



SERVICE LEVEL AGREEMENT ENTERED INTO BY AND BETWEEN

RICHMOND LOCAL MUNICIPALITY
(Hereinafter referred to as "THE MUNICIPALITY")

Herein represented by **Mr. B E MSWANE** in his capacity as the **Municipal Manager**

AND

COMPANY NAME

Registration no.
(Herein referred to as the **Service Provider**)

Herein represented by **company representative** in his capacity as the **Director/ Member**.

**TENDER NUMBER: RLM 19/2024/2025: PROVISION OF AN IP
BASED TELEPHONE MANAGEMENT SYSTEM FOR A PERIOD OF
60 MONTHS.**

PROVISION OF AN IP BASED TELEPHONE MANAGEMENT SYSTEM FOR A PERIOD OF 60 MONTHS

Municipal manager	Witness 1	Witness 2	Service Provider	Witness 1	Witness 2

1. INTRODUCTION

It is recorded that:

- 1.1. Richmond Local Municipality, in the implementation of its adopted Integrated Development Plan 2024/2025: Project Implementation, called for bidders who are registered with National Treasury Suppliers Database (CSD), for the provision of an IP based telephone management system to Richmond Municipality.
- 1.2. **Company name**, with Registration no....., submitted a tender proposal in terms of Tender No. RLM 19/2024/2025.
- 1.3. The Municipality in terms of its Supply Chain Management procedures awarded and/or appointed **Company name** as a successful bidder relating to Tender: **RLM 19/2024/2025** in terms of the confirmation of Appointment letter dated **Date**, the confirmation letter is Marked Annexure "A"

WHEREFORE

- 1.4. The Parties record their terms and conditions of agreement set out in this Contract.

2. INTERPRETATION

2.1. The headings of the clauses in this Contract are for the purpose of convenience and reference only and shall not be used in the interpretation of or modify the terms of this Contract nor any clause thereof unless a contrary intention clearly appears.

2.2. Words importing –

2.2.1. the singular includes a reference to the plural and vice versa.

2.2.2. any one gender includes a reference to the other genders,

2.2.3. a natural person includes a reference to a juristic person and vice versa.

PROVISION OF AN IP BASED TELEPHONE MANAGEMENT SYSTEM FOR A PERIOD OF 60 MONTHS

Municipal manager	Witness 1	Witness 2	Service Provider	Witness 1	Witness 2

- 2.3. Where any term is defined within the context of any particular clause in this Contract, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this Contract, notwithstanding that term has not been defined in this interpretation clause.
- 2.4. The following terms shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings, namely:
- 2.4.1. **Acceptance tests:** means tests using test data to test the system for acceptance.
- 2.4.2. **Agent:** means an authorised representative of the Municipality or Service Provider.
- 2.4.3. **Agreement:** means the provision of an IP based telephone management system contract between the Municipality and the Service Provider.
- 2.4.4. **Calendar days:** means Twenty-four (24) hour days commencing at midnight (00:00) which include working and non- working days.
- 2.4.5. **Call waiting:** means a feature that enables a calling party to place a call on an extension that is currently engaged.
- 2.4.6. **Commencement date:** means the date on which the parties commenced with the performance of their obligations, namely date of signature of service level agreement.
- 2.4.7. **Contract Price:** means the total amount of fees, inclusive of tax, as accepted by the Municipality and stated in the contract schedule that is not subject to adjustment.
- 2.4.8. **Final Account:** means the document, prepared by the Project Officer, reflects the contract value of the works at final completion or termination.
- 2.4.9. **Hardware:** means the external and internal devices and equipment that will be used to ensure that the IP telephone management system is up and running.
- 2.4.10. **IP telephone:** means internet protocol telephone or the use of IP-based networks to build, provide and access voice, data or other forms of telephonic communications.

PROVISION OF AN IP BASED TELEPHONE MANAGEMENT SYSTEM FOR A PERIOD OF 60 MONTHS

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- 2.4.11. **IP-PBX**: means an Internet Protocol Private Branch Exchange. It is a business telephone system designed to deliver voice or videos over a data network and interoperate with the normal Public Switched Telephone Network.
- 2.4.12. **IT**: means Information Technology such as computer hardware and software systems.
- 2.4.13. **IT administrators**: means Richmond Municipality's employees working in the ICT department.
- 2.4.14. **Music on Hold**: means a feature that plays music or other audio to the caller while he/she is placed on hold.
- 2.4.15. **Mediator**: means the person appointed, where so stated in the Schedule, to mediate any dispute arising in terms of this agreement.
- 2.4.16. **Project**: means the services to be performed by the Service Provider in terms of the Tender and the corresponding obligations to be fulfilled by the Municipality.
- 2.4.17. **Project Plan**: means a strategy prepared by the parties for the successful completion of the Project, submitted within a reasonable time, prior to the commencement of the project.
- 2.4.18. **Queue**: means calls having been made to the Municipality which have been accepted by the telephone system and are waiting to be answered by an Information Officer.
- 2.4.19. **Service Provider**: means **Company name**, under registration no.....
- 2.4.20. **Services**: means the installation of IP-bases telephone management systems.
- 2.4.21. **Schedule**: means the listed variable applicable to this agreement.
- 2.4.22. **Site**: means the land or place on, over, under, in or through which the works is to be executed as defined in this agreement and tender document number 19/2024/2025.
- 2.4.23. **Test data**: means data supplied by the Municipality for the purpose of testing the system to demonstrate that it works, in order for the system to be accepted by the Municipality.
- 2.4.24. **Training**: means the training in using the IP-based telephone management system to be installed by the Service Provider.

PROVISION OF AN IP BASED TELEPHONE MANAGEMENT SYSTEM FOR A PERIOD OF 60 MONTHS

Municipal manager	Witness 1	Witness 2	Service Provider	Witness 1	Witness 2

2.4.25. **VLAN**- means a custom network which is created from one or more local area networks. It enables a group of devices available in multiple networks to be combined into one logical network.

2.4.26. **VOIP**: means voice over internet protocol. It is a digital telephone service.

3. OFFER, ACCEPTANCE AND PERFORMANCE OBLIGATIONS

- 3.1. The objective of this contract is the execution of and the payment for the work for which there has been an offer by the contractor and an acceptance thereof by the Municipality.
- 3.2. In pursuance of the objective the parties undertake to carry out their reciprocal obligations.
- 3.3. The duration of this contract shall be sixty (60) months and maybe extended by mutual agreement on the terms and conditions of this contract.

4. LEGISLATIVE FRAMEWORK AND DOCUMENTS

- 4.1. This Contract is subject to the following Legislative Framework:
 - 4.1.1. Regulation of Interception of Communications and Provision of Communication-related Information Act, 70 of 2002.
 - 4.1.2. Treasury Regulations for Departments, Constitutional Institutions and Public Entities promulgated under the Public Finance Management Act, 1999 in Government Gazette on 15 March 2008.
 - 4.1.3. Electronic Communications Act, 36 of 2005 .
 - 4.1.4 ICASA Act 13 of 2000.
 - 4.1.5 Protection of Personal Information Act, 4 of 2013.
 - 4.1.6 Cyber Crimes Act, 19 of 2020.
 - 4.1.7 Electronic Communications and Transactions Act 25 of 2002.

PROVISION OF AN IP BASED TELEPHONE MANAGEMENT SYSTEM FOR A PERIOD OF 60 MONTHS

Municipal manager	Witness 1	Witness 2	Service Provider	Witness 1	Witness 2

5. SCOPE OF WORK

- 5.1. The contract is for the provision of IP-based telephone management system that will assist the Municipality in cutting down the costs related to their telephone system, building customer confidence, increasing mobility without missing customer calls, improving productivity and efficiency and lastly improving compliance and security. The installation of the aforesaid system will further assist the municipality with ease of operating, storing regularly used numbers, and features such as music on hold that will enable music to play while callers are waiting for the next available personnel to assist them. The system will also have after hours message facilities that will enable the Municipality to return calls to callers whose calls could not be attended to.
- 5.2. The project and the scope of works includes:
- 5.2.1. Bringing municipal costs down;
 - 5.2.2. Building customer confidence;
 - 5.2.3. Increasing mobility without missing customer calls;
 - 5.2.4. Improving productivity and efficiency;
 - 5.2.5. Keeping Municipality's existing business telephone numbers;

6. REPRESENTATIVES/AGENTS

- 6.1. The Service Provider appoints **representative** as the project manager and key point of contact and liaison for all matters relating to the project by and between the Service Provider and the Municipality.
- 6.2. The Municipality appoints Miss Zanele Zuma as the representative of Richmond Municipality as the project manager and key point of contact and liaison for all matters relating to the project by and between the Service Provider and the Municipality.

7. RESPONSIBILITIES OF THE SERVICE PROVIDER

- 7.1 The IP BPX appliance to be provided by the Service Provider must have the following features:
- 7.1.1. Provision of a centralized solution for the communication needs of businesses, IP based PBX appliance that combines enterprise-grade voice, video, data, and

PROVISION OF AN IP BASED TELEPHONE MANAGEMENT SYSTEM FOR A PERIOD OF 60 MONTHS

Municipal manager	Witness 1	Witness 2	Service Provider	Witness 1	Witness 2

mobility features in an easy-to-manage solution. This IP PBX series must unify multiple communication technologies, such as voice, video calling, video conferencing, video surveillance, data tools, mobility options and facility access management onto one common network that can be managed and/or accessed remotely. The solution must cater for the following features:

1. Pin Codes for all users
2. Speed dial Facilities to Cell phones or call Diverting
3. User Extension Facilities
4. Detailed report for all extensions and codes-Telephone management system
5. Hardware and software for telephone management system for **IT to be able to reset/change pin codes and usernames**
6. Facility to restrict extensions to internal, local, provincial, national or international calls
7. Geographical number portability
8. Scaling of the system
9. Support up to 170 users;
10. Dual network ports with integrated PoE;
11. Support call queue for efficient call volume management;
12. Call details records,
13. Call features must include (call park, call forwarding, call transfer, DND, ring/hunt group, paging, intercom,
14. The solution must include 100 IP phones with 1 switchboard system
15. The proposal must include call rates for all networks and international calls
16. The router must have QOS (Quality of Service) for VOIP
17. Provide fully managed POE switches with VLAN capabilities
18. Dedicated backup power and surge protection must be provided with the solution

PROVISION OF AN IP BASED TELEPHONE MANAGEMENT SYSTEM FOR A PERIOD OF 60 MONTHS

Municipal manager	Witness 1	Witness 2	Service Provider	Witness 1	Witness 2

19. Service Providers must provide a plan on how they will ensure 99.6% uptime on the system
20. Service providers must submit a detailed technical specification sheet of the PBX, phones and switches that will be deployed
21. Service provider must submit a detailed solution diagram with their proposal
22. The Existing Municipal Main Telephone number must remain the same (0332122155) not 087
23. Phones at the security gates must only dial internal extensions
24. Service provider may be invited to do a system demonstration (proof of Concept)
25. Maintenance of the phones and switches must be provided as and when required with a turnaround time of 24 hours
26. Training of IT administrators and helpdesk operator must be provided

Switchboard must have the following features:

- I. Operator: to manage and view the call activity, to shows the presence/status of other users: available, busy, not answering and forwarded, transfer and retrieve calls.
 - II. Busy lamps: to indicate a busy status of other extensions.
 - III. Call Forwarding: Can be set to 'always', 'when unavailable', 'busy' or 'when unanswered'.
 - IV. Call Back: To return a call from authenticated incoming Caller IDs.
- 7.3. Ensuring that the proposal has call rates for all networks and international calls.
 - 7.4. Providing a router that has QOS (quality of service) for VOIP.
 - 7.5. Providing fully managed POE switches with VLAN capabilities.
 - 7.6. The contractor shall be responsible for the supply, installation, and maintenance of the contract signboard for the duration of the contract.

PROVISION OF AN IP BASED TELEPHONE MANAGEMENT SYSTEM FOR A PERIOD OF 60 MONTHS

Municipal manager	Witness 1	Witness 2	Service Provider	Witness 1	Witness 2

- 7.7. Providing a dedicated backup power to be used in case of power outages or loadshedding and surge protection in addition to the IP based PBX appliance.
- 7.8. Providing a plan on how the Service Provider will ensure 99.6% uptime of the system.
- 7.9. Submitting a detailed technical specification sheet of the PBX, phones and switches that will be deployed for telephone management system.
- 7.10. Ensuring that the existing Municipal main telephone number is not converted to 087 but remains the same as 033 2122155.
- 7.11. Ensuring that phones at the security gates can only dial internal extensions.
- 7.12. Be available when requested to come and do a system demonstration at the Municipal offices.
- 7.13. Providing the requisite training to the IT administrators and help desk operators in order to enable the system to be fully managed and reviewed by the Municipality

8. OBLIGATIONS OF THE SERVICE PROVIDER

- 8.1. The Service Provider undertakes to:
 - 8.1.1. Render all the services in terms of this Agreement with reasonable professional skill, care, expertise and at the reasonable standard as required by the Municipality.
 - 8.1.2. Submit written progress reports on a monthly basis to the Municipality until the project is fully completed.
 - 8.1.3. Supply and install all items as listed in Clause 7 above.

PROVISION OF AN IP BASED TELEPHONE MANAGEMENT SYSTEM FOR A PERIOD OF 60 MONTHS

Municipal manager	Witness 1	Witness 2	Service Provider	Witness 1	Witness 2

- 8.1.4. Train the Municipality's staff on how the IP based telephone management system operates.
- 8.1.5. To provide suitably qualified personnel to carry out the services and related tasks.
- 8.1.6. To provide the services in a timely and efficient manner and to a professional standard in accordance with any schedules stipulated in the tender document and which will conform to the standards generally observed in the Municipalities that use similar telephone management systems.
- 8.1.7. To ensure that all services to be rendered in terms of this Agreement are of satisfactory quality.

9. OBLIGATIONS OF THE MUNICIPALITY

9.1. The Municipality undertakes:

- 9.1.1. Ensuring that the Service Provider has reasonable access to the Municipality's premises and is given all the support as may be necessary for the Service Provider to fulfil its obligations.
- 9.1.2. To pay for the services together with associated expenses under the terms of this Agreement;
- 9.1.3. To release its staff for training by the Service Provider;
- 9.1.4. To provide the Service Provider and its employees designated to perform the services with all the necessary information, support and co-operation that may reasonably be required to enable the Service Provider to carry out its obligations to the Municipality under this Agreement;
- 9.1.5. To provide at no cost to the Service Provider adequate office space or a secure workspace, and other facilities including access to the applicable IT systems of the Municipality, all as reasonably necessary to enable the assigned employees of the Service Provider to perform

PROVISION OF AN IP BASED TELEPHONE MANAGEMENT SYSTEM FOR A PERIOD OF 60 MONTHS

Municipal manager	Witness 1	Witness 2	Service Provider	Witness 1	Witness 2

the services at the Municipality's sites and further allow full access to the areas in which the services are to be performed at the Municipality's sites;

9.1.6. To ensure that its employees co-operate fully with the Service Provider in relation to the provision of the services.

9.1.7. To furnish the Service Provider promptly with information and documents as the Service Provider may reasonably request for the proper performance of its obligations under this Agreement.

10. CONTRACT PRICE

10.1. The contract price in respect of this Agreement is as per the pricing schedules provided in by **preferred bidder**.

11. COMPULSORY HARDWARE

11.1. The Service Provider shall, in addition to all the hardware and software required in terms of this agreement, ensure the provision of the hardware mentioned hereunder for the duration of the contract as disclosed in the tender document:

11.1.1 Switchboard, which must have all the features mentioned hereunder:

11.1.1.1. Allows the Operator to manage and view call activities and further show the status of other users and whether the user is available, busy, not answering and further enable the Operator to forward, transfer and retrieve calls.

11.1.1.2. Busy Lamps: to indicate a busy status of other extensions.

11.1.1.3. Call Forwarding: which can be set to 'always', 'when available', 'busy' or 'when unanswered'.

11.1.1.4. Call back: to return a call from authenticated incoming Caller IDs.

PROVISION OF AN IP BASED TELEPHONE MANAGEMENT SYSTEM FOR A PERIOD OF 60 MONTHS

Municipal manager	Witness 1	Witness 2	Service Provider	Witness 1	Witness 2

11.1.2. The Service Provider shall further provide the hardware such as handsets, POE switch as provided for in the tender document in the sites mentioned hereunder as follows:

Main Offices (GPS:-29.871100, 30.271810)

- 120 handsets
- UPS (3hours)
- 48 port POE Switch x 6
- 48 port POE Switch x 2 (Server Room)
- Service providers are required to supply, install and maintain internet solution to ensure the proper functionality of the telephone system

Incubation Centre- (-29.869682, 30.273150)

- 10 handsets
- UPS (3hours)
- 16 Port POE Switch x 1
- Service providers are required to supply, install and maintain internet solution to ensure the proper functionality of the telephone system

Works Yard

- 5 handsets
- UPS (3hours)
- 24 Port POE Switch x 1
- Service providers are required to supply, install and maintain internet solution to ensure the proper functionality of the telephone system

PROVISION OF AN IP BASED TELEPHONE MANAGEMENT SYSTEM FOR A PERIOD OF 60 MONTHS

Municipal manager	Witness 1	Witness 2	Service Provider	Witness 1	Witness 2

Driver's testing ground (-29.872696, 30.267183)

- 25 handsets
- UPS (3hours)
- 48 port POE Switch x 1
- Service providers are required to supply, install and maintain internet solution to ensure the proper functionality of the telephone system.

Inhlazuka library-(-30.060694, 30.456484)

- 2 handsets
- UPS (3hours)
- 8 port POE Switch x 1
- Service providers are required to supply, install and maintain internet solution to ensure the proper functionality of the telephone system

Hopewell library (-29.795242, 30.404453)

- 1 handset
- UPS (3hours)
- 8 port POE Switch x 1

11.2. In addition to providing the abovementioned hardware, the Service Provider shall supply, install, and maintain internet connection in all the sites mentioned in 11.1.2 in order to ensure the proper functionality of the telephone system.

PROVISION OF AN IP BASED TELEPHONE MANAGEMENT SYSTEM FOR A PERIOD OF 60 MONTHS

Municipal manager	Witness 1	Witness 2	Service Provider	Witness 1	Witness 2

12. RISK ASSESSMENT

- 12.1. The Service Provider shall take full responsibility for the works from the date on which possession of the sites are given to the Service Provider and up to the date of completion or deemed achievement of the project. Thereafter the responsibility for the works shall pass to the Municipality.
- 12.2. The Service Provider shall repair damage resulting from the works, including cleaning away and removing from the site all dirt resulting therefrom, which occurs after the date on which possession of the sites is given and up to the date of completion.
- 12.3. The Liability of the Service Provider shall include:
- 12.3.1. The cost of such making good of physical loss and repairing damages;
- 12.3.2. The additional professional services of the Municipality.
- 12.4. The limit of the Service Provider's liability shall not exceed the amount of the contract.
- 12.5. The Service Provider shall not be liable for the cost of repairing damage to the works where this results from any of the following circumstances:
- 12.5.1. War, whether declared or not, invasion and hosties act of foreign enemies;
- 12.5.2. Rebellion, insurrection, revolution, terrorism, military or usurped power or civil war;
- 12.5.3. Civil commotion, riot, strike, lockout, or disorder by person other than the Service Provider's personnel.
- 12.5.4. Confiscation. nationalisation or requisition by any public or local authority;
- 12.5.5. The use or occupation of any part of the sites by the Municipality, the Municipality's employees, or agents and those for whose acts or omissions they are responsible;
- 12.5.6. An act or omission of the Municipality, the Municipality's servants, or agents and those for whose acts or omissions they are responsible;

PROVISION OF AN IP BASED TELEPHONE MANAGEMENT SYSTEM FOR A PERIOD OF 60 MONTHS

Municipal manager	Witness 1	Witness 2	Service Provider	Witness 1	Witness 2

- 12.6. Where the Service Provider is not liable for the costs of repairing damage, such cost of repairing damage shall be measured, valued, and added to the Contract price.
- 12.7. The Service Provider shall forthwith notify the Agent of any damage to the works that comes to its attention.

13. MEETINGS AND REPORTING OBLIGATIONS

- 13.1. The Service Provider shall submit to the Municipality the reports and documents as stated in the tender document on a monthly basis. The monthly reports to be submitted to the Municipality shall advised of any challenges experienced by the Service Provider and interventions, if any.
- 13.2. The parties undertake to meet once a month during the course of this contract with an intention of taking reports and monitoring progress of the project in terms of the deliverables. The parties shall regularly exchange views and furnish information that may be requested by either party regarding progress and performance of their respective obligations in order to ensure that the purposes and objectives of the project are accomplished.
- 13.3. The monthly assessment and reporting shall be completed within 15 working days after the end of each month.
- 13.4. The Municipality shall provide a copy of the assessment to the Service Provider at the end of each assessment period and on completion or termination of the contract.
- 13.5. The Municipality shall intervene and provide support where areas of underperformance by the Service Provider have been identified by the Municipality.
- 13.6. The Service Provider shall be informed in writing of the areas of underperformance and support interventions.
- 13.7. The overall performance of the Service Provider shall be assessed on the following criteria.

EVALUATION CRITERION	WEIGHT	SCALE	TOTAL SCORE (WEIGHT SCALE)
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PROVISION OF AN IP BASED TELEPHONE MANAGEMENT SYSTEM FOR A PERIOD OF 60 MONTHS

Municipal manager	Witness 1	Witness 2	Service Provider	Witness 1	Witness 2

Service delivered within stipulated timeframes	5		
Quality if service specified/agreed	5		
Invoice delivered on time and correctly	5		
General ease of working with the Service Provider	5		
TOTAL			
FORMULA: TOTAL SCORE 80%			%
TOTAL SCORE MATRIX: - Poor: 50%; Average: 50- 59%; Excellent: 70%			

14. OWNERSHIP OF PROPERTY

- 14.1. Upon completion of the project, Richmond Municipality shall become the owner of the IP PBX system and telephone handsets.

15. PENALTIES

- 15.1. Penalties shall be imposed in the following cases:

15.1. Late delivery;

15.2. Poor quality;

15.3. Non-compliance with scope of work, reporting requirements and any other requirements stated in the tender document;

15.4. Any other misrepresentation or poor performance.

- 15.2. Penalties to be imposed shall be at the discretion of the Accounting Officer, who shall also determine the percentage of same based on the severity of the offence.

16. SITE COMPLETION

PROVISION OF AN IP BASED TELEPHONE MANAGEMENT SYSTEM FOR A PERIOD OF 60 MONTHS

Municipal manager	Witness 1	Witness 2	Service Provider	Witness 1	Witness 2

- 161 If the Service Provider fails to complete the installation of the systems by the completion date, unless such failure demonstrably results from the Municipality's default in performing its obligations under this Agreement, the Municipality will notify the Service Provider accordingly, and if such failure is not remedied within 10 working days, the Service Provider shall be required to pay a certain amount of money to the Municipality as damages for failure to meet the system completion date.
- 16.2. If any delay in meeting the systems completion date is due mainly to the Municipality's fault, the Service Provider will nevertheless, if the Municipality so requests, continue with the work on the project with a view to completing it as soon as reasonably possible in the circumstances and the Implementation Plan will be adjusted accordingly. In such circumstances, the Service Provider will be entitled to charge for an additional time at agreed daily rates.
- 16.3. Where sites are required to be completed, terms, and conditions applicable to this project shall apply to each site. The following documents, which shall include each site, shall be issued by the Agent for the works as a whole:
- 16.3.1. interim payment certificate;
 - 16.3.2. Recovery statements;
 - 16.3.3. Final account;
 - 16.3.4. Final payment certificate;
 - 16.3.5. Certificate of final completion that shall incorporate the certificate of final completion of all the sites.

17. PAYMENT TO OTHER PARTIES

- 17.1. The Project Officer or Agent shall issue separate payment certification to other parties with copies to the contractor where the Municipality has engaged other parties to execute work.
- 17.2. The Municipality may recover expense or loss resulting from such payments.

18. BREACH

PROVISION OF AN IP BASED TELEPHONE MANAGEMENT SYSTEM FOR A PERIOD OF 60 MONTHS

Municipal manager	Witness 1	Witness 2	Service Provider	Witness 1	Witness 2

- 18.1. If either party breaches this Agreement or fails to perform any of its obligations, then the other party shall provide written notice, calling upon the first party to rectify its breach within a period not less than 10 (ten) business days.
- 18.2. Should the party in breach fail to rectify the breach within the aforesaid time period, the other party may cancel this Agreement and claim recovery of damages.
- 18.3. Any request for an extension of the timeframe to remedy the breach must be in writing and be approved by the Accounting Officer as an addendum to this Agreement or penalties will be imposed on the Service Provider.

19. TERMINATION BY MUNICIPALITY

- 19.1. The Municipality may terminate this agreement where the Service Provider:
- 19.1.1. Fails to comply with the instructions of the Municipality or terms of this Agreement;
- 19.1.3. Renders services of inferior quality.
- 19.2. Where the Municipality considers terminating this agreement, the Municipality shall notify the Service Provider of such default. The issuing of such notice shall be without prejudice to any rights that the Municipality may have.
- 19.3. The Municipality may give notice of termination should the Service Provider remain in default for ten (10) working days after the date of receipt of such notice of default.
- 19.4. Where this agreement is terminated the following shall apply:
- 19.4.1. The employment of the Service Provider shall be terminated, and execution of the works shall cease. The Service Provider shall vacate the sites.
- 19.4.2. The Agent shall forthwith compile a report on the status of the portion of the works executed by the Service Provider and shall issue such report to the parties;

PROVISION OF AN IP BASED TELEPHONE MANAGEMENT SYSTEM FOR A PERIOD OF 60 MONTHS

Municipal manager	Witness 1	Witness 2	Service Provider	Witness 1	Witness 2

- 19.4.3. The Agent shall timeously commence and complete a final account;
- 19.4.4. The Service Provider shall not be relieved of any of its liabilities concerning that portion of the works executed by the Service Provider;
- 19.4.5. The Municipality may employ other parties to safeguard the works, complete the outstanding work and to rectify defects in the portion of the works executed by the Service Provider. The cost of work thus carried out shall be certified by the Agent and paid directly to such parties;
- 19.4.6. The Municipality may use this Service Provider's hardware, software and other materials for proceeding with the works;
- 19.4.7. Where applicable the Municipality shall be entitled to apply the penalty up to the date of termination and thereafter may recover damages from the Service Provider including, but not limited to, extra costs incurred in the completion of the outstanding work;
- 19.4.8. Where the Service Provider has failed to complete work on the agreed date, the Municipality may recover damages;
- 19.4.9. The Agent shall continue to issue interim payment certificates in nil amount until the quantum of damages has been determined and the final account has been completed. The final payment certificate shall then be issued; and
- 19.4.10. The latent defects liability period shall end.
- 19.5. The right to termination may not be exercised where the Municipality is in material breach of this agreement.

20. TERMINATION BY SERVICE PROVIDER

- 20.1. The Service Provider may terminate this agreement where:

PROVISION OF AN IP BASED TELEPHONE MANAGEMENT SYSTEM FOR A PERIOD OF 60 MONTHS

Municipal manager	Witness 1	Witness 2	Service Provider	Witness 1	Witness 2

The Municipality fails to:

20.1.1. Provide a payment guarantee; or

20.1.5. Give possession of the sites to the Service Provider; or

20.1.6. Pay the amount certified,

20.1.8. Issue any payment certificate; or

20.1.9. Issue a completion certificate.

20.2. Where the Service Provider considers terminating this agreement, notice shall be given to the Municipality of the default. Should such default persist for ten (10) working days after the date of issue of such notice the contractor may give notice of termination to the Municipality. Such termination shall be without prejudice to any rights that the Service Provider may have.

20.3. Where the Service Provider terminates this agreement the following shall apply:

20.3.1. Execution of the works shall cease. The Service Provider shall remain responsible for the works until possession of the sites is relinquished to the Municipality;

20.3.2. On completion of the works, the Service Provider shall remove from the sites all its belongings without delay;

20.3.3. The Agent shall forthwith compile a report on the status of the portion of the works executed by the Service Provider and shall issue such report to the parties;

20.3.4. The Agent shall timeously commence and complete a final account;

20.3.5. The Municipality shall be liable to the Service Provider for the cost of hardware and software including those ordered before such termination where the Service Provider is bound to accept and make payment. The Service Provider shall deliver such hardware, software and other materials to the Municipality in good order;

PROVISION OF AN IP BASED TELEPHONE MANAGEMENT SYSTEM FOR A PERIOD OF 60 MONTHS

Municipal manager	Witness 1	Witness 2	Service Provider	Witness 1	Witness 2

20.3.6. The Municipality shall be liable to the Service Provider for damages resulting from such termination;

20.3.7. The Agent shall continue to certify the value of work executed and the value of hardware, software and materials for payment by the Municipality;

20.4 The right to terminate may not be exercised where the contractor is in material breach of the agreement.

21. RESOLUTION OF DISPUTES

21.1. In the event that a dispute or disagreement arises between the Municipality and the Service Provider, arising out of or concerning this agreement or its termination, either party may give notice to the other to resolve such disagreement.

21.2. Where such disagreement is not resolved within ten (10) working days of receipt of such notice it shall be deemed to be a dispute and shall be referred by the party which gave such notice to either:

21.2.1. Adjudication where the adjudication shall be conducted in terms of the edition of the rules for adjudication current at the time when the dispute was declared, or

21.2.2. Arbitration where the arbitrator is to be appointed by the selected by the parties whose rules shall apply. Where nobody is stated or where the stated body is unable or unwilling to act, the appointment shall be made by the chairman for the time being of the Arbitration Foundation of South Africa). The appropriate rules current at the time when the dispute is declared shall apply.

21.3. Where a dispute is referred to adjudication the following shall apply:

PROVISION OF AN IP BASED TELEPHONE MANAGEMENT SYSTEM FOR A PERIOD OF 60 MONTHS

Municipal manager	Witness 1	Witness 2	Service Provider	Witness 1	Witness 2

- 21.3.1. The adjudicator shall be appointed in terms of the rules;
- 21.3.2. The adjudicator shall not be eligible for subsequent appointment as the arbitrator;
- 21.3.3. The adjudicator's decision shall be binding to the parties who should give effect to it without delay unless and until it is subsequently revised by an arbitrator;
- 21.3.4. Should either party be dissatisfied with the decision given by the adjudicator, or should no decision be given within the period set in the rules, such party may give no notice of dissatisfaction to the other party and to the adjudicator within ten (10) working days of receipt of the decision or, should no decision be given, within ten (10) working days of expiry of the date by which the decision was required to be given the dissatisfied party shall refer the dispute to arbitration.

21.4. Where a dispute is referred to arbitration the following shall apply:

21.4.1. The rules of the Arbitration Foundation of South Africa shall govern the conduct of the arbitration.

21.4.2. The arbitrator shall have the power to open or revise any certificate, opinion, decision, requisition, or notice relating to the dispute as if no such certificate, opinion, decision, requisition or notice had been issued or given; and

21.4.4. The arbitrator's decision shall be binding on the parties who shall give effect to it without delay.

21.5. The above provision shall not be construed as a waiver of the party's entitlement to resolve a dispute by mediation at any time.

21.6. Where a dispute is submitted to mediation the following shall apply:

21.6.1. The parties shall agree on and appoint the mediator within ten (10) working days of the date on which the dispute was declared. Whether or not the mediation resolves the dispute, the parties shall bear their

PROVISION OF AN IP BASED TELEPHONE MANAGEMENT SYSTEM FOR A PERIOD OF 60 MONTHS

Municipal manager	Witness 1	Witness 2	Service Provider	Witness 1	Witness 2

own costs concerning the mediation and share the cost of the mediator and related cost equally;

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

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

21.7. Recording of a dispute shall not relieve the parties from liability for the due and timeous performance of their obligations.

22. SYSTEM AND ACCEPTANCE TESTING

22.1. When the Service Provider has had the system tested, the system will be handed over to the Municipality for acceptance testing to be carried out by the Municipality using test data for the Municipality to test that the system conforms to the requirements agreed to between the parties.

22.2. If there are failures in the acceptance tests, the Municipality will inform the Service Provider while the acceptance tests are in progress, and the Service Provider will promptly use all reasonable endeavours to correct such failures.

22.3. The system will be deemed to be accepted by the Municipality after the acceptance tests have demonstrated that it is in accordance with the requirements agreed to between the parties or a period of one month of being submitted to the Municipality for acceptance testing if the Service Provider has not been notified of any material failure of the system to pass the acceptance tests, whichever happens earlier.

22.4. If material failures remain at the system completion date such that the system does not conform with the specification or requirements, the Municipality will have a right to terminate this Agreement.

PROVISION OF AN IP BASED TELEPHONE MANAGEMENT SYSTEM FOR A PERIOD OF 60 MONTHS

Municipal manager	Witness 1	Witness 2	Service Provider	Witness 1	Witness 2

23. CONFIDENTIALITY

23.1. For purposes of this Agreement, confidential information means any information including but not limited to, technical, financial, and commercial information disclosed in writing or otherwise by the disclosing party to the receiving party, whether disclosed in view of the purpose before or after the date of this Agreement, and shall be deemed to include all documents and other material containing or embodying or based on the confidential information (or part thereof) together with all notes, summaries and other material derived therefrom and all copies or reproductions of the foregoing. Such confidential information shall not include information:

23.1.1. which is generally available to the public, or which will become generally available to the public other than by breach by the receiving party of its obligations hereunder;

23.1.2. which was or is already known to the receiving party before it had been or will be disclosed by the disclosing party, provided that such information may not reasonably be considered by the receiving party as confidential;

23.1.3. which the receiving party has received or will receive on a non-confidential basis from any party (including a third party), provided that such information may not reasonably be considered by the receiving party as confidential; and

23.1.4. which is independently developed by or on behalf of the receiving party.

23.2. All parties shall:

23.2.1. hold the other party's confidential information in the strictest confidence;

23.2.2. not make use thereof other than for the performance of its obligations under this Agreement; and

23.2.3. only release such confidential information on a "need to know" basis subject thereto that the persons to whom such confidential information is released shall undertake to be bound by the confidentiality obligations contained herein.

23.3. Neither party shall be entitled to use the name of the other party in publicity releases or advertising or for other promotional purposes without procuring the prior written consent of the other party concerned.

PROVISION OF AN IP BASED TELEPHONE MANAGEMENT SYSTEM FOR A PERIOD OF 60 MONTHS

Municipal manager	Witness 1	Witness 2	Service Provider	Witness 1	Witness 2

- 23.4. The Parties' obligation in terms of this clause will survive the termination of this Agreement.

24. LIMITATION OF LIABILITY

- 24.1. The Service Provider hereby protect and secures the Municipality against all legal liability with regard to claims that may arise as a result of breach of contract or negligence on the part of the Service Provider in respect of its obligations in terms of this Agreement.
- 24.2. The maximum liability of the Service Provider in respect of aforesaid claims shall be limited to the aggregate of fees that have accrued to the Service Provider for the obligations that form the subject of the breach of contract or negligence at the time the cause of action arose.

25. ASSIGNMENT

Neither party assign or cede its right s or obligations without the written consent of the other party, which consent shall not be withheld without good reason.

26. CONTRACTUAL AGREEMENT

- 26.1. This agreement is the entire contract between the parties regarding the matters addressed herein. No representations, terms, conditions, or warranties not contained in this agreement shall be binding on the parties. No agreement or addendum varying, adding to, deleting or terminating this agreement including this clause shall be effective unless reduced to writing and signed by the parties.

27. DOMICILIUM CITANDI ET EXECUTANDI

- 27.1. The parties choose as their domicilia citandi et executandi the addresses set out hereunder:

27.1.1. The Service Provider:

PROVISION OF AN IP BASED TELEPHONE MANAGEMENT SYSTEM FOR A PERIOD OF 60 MONTHS

Municipal manager	Witness 1	Witness 2	Service Provider	Witness 1	Witness 2

Service provider physical address**27.1.2. The Municipality:****RICHMOND MUNICIPALITY**

57 SHEPSTONE ROAD

RICHMOND

3780

27.2. Either party may change its domicilium citandi et executandi by giving written notice to the other, the new address becoming effective at the expiry of 10 (ten) business days from the communication of notification.

28. CONTRACTING PARTIES**28.1 Municipality** _____

Physical address _____

Tel _____ Fax _____ E-mail _____

28.2 Service Provider _____

Physical address _____

Tel _____ Fax _____ E-mail _____

Tax/VAT No _____

28.3 The accepted contract sum (Amount inclusive of tax)

In words _____

28.4 Signature of the contracting parties:

Thus, done and signed at _____ on _____

PROVISION OF AN IP BASED TELEPHONE MANAGEMENT SYSTEM FOR A PERIOD OF 60 MONTHS

Municipal manager	Witness 1	Witness 2	Service Provider	Witness 1	Witness 2

Name of signatory

for and behalf of the Municipality who by
Signature hereof warrants authorisation hereto.

Capacity of signatory

As Witness on behalf of the Municipality (1)

Thus, done and signed at _____ on _____

Name of signatory

for and behalf of the Service provider who by
Signature hereof warrants authorisation hereto.

Capacity of signatory

As Witness (2)

Details of witness (1)

Details of witness (2)

Name : _____ Name : _____

Address: _____ Address: _____

PROVISION OF AN IP BASED TELEPHONE MANAGEMENT SYSTEM FOR A PERIOD OF 60 MONTHS

Municipal manager	Witness 1	Witness 2	Service Provider	Witness 1	Witness 2