

## GENERAL TERMS & CONDITIONS

### DEFINITIONS:

In this CONTRACT, the following capitalized words and terms shall have the definitions set out below except where the context requires otherwise:

- "SUDATEL" shall mean Sudatel Telecommunication Group with respect to all clauses in this contract.
- "CONTRACTOR" shall mean a successful selected bidder.
- "SERVICE": shall mean the services that stated, specified and demonstrated in EXHIBIT I

### ARTICLE 1 – SCOPE OF WORK:

- 1.1 This CONTRACT sets out the terms and conditions of production and provision of SERVICES. All specifications, scope of service and PARTIES obligations will be detailed in **the EXHIBIT I** of this CONTRACT.
- 1.2 This CONTRACT is binding on non-escalated price during the CONTRACT validity. Prices, currency and other commercial terms are stated in the EXHIBIT II of this CONTRACT.

### ARTICLE 2– CONTRACT DURATION

This CONTRACT shall be effective – and valid - from the date stated in the PARTICULAR TERMS AND CONDITIONS

### ARTICLE 3 - INVOICE & PAYMENT:

- 3.1 Unless otherwise provided for herein, CONTRACTOR shall invoice SUDATEL based on the rates and prices and invoicing instructions contained herein for the provision of SERVICE. Such invoice shall be submitted as one (1) original invoice together with sufficient original supporting documentation to permit verification thereof by SUDATEL. All invoices shall include the reference: **"CONTRACT Number & Title"**. All invoices shall be prepared on CONTRACTOR's official letterhead and the original shall be signed by CONTRACTOR's authorized representative.
- 3.2 Payment due to CONTRACTOR may be withheld by SUDATEL on account of:
  - i. Unsatisfactory performance of this CONTRACT.
  - ii. The filing of claims against SUDATEL caused by acts or omissions of CONTRACTOR.
- 3.3 SUDATEL shall have the absolute right to recover any amounts whatever owed by CONTRACTOR to SUDATEL from any payment or monies otherwise due to CONTRACTOR hereunder.
- 3.4 SUDATEL shall further have the right, but not the duty, to withhold any amount payable by SUDATEL hereunder and the right to apply same to the payment of any obligations of CONTRACTOR to other parties arising in any manner from this CONTRACT or its performance by CONTRACTOR.

#### **ARTICLE 4 – PERFORMANCE SECURITY:**

4. 1. Upon SUDATEL request, CONTRACTOR shall furnish SUDATEL with a Performance Bond in the format set out in ATTACHMENT, by way of guarantee for the CONTRACTOR due performance in this CONTRACT.
4. 2. The Performance Bond shall be proven guarantee letter issued by certified bank, financial institute or insurance firm, the Performance Bond shall be a (10%) of the total estimated Contract Amount, and all expenses or charges might be made on preparation of Performance Bond shall be borne by CONTRACTOR.
4. 3. The performance bond shall be valid till the provision of SERVICE acceptance for the last shipment.
4. 4. If a Performance Bond to be furnished pursuant to this article, is not duly furnished to SUDATEL within thirty (30) days of the execution of this CONTRACT, SUDATEL, may at its own option and without prejudice to any rights or claims it may have against CONTRACTOR by reason of CONTRACTOR's non-compliance with any of the provisions of this article, terminate this CONTRACT by giving notice to SUDATEL.
4. 5. SUDATEL reserves the right to instruct CONTRACTOR to revise the Performance Bond amount to correspond to any increase in the CONTRACT price or to place whatever amendment that applied in CONTRACT hereto. Failure to revise or to amend the Performance Bond term as required shall be deemed to be a default under this CONTRACT and SUDATEL may invoke the performance bond without prejudice to all its other rights under this CONTRACT or law or equity.
4. 6. Failure of CONTRACTOR to provide the Performance Bond or failure of CONTRACTOR to continue to provide the required Performance Bond throughout the term of this CONTRACT shall entitle SUDATEL to withhold payment of CONTRACTOR's invoice(s) until such time as the equivalent amount required for the Bank Guarantee has been duly withheld by SUDATEL. This withheld amount shall not be released until the required performance bond is furnished to SUDATEL by CONTRACTOR or until all CONTRACTOR obligations related to this CONTRACT are satisfactorily completed.

#### **ARTICLE 5 – ACCEPTANCE:**

- 5.1 SUDATEL shall execute physical inspection for all delivered SERVICE to ensure the full compliance with materials quality, specification, quantities, packing mode and standard as per stated and detailed in the CONTRACT terms and conditions.
- 5.2 All delivered materials shall at all times be subject to SUDATEL's inspection but neither SUDATEL's inspection nor failure to inspect shall relieve CONTRACTOR of any obligations hereunder.

#### **ARTICLE 6 – WARRANTY:**

- 6.1 CONTRACTOR warrants that:
  - a. CONTRACTOR shall comply fully with all applicable laws, rules, enactments and regulations prescribed by any applicable government or body having jurisdiction over the supplied SERVICE including, but not limited to, all applicable international, national, provincial and municipal/local regulations on health, safety and environment protection.
  - b. CONTRACTOR shall secure and keep in effect all permits and licenses required by public bodies in connection with the supply SERVICES.

- c. Supplied SERVICE shall be of the kind and quality specified herein, free from defect and fault in design.
- 6.2 All warranties shall continue in full force and effect notwithstanding any termination of this CONTRACTOR by SUDATEL and shall be valid for – at least - three (3) years from date of commissioning.
- 6.3 In addition to any other rights SUDATEL may have in law or equity or in this CONTRACT, if in SUDATEL unfettered opinion, acting reasonably, supply failure to conform with the warranty, SUDATEL shall have the right to do any or all of the following:
- a. Reject any or all of delivered SERVICES, at SUDATEL's option, replacement items, a refund of the value of the rejected shipments from CONTRACTOR or exercise the right to set off the value of the rejected shipments against any amounts owed by SUDATEL to CONTRACTOR including, but not limited to, matured, unmatured, or contingent amounts.
  - b. At CONTRACTOR's risk and expense, either return same to CONTRACTOR or hold the rejected shipments for a reasonable time for CONTRACTOR to remove after which time SUDATEL may dispose of such rejected shipments as it sees fit.
  - c. Cancel any outstanding orders and terminate any obligations to receive or pay for further orders.

#### **ARTICLE 7 - LIQUIDATED DAMAGES:**

- 7.1 If the delivery been delayed for any reason, CONTRACTOR shall immediately notify SUDATEL in writing and shall be responsible for any additional costs caused by such delay.
- 7.2 Such delay gives SUDATEL the right for liquidated damages at the rate of five-tenth percent (0.50 %) of the total value of the Purchase Order amount for every day of delay, the maximum limit would not exceed ten percent (10%) of the Purchase Order amount, and then SUDATEL has a right to terminate the CONTRACT. The liquidated damages shall be payable without the need for warning or notice or for proving the damage that in all cases shall be considered as having occurred.
- 7.3 SUDATEL may, without prejudice to any other rights, deduct the amount of such liquidated damages from payment due or which may become due to CONTRACTOR. The payment or deduction of such damage shall not relieve SUDATEL from its other obligations and liabilities under this CONTRACT.

#### **ARTICLE 8 – INDEMNITIES:**

- 8.1 CONTRACTOR shall be responsible for and liable to and shall indemnify, defend and hold harmless SUDATEL, as per the following:
  - a. from and against any and all claims or liability for claims, demands, causes or causes of action of whatever kind or nature resulting from infringement of any copyright, patent, trade secret or other proprietary right or intellectual property right or alleged infringement thereof as a result of any materials or procedures used by SUPPLIER for production and delivery.
  - b. from and against any and all claims or liability for claims, demands, causes or causes of action of whatever kind or nature resulting from violation by CONTRACTOR of any law or anything having the force of law.

- 8.2 Notwithstanding anything else in this CONTRACT, CONTRACTOR shall be solely responsible for all damage or destruction or loss from any cause whatsoever, of tools, equipment and other property which are owned, hired, leased or otherwise by CONTRACTOR or its vendors, and which are used or intended for use in supply and deliver the SERVICES.
- 8.3 For the limited purpose of extending the indemnities contained in this Article and throughout this CONTRACT, SUDATEL contracts on its own behalf and as agent and trustee on behalf of SUDATEL Indemnified Persons, and each member of SUDATEL Indemnified Persons shall be deemed to be a party of this CONTRACT for this limited purpose.
- 8.4 CONTRACTOR acknowledges that there are certain risks, including personal security risks, in traveling to and working within locations such as Sudan. For the avoidance of doubt, CONTRACTOR acknowledges and agrees that CONTRACTOR is solely responsible for harm and loss associated with such risk and that SUDATEL bears no responsibility for any such risks to SUPPLIER during the production, supply and mobilization.

#### **ARTICLE 9- LIMITATION OF LIABILITY:**

- 9.1 Notwithstanding anything else contained herein, neither PARTY shall be liable to the other PARTY for indirect or consequential loss, which shall be deemed to include, but not be limited to:
- a. Any loss of or anticipated loss of profit, any loss or anticipated loss or deferment or anticipated deferment of revenue or income, loss or anticipated loss of or failure to obtain any contract or other business opportunity.
  - b. Any loss or anticipated loss, damage, cost or expense arising out of any action, claim, suit, demand, or judgment resulting from or arising out of any of the foregoing, Howsoever arising, whether under contract, tort (including negligence), equity, and/or breach of duty (statutory or otherwise).
- 9.2 Subject to clause 9.1 in no event shall either party's total aggregate, cumulative liability for any damages, costs or expenses in any action based on contract, tort or otherwise arising out of or in connection with this CONTRACT exceed the total CONTRACT value.
- 9.3 Notwithstanding anything else contained herein, any liability attributable to the partners or individual parties comprising partners pursuant to this CONTRACT shall be several, and not joint and not joint and several, in proportion to an individual party's percent interest as described on this CONTRACT.

#### **ARTICLE 10- INSURANCE:**

- 10.1 CONTRACTOR shall at CONTRACTOR expense carry and maintain in full force levels of insurance sufficient to cover its liabilities and obligations under this CONTRACT, and any other insurance which may be relevant and/or which may be required by any law to which the CONTRACTOR is subject.
- 10.2 Whenever requested, CONTRACTOR shall furnish SUDATEL with satisfactory evidence that such insurances are in full force and effect.

#### **ARTICLE 11 – TERMINATION:**

- 11 .1 Failure of CONTRACTOR to comply with any express or implied provisions of this CONTRACT, the occurrence of CONTRACTOR insolvency, involuntary bankruptcy, or receivership or an assignment for the benefit of creditors shall entitle SUDATEL (without limiting any other rights or remedies SUDATEL may have) to terminate all or any part of this CONTRACT without penalty.
- 11 .2 SUDATEL may at any time, terminate all or any part of this CONTRACT without cause by giving (14) days prior notice to CONTRACTOR specifying that SUDATEL intends to terminate the CONTRACT, and then the CONTRACT shall be terminated accordingly.

#### **ARTICLE 12 – FORCE MAJEURE**

- 12 .1 For the purpose of this CONTRACT, "Force Majeure" shall include acts of God, fire, unavoidable accidents, acts of war, or act of government, or conditions arising out of or attributable to war (declared or not declared), civil war, sabotage, strikes, embargo or blockade, floods, storms and other natural disturbances, insurrections, riots and other civil disturbances, breakages of or accident to machinery, equipment, inability to obtain permits, licenses, orders, certificates or other authorizations, orders of any court, commission, board or other authority having jurisdiction or any other cause not due to the fault or negligence of the PARTY invoking Force Majeure and any other cause beyond the reasonable control of the PARTY invoking Force Majeure but not including lack of finances.
- 12 .2 If either PARTY is prevented or hindered by Force Majeure from performing any of its obligations hereunder, the obligations of both PARTIES, insofar as the obligations relate to the portion of the CONTRACT affected by Force Majeure, shall be suspended while Force Majeure continues to prevent or hinder, the performance of such obligations and only to the extent of the said prevention or hindrance. For additional clarity, SUDATEL shall not have an obligation to pay CONTRACTOR for services or orders suspended and not performed due to Force Majeure. In case of Force Majeure situation continue longer than two (2) months, PARTY may suspend or terminate this CONTRACT by giving notice period of thirty (30) days to the other PARTY.
- 12 .3 If Force Majeure results in the suspension of all or part of the CONTRACT, the PARTIES shall meet, as soon as practicable given the nature of the Force Majeure, and determine the appropriate measures to be taken, including whether any or all of the CONTRACT should be suspended or terminated.

#### **ARTICLE 13 – CONFIDENTIALITY:**

- 13 .1 CONTRACTOR's use of any information and data which it receives or has access to as a result of this CONTRACT shall be restricted to use for the purpose of providing the SERVICE to SUDATEL's operations in the Sudan. CONTRACTOR shall not sell, assign, transfer, mortgage, charge, encumber or otherwise dispose of any information and data that it receives or has access to as a result of this CONTRACT.
- 13 .2 Upon completion of the SERVICE delivery hereunder, or upon termination of this CONTRACT, CONTRACTOR shall deliver such drawings and documentation to SUDATEL unless otherwise agreed to in writing by SUDATEL.
- 13 .3 CONTRACTOR shall ensure its affiliates and its and their Personnel comply with the provisions of this Article and if required by SUDATEL, shall cause its affiliates and its and their Personnel to enter into a direct written obligation to comply with the provisions of this Article.

13.4 Each PARTY shall give the other PARTY written notice if it becomes aware that CONTRACTOR has materially breached the provisions of this Article. PARTIES shall then endeavor in good faith to forthwith resolve the breach. In the event that the PARTIES are unable to resolve the breach, the PARTIES shall proceed to arbitration as provided for herein, provided that insofar as the breach is on-going, SUDATEL may seek for immediate injunctive relief for the on-going portion of the breach pending final resolution by arbitration.

13.5 This Article shall continue in force notwithstanding the completion, or earlier termination of this CONTRACT.

#### **ARTICLE 14 – GOVERNING LAW:**

The validity and interpretation of this CONTRACT and the legal relations of the Parties to it shall be governed by and construed in accordance with the laws of Sudan.

#### **ARTICLE 15 – ARBITRATION:**

15.1 Any dispute between the PARTIES as to the performance of this CONTRACT or the rights or liabilities of the PARTIES which cannot be settled amicably shall be finally settled by arbitration as per the Sudan Arbitration law of 2016

15.2 Arbitration Committee will comprise three members, each PARTY shall elect one member, and both parties shall agree on the third-member as a chairman.

15.3 The decisions of the arbitrators shall be final and binding and judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof.

#### **ARTICLE 16 – NON-EXCLUSIVE AGREEMENT:**

This CONTRACT is non-exclusive and SUDATEL reserves the right to engage other CONTRACTORS to supply similar or identical SERVICES. CONTRACTOR shall afford such other CONTRACTORS adequate opportunity to carry out their contracts.

#### **ARTICLE 17 - GENERAL ADMINISTRATION TERMS**

17.1 No amendment, extension, revisions or modification may be made to this Agreement or annexes thereto unless executed in writing agreed and signed by the duly authorized representatives of each of the PARTIES.

17.2 This CONTRACT supersedes any previous agreements and understandings between the PARTIES in respect of the subject matter hereof, including any production arrangements.

17.3 This CONTRACT constitutes the entire understanding between the PARTIES in respect of the subject matter hereof and may be amended only in writing duly signed by the PARTIES. If any provision hereof is held invalid or unenforceable by any competent jurisdiction, all other provisions shall not be affected thereby and shall remain in full force and effect.