have all right, title and interest in such materials.
- 9.3 Service Provider must procure any goods or services related to the Services, on behalf of SARS on a Pass Through Expense Basis, should SARS so require.

## 10 DISENGAGEMENT ASSISTANCE

Service Provider may charge for Disengagement Assistance only in accordance with the provisions of **Schedule F (Disengagement Assistance)**.

## 11 EXTRAORDINARY EVENTS

- 11.1 In the case of an Extraordinary Event (defined in clause 11.2 below), Service Provider's Charges will, on prior approval by SARS, be equitably adjusted.
- 11.2 **"Extraordinary Event"** means:
  - 11.2.1 a governmental reorganisation;
  - 11.2.2 a change in law; or
  - 11.2.3 the addition, reduction, or other elimination of a significant 'Line of Operations' or other similar organisational change to SARS; and
- 11.3 which Service Provider is able to show, to SARS's reasonable satisfaction, has a material impact on Service Provider's cost structure in respect of the Services.

## 12 TERMINATION CHARGES

SARS will under no circumstances be liable for any termination charges under this Agreement.

## 13 CESSATION UPON PARTIAL TERMINATION OR REDUCTION IN REQUIREMENTS

In the event that SARS exercises its rights pursuant to the Main Agreement to partially terminate the Services (clause 21.3.2.2 and clause 25.3 of the Main Agreement) then any Charges that relate to the Services that are no longer being performed will no longer be chargeable to or payable by SARS .

#### **14 SERVICE LEVEL CREDITS**

The Charges will be adjusted by the application of Service Level Credits.

## APPENDIX D-X- : PRICING TABLES

### PRICING

**[Note to the Bidder: this will be populated with the completed pricing templates, tables and amounts upon finalisation of the contract. Please refer to the table of Appendices and Attachments on page 191.]**

## SCHEDULE E: GOVERNANCE

### 1 INTRODUCTION

This **Schedule E (Governance)** details the terms which are relevant to and which will govern Service Provider's management of its performance of the Services and SARS's management of Service Provider.

### 2 CHANGE

#### 2.1 Technology Refresh

2.1.1 Service Provider will ensure that the Software and hardware it uses and/or provides in connection with its performance of the Services, including measurement, management and monitoring Tools, are:

2.1.1.1 current and proven;

2.1.1.2 supported by the applicable maintenance provider's maintenance agreement;

2.1.1.3 supporting Service Provider's obligation to perform the Services in terms of its obligations under this Agreement (including the Performance Standards); and

2.1.1.4 where applicable to the Services, compatible with the SARS Software and hardware.

2.1.2 Notwithstanding the foregoing, Service Provider will have sole responsibility for the cost of purchasing and replacing its own assets as required for it to meet its obligation to perform the Services in terms of its obligations under this Agreement (including the Performance Standards)

#### 2.2 Migration of the Services

Service Provider may not perform the Services from a facility other than the Service Provider Sites identified in the Transition Plan without SARS's prior approval.

### 3 REVIEWS

#### 3.1 Innovation

Without limiting the generality of Service Provider's other obligations under this Agreement, Service Provider will on a quarterly basis:

3.1.1 seek to (i) identify innovative ways to reduce SARS internal and external costs associated with the Services, including the Charges and (ii) increase functionality of the Services, in each case evaluating SARS's use of technology and considering

whether changes to such use or technology would reduce SARS's internal and external costs or increase the functionality provided by the hardware and Software;

- 3.1.2 summarise the results of Service Provider's efforts under clause 3.1.1 in the form of proposals, including recommendations regarding ways to achieve the goals articulated in clause 3.1.1;
- 3.1.3 analyse and evaluate the proposals referred to in clause 3.1.2 and any similar proposals reasonably made by SARS; and
- 3.1.4 implement such proposals with SARS's approval.

### 3.2 Annual Review of Services and Service Levels

The Parties will perform an annual review of the Services and the Service Levels to determine whether: (i) Service Provider is meeting its obligations in clause 1.2 of **Schedule C (Service Levels)** to improve its level of Service throughout the Term; and (ii) the specific Service Levels required of Service Provider should be more favourable to SARS than those set out in **Schedule C (Service Levels)**. Upon completion of this review, Service Provider will propose all potential improvements to the Service Levels for SARS's review and approval.

### 3.3 Annual Review of Charges

In addition to the Cost Review Meetings detailed in clause 1.5 of **Schedule D (Charges, Invoicing and Payment)**, the Parties will perform an annual review of the Charges (including any expenses or Charges charged on a Pass Through Expense Basis and/or a Time and Materials Basis under the Agreement) and Service Provider's efforts and success in fulfilling its obligations set out in clause 1.4 of **Schedule D (Charges, Invoicing and Payment)**. As part of these periodic reviews, Service Provider will provide a description of the success to date in fulfilling such obligations including analyses of (i) any reduction in Charges and Pass Through Expenses; and (ii) potential savings achieved or anticipated.

## 4 PROJECT AND CONTRACT MANAGEMENT

### 4.1 Steering Committee

The Parties will form a steering committee to facilitate communications between them ("**Steering Committee**"). The Steering Committee will be composed of the SARS Contract Executive (and at such Executive's election, other SARS Personnel) and Service Provider's Program Executive.

### 4.2 Reports

Service Provider will provide SARS with the reports reasonably required by SARS, including the reports set out in **Appendix B-x-3 (\_\_\_\_\_ Form Reports)**. The format, content and frequency of such reports will be as is reasonably required by SARS.

#### 4.3 Meetings

4.3.1 Within 30 (thirty) days of the Effective Date, Service Provider will propose for SARS's review and approval a set of weekly, monthly, annual and other periodic meetings to be held between representatives of SARS and Service Provider.

4.3.2 The Service Provider's proposal for the set of meetings will include:

4.3.2.1 a weekly meeting to be held by operational SARS Personnel and Service Provider Personnel to discuss daily performance and planned or anticipated activities, including changes in the Services that might adversely affect performance, and otherwise address, review, and discuss matters specific to SARS;

4.3.2.2 a monthly meeting to be held by the SARS Contract Executive (and at such Executive's election, other members of SARS contract management team) and the Service Provider Program Executive to discuss day-to-day operations, the status of on-going and planned activities including changes that might adversely affect performance, and such other matters as appropriate;

4.3.2.3 a quarterly management meeting of the Steering Committee to (i) review the monthly performance reports for each month during the quarter; (ii) review Service Provider's overall performance under the Agreement; (iii) review progress on the resolution of issues; (iv) provide a strategic outlook for the systems requirements of SARS; and (v) discuss such other matters as appropriate;

4.3.2.4 an annual meeting of senior management of the Parties to review relevant relationship, contract and performance issues; and

4.3.2.5 such other meetings between SARS and Service Provider Personnel as may be reasonably requested by SARS and as may be necessary to address relevant relationship, contract and performance issues.

4.3.3 Service Provider will prepare and circulate an agenda sufficiently in advance of such meetings to give participants an opportunity to prepare for the meeting. Service Provider will incorporate into such agenda items that SARS desires to discuss. At the request of SARS, Service Provider will prepare and circulate minutes promptly after a meeting for review and approval by SARS.

#### 4.4 SARS Policies, Procedures, Standards and Guidelines

4.4.1 Compliance with Policies

4.4.1.1 Service Provider will comply with the following (and to the extent that the same issue is addressed by two or more of these policies or procedures, Service Provider will comply with the higher standard):

4.4.1.1.1 SARS PPS&G, as such policies and procedures may be changed in terms of clause 4.4.1.3; and

4.4.1.1.2 Service Provider's standard policies and procedures that relate to the



performance of the Services or Service Provider's other obligations under this Agreement (to the extent that they do not conflict with the SARS Policies or the other provisions of this Agreement) ("**Service Provider Policies**"). Service Provider will provide copies of the Service Provider Policies (including any amendments, updates or replacements) to SARS.

- 4.4.1.2 SARS PPS&G as at the Effective Date are attached hereto as **Appendix E-3. [Note to the Bidder: Appendix E-3 will be established prior to the Effective Date.]**
- 4.4.1.3 If SARS changes the SARS PPS&G, or introduces new standard policies and procedures that are applicable to the Services, SARS will provide Service Provider with reasonable notice, and a copy, of same. The pricing impact (if any) of such a change will be addressed in terms of clause 8 of **Schedule D (Charges, Invoicing and Payments)**.
- 4.4.1.4 Changes to the Service Provider Policies will not result in an increase in the Charges or in any other costs to be borne by SARS (e.g. Pass Through Expenses, internal costs).

#### 4.5 Process and Procedures Library

- 4.5.1 Service Provider, in consultation with SARS, will prepare a Process and Procedures Library detailing the operational and management processes by which the Service Provider will perform and deliver the Services under this Agreement. The Process and Procedures Library will also include:
  - 4.5.1.1 change control processes;
  - 4.5.1.2 Incident management processes;
  - 4.5.1.3 problem management processes;
  - 4.5.1.4 business continuity processes;
  - 4.5.1.5 backup and restore processes;
  - 4.5.1.6 capacity management practices;
  - 4.5.1.7 project management processes;
  - 4.5.1.8 management information processes; and
  - 4.5.1.9 various administrative processes including invoicing practices.
- 4.5.2 The Process and Procedures Library will be suitable for use by SARS Personnel to understand how Service Provider will provide the Services and to enable SARS and SARS's internal and external auditors to verify and audit the manner in which the Service Provider is providing the Services.
- 4.5.3 The Service Provider will develop the Process and Procedures Library for SARS's review and approval by no later than 60 (sixty) days prior to the Effective Date, and obtain SARS's review and approval of an integrated Process and Procedures

Library for all of the Services within 60 (sixty) days of the Effective Date. Failure to provide a final draft that is reasonably acceptable to SARS within the aforementioned time period will be a material breach of the Agreement. SARS will provide detailed and reasonable comments on each draft within 15 (fifteen) Business Days after receipt of any draft and Service Provider will incorporate such comments in the next draft.

Service Provider will update the Process and Procedures Library on an on-going basis during the Term to reflect changes in the operations or procedures described therein. Service Provider will provide updates to the Process and Procedures Library to SARS on the 5th (fifth) business day of each month during the Term or review and approval.

- 4.5.4 The Service Provider will perform the Services in terms of the Process and Procedures Library provided that, in the event there is a conflict between the provisions of this Agreement and the provisions of the Process and Procedures Library, the provisions of this Agreement will take precedence. Moreover, the Process and Procedures Library may not (i) be contrary to the scope of Services; or (ii) modify any of the terms or conditions of this Agreement. Without limiting the generality of Service Provider's obligation to perform the Services in terms of the Performance Standards, Service Provider may, in terms of clause 4.4.1, use existing SARS procedures prior to the approval of the Process and Procedures Library.

## 5 WORK ORDERS

- 5.1 The Parties may, from time to time, include Work Orders under the Agreement pertaining to New Services, Projects or changes to the Services provided by the Service Provider to SARS under the Agreement, substantially in accordance with the Work Order template appended hereto as **Appendix E-**.
- 5.2 The provisions of this Agreement will apply to each and every Work Order issued under this Agreement.
- 5.3 The Service Provider will provide the Services to the SARS subject to the terms and conditions of this Agreement generally and in particular subject to the terms and conditions set forth in the relevant Work Order provided that a Work Order may amend the terms and conditions of this Agreement only with respect to the subject matter of such Work Order.

## APPENDIX E-1: KEY SERVICE PROVIDER POSITIONS

[Note to the Bidder: The Bidder is required to propose a list of Key Service Provider Positions in its response to this document. The list of proposed Key Service Provider Positions must be made as a mark-up to the contract. At a minimum, the Bidder should include the Service Provider Program Executive and the Transition Manager responsible for the day to day Transition activities as the Services are transitioned from SARS or the Incumbent Service Provider to the Bidder.

The Bidder must reference the Business Requirement Specification for the requirement of the placement of a Service Delivery Manager in Towers D and V and should include this position as a Key Service Provider Position]

## APPENDIX E-2: ESCALATION PROCEDURES

**[Note to the Bidder: this Appendix will be completed as part of final contract negotiations.]**

## **APPENDIX E-3: SARS PPS&G**

### **SARS PPS&G**

**[Note to the Bidder: This Appendix will be populated in accordance with clause 4.4 of Schedule E (Governance)]**

## **APPENDIX E-4: SARS RED ALERT PROCESS**

### **SARS RED ALERT PROCESS**

**[Note to the Bidder: this is a SARS confidential operational document. Certain portions not relevant to the Bidder preparing a response have been deleted.]**

**South African Revenue Service**

**Service Management - Resolution Management**

**Sub Division : Problem Management**

**Procedure: Operational Crisis - Severity One Incident**

Purpose of the Document : is to ensure that a standard process is followed for the management of an Operational Crisis - Severity One incident

## 1 DOCUMENT APPROVAL

We hereby certify that this document has been checked with the mutually agreed upon baseline requirements and that the content is accurate and adequate for the purpose intended.

Table 1: Document Approval

## 2 DOCUMENT CONFIGURATION DATA

Table 2: Configuration Index Record - History Changes

Table 3: Configuration Index Record - Storage Media

## 3 EXECUTIVE SUMMARY

- 3.1 Provide standard process for managing an operational crisis – Severity One Incident.
  - 3.1.1 This procedure is also known in other SARS reference documents as the "Red Alert" process.
- 3.2 The SARS ITSM system will be used to log, track and manage Problems and Incidents until the affecting or potentially affecting Incident of the production or development environments is restored.
- 3.3 The criterion for handling the Incident as a Red Alert or Severity One Incident is included in this document.

## 4 RESPONSIBLE SECTION TO FACILITATE THIS PROCESS

Problem Management.

## 5 PURPOSE

- 5.1 The ITIL Problem management process model aims to minimize the total impact of problems on the organization. Problem management plays an important role in the detection and repair of problems to prevent their re-occurrence.
- 5.2 A problem is defined in ITIL as a condition that has been defined, identified from one large Incident or many Incidents exhibiting common symptoms for which the cause is unknown.
- 5.3 The purpose of this document is to provide the standard operational process for the handling of a Severity One Incident and managing it until Services are restored.

## 6 TOOL

- 6.1 The tool that will be used for the capturing and updating of the Incident will be BMC

REMEDY – ITSM v 7.0 ("Remedy").

## 7 CLASSIFYING THE INCIDENT AS A SEVERITY ONE

- 7.1 Severity will be determined as a product between the Impact and Urgency of the Incident. This will be dependent on the trends of the calls received by the Service Desk or as reported by the system owners and/or system support teams.
- 7.2 This approach takes into consideration Remedy's way of determining a Change's risk level. In Remedy, the risk level of a change is dependent on Impact and Urgency.

The screenshot displays the BMC Remedy IT Service Management - Incident Management interface. The top navigation bar includes 'Incident (New)' and 'Save'. The main header is 'BMC REMEDY IT SERVICE MANAGEMENT - Incident Management' with a 'Help' link. The left sidebar contains 'Quick Links' (Assign to Me, CI Search, Select Operational, Select Product, Select Template, View Broadcast) and 'Functions' (Advanced Functions, Create Other Requests, Consoles). The main content area is titled 'Incident Request' and features a 'Process Flow Status' bar with stages: Identification and Recording (Normal), Investigation and Diagnosis, Resolution and Recovery, Incident Closure, and Closed. Below this, the 'Incident Request Information' section includes fields for Summary, Status (New), Status Reason, Notes, Impact, Priority, Escalated? (No), Urgency, and Weight. A dropdown menu for Urgency shows options: 1-Critical, 2-High, 3-Medium, 4-Low, and (clear). The 'Customer Information' section includes fields for Corporate ID, First Name, Last Name, and Phone Number, along with Organization, Department, and Site. At the bottom, there are sections for 'Customer's CIs' and 'Customer's Incidents', each with a table and a 'Click to Refresh' link.

### 7.3 Impact

- 7.3.1 A list of values which depict the impact of the Incident on the SARS environment.
- 7.3.2 Remedy uses the following list to rate the impact of an Incident:

Impact	Description
<i>Extensive / Widespread</i>	The Change has an extensive effect/consequence on the organization's resources (Financial, HR, Technological, etc.), strategy and operational activities
<i>Significant / Large</i>	The Change has a significant effect/consequence on the organization's resources (Financial, HR, Technological, etc.), strategy and operational activities



<i>Moderate / Limited</i>	The Change has a moderate effect/consequence on the organization's resources (Financial, HR, Technological, etc.), strategy and operational activities
<i>Minor / Localised</i>	The Change has minor effect/consequence on the organization's resources (Financial, HR, Technological, etc.), strategy and operational activities

#### 7.4 Urgency:

7.4.1 The list of items indicates how urgent the Incident is. Based on their definitions, the urgency can be determined.

7.4.1.1 Impact on Business - Number of users (impacted during implementation or back-out):

- (a) > 150 users – critical (Whole country)
- (b) 50-150 users – high (TC site)
- (c) 10 < 50 users – medium (all users affected at 1 site)
- (d) < 10 - low

7.4.1.2 Financial Implications - Financial implications (Indication, has to be established)

- (a) >500 000.00 – critical
- (b) > R150 000.00 high
- (c) R50 000.00 - R150 000.00 – medium
- (d) < R5 000.00 – low

7.4.1.3 Risk if Incident is not resolved

- (a) Critical. Tax payers are prevented from being rendered a service
- (b) High. Business will not be able to use system
- (c) Medium. Part of the functionality will not be available
- (d) Low. No implications for the business

#### 7.5 Severity

Priority	Severity 1	Severity 2	Severity 3
----------	------------	------------	------------

	Critical	High	Medium
Impact	Significant/ Widespread	Significant/ Large	Moderate/ Limited
Urgency	2 a's	1 a and 1 b	1b and 1 c

## 8 CALLING A SEVERITY ONE

- 8.1 A Severity One/ Red Alert will be called when the criteria of the above table reflects the stages of Severity 1, 2 and 3.

## 9 CONDUCTING A SEVERITY ONE

- 9.1 A breakdown of tasks and roles are detailed in Table 4: APPENDIX A.

Table 4: APPENDIX A

No	Event	Task	Accountable	Comments
1	Log an Incident	Priority <Critical>	Agent	Immediate escalations are done via Tool to SIO management and Problem Management.
2	Incident routed to Support groups, through the tool (automated routing)	Call Crisis	SIO - Service management  (Problem Management by delegated authority)	<p>Crisis Manager is identified by Service Management / Resolution Management and meeting attendees.</p> <p><b>The role of the Crisis Manager:</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Quality assure the correct Incident Management procedures are followed</li> <li><input type="checkbox"/> Ensure that the right resources are working on the problem.</li> <li><input type="checkbox"/> Ensure the correct focus is applied to resolving the problem.</li> <li><input type="checkbox"/> <b>Convening of stakeholders:</b></li> <li><input type="checkbox"/> Problem management arrange for the correct level of representation after consultation with crisis manager.</li> <li><input type="checkbox"/> Standard attendees:</li> </ul> <p>Service, Infrastructure and operational managers, business unit managers affected by change.</p> <p>IT Risk</p>
3	Crisis meeting	Conduct crisis meeting	Problem management	<input type="checkbox"/> Problem description

No	Event	Task	Accountable	Comments
		according to operational procedure – consistent with problem management principles		<input type="checkbox"/> Impact <input type="checkbox"/> Sequence of events <input type="checkbox"/> Immediate actions – to limit impact <input type="checkbox"/> Concerns(during meeting) <input type="checkbox"/> Communication requirements <input type="checkbox"/> Escalation requirements <input type="checkbox"/> Confirmation of severity <input type="checkbox"/> Time of next meeting (1 – 2 hours from closing)
4	Escalation	Inform all stakeholders impacted by the Incident	Crisis Manager with Problem Management	<input type="checkbox"/> <b>UP:</b> <input type="checkbox"/> Crisis Manager to Senior Manager <input type="checkbox"/> Senior Manager to CIO <input type="checkbox"/> CIO to General Manager <input type="checkbox"/> <b>DOWN:</b> <input type="checkbox"/> Crisis Manager to business unit impacted <input type="checkbox"/> Problem management to user community: Notification, voice scripts, Service level managers
5	Ongoing crisis	Continue resolution with	Crisis Manager with Problem Management	<input type="checkbox"/> <b>Ongoing crisis Resolution.</b>  Crisis Manager in conjunction with Resolution management schedule a follow-up or progress meeting. Crisis Manager to:

No	Event	Task	Accountable	Comments
				<ul style="list-style-type: none"> <li><input type="checkbox"/> get full briefing from support staff working on problem;</li> <li><input type="checkbox"/> undertake analysis of effects and ongoing risks;</li> <li><input type="checkbox"/> review approach to Problem Resolution;</li> <li><input type="checkbox"/> determine alternative courses of actions (if possible);</li> <li><input type="checkbox"/> develop contingency plans;</li> <li><input type="checkbox"/> ensure appropriate resources are allocated (including vendor support);</li> <li><input type="checkbox"/> determine client communications;</li> <li><input type="checkbox"/> Brief senior management.</li> </ul> <p>Refer to Critical Systems, IT Contingency Planning.</p> <p>Emergency or temporary authorisation access required.</p>
6	Down Severity	Workaround implemented to restore service	Crisis Manager with Problem Management	<p><b>Service Restoration and review</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Notify as per escalation route</li> </ul> <p>Call down crisis</p>
7	Root Cause Analysis	Determine root cause to prevent repeat of Incident	Problem Management	<ul style="list-style-type: none"> <li><input type="checkbox"/> Problem Management Team to schedule a root cause analysis meeting to review the</li> </ul>

No	Event	Task	Accountable	Comments
				Problem and Problem Resolution process, i.e. lessons learnt; resolution scripts and Known Error and knowledge recording and publishing to the Service Desk and to all affected parties for future use.

## APPENDIX E-5: FORM OF A WORK ORDER

THIS WORK ORDER NO. {*number*} dated as of {*date*} (the '**Work Order Commencement Date**') is being executed pursuant to the Network Carrier and Infrastructure Services Agreement between the South African Revenue Service ("**SARS**") and {*insert name*} (Proprietary) Limited (Registration No. {*insert number*}) ("**Service Provider**") dated as of {*insert signature date*}, the terms of which are incorporated herein by reference. Capitalised terms used but not defined herein will have the meanings given to them under **Schedule A (Glossary)** to the aforesaid Agreement.

### 1. DESCRIPTION OF THE SERVICES

*{Note to the Parties: Please insert a description of the Services under this Network Carrier and Infrastructure Services Agreement. Identify Service Provider resources, hardware to be provided by Service Provider and Third Party Software to be provided by Service Provider.}*

### 2. DURATION / DELIVERABLES AND TIMELINE

*{Note to the Parties: delete whichever is not applicable}*

- 2.1. This Work Order will commence on the Work Order Commencement Date and will terminate on {date} unless extended or terminated earlier in accordance with the Agreement.
- 2.2. Service Provider will procure, modify, plan, design, develop and/or implement the Deliverables that are identified and described in Table B-1.

*{Note to the Parties: In the case of Projects, please identify each Deliverable and provide the other information required to complete Table B-1}*

Table B-1		
Name of Deliverable	Description	Key Milestones and Timeline

*{Note to the Parties: In the case of New Services and/or applicable maintenance and support, please identify the scope of the New Service and provide the other information required to complete Table B-2}*

Table B-2	
Scope	Description

--	--

### 3. SERVICE LEVELS AND SERVICE LEVEL CREDITS

*{Note to the Parties: Please list any applicable Service Levels and Service Level Credits}*

### 4. SERVICE PROVIDER CHARGES

Service Provider's Charges for Services under this Network Carrier and Infrastructure Services Agreement will be the amount of R {amount} in accordance with Table B-3 below:

Table B-3	
Name of Deliverable / New Service	Allocated Portion of the Fixed Price
Total	

*{Note to the Parties: Please list the name of each Deliverable identified in Tables B-4 and take note of Payment Milestones for each such Deliverable / New Service as set out in Table B-3. Table B-4 may be adapted to suit the requirements}*

Table B-4			
Name of Deliverable	Payment Milestones for such Deliverable	Amount to be Paid Upon Achievement of Milestone	Dates that Payment Milestones are to be Achieved
Total			

**{Signature blocks appear on the next page.}**



**SARS CONFIDENTIAL**

The Parties' duly authorised representatives hereby confirm their acceptance of this Work Order.

{**name**} (Proprietary) Limited  
By:

Printed:  
Title:  
Date:

South African Revenue Service  
By:

Printed:  
Title:  
Date:

{**name**} (Proprietary) Limited  
By:

Printed:  
Title:  
Date:

South African Revenue Service  
By:

Printed:  
Title:  
Date:

---

## APPENDIX E-7: RECORD OF CONSENSUS ON NEW CHARGES

**[Note to Bidder: this will be sent to Service Provider on SARS's letterhead]**

1. We refer to the Network Carrier and Infrastructure Services Agreement (the “**Agreement**”) which commenced on **{date}** concluded between the South African Revenue Service and **{insert name}** (the “**Service Provider**”).
2. In terms of the aforesaid Agreement, the Service Provider was to provide to SARS, *inter alia*, the Services (as defined in the Agreement), at a charge to be reviewed by the Parties annually.
3. Therefore in accordance with clause 2.3.3 of Schedule D of the Agreement, it is hereby recorded that the Parties have reached consensus that the Charges are amended as per the attached pricing tables.
4. The Agreement is hereby amended and the Charges as per paragraph 3 above will apply with effect from **[date]** until **[date]**.

**{Signature blocks appear on the next page.}**

The Parties' duly authorised representatives hereby confirm their acceptance of the terms and conditions set out above.

{name} (Proprietary) Limited  
By:

South African Revenue Service  
By:

Printed:  
Title:  
Date:

Printed:  
Title:  
Date:

{name} (Proprietary) Limited  
By:

South African Revenue Service  
By:

Printed:  
Title:  
Date:

Printed:  
Title:  
Date:

## SCHEDULE F: DISENGAGEMENT ASSISTANCE

### 1 GENERAL

- 1.1 Service Provider will, during the Disengagement Assistance Period provide to SARS, or at SARS's request to a Successor (where SARS is not the Successor) without interruption or degradation of the Services (i) such termination/expiration assistance as SARS may request to facilitate the Transition of the Services to SARS or a Successor; and (ii) to the extent applicable, hardware and Software, ("**Disengagement Assistance**").
- 1.2 Disengagement Assistance provided to SARS prior to the effective date of termination or expiration will be chargeable by Service Provider to SARS only to the extent that the appointment of additional resources (above and beyond those resources used in providing the Services) is strictly necessary for Service Provider to provide such assistance and provided Service Provider has notified SARS of such appointment and SARS has pre-approved such appointment (and related charges) in writing, which approval will be exercised at SARS's sole discretion. Service Provider will use Commercially Reasonable Efforts to perform the Disengagement Assistance without deploying additional resources. Disengagement Assistance provided to SARS after the effective date of termination or expiration will be chargeable to SARS on a Time and Materials Basis in accordance with the Personnel Rates. Charges related to materials will be treated on a Pass Through Expense Basis.
- 1.3 Disengagement Assistance will include the provision of all information and assistance requested by SARS and necessary to ensure the seamless Transition of Services and functions being performed by Service Provider or its agents to the Successor. Disengagement Assistance may include capacity planning, consulting services, facilities planning, electronic communications services planning, Software configuration, reviewing all system Software with a new vendor, generating machine readable listings of source code, uploading production databases, providing parallel processing, testing, and providing such other assistance as is described in this **Schedule F (Disengagement Assistance)**.
- 1.4 Service Provider will perform the Disengagement Assistance in a manner such that (to the extent within Service Provider's control):
  - 1.4.1 the Terminated Services are transferred to the Successor in an efficient and orderly manner;
  - 1.4.2 the impact on SARS's operations (including SARS Personnel) and the internal and Third Party costs incurred by SARS in transferring the Terminated Services are minimised;
  - 1.4.3 the Terminated Services continue to be performed by Service Provider until the Termination Date has occurred without disruption or deterioration except as approved by SARS and included in the Disengagement Assistance Plan;
  - 1.4.4 any disruption or deterioration of the Terminated Services following the Termination Date (except as approved by SARS and included in the Disengagement Assistance Plan) is minimised;

- 1.4.5 there is a knowledge transfer as part of which SARS and/or the Successor are provided with all information held by Service Provider (or a Subcontractor) that is required to perform services replacing or reasonably equivalent to the Terminated Services following the Termination Date; and
- 1.4.6 SARS is able, at its option, to receive services similar to the Terminated Services, independently of the Service Provider following termination, including by the transfer to SARS or the Successor of the resources specified in clause 3.
- 1.5 If there is more than one Successor, then Service Provider will perform the Disengagement Assistance in respect of each Successor.

#### 1.6 Approach to disengagement

SARS will be entitled to determine on notice to Service Provider the approach to be taken in respect of the transfer of the Terminated Services, including that:

- 1.6.1 the transfer of the Terminated Services from Service Provider to a Successor may either occur:
  - 1.6.1.1 on the Termination Date; or
  - 1.6.1.2 over a period prior and up to the Termination Date in accordance with a timetable, specified by SARS with a corresponding adjustment of the Charges in accordance with clause 13 of **Schedule D (Charges, Invoicing and Payment)**, provided that all Terminated Services will cease being performed by Service Provider no later than the Termination Date or such later date as determined by SARS and advised to Service Provider; and
- 1.6.2 interim changes are made to the Services to enable the transfer of the Terminated Services.

#### 1.7 Disengagement Assistance Plan

- 1.7.1 The Disengagement Assistance Plan will be developed for each transfer of Terminated Services. SARS will elect whether the Disengagement Assistance Plan is to be developed by SARS or in whole or part by Service Provider.
- 1.7.2 If SARS elects to develop the Disengagement Assistance Plan (or any part thereof), SARS will provide the Disengagement Assistance Plan to Service Provider.
- 1.7.3 If SARS elects for Service Provider to develop all or part of the Disengagement Assistance Plan, then:
  - 1.7.3.1 a detailed draft that complies with this Agreement will be delivered to SARS for its comments and review by:
    - 1.7.3.1.1 in the case of expiry of the Term, 8 (eight) months prior to the end of the Term; or
    - 1.7.3.1.2 in all other cases, 10 (ten) Business Days following the date of delivery of a notice of termination or a notice to reduce the scope of

the Services.

- 1.7.3.2 Service Provider will incorporate SARS's reasonable comments and changes into the Disengagement Assistance Plan (and any subsequent version of the Disengagement Assistance Plan) and finalise the Disengagement Assistance Plan within 15 (fifteen) days following receipt of the same; and
- 1.7.3.3 the final Disengagement Assistance Plan will be subject to the written approval of SARS.
- 1.7.4 The Disengagement Assistance Plan will clearly and in detail:
  - 1.7.4.1 give effect to any approach to the Disengagement Assistance specified by SARS in accordance with clause 1.6;
  - 1.7.4.2 describe actions to be taken by Service Provider in performing the Disengagement Assistance (without limitation to any other actions requested by SARS pursuant to this **Schedule F** during the Disengagement Assistance Period);
  - 1.7.4.3 subject to clause 1.7.7, describe in detail any SARS and/or Successor tasks (including an estimate of the specific staffing required);
  - 1.7.4.4 describe how any transfer of assets and contracts will be achieved;
  - 1.7.4.5 specify the detailed information that will be provided (having regard to the categories in **Appendix F-1 (Disengagement Assistance Data)**);
  - 1.7.4.6 set out the timetable for the transfer of each element of the Terminated Services (including key milestones to track the progress of the transfer); and
  - 1.7.4.7 specify reasonable acceptance criteria and testing procedures to confirm whether the transfer of the Terminated Services has been successfully completed.
- 1.7.5 Following SARS's approval of and authorisation to proceed with the final Disengagement Assistance Plan, Service Provider will perform the Disengagement Assistance in accordance with the Disengagement Assistance Plan.
- 1.7.6 During the Disengagement Assistance Period, either Party may propose changes to the Disengagement Assistance Plan and Service Provider will proactively recommend changes that are necessary or desirable. Any changes to the Disengagement Assistance Plan will be subject to the other Party's approval.
- 1.7.7 SARS (or Successor) tasks to be performed in respect of Disengagement Assistance will only apply where:
  - 1.7.7.1 the task is reasonable and there is no other practical manner in which Service Provider can perform the Disengagement Assistance without such task being performed by SARS or a Successor; or
  - 1.7.7.2 SARS notifies Service Provider that SARS wishes to perform such task.

## 1.8 Disengagement Assistance Management

- 1.8.1 Service Provider will appoint a senior project manager as its "**Disengagement Assistance Manager**" who will be responsible for the overall performance of the Disengagement Assistance and who will be the primary point of contact for SARS in respect of the Disengagement Assistance during the Disengagement Assistance Period. Service Provider will appoint such representative by the relevant date specified in clause 1.7.3.1.
- 1.8.2 SARS will appoint a senior project manager as its "**SARS Disengagement Assistance Manager**" who will be the primary point of contact for Service Provider during the Disengagement Assistance Period.
- 1.8.3 Both Parties will use Commercially Reasonable Efforts to ensure that any Disengagement Assistance issues or disputes are resolved promptly by the Disengagement Assistance Managers. Any disputes that cannot be resolved will be escalated in accordance with the dispute resolution procedure set forth in clause 24 of the Main Agreement.
- 1.8.4 Service Provider will manage the Disengagement Assistance in accordance with SARS's reasonable directions, including:
  - 1.8.4.1 resolving any Incidents or problems arising with respect to the Disengagement Assistance;
  - 1.8.4.2 defining an escalation process, as approved by SARS, to be used if there is a failure in any part of the disengagement;
  - 1.8.4.3 establishing, as directed by SARS, the necessary communications and interfaces between SARS, Service Provider, the Successor and the Subcontractors; and subject to the provisions of clause 1.2 above, providing individuals with the required expertise to perform Disengagement Assistance.
- 1.8.5 Service Provider will monitor progress of all tasks and responsibilities in the Disengagement Assistance Plan (whether the responsibility of Service Provider, SARS or any Third Party) against the Disengagement Assistance Plan and promptly escalate to SARS any failures (or potential failures) to perform any tasks or responsibilities, including failures by SARS or the Successor.
- 1.8.6 Service Provider will provide reports to SARS not less than once a week which:
  - 1.8.6.1 describe the progress of the Disengagement Assistance against the Disengagement Assistance Plan; and
  - 1.8.6.2 identify any risks encountered during the performance of the Disengagement Assistance and propose steps to mitigate such risks.
- 1.8.7 The Disengagement Assistance Managers appointed pursuant to **clauses 1.8.1 and 1.8.2** above will meet on a weekly basis (or as otherwise required by SARS) during the Disengagement Assistance Period to review the status of the Disengagement Assistance Plan.
- 1.8.8 SARS may appoint a Successor during the Disengagement Assistance Period to

manage Service Provider's performance of the Disengagement Assistance and any Terminated Services. Service Provider will follow the direction of such Successor only to the extent that:

- 1.8.8.1 Service Provider would be obliged to follow SARS's directions under this Agreement; and
- 1.8.8.2 SARS has authorised the Successor and notified Service Provider of such authorisation.

## **1.9 Confidentiality and Security Compliance**

- 1.9.1 Prior to a Successor (other than SARS) being provided with any Service Provider Confidential Information as part of Disengagement Assistance, SARS will enter into a confidentiality agreement with the Successor on terms substantially similar to those set out in clause 15 of the Main Agreement or as otherwise agreed by the Parties.
- 1.9.2 SARS will procure that any Successor entering any Service Provider or Subcontractor facilities in connection with the Terminated Services will comply with Service Provider's reasonable security and site regulations and policies notified to SARS in advance.

## **2 SPECIFIC DISENGAGEMENT ASSISTANCE REQUIREMENTS**

### **2.1 Bid Assistance**

- 2.1.1 At any time during the Term (whether before or during the Disengagement Assistance Period), Service Provider will, as requested by SARS, reasonably co-operate and promptly provide assistance with any bid or tender process that SARS runs in relation to any of the Terminated Services (or potential Terminated Services) including:
  - 2.1.1.1 providing information, reports and data for inclusion in SARS's request for information and request for proposals;
  - 2.1.1.2 answering questions raised by potential Successors; and
  - 2.1.1.3 allowing potential Successors to perform reasonable due diligence activities in respect of the relevant Services, including providing reasonable access to facilities from where the Services are performed (subject to Service Provider's reasonable security requirements), Service Provider support systems and Service Provider Personnel (including personnel located off SARS Sites); provided that such due diligence will be performed in such a reasonable manner so that it does not materially disrupt Service performance (unless SARS excuses such disruption in advance, in writing).
- 2.1.2 The bid assistance to be performed pursuant to clause 2.1.1 above will be at least to the level:
  - 2.1.2.1 that would be required for reasonably skilled and experienced Third Party service providers to:



- 2.1.2.1.1 prepare an informed, non-qualified offer for the relevant Terminated Services; and
- 2.1.2.1.2 not be disadvantaged compared to Service Provider (if Service Provider is invited to participate) in respect of access to information; and
- 2.1.2.2 in any event, be no less than the co-operation and assistance provided by SARS to Service Provider prior to the Effective Date.

## 2.2 Return of Materials

Service Provider will return to SARS (or destroy) the SARS Confidential Information in accordance with clause 15.8 of the Main Agreement.

## 2.3 Information

- 2.3.1 As requested by SARS, Service Provider will promptly (and in any event within 5 (five) Business Days following the request) provide SARS with and permit SARS to share with the Successor if the Successor is not SARS:
  - 2.3.1.1 the information and data listed in **Appendix F-1 (Disengagement Assistance Data)**, subject to any timing restrictions specified in that Appendix; and
  - 2.3.1.2 any other information relating to the Services which would be reasonably required by a reasonably skilled and experienced provider of services to continue to perform the Services without disruption or deterioration following the Termination Date.
- 2.3.2 Subject to clause 1.8 above, SARS may provide to a Successor (or potential Successor): (a) the information identified in clause 2.3.1 and (b) the Agreement.
- 2.3.3 Service Provider will provide updates to the information provided pursuant to this **Schedule F**, during the Disengagement Assistance Period.

## 2.4 Knowledge Transfer

Service Provider will provide knowledge transfer services to the Successor (and SARS where SARS is not the Successor) as reasonably required by SARS, including:

- 2.4.1 explaining procedures, standards and operations used to perform the Terminated Services;
- 2.4.2 answering questions in respect of the information provided pursuant to **clause 2.3** above; and
- 2.4.3 for reasonable periods during the Disengagement Assistance Period prior to the Termination Date, allowing Successor personnel to work alongside Service Provider Personnel to shadow their role and enable knowledge transfer.

## **2.5 Co-operation**

As requested by SARS, Service Provider will co-operate with (and procure that the Subcontractors co-operate with) the Successor during the Disengagement Assistance Period.

## **2.6 Change Freeze**

Service Provider will, unless otherwise approved by SARS, ensure that during the 3 (three) month period prior to the Termination Date no material changes are made to:

- 2.6.1 the Terminated Services (including to any hardware, Software or other facilities used to perform the Terminated Services), other than changes necessary for the continued performance of the Services in accordance with the Performance Standards; and
- 2.6.2 any hardware, Software or contracts that SARS has the right to acquire in accordance with clause 3 below.

## **2.7 Backlogs**

Service Provider will perform its obligations under this Agreement so that there is not an unreasonable backlog of requests for support or resolution of Incidents as at the Termination Date.

## **2.8 Business Continuity**

Service Provider will provide the following assistance to support SARS's requirements for business continuity:

- 2.8.1 where SARS is not the Successor, informing Successors of SARS's then-current policies and procedures with regard to backup and disaster recovery relating to the Terminated Services;
- 2.8.2 arranging for additional overlapping coverage or support through the Run Down Period to minimise disruption in the event of an outage during the Run Down Period; and
- 2.8.3 as requested by SARS, assisting in disaster recovery testing during the Run Down Period in accordance with the processes and procedures detailed in the Process and Procedures Library.

# **3 TRANSFER OF ASSETS AND GRANT OF RIGHTS**

## **3.1 Option to purchase hardware**

- 3.1.1 At SARS's election, Service Provider will sell to SARS some or all of the hardware used primarily to provide the Services to SARS. Service Provider will sell hardware that SARS elects to purchase under this provision at the lesser of fair market value or net book value. For this purpose, fair market value will be determined by a

registered valuator designated by SARS.

By the relevant date as contemplated in clause 1.7.3.1 above, Service Provider will provide a list of any hardware that is owned by Service Provider or a Subcontractor and is used primarily to provide the Services to SARS. The list will specify for each item of hardware: the manufacturer, model, configuration, age, location, function in the provision of the Services and net book value.

- 3.1.2 If SARS elects to purchase hardware pursuant to clause 3.1.1 above, then:
- 3.1.2.1 as requested by SARS, Service Provider will de-commission the purchased hardware and prepare it for transportation (including packaging) or provide it for collection by SARS or the Successor;
  - 3.1.2.2 risk in the purchased hardware will pass to SARS only upon collection by SARS or upon delivery to SARS; and
  - 3.1.2.3 Service Provider will execute or provide any title, bills of sale, invoices or other documents as may be required to give effect to this clause 3.1 and to perfect the transfer of title to SARS or the Successor.
- 3.1.3 If SARS elects not to purchase any such hardware, Service Provider will be responsible for the re-use or safe disposal of the same (including, if it contains any SARS data, cleansing the same to the standards specified in this Agreement).
- 3.1.4 Service Provider will provide SARS, the Successor or both (as specified by SARS) with such assistance as is reasonably required to ensure the migration of SARS's Software, SARS data or SARS-provided resources from any hardware which SARS does not wish to acquire to alternative hardware designated by SARS, or secure deletion (as required by SARS).
- 3.1.5 At SARS's election, Service Provider will assign to SARS some or all of the Third Party contracts relating to hardware used primarily to provide the Services to SARS. Service Provider will be responsible for obtaining, at its sole cost and expense, any Required Consents necessary for the assignment of the applicable lease.

## 3.2 Assignment of contracts

- 3.2.1 SARS or a Successor (where SARS is not the Successor) will have the option (exercisable by SARS on a contract by contract basis) to assume contracts for any Services provided by Third Parties to Service Provider and used exclusively by Service Provider to provide Services to SARS. Service Provider will take all steps necessary to formally assign such contracts to SARS. In respect of Third Party service contracts, Service Provider will, where required by SARS, use Commercially Reasonable Efforts to arrange for the provision of the Services by the Third Party to SARS under terms at least as favourable as those in the Third Party Service Contract.
- 3.2.2 Service Provider will provide further information about such contracts in accordance with **Appendix F-1 (Disengagement Assistance Data)**.

## APPENDIX F-1: DISENGAGEMENT ASSISTANCE DATA

### 1 DISENGAGEMENT ASSISTANCE DATA

The Disengagement Assistance Data consists of:

#### 1.1 Third Party contracts

1.1.1 In respect of each Third Party contract entered into by Service Provider (or by a Subcontractor) in relation to the Services, including contracts with Subcontractors, and warranties, maintenance agreements and leases relating to hardware and licences and maintenance agreements relating to Software:

- 1.1.1.1 the type of contract, such as maintenance or support services;
- 1.1.1.2 a description of the service being provided;
- 1.1.1.3 whether the contract exclusively relates to the Services;
- 1.1.1.4 whether the contract can be assigned or novated;
- 1.1.1.5 the licences, rights or permissions granted under the contract by the Third Party;
- 1.1.1.6 amounts payable under the terms of such contract;
- 1.1.1.7 the remaining term of contract and termination rights;
- 1.1.1.8 contact details of the Third Party;
- 1.1.1.9 a history of dealings with the Third Party (including performance histories against service levels that may be in effect with respect to such Third Party);
- 1.1.1.10 a list of projects or unfilled orders in progress and the status of each; and
- 1.1.1.11 a copy of each of the contracts with each Third Party.

#### 1.2 Other Information

- 1.2.1 A copy of all documents in the Process and Procedures Library required to provide the Services to SARS;
- 1.2.2 A list of any Tools, systems, hardware, assets, Software, processes and procedures that are necessary to perform the Services that will not be transferred to the Successor;
- 1.2.3 All Software back-ups of systems used to perform the Services;
- 1.2.4 Any security features, passwords and password control policies that the Successor

needs to know to continue to perform the Services;

- 1.2.5 Key support contact details for Service Provider Personnel and Third Party service providers (excluding Subcontractors), including a contact listing of current potential alternative sources of resources, including skilled labour and spare hardware and parts; and
- 1.2.6 Work volumes, staffing requirements, actual Service Levels and information on historical performance for each Service component during the preceding 12 (twelve) months.

## **SCHEDULE G: SERVICE PROVIDER PROPOSAL**

**[Note to the Bidder: The Bidder's Proposal will be included upon finalisation of Agreement]**

## SCHEDULE H: BROAD-BASED BLACK ECONOMIC EMPOWERMENT

### 1 INTRODUCTION

- 1.1 The Parties are cognisant of the new Codes published on 11 October 2013 and which came into effect on 15 May 2015.
- 1.2 The Service Provider will use Commercially Reasonable Efforts to submit a BBBEE certificate, measuring the Service Provider's BEE Status. SARS may in its sole discretion extend the submission date to the first anniversary of the Effective Date.
- 1.3 The Service Provider will use Commercially Reasonable Efforts to ensure that it remains compliant for the duration of the Term of the Agreement. In the event that the Service Provider fails to maintain a compliant status, the Service Provider must submit a report to SARS detailing the reasons for loss of its compliant status.

### 2 BBBEE

- 2.1 In this **Schedule H** the provisions of the Act and the Codes (defined below) will apply *mutatis mutandis* to any words and expressions, the meaning of which for purposes of this **Schedule H** are not defined in this clause 2.1, and unless the context indicates a contrary intention, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings –
- 2.1.1 "Act" means the Broad-based Black Economic Empowerment Act, 2003 (Act 53 of 2003);
- 2.1.2 "BBBEE" means broad-based black economic empowerment;
- 2.1.3 "BEE Certification Documentation" means the certification documentation required in accordance with an organisation's classification as set out in the table below:

Classification	Turn Over	Submission Requirement
Exempted Micro Enterprise (EME)	Below R5 million p.a. (Old Codes)	Certified copy of B-BBEE Rating Certificate from a SANAS Accredited rating agency or a Registered Auditor approved by IRBA or a letter from an Accounting Officer as contemplated in the CCA.
	Below R10 million p.a. - (Amended Codes)	A sworn Affidavit or Certificate from CIPC.
Qualifying Small Enterprise (QSE)	Between R5 million and R35 million p.a. (Old Codes)	Certified copy of B-BBEE Rating Certificate from a SANAS Accredited rating agency or a Registered Auditor approved by IRBA.
	Between R10 million and R50 million p.a. (Amended Codes)	A sworn Affidavit or Certificate from CIPC.
Large Entity (LE)	Above R35 million p.a. (Old Codes)	Certified copy of B-BBEE Rating Certificate from a SANAS Accredited rating agency or a Registered Auditor approved by IRBA.
	Above R50 million p.a. (Amended Codes)	

- 2.1.4 "BEE Data" means without limitation, all the underlying data relating to an Entity which has been relied upon or utilised by a Verification Agency for the purposes of issuing a Verification Certificate in respect of an Entity's BEE Status;
- 2.1.5 "**BEE Status**" means the BEE Status of an Entity based on its Generic Scorecard (or the QSE scorecard, as may be applicable) as measured and certified by a Verification Agency in accordance with the applicable Codes or the compliance bands applicable to QSE's under the Codes, as the case may be.
- 2.1.6 "**CCA**" means the Close Corporation Act 69 of 1984;
- 2.1.7 "**CIPC**" means the Companies and Intellectual Property Commission;
- 2.1.8 "**Codes**" mean generally, the Codes of Good Practice on Black Economic Empowerment gazetted by the Minister of Trade and Industry under clause 9 of the Act on 9 February 2007 and the specific Code applicable;
- 2.1.9 "**Entity**" means for purposes of this **Schedule H**, the Service Provider and any subsidiary of the Service Provider specifically cited as a subsidiary in the Verification Certificate of the Service Provider's group of companies;
- 2.1.10 "**Element**" means the measurable quantitative or qualitative elements of the Generic Scorecard (or the QSE scorecard, as may be applicable), being Ownership, Management, Employment Equity, Skills Development, Preferential Procurement, Enterprise Development and Socio-Economic Development Initiatives, and each of the specific scorecards relating to these elements, measured in accordance with the respective Codes;
- 2.1.11 "**EME**" means an Exempted Micro Enterprise as defined under **Schedule 1** to the Codes;
- 2.1.12 "**IRBA**" means a Independent Regulatory Board for Auditors;
- 2.1.13 "**LE**" means a Large Enterprise as defined under **Schedule 1** to the Codes;
- 2.1.14 "**QSE**" means a Qualifying Small Enterprise as defined under **Schedule 1** to the Codes;
- 2.1.15 "**SANAS**" means South African National Accreditation System, being the only national accreditation body recognized by the South African Government;
- 2.1.16 "**Statements**" mean generally, the statements to the Codes and in respect of the specific Code applicable, the specific statement thereto;
- 2.1.17 "**Verification Agency**" means a BEE Verification Agency contemplated by the Codes which, at the time of the issue of any certificate or confirmation of any aspect of any Entity's BEE status for purposes of this **Schedule H**, is -
  - 2.1.17.1 a verification agency accredited by SANAS; or alternatively
  - 2.1.17.2 in respect of any certificate or confirmation of any aspect of any Entity's BEE Status issued after 1 February 2010 (and for 12 months thereafter), a verification agency that has been issued with a valid pre-assessment letter from SANAS; and



- 2.1.18 **"Verification Certificate"** means a certificate which may be required in terms of this Schedule H issued by a verification agency, verifying an Entity's BEE Status level, the details of its scorecard performance on the Elements of the Generic Scorecard (or QSE Scorecard, as may be applicable), and any other aspect of its BEE performance under the Codes or, verifying the BEE Status level, the details of the scorecard performance and any other aspect of BEE performance under the Codes of a group of companies of which an Entity forms part, provided that such Entity is specifically cited as a subsidiary in the Verification Certificate of that group of companies.
- 2.2 The Service Provider, subject to clause 1 above, undertakes and warrants that, for the full duration of the Term, the Service Provider and its Subcontractors will provide SARS with valid BEE Certification Documentation..
- 2.3 In the event the Service Provider, or any of its Subcontractors, fail to obtain and submit BEE Certification Documentation as is required in terms of their classification (in accordance with the table set out in 2.1.3 above) that is valid at a point in time during the term of the Agreement, the Service Provider will promptly inform SARS of such failure. The Service Provider will, within 14 (fourteen) days of it becoming aware of such failure, submit a full report to SARS detailing the events and circumstances leading to the failure to obtain valid BEE Certification Documentation either by the Service Provider or by one of its Subcontractors.
- 2.4 The Service Provider will, annually, at the earlier of, the anniversary of the Effective Date of the Agreement or, prior to the expiry of the Service Provider's previously applicable BEE Certification Documentation, provide to SARS BEE Certification Documentation for the Service Provider comprising the following -
- 2.4.1 a certification of its overall BEE Status, and
- 2.4.2 a certification of its scoring on all the Elements of the Generic Scorecard (or QSE Scorecard as may be applicable) stipulating –
- 2.4.2.1 the points scored on each Element under the applicable scorecard;
- 2.4.2.2 the percentage achieved on each element under the applicable scorecard; and
- 2.4.2.3 an executive report on the information contained in the Verification Certificate.
- 2.5 The Service Provider will, upon the written request of SARS at any time for the duration of this Agreement, within 30 (thirty) business days, provide SARS with any BEE Data SARS considers relevant to its evaluation of the Service Provider's or the Service Provider's Subcontractor's BEE Status or, the Service Provider's or the Service Provider's Subcontractor's BEE Status performance on any Element of the Generic Scorecard (or QSE Scorecard as may be applicable) for purposes of this **Schedule H**.
- 2.6 Notwithstanding clause 2.5 above, SARS may, at its own cost and at its sole discretion, audit (whether by internal or external auditors) BEE Data provided by Service Provider in terms of this **Schedule H**, provided that where such audit exercise reveals discrepancies and inaccuracies in the information provided by Service Provider to SARS (other than for minor or insubstantial discrepancies), or that the Service Provider is not in compliance with its obligations in clauses 2.2 above, the cost of such audit will

be borne by the Service Provider.

- 2.7 In the event that the Service Provider, at any time for the duration of this Agreement, undergoes any corporate or internal restructuring or change which has (or, is reasonably likely to have) a negative impact on its BEE Status (as per the BEE Certification Documentation that is required to be lodged from time to time in terms of this Agreement) or, undertakes any contractual commitment to do so, the Service Provider will be required to notify SARS thereof forthwith, providing full details of the impact (or anticipated impact) such restructuring or change (or proposed restructuring or change) will have on each Element of the Service Provider's Generic Scorecard, in the form of written confirmation to this effect from a Verification Agency and the steps that will be taken by the Service Provider to maintain compliance with its obligations under clause 2.2 above.

## SCHEDULE I : SARS SITES

### SARS SITES

[Note to Bidder: the list of SARS sites will be populated on contract finalisation with:

- (a) in the case of Tower D: the list of SARS Data carrier network sites as listed in the Leased Line List; ATM List; and VPN List provided with the RFP and supplemented with sites as may be included by the Bidder's solution in its Proposal, including the list of circuits to and from each site with the Service Coverage Period associated with each circuit;
- (b) in the case of Tower V: the list of SARS sites as listed in the SARS Site and PABX List provided with the RFP and / or as specifically awarded to the Service Provider; and
- (c) in the case of Tower I and Tower S: no SARS sites will be listed]

## **SCHEDULE J: SERVICE PROVIDER'S TAX CLEARANCE CERTIFICATE**

**[Note to the Bidder: The Bidder's Tax Clearance Certificate as at the time of contracting will be attached here.]**

## **SCHEDULE K: SERVICE PROVIDER'S INSURANCE POLICIES**

**[Note to the Bidder: The Bidder's Insurance Policies as at the time of contracting will be attached here]**

## **SCHEDULE L: REQUEST FOR PROPOSAL**

**[Note to the Bidder: The Request for Proposal documentation will be attached here]**

**SCHEDULE M: SARS OATH/ AFFIRMATION OF SECRECY**

**[Note to the Bidder: The SARS Oath/Affirmation of Secrecy will be attached here]**