

**THE STANDARD TELEPHONES AND CABLES (S.A.)(PTY) LIMITED
AGREEMENT ACT, 1969**

No. 20



of 1969

AN ACT TO RATIFY AND CONFIRM AN AGREEMENT ENTERED INTO BETWEEN THE GOVERNMENT AND STANDARD TELEPHONES AND CABLES (S.A.)(PTY.) LIMITED AND TO MAKE PROVISION SUPPLEMENTARY THERETO

Date of Assent : 8.7.69.

Date of Commencement: 25.7.69.

ENACTED by the Parliament of Botswana.

Short Title

1. This Act may be cited as the Standard Telephones and Cables (S.A.) (Pty) Limited Agreement Act, 1969.

Interpretation

2. In this Act, unless the context otherwise requires –

“agreement” means the agreement entered into between the Government and Standard Telephones and Cables (S.A.) (Pty.) Limited on the 23rd January, 1969, the text whereof (excluding Appendix 3 and a resolution of the Directors of the foregoing company appended to the agreement) is set out in the Schedule.

Agreement Ratified and Confirmed

3. The agreement is ratified and confirmed.

Issue of Treasury Bills Pursuant to Agreement

4. The Accountant-General is authorised to issue Treasury Bills in accordance with the requirements of clause 15 of the agreement.

Sums Required Charged on Consolidated Fund.

5. All sums required to meet payments due on Treasury Bills issued under section 4 are charged on and shall be paid out of the Consolidated Fund.

SCHEDULE
(Section 2)
MEMORANDUM OF AGREEMENT

Entered into between

THE GOVERNMENT OF THE REPUBLIC OF BOTSWANA

represented herein by the Permanent Secretary, Ministry of Works and Communications,

(hereinafter called "the Government") of the one part, and

STANDARD TELEPHONES AND CABLES (S.A.) (PTY)
LIMITED

a company incorporated with limited liability under the laws of the Republic of South Africa having its head office at corner of Van Dyk and Brakpan Roads at Boksburg and represented herein by LOUIS WILDMAN duly authorised in terms of the attached resolution of the Directors of the Company dated 3rd May, 1961, (hereinafter called "the Company") of the other part.

1.

It is Hereby Agreed as Follows

The Company hereby undertakes to sell and the Government hereby undertakes to purchase on an "as and when required" basis all telecommunications equipment of the nature set out in Appendix 1 (hereinafter called "the Equipment") which it may require during the period that this Agreement is in force under the provisions of Clause 16.

Provided that the equipment which may be initially purchased at the Government's discretion up to a total of R250,000 (a quarter of a million Rand) shall be in accordance with the standard specifications and description and prices less four per centum (4%) contained in the following documents which are annexed to and form part of this Agreement.

Appendix 2 Equipment and Pricing Schedule.

Appendix 3 Standard Specification as set out in the documents entitled:-

LQD.227 - Twelve-circuit Open-wire Carrier Telephone System
Type SOJ 12 E.

LQD.248 - Twelve-circuit Open-wire Carrier Telephone System
Type SOX 12 B.

Information Description Frequency Shift Modulated Voice Frequency
Telegraph System Type XTF 9 ID 23/2.

BQD 2 – Three-circuit Open-wire Carrier Telephone System Type STO-E.

System Description BSD. 1 – Rural Carrier System Type SOR-10.

LQD.208 – Power Shelves. For Mark VI equipment.

LQD.211 – Terminating and Ringdown Equipment Type XTW 2.

LQD.250 – Syllabic Compador Type XOC 1.

Equipment Description No. 1195 – Channel Frequency Translating Shelf STC Code OOF-FXOO-003-AOO/EOO.

Equipment Description BED.31 – Line Filter Shelf STC Code OOE-FLOO-006-AOO, AAC/ADO.

Equipment Description BED.29 – Pole-mounted Protector Box STC Code OOE-PROO-001-***.

Equipment Description BED.32 – Pole-mounted Line Filter STC Code OOE-FLOO-007-AOO/BOO.

Equipment Description BED.6 – By-pass Filter STC Code OOE-FLOO-005-AOO/EOO.

Equipment Description BED.30 – Pole-mounted emergency Transformer STC Code OOE-TAOC-001-AOO.

2.

Price Variation

The prices listed in Appendix 2 shall be increased at the rate of four per centum (4%) per annum with effect from the 19th October, 1968 in respect of orders delivered after that date in order to take into account the increase to the Company in the cost of manufacturing the equipment described in Appendices 2 and 3 arising out of the changes in the cost of labour and materials to the Company. Should any further substantial increase occur in the cost of labour and materials this price variation formula shall be subject to adjustment by mutual agreement between the parties.

For the purpose of this Clause delivery is defined as the date agreed in terms of Clause 6 for the commencement of delivery of any order.

3.

Warranty

The Company warrants that all the equipment supplied shall be new and in good working order and shall be in accordance with the description and specifications set out in Appendices 2 and 3 to this Agreement, and further warrants the equipment to be suitable for use under the climatic conditions obtaining in Southern Africa.

Provided that, as the policy of the Company is to maintain continuous technical advancement, the Company reserves the right to make modifications to the equipment offered if, in the Company's opinion, this is desirable provided always that the overall performance is not adversely affected thereby.

4.

Property and Risk

Property and risk in the equipment shall pass to the Government upon delivery F.O.R. Boksborg.

5.

Installation and Maintenance

The Company shall if called upon to do so by the Government install and maintain or supervise the installation and maintenance of any or of all the equipment described and specified in Appendices 2 and 3 and if it does so shall be entitled to remuneration at rates and payment terms to be agreed between the parties or in the event of any failure to reach such agreement, the Company's standard rates and tariffs as may from time to time be in force.

6.

Failure to Supply Equipment Timeously

The Company shall supply any of the equipment when called upon to do so by the Government on or before a delivery date agreed by the parties as being reasonable in the circumstances or in the absence of such agreement on or before a delivery date determined by arbitration under Clause 20. If the Company fails to supply any of the equipment in accordance with the delivery dates so established, the Government shall be released of its obligations under Clause 1 in respect of such equipment.

Provided that in the event of the Company being unable to affect delivery within the period aforesaid through circumstances beyond its reasonable control the delivery dates aforesaid shall be extended by mutual agreement and failing agreement by arbitration under Clause 20.

7.

Inability to Supply Equipment

If under this Agreement the Government orders equipment of nature set out in Appendix 1 but which is not at the time the order is placed, manufactured by the Company, the Company shall forthwith notify the Government in this regard which shall then be released of its obligations under Clause 1 in respect of such equipment.

Provided that the Government and the Company may mutually agree that the Company shall be given the opportunity to manufacture and supply such equipment in accordance with such specifications and prices as may be mutually agreed between the parties.

8.

Annual Forecast of Requirements

To assist the Company in planning its manufacturing programme, the Government shall, without prejudice to its rights under this Agreement, and to the extent that this is reasonably possible, provide an annual forecast of its requirements for equipment.

9.

Equipment to be F.O.R. Boksborg

The Government acknowledges that the price of the equipment as determined in accordance with this Agreement are prices F.O.R. Boksborg onward transportation and other related costs being payable by the Government.

10.

Prices of Goods Not Specified in Appendix 2

In the event of any equipment of the nature set out in Appendix 1 being required by the Government the prices and specifications of which are not listed in Appendices 2 and 3, the prices and specifications shall be such as may be fixed by agreement between the Government and the Company.

11.

Guarantee

The Company guarantees to repair or replace free of charge any part or parts of the equipment, other than lamps, which may become defective within 12 months from delivery if such defects arise during proper use and solely from faulty design, materials or workmanship and provided always that such defective parts, not repairable on site, are promptly returned free to the Company's Works unless otherwise arranged. The Company's liability is limited to free replacement or repair of such defective parts, F.O.R. Boksborg. In the event of any such repair and/or replacement to defective equipment being required, this Guarantee shall be extended in respect of such repair and/or replaced equipment for a period of 12 months from the date of delivery F.O.R. Boksborg on such repaired and/or replaced equipment.

12.

Variation of Contract Price Because of Change in Exchange Rates

It is recorded that all prices of equipment listed in Appendix 2 have been computed on the rates of currency exchanged between the Republic of South Africa and all other countries as on the date hereof.

Should the said currency rates of exchanged be varied either way for any reason whatsoever to an extent that such variation adversely affects either party, such variation shall accrue to the benefit or detriment of the Government and the Company shall be entitled and/or obliged to adjust such prices up or down accordingly in a manner calculated to account for such variation. Similar conditions will apply to any prices that may be set for plant, materials, finished goods or services which may be fixed subsequent to the date hereof.

13.

Patents

The Company shall keep the Government indemnified against any claim made against it due to the infringement of any patent in the execution of any order placed with the Company; provided that the Company shall not be bound to indemnify the Government against claims in respect of any equipment required by the Government in the specification and in regard to which the Company shall, before such order is carried out, have given, in writing, notice to the Government of inability so to indemnify.

14.

Restriction on Guarantee

The warranty contained in Clause 3 and the guarantee contained in Clause 11 shall not apply in relation to any equipment which has been materially altered or modified by the Government or which has been assembled or reassembled or stored or transported or used by the Government in an unusual or improper manner.

15.

Payment

(1) Equipment purchased under this Agreement shall be paid for in the following manner: —

(a) On the coming into operation of this Agreement the Government shall make the Company an advance payment of R12,500 (Twelve thousand and Five Hundred Rand) from which in each year there shall be applied in reduction of the purchase price of the equipment delivered in that year an amount equal to five per centum (5%) of that purchase price; provided that on the 19th October, 1972 the Company shall refund any amount of this advance payment remaining;

- (b) On receipt of proof of delivery of any equipment F.O.R. Boksburg, the Government shall pay the Company ten per centum (10%) of the price of the equipment so delivered;
- (c) At the end of each calendar year in which equipment is delivered, the Government shall issue to the Company ten (10) negotiable Treasury Bills each providing for the payment of a sum equal to ten per centum (10%) of the balance of the purchase price of the equipment delivered in that year plus an amount in accordance with paragraph (3) in respect of interest.
- (2) Of the Bills so issued in respect of any year, the first shall fall due on the 30th June of the next succeeding year and the others at six-monthly intervals thereafter.
- (3) Interest at the rate of six per centum (6%) per annum shall be payable twice yearly on the outstanding balance of the purchase price and such interest shall be paid together with the half-yearly payments detailed in the preceding subparagraph. Any interest not paid by due date shall bear interest at a like rate calculated on a daily basis.
- (4) All payments by the Government under this Clause (including payments against Treasury Bills issued under this Clause) shall be made in South African currency, free of exchange and all other deductions of whatsoever kind, at the Standard Bank of South Africa Limited, Boksburg.

16.

Period of Agreement

Subject to the provisions of Clause 17, this Agreement shall remain in force —

- (a) Until R250,000 (a quarter of a million Rand) worth of equipment (or such other amount as may be agreed between the parties) has been supplied and paid for under this Agreement; or
- (b) Until the expiry of five (5) years from the date hereof; whichever is the sooner, so, however, that the Agreement may be continued in force by mutual agreement beyond the above-mentioned dates and, in such event, the Agreement shall thereafter continue in force until terminated upon one (1) year's notice in writing given by either party. Any payments still to be made by the Government to the Company at the time of termination of this Agreement whether for equipment delivered, services provided or in repayment of loans shall be made in the manner and at the times provided herein or in accordance with such other agreement or undertaking as may be made between the parties covering the terms of payment and/or repayments.

17.

Cancellation of Agreement

The Government may at any time terminate the Agreement without prejudice to the existing rights of either party in the event of the repeated failure by the Company to supply equipment either at all or within a reasonable time as determined in accordance with the provisions of Clause 6 hereof, or by reason of the repeated delivery by the Company of equipment which is not in accordance with the provisions of this Agreement or which is defective or not in accordance with the specifications referred to in Appendix 3 and such further specifications as may be agreed between the parties.

18.

Domicilium Citandi Et Executandi

The Company nominates the following address as its *domicilium citandi et executandi*: Minchin & Kelly, Hillcrest Mansions, Main Road, Lobatsi.

19.

Fees and Charges

The Government shall bear the cost of any fees or charges payable in connection with the Agreement.

20.

Arbitration

Any disputes or differences arising out of this Agreement shall be referred to the arbitration of a person to be mutually agreed upon by the parties and such reference shall be deemed to be a submission to the arbitration of a single arbitrator within the meaning of the Arbitration Proclamation 1959 of the Republic of Botswana.

21.

Commencement of Agreement

- (1) This Agreement shall come into operation on its ratification by the Parliament of Botswana.
- (2) On the ratification of this Agreement as aforesaid this Agreement shall be deemed to have commenced on the 20th October, 1967; all equipment purchased by the Government from the Company after that date shall be deemed to have been purchased under this Agreement and the sum of R12,500 (Twelve thousand and Five hundred Rand) paid by the Government to the Company as part payment of the purchase price of the equipment so purchased shall be deemed to be the advance payment required by Clause 15 (1) (a).

Force Majeure

The Company shall not be in default by reason of any failure in the performance of any obligations arising under this Agreement if such failure arises out of cause of "Force Majeure", i.e. causes which are beyond the control of the Company and not due to its fault or negligence. Such causes may include, but are not limited to, acts of God, wars, strikes, lock-outs or civil commotion.

Laws of Botswana to Apply

The provisions of this Agreement shall be interpreted in accordance with the laws of Botswana.

THIS DONE and SIGNED on behalf of THE GOVERNMENT OF THE REPUBLIC OF BOTSWANA at Gaborone on the twenty-third day of January, 1969, in the presence of the undersigned witnesses:

AS WITNESSES:

1. A.T. Whitehead
2. G. Steel

M.O.S. Hawkins
Permanent Secretary,
Ministry of Works and Communications

THIS DONE and SIGNED on behalf of STANDARD TELEPHONES AND CABLES (S.A.) (PTY) LIMITED at Boksburg on the 23rd day of January, 1969, in the presence of the undersigned witnesses:

AS WITNESSES:

1. T.W. Elliott
2. H.G. Walters

L. Wildman.

APPENDIX 1

1. Equipment and apparatus extending existing Transmission installation where the Company is able to manufacture and supply.
2. New Transmission equipment as detailed below:-
 - 2.1 Coaxial cable systems comprising coaxial cable and/or repeater and/or terminal equipment (excluding cable).
 - 2.2 Carrier telephone systems, equipment and apparatus for use on cables.
 - 2.3 Carrier telephone systems, equipment and apparatus for use on open-wire lines.
 - 2.4 Local area carrier telephone systems, equipment and apparatus.
 - 2.5 Broadcast (programme) carrier systems, equipment and apparatus.
 - 2.6 Carrier telegram systems, equipment and apparatus but excluding -
 - (a) Facsimile equipment;
 - (b) Photo-telegraph equipment.
 - 2.7 Microwave line of sight and/or forward scatter transmission radio systems.
 - 2.8 Audio frequency amplifiers, repeaters, associated equipment and apparatus.
 - 2.9 All material and apparatus required to connect to the Transmission line the system equipment and apparatus included with this Agreement.
 - 2.10 Power plant for association with equipment detailed in 2.1 to 2.8 above, manufactured by the Company when specified by the Government.
 - 2.11 Special trunk entrance cables and loading where these are specified by the Government.
 - 2.12 Toll test boards and channel test bays.
 - 2.13 Signalling receivers and tone application circuits associated with systems classified and supplied against items 2.1, 2.2, 2.3, 2.4, 2.7 and 2.8 of this Agreement.
 - 2.14 Data transmission equipment including EDC equipment and modems..
3. Components and maintenance parts for installations supplied by the Company.
4. Transmission equipment testing apparatus required in connection with testing and maintenance of all the equipment manufactured by the Company.

APPENDIX 2

<i>Item No.</i>	<i>Functional Description</i>	<i>Unit Selling Price</i>
		R c
1	9 ft. Mk.5 Rack equipped with one SOJ 12E Terminal complete with 2/4 wire terminations and Ringdown cards for 12 channels AC operation. As generally described in LQD.227	7,319.21
2	9 ft. Mk.6 Rack equipped with one SOJ 12E Repeater for AC operation. As generally described in LQD.227	3,164.06
3	SOJ Transmit Translation Shelf. As generally described in LQD.227	691.50
4	SOJ Receive Translation Shelf. As generally described in LQD.227	1,089.52
5	Additional Pilot Stabiliser card to add a B terminal to an A terminal. As generally described in LQD.227	79.31
6	Additional Pilot Alarm card to add a second or third SOJ terminal. As generally described in LQD.227	92.63
7	Additional Group Carrier Supply Cards. As generally described in LQD.227	132.98
8	Spares, cords, tools, outriggers for SOJ Terminal. As generally described in LQD.227	430.00
9	As Item 8 for SOJ Repeater. As generally described in LQD.227	225.00
10	As Item 1 but SOX 12B, and including Compandors. As generally described in LQD.248	8,347.21
11	As Item 2 but for SOX 12B. As generally described in LQD.248	3,654.88
12	Spares, cords and additional outrigger for SOX terminals. As generally described in LQD.248	340.00
13	Additional cost to provide a VF Telegraph type Power Shelf in lieu of the SOJ type. As generally described in ID.23	149.90

14	9 ft. Mk. 6 Rack equipped with one TF9 12 channel VF Telegraph terminal for AC operation excluding signalling supplies. As generally described in ID.23	2,696.35
15	12 channel VF Telegraph Shelf. As generally described in ID.23	1,443.52
16	Jack Panel for 24 channel VF Telegraph terminal. As generally described in ID.23	111.89
17	VF Telegraph common equipment Shelf (1 system). As generally described in ID.23	246.70
18	Additional coil and alarm cards to add a further VF Telegraph System. As generally described in ID.23	83.46
19	Spares and cords for VF Telegraph Terminals. As generally described in ID.23	70.00
20	4 channel STO Telegraph less Generation modems and inverter. As generally described in BQD.2	543.85
21	Telegraph channel cards for Item 20. As generally described in ID.23	113.41
22	Rural Carrier Primary Shelf equipped 2 channels, line filter, coil and AC power cards, including 3 ft. Rack. As generally described in BSD.1	941.66
23	As Item 22 less Rack and power and 17 c/s Generator. As generally described in BSD.1	671.30
24	Rural Carrier Secondary Shelf fully equipped for 4 channels. As generally described in BSD.1	1,208.21
25	Typical Rural Carrier Transmit and Receive channel cards. As generally described in BSD.1	281.62
26	As Item 19 for Rural Carrier Terminal. As generally described in BSD.1	95.00
27	Power Unit AC. As generally described in LQD.208	283.39
28	Power Unit DC. As generally described in LQD.208	257.71
29	Termination Shelf for 12 channels less Ringdown cards. As generally described in LQD.211	255.00
30	2W/4W Termination card. As generally described in LQD.211	42.00

31	Ringdown card. As generally described in LQD.211	49.00
32	Compandor shelf less Ringdown cards. As generally described in LQD.250	951.00
33	12 channel Translation Shelf. As generally described in ED.1195	2,487.18
34	Rack mounted 12/3 channel line filter less 3 channel matching and telephone monitor. As generally described in BED.31	404.00
35	Pole mounted 12 channel Protector Unit. As generally described in BED.29	51.00
36	Pole mounted 12/3 channel Line Filter. As generally described in BED.32	623.00

Passed by the National Assembly this day, the 1st April, 1969.

G.T. MATENGE,
Clerk of the National Assembly.