



South African Reserve Bank

## Appendix A STANDARD TERMS AND CONDITIONS

### 1. Definitions:

- 1.1. "Agreement" means collectively this Purchase Order and any annexure identified in the Purchase Order, together with these standard terms and conditions for the supply and delivery of the Goods and/or the rendering of the Services;
- 1.2. "Bank" means the South African Reserve Bank;
- 1.3. "Bank Subsidiary" means the South African Bank Note Company (RF) Proprietary Limited or South African Mint Company (RF) Proprietary Limited, and "Bank Subsidiaries" shall mean both of them;
- 1.4. "Customer" means the Bank and/or a Bank Subsidiary/ies, as specified in the Purchase Order;
- 1.5. "Goods" means the movable goods to be supplied and delivered by the Supplier to the Customer, as described in the Purchase Order;
- 1.6. "Intellectual Property" means all intellectual property of any nature or form, wherever situated (and whether registered or unregistered), including any copyright, name, trading style, mark, logo, trademark, brand, drawing, design, pattern, registered design, patent, invention, discovery, process, formula, know-how, computer software, customer lists, rights to domain names, goodwill or any application in respect of any of the foregoing;
- 1.7. "Purchase Order" means the document issued by the Bank to the Supplier to place a formal order for the Goods and/or Services identified in the Purchase Order;
- 1.8. "Services" means the services to be rendered by the Supplier to the Customer as described in the Purchase Order and/or any annexure identified in the Purchase Order;
- 1.9. "Supplier" means the natural or juristic person described in the Purchase Order.

### 2. Applicability:

- 2.1. The supply and delivery of the Goods, and/or the rendering of the Services by the Supplier to the Customer in terms of this Purchase Order, will be governed by and be subject to this Agreement.
- 2.2. If there is a conflict between the Purchase Order, these standard terms and conditions and/or the terms and conditions set out in any annexure identified in the Purchase Order (where applicable), then these standard terms and conditions will prevail, unless expressly indicated otherwise in the Purchase Order or the annexure referenced in the Purchase Order.
- 2.3. Any terms and conditions incorporated in, or affixed to, the Supplier's quotation or proposal will be of no force and effect, unless the Customer has agreed to them, or to any part thereof, expressly and in writing.
- 2.4. In the event that the Supplier and the Customer conclude a customised written agreement signed by their duly authorised representatives relating to the supply and delivery of the Goods and/or rendering of the Services in addition to this Agreement, then the terms of such customised agreement will prevail.
- 2.5. The contra proferentem rule will not be applied in the interpretation of this Agreement.

### 3. Delivery and Installation:

- 3.1. The Supplier will deliver the Goods to, and/or render the Services at, the delivery address specified on the Purchase

Order. If a date of delivery of the Goods and/or rendering of the Services is specified on the Purchase Order, the Goods will be delivered and/or the Services will be rendered by that date. Should no date be specified on the Purchase Order, the Goods will be delivered and/or the Services will be rendered within a reasonable time. It is recorded and agreed that time is of the essence in respect of the delivery of the Goods and/or rendering of the Services.

- 3.2. The Supplier will not be entitled to give, and the Customer will not be obliged to take, partial or late delivery of the Goods and/or rendering of the Services.
- 3.3. In the event that the Supplier:
  - 3.3.1. supplies Goods, the date of signature of the delivery note by the authorised representative of the Customer, alternatively the date of actual delivery of the Goods, will be the "delivery date" contemplated in 21; or
  - 3.3.2. supplies and installs Goods which include or constitute equipment, the Supplier will also test and commission the equipment and certify successful testing and commissioning; and the date of such certification will be deemed the "delivery date" contemplated in 21.

### 4. Price, Invoice and Payments:

- 4.1. The Supplier will issue to the Customer a tax invoice quoting the order number specified on the Purchase Order, as well as the Supplier's VAT registration number (if applicable). Each invoice will be accompanied by a statement of account (where applicable) and any relevant supporting documentation, as may be required by the Customer.
- 4.2. The Supplier will only be entitled to issue a tax invoice to the Customer on or after due and proper delivery of the Goods and/or rendering of the Services, unless otherwise agreed expressly and in writing by the Customer.
- 4.3. The purchase price indicated on the Purchase Order includes VAT at the applicable rate.
- 4.4. Variations of any applicable currency exchange rate in respect of the purchase price indicated on the Purchase Order will be at the Supplier's risk, with the exchange rate published on the South African Reserve Bank website at the time of payment by the Customer determining the applicable rate. The Customer will not be liable for any other costs whatsoever and howsoever arising in this regard.
- 4.5. Payment will, subject to the further provisions hereof, be due by the Customer to the Supplier within 30 (thirty) days of receipt of the Supplier's tax invoice and accompanying statement of account (where applicable).

### 5. Specifications:

The Goods and/or Services will comply with the specifications as indicated on the Purchase Order and/or the annexure identified in the Purchase Order, alternatively incorporated in these standard terms and conditions (where applicable). All specifications and/or instructions supplied by the Customer to the Supplier or by the Supplier to the Customer will remain the property of the Customer. The Supplier will only use or copy such specifications and/or instructions to the extent necessary to enable the Supplier to fulfil the Purchase Order. The Supplier undertakes to keep all specifications and/or instructions confidential and will not allow any third party to have access thereto without the Customer's prior written consent.

### 6. Warranties:



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- 6.1. The Supplier warrants that the Goods supplied and/or the Services rendered will be:
    - 6.1.1. strictly in accordance with what is specified on the Purchase Order and/or any annexure identified in the Purchase Order, alternatively incorporated in these standard terms and conditions (where applicable);
    - 6.1.2. fit and suitable for the purpose intended;
    - 6.1.3. in good working condition on the date of delivery to the Customer (Goods only); and
    - 6.1.4. free from defects in material and workmanship for a period of 12 (twelve) months after delivery and/or rendering thereof ("Warranty Period").
  - 6.2. The Supplier furthermore warrants that:
    - 6.2.1. all necessary consents, permissions, licenses and/or rights have been acquired by it in respect of the Goods supplied and/or Services rendered;
    - 6.2.2. it will not infringe any third party's Intellectual Property rights, alternatively use or incorporate into its Goods and/or the Services any Intellectual Property of a third party without such third party's prior written consent; and
    - 6.2.3. it has the necessary expertise, experience, resources and infrastructure to render the Services in a professional manner and in accordance with industry practice and/or standard.
  - 6.3. These warranties are in addition to any other express, implied and/or statutory warranties applicable to the Goods and/or Services, and if any such warranty includes a warranty period which is longer than the period referred to in 6.1.4, the definition "Warranty Period" in 6.1.4 includes such longer period.
- 7. Rejection of Goods and/or Services and Remedying of Defects:**
- 7.1. If the Goods supplied and/or the Services rendered, or any part thereof, do not comply with this Agreement, the Customer will be entitled (but not obliged) to reject the Goods and/or the Services at any time within a period of 3 (three) months after delivery and/or rendering thereof, and to claim any damages suffered by the Customer from the Supplier.
  - 7.2. The Supplier will, subject to the provisions of 21.1, remove rejected Goods from the place of delivery of such Goods within 36 (thirty six) hours after the Customer has informed the Supplier in writing that the Goods have been rejected.
  - 7.3. All costs incurred by the Supplier resulting from the rejection of the Goods and/or Services by the Customer in terms of 7.1 will be for the Supplier's account.
  - 7.4. Failure to reject the Goods and/or Services within the period referred to in 7.1 will be deemed to be acceptance by the Customer of the Goods and/or Services.
  - 7.5. Any payment by the Customer under this Agreement will not be construed as acceptance by the Customer of any Goods delivered and/or Services rendered to the Customer.
  - 7.6. Acceptance of the Goods and/or Services will not relieve the Supplier of its warranty obligations or liability for latent defects.
  - 7.7. The Supplier will upon request by the Customer and at the Supplier's cost, promptly remedy any defects in the Goods and/or Services which may arise during the Warranty Period.
  - 7.8. Should it become necessary to replace or renew defective parts of the Goods, such parts will likewise be subject to the Warranty Period as set forth in 6.1.4 from the date of replacement or renewal of the defective parts.
- 8. Subcontractors:**
- 8.1. The Supplier will not cede any of its rights or delegate any of its obligations under this Agreement without the Customer's prior written consent.
  - 8.2. Subject to 8.1, if the Supplier is unable to supply the Goods

- and/or render the Services and subcontracts the execution of the Purchase Order to a third party, the Supplier will ensure that the subcontractor complies fully with these terms and conditions, provided however that the Supplier will remain fully responsible for the due and proper fulfillment of the Purchase Order on these terms and conditions.
- 8.3. The Customer may at its sole and absolute discretion pay any subcontractor who executed any portion of the Purchase Order and the amount paid to any such subcontractor by the Customer will be deducted from any amount due by the Customer to the Supplier.
  - 8.4. Nothing in this 8 will be construed as placing an obligation on the Customer to pay any subcontractor of the Supplier.
- 9. Discrepancies in Documentation and Right of Inspection:**
- 9.1. Should there be any discrepancy in description, dimension or quantities specified on the Purchase Order, in any annexure identified in the Purchase Order, or incorporated in these standard terms and conditions (where applicable), the Supplier will promptly refer such discrepancy to the Customer for clarification before proceeding to execute the Purchase Order or the part thereof in respect of which the discrepancy exists.
  - 9.2. All work performed in connection with the Purchase Order is subject to inspection and testing by the Customer's representatives during the course of manufacture or upon completion.
- 10. Compliance with laws:**
- 10.1. The Supplier warrants that it will comply with all applicable legislation (including any regulation, by-law, notice and/or any industry code, policy or standard) (collectively referred to as "Applicable Laws"), pertaining to the supply and delivery of the Goods and/or rendering of the Services in terms hereof and that it is familiar with all Applicable Laws having any material bearing on the Goods to be delivered and/or Services to be rendered.
  - 10.2. The Supplier furthermore warrants that it is a member of all professional and other bodies as may be required by all Applicable Laws and/or by the relevant industry pertaining to the Goods and/or Services and that such membership is current and valid.
- 11. Confidentiality obligations:**
- 11.1. The Supplier acknowledges the requirements of section 33 of the South African Reserve Bank Act, 90 of 1989 (as amended) regarding the preservation of secrecy of information of the Customer, and that the Customer can suffer irreparable harm should confidential information of the Customer be disclosed.
  - 11.2. The Supplier accordingly agrees to hold all the Customer's information, in whatever format, howsoever obtained, strictly confidential and not to use nor disclose such information save for the purpose of the proper performance of the Agreement or with the prior written consent of the Customer.
  - 11.3. Where disclosure is made to any employee, contractor or agent of the Supplier, the Supplier will procure that any such employee, contractor or agent complies with the obligations of confidentiality under this clause. The Supplier will be responsible to the Customer in respect of any disclosure or use of such information by a person to whom disclosure is made.
  - 11.4. The obligations of confidentiality under this clause will not apply to information which the Supplier can show:
    - 11.4.1. is in, or has become part of, the public domain other than as a result of a breach of the obligations of confidentiality under this clause;



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- 11.4.2. was in its possession prior to the date the Supplier entered into the Agreement;
- 11.4.3. was independently disclosed to it by a third party entitled to disclose the same; or
- 11.4.4. is required to be disclosed under any applicable law, or by order of a court or governmental body or authority of competent jurisdiction.
- 11.5. The obligations of confidentiality under this clause will endure in perpetuity notwithstanding the termination or expiration of the Agreement for whatever reason.

**12. Data protection and privacy:**

- 12.1. From time to time the Supplier may share personal information as defined in the Protection of Personal Information Act No. 4 of 2013 (POPIA) with the Customer as a result of this Agreement.
- 12.2. In such an event, the Customer will process the Supplier's personal information in accordance with the prescripts contained in POPIA read together with the Customer's privacy notice which is available at [SARB Privacy Notice](#) and is hereby incorporated into this Agreement by reference.
- 12.3. In the event that the Customer shares personal information with the Supplier, the Supplier warrants that it will likewise process the Customer's personal information in accordance with the prescripts of POPIA, as well as any other applicable data protection legislation.
- 12.4. The Supplier hereby indemnifies and holds the Customer harmless against any claims, losses and damages that may arise from the Supplier's non-compliance with POPIA, or alternatively any other applicable data protection legislation.

**13. Limitation of Liability:**

Notwithstanding anything to the contrary contained in this Agreement, neither the Customer nor the Supplier will be liable to the other for any indirect or consequential loss or damages, including without limitation loss of profit, revenue, anticipated savings, business transactions, goodwill or other contracts, whether arising from the negligence or breach of this Agreement by the Customer or the Supplier.

**14. Indemnity:**

The Supplier hereby indemnifies and holds the Customer harmless against all claims, losses and damages arising from the Supplier's negligence or wrongful act or omission.

**15. Force Majeure:**

- 15.1. In the event of any act of God or of any circumstances arising beyond the reasonable control of the Supplier or the Customer preventing the Supplier or the Customer from the performance of any obligation hereunder, such as war, fire, flood, explosion, lightning, storm, earthquake, riots, insurrection, an epidemic or pandemic, state of emergency or disaster, or a grid collapse that results in the inability of the Supplier or the Customer to utilise alternative off-the-grid power supply to fulfil its obligations in terms of this Agreement, then the party affected by such force majeure will be relieved of its obligations hereunder during the period that such force majeure continues.
- 15.2. The Supplier consents that during any period of force majeure the Customer will be entitled to procure the Goods and/or Services from a third party supplier. The Supplier will not be entitled to any payment during the period that the Customer is compelled to make use of a third party service provider to supply and deliver the Goods and/or render the Services.

**16. Suspension, Cancellation, Breach and Termination:**

- 16.1. The Customer may at any time suspend or cancel part of or the entire Purchase Order by written notice to the Supplier and the Supplier will not, save as provided for herein, have any claim against the Customer arising from such cancellation or suspension. In such an event the Supplier will only be entitled to be paid for the part of the Purchase Order fulfilled prior to the suspension or cancellation thereof.
- 16.2. Should the Supplier breach any provision of the Agreement, then the Customer will be entitled to require the Supplier to remedy the breach within 5 (five) days of delivery of a written notice requiring it to do so, or within any other reasonable period agreed to between the Supplier and the Customer.
- 16.3. If the Supplier fails to remedy such breach within the period specified in the breach notice, the Customer will be entitled (but not obliged) to forthwith withhold payment to the Supplier or terminate this Agreement and claim damages (if any), alternatively to claim immediate specific performance of the Supplier's obligations, whether due or not. The foregoing is without prejudice to such other rights as the Customer may have in law.
- 16.4. Termination of this Agreement for any cause shall not release the Supplier or the Customer from any liability which at the time of termination has already accrued to such party or which thereafter may accrue in respect of any act or omission prior to such termination. Furthermore, all rights or obligations intended to continue or commence post the termination of this Agreement shall prevail.

**17. Prevention of Corrupt Activities:**

- 17.1. The Supplier declares that no bribe, gift, benefit, or other inducement has been or will be paid, given, promised or offered directly or indirectly to any official or employee of the Bank, Bank Subsidiary, or to a member of the family of such person, with a view to influencing the entry into this Agreement or the administration of this Agreement and that it has not employed any person to solicit or secure this Agreement upon any agreement for a commission, percentage, brokerage or contingency fee.
- 17.2. A breach by the Supplier of this clause will be deemed to be a material breach of this Agreement, entitling the Customer, without prejudice to any of its rights under this Agreement or at law, to terminate this Agreement with immediate effect.

**18. Dispute Resolution:**

- 18.1. Save in respect of those provisions in this Agreement which provide for their own remedies which would be incompatible with arbitration, or in the event of either party instituting urgent action against the other in any court of competent jurisdiction, any dispute arising out of this Agreement will first be mediated between a nominee of the Supplier and a nominee of the Customer.
- 18.2. Should the persons referred to in 18.1 not be able to resolve the said dispute within a period of 14 (fourteen) days from the date of commencement of the mediation, it will be referred for arbitration.
- 18.3. The dispute will be finally resolved in accordance with the rules of the Arbitration Foundation of Southern Africa, provided that either party will be entitled to approach a court of competent jurisdiction for urgent relief.

**19. Intellectual Property:**

- 19.1. It is recorded that the Customer and the Supplier will each



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retain ownership of any and all Intellectual Property that such party owned as at the date of signature of this Agreement and which it may acquire during the lifetime of this Agreement.

- 19.2. If the Supplier, in the course of its engagement with the Customer expressly and exclusively for the Customer creates, makes or discovers any Intellectual Property or makes any improvement upon, or derivation from, any existing Intellectual Property of the Customer (collectively "Service IP"), whether or not the same has, or is capable of having, patent, registered design, copyright, design right, or other like protection and whether alone or in conjunction with any other person, such Service IP will vest in the Customer. The Supplier will at the Customer's request and expense do all such acts and execute all such documents as may be necessary (including waiving any moral rights) to transfer all rights in and to or relating to any such Service IP in the name of the Customer, so that all such rights will become the absolute property of the Customer or its nominee.

**20. General:**

- 20.1. No agency, partnership or the like is established between the Customer and the Supplier as a result of this Agreement.
- 20.2. No indulgence or relaxation of any provision of these terms and conditions by the Customer will constitute a waiver of right by the Customer.
- 20.3. The Supplier hereby chooses its registered address (if the Supplier is a legal entity) or his/her residential address (if the Supplier is a natural person) as its/his/her domicilium citandi et executandi for all purposes under this Agreement. The Customer hereby chooses 370 Helen Joseph Street, Pretoria, as its domicilium citandi et executandi for all purposes under this Agreement.
- 20.4. The Supplier will pay all legal costs, as between attorney and own client, incurred by the Customer as a result of a breach hereof by the Supplier.
- 20.5. This Agreement will be governed by the laws of the Republic of South Africa ("RSA") and the Supplier and the Customer submit to the jurisdiction of the courts in the RSA.
- 20.6. This Agreement constitutes the sole record of the agreement between the Supplier and the Customer as to the subject matter hereof and neither of them will, subject to 6, be bound by any undertakings, representations, warranties, promises or the like not recorded therein.
- 20.7. No variation or addition to the provisions of this Agreement, including this clause, will be binding unless in writing and signed by the Customer and the Supplier.
- 20.8. It is specifically recorded that the Supplier and the Customer may correspond via e-mail during the currency of the Agreement. For the purposes of this Agreement, a "written" document will include any written document that is in a form, either wholly or partly, of a data message as defined in the Electronic Communications and Transactions Act 25 of 2002 and "sign" will mean a signature executed by hand with a pen or by means of any electronic process or intervention.
- 20.9. The provisions of these terms and conditions are severable and the invalidity of any one or more of such provisions will in no way affect the validity of the remaining provisions.
- 20.10. The termination of this Agreement will not affect the provisions of this Agreement which operate after any such termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.

**TERMS AND CONDITIONS APPLICABLE TO GOODS ONLY**

**21. Risk and ownership:**

- 21.1. The risk in the Goods will pass to the Customer on delivery

thereof in accordance with the provisions hereof, provided however that rejected Goods will be held by the Customer at the risk of the Supplier who, before such Goods are released to the Supplier, will refund the purchase price of such Goods paid by the Customer to the Supplier and all charges incurred by the Customer in respect thereof.

- 21.2. Ownership in the Goods will pass to the Customer upon payment for the Goods, provided that no such passing of ownership will affect or alter any of the Customer's rights to reject the Goods or any part thereof in accordance with the provisions hereof.

**22. Permits, Tests and Packaging:**

- 22.1. If the Goods are being imported from a foreign territory, the Supplier will at its own cost obtain and maintain all necessary import and export permits. The Supplier will provide the Customer with copies of all such permits upon request thereof. The Supplier will furthermore be responsible for all costs relating to import clearance, import duties and taxes, delivery and insurance of such goods.
- 22.2. Should the Customer require any tests to be conducted to prove the performance level of the Goods, the Supplier will promptly conduct such tests as may be reasonable to prove the performance level of the Goods.
- 22.3. All documents, cases, crates, packages and the like will be clearly marked or labelled with the order number specified on the Purchase Order and all Goods will be appropriately packaged so as to prevent damage to the Goods. All such packaging will become the property of the Customer upon delivery thereof.

**23. Hazardous/Dangerous Substances**

- 23.1. In the event that any Goods supplied by the Supplier are hazardous or dangerous substances as defined in any Applicable Laws, the Supplier warrants that the Goods will be safe and without risk to health and safety when used, handled, processed, stored or transported.
- 23.2. The Supplier will, on delivery of such Goods, provide the Customer with a material safety data sheet conforming with prescribed specifications and detailing, inter alia, the use of the substance, the potential risk to health and safety associated with the substance, any restrictions or control on the use of this substance, the safety precautions to ensure that the substance is without risk to health and safety, and the procedure to be followed in the event of an accident involving exposure to these substances.

**TERMS AND CONDITIONS APPLICABLE TO SERVICES ONLY**

**24. Occupational Health and Safety Act:**

- 24.1. The Supplier undertakes to adhere to the Occupational Health and Safety Act, 85 of 1993, as amended ("OHS Act"), in respect of safe working conditions.
- 24.2. The Supplier, as an employer in its own right, hereby accepts responsibility for the safety of its own personnel, as well as all other parties that could be affected by the Services rendered by the Supplier, as envisaged by section 37(2) of the OHS Act.

**25. Insurance:**

- 25.1. The Supplier will obtain and maintain for the duration of this Agreement at its cost appropriate insurance cover with appropriate loss limits for this Agreement, including any





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- insurance as may be required by law.
- 25.2. The Supplier will provide the Customer with proof of such insurance cover upon request by the Customer.

**26. Security requirements:**

- 26.1. The Supplier recognises and accepts that the Customer's premises is a National Key Point in terms of the National Key Points Act, 102 of 1980 and the performance of its obligations at the delivery address in terms of this Purchase Order will at all times be subject to the Customer's security requirements set out below.
- 26.2. The Customer's Group Security Management Department has a Personnel Security Vetting unit that functions under the oversight of the State Security Agency (SSA). In terms of the National Strategic Intelligence Act No. 39 of 1994 the SSA has the national mandate to conduct security vetting in accordance with the Minimum Information Security Standards (MISS) approved by Cabinet.
- 26.3. The Supplier acknowledges that the rendering of the Services to the Customer in terms of this Purchase Order is subject to the successful security vetting of the Supplier's personnel, as well as the necessary due diligence being conducted on the Supplier entity.
- 26.4. The Customer will supply the proposed personnel with temporary access cards, and the Supplier will ensure that its personnel clearly display such temporary access cards whilst on the Customer's premises.
- 26.5. The Supplier will ensure that its personnel comply with all security related instructions issued by or on behalf of the Customer while such personnel are on the Customer's premises.
- 26.6. The Supplier acknowledges and accepts that the Customer may at any time, and at its sole discretion, require it to remove any specific personnel from the Customer's premises.
- 26.7. The Supplier acknowledges and accepts the right of the Customer to search the Supplier's personnel and their baggage at any time while such personnel are on the Customer's premises.
- 26.8. The Customer's security personnel may screen all equipment brought onto the Customer's premises by the Supplier or its personnel.
- 26.9. No photographic or electronic records or images of the Customer's premises or equipment may be taken without the prior written consent of the Customer. If such consent is granted, all photographs and other images will be taken under the direct supervision of an authorised representative of the Customer.
- 26.10. A Supplier rendering security services and/or design and related services on rational fire design will be required to be registered with the Private Security Industry Regulatory Authority.

**27. Liens**

If applicable, the Supplier hereby waives and abandons in favour of the Customer any and all liens or preferences it may be entitled to in respect of the Customer's assets or equipment for Services rendered or to be rendered by the Supplier in connection with such assets or equipment. The Supplier agrees to hand over and deliver possession of the Customer's assets or equipment to the Customer immediately upon completion of the Services, notwithstanding any unpaid debt that may still be due and payable by the Customer to the Supplier.