



SUPPLY AND DELIVERY AGREEMENT
(BPLD-23-IS-0028)

KNOW ALL MEN BY THESE PRESENTS:

This Agreement entered into by and between:

QUEZON CITY GOVERNMENT, a public corporation existing under the laws of the Philippines, represented herein by the Honorable **MA. JOSEFINA G. BELMONTE**, in her capacity as City Mayor, with office at Quezon City Hall Compound, Elliptical Road, Diliman, Quezon City, Metro Manila, and hereinafter referred to as the "**CITY**"

-and -

SMART COMMUNICATIONS, INC., a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines with office address at 26/F Smart Tower 6799 Ayala Avenue, Bel-Air, Makati City, herein represented by its Relationship Manager, **ANGELIQUE R. TAGLE**, hereinafter referred to as "**SUPPLIER**";

(**CITY** and **SUPPLIER** may be referred to individually as a "Party" and collectively, as "Parties.")

RECITAL

WHEREAS, in its Resolution No. 11-201 Series of 2022 duly approved by the City Mayor, the Bids and Awards Committee on Goods and Services recommended the use of negotiated mode as an alternative method of procurement for Supply and Delivery of Internet Data Subscription for the Automated Audit Inspection System of the Business Permit and Licensing Department of Quezon City for Year 2023 (Early Procurement Activity) under Project No. BPLD-23-IS-0028 (the "**Project**") pursuant to Section 50(b) of the Revised Implementing Rules and Regulations of R.A. 9184;

WHEREAS, in accordance with pertinent laws, rules and issuances on Negotiated Procurement (Direct Contracting), the **SUPPLIER** participated and submitted its quotation for the Project and upon evaluation, was determined to be the Single Calculated and Responsive Offer and that it possesses the technical, legal and financial capabilities to deliver the required services;

WHEREAS, a Notice of Award was issued to the **SUPPLIER**;

NOW THEREFORE, for and in consideration of the foregoing premises and of the mutual covenants and undertakings hereinafter provided, the parties hereto agree, as they have hereby agreed, as follows:

Section 1. Scope of Work. Pursuant to and in accordance with the Contract Documents provided herein, the **SUPPLIER** undertakes to deliver to the **CITY** the scope of work required by the Project, the specifications of which are specifically defined in the Request for Quotation and other Contract Documents.

MA. JOSEFINA G. BELMONTE
City Mayor

ANGELIQUE R. TAGLE
Authorized Representative



Section 2. Contract Documents. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz:

- (a) Request for Quotation/ Proposal;
- (b) Terms of Reference (TOR)/Terms and Conditions;
- (c) Eligibility requirements, documents, undertakings and/or statements;
- (d) Notice of Award; and
- (e) Notice to Proceed.

The documents mentioned above shall be collectively referred to as "Contract Documents".

Section 3. Delivery Schedule. The SUPPLIER shall deliver to the CITY the required deliverables until 31 December 2023.

Section 4. Contract Price. In consideration of the complete and faithful delivery of the deliverables defined herein and the performance of any and all obligations of the SUPPLIER under this Agreement, the SUPPLIER shall be paid the total amount of **Two Million Four Hundred Thousand Pesos (P 2,400,000.00)**, inclusive of the 12% Value Added Tax (VAT) (the "Contract Price").

Section 5. Terms of Payment. Payment to the SUPPLIER shall be based on the following schedule:

MONTH PAYABLE	TYPE OF PAYMENT	PERCENTAGE OF PAYMENT	AMOUNT DUE
January 2023	Initial Deposit	15.00%	360,000.00
April 2023	1 st Quarter	21.25%	510,000.00
July 2023	2 nd Quarter	21.25%	510,000.00
September 2023	3 rd Quarter	21.25%	510,000.00
January 2024	4 th Quarter	21.25%	510,000.00
Total	100%	100.00%	P 2,400,000.00

The processing of payments will entail the approval by the CITY of the SUPPLIER's complete documentation and deliverables before invoices may be processed for payment. The CITY likewise reserves the right to validate billing/invoice before payment of fees.

Section 6. Price Adjustment. The Contract Price shall be fixed and there shall be no price adjustment and escalation for the duration of the Agreement until and unless there exists an extraordinary circumstance as may be determined by the National Economic Development Authority that may warrant an increase of the Contract Price in accordance with Section 61 of the Implementing Rules and Regulations of RA 9184, otherwise known as the Government Procurement Reform Act.



Section 7. Standard of Performance. The **SUPPLIER** shall, consistent with the TOR, perform the required services and carry out its obligations with all due diligence, efficiency and economy. It shall observe the highest degree of standards based on industry practice.

Section 8. Penalties. The **SUPPLIER** shall be liable for penalty for any breach of contract under all applicable laws, issuances and regulations.

Section 9. Liquidated Damages. It is understood and agreed that time is of the essence of this Agreement. In the event the **SUPPLIER** refuses or fails to completely supply and deliver to the **CITY** the requirements for the **Project** defined herein within the delivery schedule provided under Section 3 hereof at no fault of the **CITY**, the **SUPPLIER** shall be liable for liquidated damages in the amount equivalent to one tenth of one percent (1/10 of 1%) of the Contract Price for every day of delay until the Project is completely delivered: *Provided*, that, the total cumulative amount of liquidated damages shall not exceed ten percent (10%) of the Contract Price: *Provided*, further, that, once the cumulative amount of liquidated damages exceeds ten percent (10%) as provided herein, the **CITY**, in accordance with Section 68 of the IRR of R.A. 9184, may rescind or terminate this Agreement without prejudice to other remedies and other courses of action available to the **CITY** under this Agreement and pursuant to any and all applicable laws.

Section 10. Authority to Deduct Liquidated Damages. For purposes of assessment and enforcement of the liquidated damages provided under Section 8 hereof, the **CITY**, upon written notice to the **SUPPLIER**, is hereby authorized to deduct any amount due as liquidated damages from any amount due or may become due and owing to the **SUPPLIER** or from any and all bonds or securities posted by the **SUPPLIER** in favor of the **CITY**, at the option of the latter. It is hereby agreed and understood that the assessment of liquidated damages are cumulative and not alternative remedies of the **CITY** under this Agreement.

Section 11. Representations and Warranties of the Supplier. The **SUPPLIER** hereby represents and warrants to the **CITY** as follows:

- a. The **SUPPLIER** is an entity duly organized, validly existing and in good standing under the laws of the Republic of the Philippines.
- b. The **SUPPLIER** has full legal right, power and authority to carry on its present business, to own its properties and assets, and to execute and deliver this Agreement and all other documents executed, or required or necessary to be executed pursuant thereto, and to perform and observe the terms and conditions thereof.
- c. All appropriate and necessary corporate and legal actions have been taken by it to authorize the execution and delivery of this Agreement, and all other documents executed, or required or necessary to be executed pursuant thereto and the performance of all provisions, conditions, covenants, and other terms hereof and thereof, as well as all the transactions contemplated herein.
- d. This Agreement and all other documents executed, or required or necessary to be executed pursuant thereto, constitute, or when executed and delivered pursuant thereto, will constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms.
- e. The execution and delivery of this Agreement and all other documents executed, or required or necessary to be executed pursuant thereto and the performance of its obligations hereunder will not:

b
MA. JOSEFINA G. BELMONTE
City Mayor

ANGELIQUE R. TAGLE
Authorized Representative



i. conflict with its Articles of Incorporation, By-Laws or other constitutive documents, as may be applicable;

ii. conflict with, result in the breach of, or constitute an event which would either immediately or with the lapse of time or giving of notice or both, result in a default under, or accelerate the performance required by, the terms of any agreement, document, contract, instrument or commitment to which it is a party or by which it or any of its assets is bound;

iii. conflict with or require any written consent or approval under any judgment, order, writ, decree, permit or license to which it is a party or by which any of its assets is bound; or

iv. require the written consent or approval of any other party to any agreement, document, contract, instrument or commitment to which it is a party or by which any of its assets is bound.

f. There are no actions, suits or proceedings existing, pending or, threatened against or directly affecting the **SUPPLIER** and/or any of its assets before any court, arbitrator or governmental or administrative body or agency that affect the validity or enforceability of this Agreement or that would affect the ability of the **SUPPLIER** to perform its obligations hereunder.

g. No event has occurred and is continuing which might materially and adversely affect the carrying out of its obligations under this Agreement.

h. It is in compliance with all applicable laws and regulations in connection with the delivery of the Project.

i. Each of the representations and warranties herein shall survive the execution of this Agreement and shall be deemed repeated during the effectivity of this Agreement.

Section 12. Indemnification. The **SUPPLIER** shall indemnify and save the **CITY** and all its officers, employees, personnel and persons acting as agents or representatives and render them free and harmless from any and all claims, actions, liabilities, losses and suits which may be brought or instituted against them arising out of or resulting from the **SUPPLIER**'s supply, delivery and performance of its obligations under this Agreement.

Section 13. Events of Default of the Supplier. Any of the following shall constitute an Event of Default under this Agreement:

a. When the **SUPPLIER** becomes insolvent, or commits or suffers any act of bankruptcy, which term shall include: (i) the filing of a petition, by or against the **SUPPLIER**, in any bankruptcy, insolvency, administration, suspension of payment, reorganization, winding-up or liquidation proceeding, or any other proceeding analogous in purpose and effect; (ii) the making of an assignment by the **SUPPLIER** for the benefit of its creditors; (iii) the admission in writing by the **SUPPLIER** of its inability to pay its debts; (iv) the entry of any order of judgment of any competent court, tribunal or administrative agency or body confirming the bankruptcy or insolvency of the **SUPPLIER** or approving its reorganization, winding-up or liquidation, or (v) the lawful appointment of a receiver or trustee to take possession of the properties of the **SUPPLIER**;

b. When the **SUPPLIER** suspends or discontinues all or a substantial portion of its business operations, whether voluntarily or involuntarily, for a period of at least sixty (60) days;

c. Any material breach by the **SUPPLIER** of any of its warranty, representation or covenant made under this Agreement.

MA. JOSEFINA G. BELMONTE
City Mayor

ANGELIQUE R. TAGLE
Authorized Representative



Section 14. Consequences of Default. Upon occurrence of any Events of Default under this Agreement, the CITY may declare the SUPPLIER in default and shall have the right to:

- a. Terminate this Agreement;
- b. Call on the Performance Security to answer for any and all damages of whatever nature suffered by the CITY resulting or arising from the SUPPLIER's default; and
- c. Take such other steps or actions against the SUPPLIER for the full protection and enforcement of the CITY's rights and interests.

Section 15. Compliance with Laws, Ordinances and Regulations. The SUPPLIER shall comply with any and all laws, ordinances and regulations of the national and local government applicable to or binding upon the parties hereto. For this purpose, any and all pertinent provisions of RA 9184 and its IRR, and other applicable laws and regulations are deemed written and incorporated in this Agreement. In case of conflict between any of the provisions of this Agreement and those of the applicable laws and regulations, the latter shall prevail.

Section 16. Indemnities and Attorney's Fees. Should any of the parties resort to court action in order to enforce their respective rights under this Agreement, the prevailing party or its successors-in-interest shall be entitled to be indemnified by the other party by way of attorney's fees, a reasonable sum equivalent to the actual amount of fees paid or to be paid by the prevailing party.

Section 17. Notification. All notices and communications shall be done in writing and shall be directed as follows:

CITY	:	OFFICE OF THE CITY MAYOR c/o Bids and Awards Committee Secretariat 2nd Floor Finance Bldg, Quezon City Hall Complex, Elliptical Road, Diliman, Quezon City
SUPPLIER	:	SMART COMMUNICATIONS, INC. 26/F Smart Tower 6799 Ayala Avenue, Bel-Air, Makati City

Section 18. Effectivity. This Agreement shall be effective upon execution by the parties hereto.

Section 19. Miscellaneous Provisions.

- a. This Agreement, including the documents and/or agreements specifically incorporated herein by reference, constitutes the entire agreement between the parties. This Agreement may be amended and supplemented in writing at any time as decided and agreed upon by mutual consent of the parties.
- b. This Agreement and all documents related thereto shall be binding upon and inure to the benefit of the parties herein and/or their respective heirs, agents,

MA. JOSEFINA G. BELMONTE
City Mayor

ANGELIQUE R. TAGLE
Authorized Representative



Republic of the Philippines
PROCUREMENT DEPARTMENT
Quezon City Government



2301051

representatives, successors-in-interest, and assigns. The SUPPLIER shall not assign its rights and obligations under this Agreement without the written consent of the CITY.

c. This Agreement embodies the entire arrangement or agreement of the parties and no undertaking, verbal or otherwise, in relation thereto, shall exist between the parties except as herein expressly set forth.

d. The parties hereby certify that they have read or caused to be read to them all the provisions of the foregoing Agreement, receipt of a signed copy of which is hereby expressly acknowledged by the parties and that they have fully understood the same.

e. The parties hereby represent and warrant that they have the necessary power and corporate authority to execute and deliver this Agreement and perform their obligations as incorporated herein and that such execution, delivery and performance do not and will not contravene any provision of their respective Articles of Incorporation, by-laws, any agreements or instruments to which they are a party or any laws or regulations of any governmental authority.

f. If any provision of this Agreement be declared by any court or other authorized agency of the government to be null and void, the nullity thereof shall not affect the validity of this transaction or any other provisions herein which shall then be considered as valid and binding between the parties.

g. Any and all disputes arising from the implementation of this Agreement shall be submitted to arbitration in the Philippines according to the provisions of RA 876, otherwise known as the "Arbitration Law" and RA 9285, otherwise known as the "Alternative Dispute Resolution Act of 2004": Provided, that, by mutual agreement, the parties may agree in writing to resort to other alternative modes of dispute resolution.

IN WITNESS WHEREOF the parties have hereunto set their hands to this Agreement on ___ day of DEC 29 2022 2022, at Quezon City, Philippines

QUEZON CITY GOVERNMENT

SMART COMMUNICATIONS,
INC.

By:

By:

[Signature]
MA. JOSEFINA G. BELMONTE
City Mayor

[Signature]
ANGELIQUE R. TAGLE
Authorized Representative

SIGNED IN THE PRESENCE OF:

[Signature]
RUBY G. MANANGU
City Accountant

MA. JOSEFINA G. BELMONTE
City Mayor

ANGELIQUE R. TAGLE
Authorized Representative



ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES }
QUEZON CITY }s.s.

BEFORE ME, a Notary Public for and in QUEZON CITY, this DEC 29 2022 personally appeared:

Name

Competent Proof of Identity

HON. MA. JOSEFINA G. BELMONTE, in her capacity as Mayor of the Local Government of Quezon City

DCM-0081744

ANGELIQUE R. TAGLE, in his capacity as the authorized representative of SMART COMMUNICATIONS, INC.

DRIVER'S LICENCE
NO2-15-009885

all known to me and to me known to be the same persons who executed this Agreement, and they acknowledged to me that the same is their free and voluntary act and deed, and the free and voluntary act and deed of the parties which they respectively represent.

I certify that the foregoing Agreement, signed by the parties and their instrumental witnesses, consists of seven (7) pages, including this page on which the acknowledgement is written.

WITNESS MY HAND AND SEAL on the date and place above-written.

Doc. No. 474;
Page No. 106;
Book No. I;
Series of 2022



ATTY. ARL P. LIM
Notary Public for Quezon City
Notarial Commission: NP-178; 7/14/21 to 12/31/22
Roll No. 65769
PTR No. 2445159, 1-5-22
ISP OR No. 197140, 1-7-22
MCLE Compliance No. 6 0026861
TIN: 320-392-9540-00
Address: 25 Matalino St., Brgy. Central, Quezon City

MA. JOSEFINA G. BELMONTE
City Mayor

ANGELIQUE R. TAGLE
Authorized Representative



Republic of the Philippines
PROCUREMENT DEPARTMENT
 Quezon City Government



PO Number **2301051**

Purchase Order Date: **DEC 29 2022**

Procuring Unit : BUSINESS PERMITS AND LICENSING DEPARTMENT	Project Number : BPLD-23-IS-0028
Company Name : SMART COMMUNICATIONS, INC.	Mode of Procurement : Direct Contracting B
Address : 6799 Smart Tower, Ayala Avenue, Makati City	Resolution No. : 23-A-012
Business Type : Corporation Registration #186066	TIN Number : 001-901-673-000
	Contact Number : 09992208994

Sir/Madam:
 Please furnish this office the following articles subject to the terms and conditions contained here:

Place of Delivery : Business Permits and Licensing Department **Delivery Schedule :** Until December 31, 2023

Payment Term : Credit

Stock No.	Item	Unit of Issue	QTY	Unit Cost	Amount
1	<p>SUPPLY AND DELIVERY OF INTERNET DATA SUBSCRIPTION FOR THE AUTOMATED AUDIT INSPECTION SYSTEM OF THE BUSINESS PERMIT AND LICENSING DEPARTMENT OF QUEZON CITY FOR YEAR 2023 (EARLY PROCUREMENT ACTIVITY)</p> <p>1. The project covers the supply and delivery of one hundred (100) mobile data subscriptions.</p> <p>2. Engagement of the service will be until December 31, 2023, which shall commence from the issuance of the Notice to Proceed and execution of the contract.</p> <p>3. Monthly mobile data allocation must be for a maximum of 100 gigabytes (GB) only per subscriber identity module (SIM) card with a minimum internet connection speed of at least 20 megabits per second (Mbps). If the data cap of 100 GB is reached within a given billing period, the service shall be temporarily cut off until it is automatically replenished for the next billing period. Access to data shall be restored upon replenishment.</p> <p>4. Dashboard for data usage shall be provided by the service provider for monitoring purposes of the subscriber.</p> <p>5. Service provider shall replace any and all defective, lost, or damaged SIM cards immediately after receipt of written notification by the BPLD</p> <p>(With attached Terms of Reference which will form an integral part of this Purchase Order)</p> <p>***** Nothing Follows *****</p>	lot	1	2,400,000.00	2,400,000.00

Total Amount : 2,400,000.00

Total Amount In Words (Pesos): Two Million Four Hundred Thousand Pesos Only

MA. JOSEFINA G. BELMONTE
 City Mayor



ANGELIQUE STAGUE 12/29/2022
 Signature Over Printed Name of Supplier / Date

Funds Available:

Ruby G. Manangu
RUBY G. MANANGU
 City Accountant

OBR : 100-2023-01-0035

Approved Budget for the Contract : 2,400,000.00

TERMS AND CONDITIONS

1. ALL PRICES INDICATED HEREIN ARE VALID, BINDING AND EFFECTIVE AT LEAST WITHIN THIRTY (30) CALENDAR DAYS FROM DATE OF RECEIPT.
2. AWARDEE shall be responsible for the source(s) of its supplies/materials/equipment and shall make deliveries in accordance with the schedule, quality and specification of the award and purchase order. Failure by the AWARDEE to comply with the same shall be a ground for cancellation of the award and purchase order issued to that AWARDEE and for re-awarding the item(s) to the ALTERNATE AWARDEE.
3. AWARDEE shall pick up purchase order(s) issued in its favor within three (3) days after receipt of notice to that effect. A telephone call, fax transmission or electronic mail (e-mail) shall constitute an official notice to the AWARDEE. Thereafter, if the purchase order(s) remains unclaimed, the said purchase order(s) shall be sent by mailing or courier, messengerial service to the AWARDEE. To avoid delay in the delivery of the requesting end-user's requirement, all DEFAULTING AWARDEES shall be precluded from proposing or submitting a substitute sample.
4. Subject to the provisions of the preceding paragraph, where AWARDEE has accepted a purchase order but fails to deliver the required product(s) within the time called for in the same order, the delivery period may be extended a maximum of fifteen (15) calendar days under liquidated damages to make good the delivery. Thereafter, if AWARDEE has not completed the
5. delivery within the extended period, the subject purchase order shall be cancelled and the award for the undelivered balance, withdrawn from that AWARDEE. The BAC-Goods and Services shall then purchase the required item(s) from such other source(s) as it may determine, with the difference in price to be charged against the DEFAULTING AWARDEE. Refusal by the DEFAULTING AWARDEE to shoulder the price difference shall be ground for its disqualification from future bids of the same items, without prejudice to the imposition of other sanction as prescribed under RA 9184 and its RIRR.
6. When the supplier fails to satisfactorily deliver goods/services under the contract within the specified delivery schedule, inclusive of duly granted time extensions, if any, the supplier shall be liable for damages for the delay and shall pay the procuring entity liquidated damages, not by way of penalty, an amount equal to one-tenth (1/10) of one percent (1%) of the cost of the delayed goods/services scheduled for delivery for everyday of delay until such goods/services are finally delivered and accepted by the procuring entity concerned.
7. Rejected deliveries shall be construed as non-delivery of product(s)/item(s) so ordered and shall be subject to liquidated damages, subject to the terms and conditions prescribed under paragraph 4 hereof.
8. Supplier shall guarantee its deliveries to be free from defects. Any defective item(s)/product(s), therefore that maybe discovered by the **Quezon City Government** within three (3) months after acceptance of the same, shall be replaced by the supplier within seven (7) calendar days upon receipt of a written notice to that effect.
9. All duties, excise and other taxes and revenue charges, if any, shall be for the supplier's account.
10. As a pre-condition to payment, IMPORTANT DOCUMENTS specifically showing the condition and serial numbers of the imported equipment purchased should be submitted by the supplier to the **Quezon City Government**.
11. All transactions are subject to applicable withholding taxes in accordance with existing BIR rules and regulations.
12. Supplier shall furnish the End-user through the City General Services Department stockroom, the articles, described above;
13. The **Quezon City Government** reserves the right to accept or reject delivered articles if found not in conformity to the specifications, terms and conditions stipulated.
14. Provisions contained in Title VI, Book IV of the Civil Code of the Philippines on Sales are hereby incorporated and made as an Integral part hereof.
15. This contract shall also serve as **Notice to Proceed**, to take effect on JAN 01 2023 and to expire on - DEC 31 2023

CONFORME:

ANGELIQUE J. AGUE
SIGNATURE OVER PRINTED NAME

Relationship Manager
IN THE CAPACITY OF

12/29/2022
DATE

Duly authorized to sign this Purchase Order for and on behalf of SMART COMMUNICATION INC.
COMPANY NAME

SUBSCRIBED AND SWORN to before me this ___ day of ___, ___ at ___, Philippines. Affiant personally known to me and were identified by me through competent evidence of identity as defined in the 2004 Rules on Notarial Practice (A.M. No. 02-8-13-SC). Affiants exhibited to me his/her _____ with his/her photograph and signature appearing thereon with No. _____.

Doc. No. _____
Page No. _____
Book No. _____
Series of _____

*****This Purchase Order shall be deemed invalid without Notary Seal (for project amounting to Php2,500,000.00 and above only)**