

# MEMORANDUM OF UNDERSTANDING (“MOU”)

entered into by and between

**ICT SMME CHAMBER**

Herein represented by **Siphokazi Simandla** his/her capacity as the Non-Executive Director of the  
ICT SMME Chamber and being duly authorised thereto

and

**BROADBAND INFRACO SoC LIMITED**

Herein represented by **Mr Gift Zowa** in his capacity as the **Chief Executive Officer** and being duly  
authorised thereto

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## 1. PARTIES

The parties to this **MOU** are:

### 1.1 ICT SMME CHAMBER

(Hereinafter referred to as “ **the Chamber**”)

### 1.2 BROADBAND INFRACO SOC LIMITED

(Hereinafter referred to as “**Broadband Infraco** ”)

## 2. DEFINITIONS AND INTERPRETATION

### 2.1 In this Agreement a word importing:

2.1.1 any one gender includes the other gender;

2.1.2 the singular includes the plural and vice versa; and

2.1.3 the singular includes created entities (corporate and unincorporated) and the state and vice versa.

2.2 Unless the context otherwise indicates, the following words or expressions used in this Agreement shall have the meanings given to them hereunder and cognate words or expressions shall have corresponding meanings:

2.2.1 “**Affiliate**” means, the holding company, subsidiary, associated and/or related company of Broadband Infraco, including their successors and permitted assigns;

2.2.2 “**Broadband Infraco**” means Broadband Infraco SOC Limited, a company duly registered under the company laws of the Republic of South Africa with registration number 1989/001763/30 and having its principal place of business at Sender Technology Park, Octave Street, Radiokop, Honeydew 2040;

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- 2.2.3 “**Business Day**” means any day other than Saturday, Sunday or a public holiday officially recognized as such in the Republic of South Africa;
- 2.2.4 “**Confidential Information**” means all information which is confidential or proprietary in nature to a Party including, to the extent that it is not freely and publicly available, commercial, financial, technical, scientific and research information, trade secrets, passwords, or other secret codes, information disclosed with the permission of third parties in which third parties have confidential rights, information legally protected from public disclosure, any information the unauthorized disclosure of which could reasonably be expected to cause harm or risk to the owner of the information and any other information designated by the disclosing Party as confidential or which is manifestly confidential;
- 2.2.5 “**Effective Date**” means the date of signature of this MOU by the Party signing last in time;
- 2.2.6 “**ICT SMME Chamber**” means a non-profit company registered as such in accordance with the company laws of the Republic of South Africa, with registration number 2018/035084/08, and having its principal place of business at Ground Floor, 35 Ferguson Road, Illovo, Sandton Gauteng 2196, and hereinafter referred to as “the Chamber”
- 2.2.7 “**Party**” means either of the signatories to this Agreement and “Parties” means both of them collectively, and shall be deemed to include their respective successors and permitted assigns;

### 3. BACKGROUND

It is hereby recorded that:

- 3.1 ICASA issued a draft regulation (“the draft regulation”) pertaining to Dynamic Spectrum Allocation. Public comment on the draft regulations is due on the 30th of May 2025. One of the objectives of the draft regulation is to establish an entity that will serve as an agent of ICASA (“the switch operator”) to manage the assignment of innovative spectrum to ISPs and SMMEs in an effort to enable them to provide 4G and 5G services.

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- 3.2 Broadband Infraco and the Chamber intend filing submissions to the draft regulation, in which Broadband Infraco will be appointed by ICASA as the switch operator to service the needs of the ICT Chamber in an open access and non-exclusive manner
- 3.3 The parties agree to enter into this MOU to demonstrate their bona fides in cooperating together in matters as laid out in this MOU.
- 3.4 The Parties will conclude an MOU within two (2) months of signing this MoU, which MOU will be filed with ICASA if required.

#### 4. BROADBAND INFRACO'S VALUE PROPOSITION

- 4.1 Broadband Infraco holds an I-ECNS licence that permits it to apply for and use radio frequency spectrum.
- 4.2 Broadband Infraco has established strategic and long-term relationships with ISPs through its implementation and management of the SA Connect and BAF rural wireless broadband projects.
  - 4.2.1 Broadband Infraco also provides high-capacity national long distance and international network services to licensed telecommunications operators and other value-added network service providers licensed in terms of the Electronic Communications Act, No. 36 of 2005, as amended; including:
    - 4.2.1.1 Ethernet Services;
    - 4.2.1.2 Synchronous Digital Hierarchy (SDH) Services;
    - 4.2.1.3 Dense Wavelength Digital Multiplexing (DWDM) Services;
    - 4.2.1.4 Network Co-location;
    - 4.2.1.5 Mast Co-location;
    - 4.2.1.6 Remote Peering; and

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4.2.1.7 A Network Operations Centre for SLA Management.

## 5. ICT CHAMBER'S VALUE PROPOSITION

- 5.1 **Collaborative Compliance:** Align with ICASA's objectives and regulatory framework, demonstrating commitment to the industry stands and public interest.
- 5.2 **Open Access Model:** Ensure an open an non-exclusive approach to spectrum management, promoting fair competition and innovation.
- 5.3 **Support for SMME's:** Empower small, medium and micro enterprises (SMMEs) in the ICT Sector by providing them with the access to necessary spectrum resources.
- 5.4 **Regulatory Compliance:** Align with ICASA's objectives and regulatory framework, demonstrating commitment to the industry standards and public interest.

## 6. THE OBJECTIVE OF THE MOU

- 6.1 This MOU seeks to formalise the cooperation between the Parties by determining the scope and extent of such collaboration as it will pertain to them being the switch operator in terms of the draft regulation.
- 6.2 This MOU records the principal terms and conditions of the agreement reached between the Parties.

## 7. AREAS OF COOPERATION AND COLLABORATION

- 7.1 The Parties shall provide relevant personnel, technology, systems and capital for the establishment, management and operation of the MOU;
- 7.2 The Parties shall provide planning and materials to the MOU.
- 7.3 The Parties shall agree their respective roles, capital and in-kind contributions and equity interests in the MOU prior to submitting their MOU Agreement to government for approval.

- 7.4 The Parties shall jointly do everything in their capacity to ensure that government approves the establishment of the MOU.

## 8. SCOPE OF THIS MOU

This MOU sets out the basis on which the Parties shall negotiate in good faith with regard to the identification and implementation of a MOU that they intend to be appointed as the switch operator in terms of the draft regulation.

## 9. PRINCIPLES OF COLLABORATION

- 9.1 As envisaged in clause 3.4 above, it is the intention of both the Parties to enter into a formal written MOU Agreement which agreement will incorporate the terms of this MOU as well as such other terms as the Parties may subsequently considered desirable or necessary by the Parties.
- 9.2 The Parties record by their signature hereto that this document is intended to promote a partnership in good faith, for the benefit of both the Parties.
- 9.3 No Party shall present itself as the Representative or Agent of the other Party for any business, legal or any other reason, nor shall it have the power of authority to commit the other Party, unless it receives the other Party's prior written consent.

## 10. COMMENCEMENT AND DURATION

This MOU shall operate as from the date of signature hereof, and shall remain binding for a period of one (1) year;

## 11. INSTITUTIONAL ARRANGEMENTS

- 11.1 Each Party shall designate a contact person responsible for the management of such Party's obligations in terms of this MOU and such contact person shall be the official point of contact between the Parties in respect of matters incidental to or arising from this MOU.

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11.2 The Parties shall, after concluding the MOU, establish a Project Steering Committee (“PSC”) whose responsibility shall be:

11.2.1 To guide compliance with the overall objectives of this MOU;

11.2.2 To ensure compliance with detailed agreements reached by both Parties on identified projects;

11.2.3 To evaluate progress of projects under implementation; and

11.2.4 To review commitments on a continuous basis.

11.3 The PSC shall develop the Terms of Reference and an Implementation Plan to guide the implementation of clause 6 of this MOU.

## **12. FINANCIAL ARRANGEMENTS**

12.1 Each Party shall be responsible for its own costs incurred in the execution of its duties in terms of this MOU.

12.2 The Parties agree that the financial contribution of each Party to the MOU, shall be stipulated clearly in the MOU Agreement.

## **13. LIABILITY**

Neither Party shall be liable against each other merely as a result of premature cancellation or termination of this MOU, unless otherwise agreed upon in the MOU Agreement.

## **14. ADMINISTRATION OF THE MOU**

14.1 Neither of the Parties shall publish, nor permit the publishing of any announcement of this relationship in or through any media unless the other Party has approved the proposed announcement, which approval may not be withheld unreasonably.

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14.2 The provisions of clause 14.1 shall not apply to any announcement or statement which any of the Parties are obliged to make under any applicable law or regulation, provided the Party in question has consulted with the other Parties before any such announcement or statement is made.

## **15. AMENDMENTS**

15.1 No alteration, variation, addition or agreed cancellation of this MOU shall be of any force or effect unless reduced to writing as an addendum to this MOU and signed by the Parties or their duly authorized signatories.

15.2 No failure or delay on the part of either Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof, or the exercise of any other right, power or privilege. The rights and remedies herein expressly provided are cumulative and not exclusive of any rights or remedies which the Parties would otherwise have.

15.3 If any clause or term of this MOU should be invalid, unenforceable or illegal, then the remaining terms and provisions of this MOU shall be deemed to be severable therefrom and shall continue in full force and effect unless such invalidity, unenforceability or illegality goes to the root of this MOU.

## **16. DISPUTE RESOLUTION**

Should any difference of interpretation or dispute at any time arise between the Parties, the duly authorized representatives of each Party shall meet within seven (7) days, or within such shorter period as the Parties may agree on, from the date on which the dispute arose to resolve such dispute amicably.

## **17. GOOD FAITH**

The Parties undertake to act in good faith at all times in pursuance of their respective roles in terms of this MOU as well as to give effect to the spirit and intent of this MOU.

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## 18. CONFIDENTIALITY

18.1 Any information shared pursuant to this MOU shall be used only for purposes of giving effect to the MOU.

18.2 To the extent permitted by applicable legislation, the Parties shall hold confidential all information received from each other pursuant to this MOU and shall not otherwise disclose such information than is necessary to carry out their regulatory or statutory responsibilities or otherwise in accordance with applicable legislation.

18.3 The Parties shall, prior to disclosing such confidential information or any part thereof, consult each other for direction and advice on such disclosure.

## 19. DOMICILIUM CITANDI ET EXECUTANDI

20. The Parties choose as their *domicilium citandi et executandi* for all purposes arising out of this MOU for service of notices and legal documents, the following addresses:

For **ICT Chamber:**

Ground Floor, 35 Ferguson Road  
Illovo, Sandton  
Gauteng  
2196

Tel: +27(0)84 444 8181

Email: [Siphokazi.Simandla@ictchamber.org.za](mailto:Siphokazi.Simandla@ictchamber.org.za)

For: **Broadband Infraco:**

Sender Technology Park  
Octave Street  
Radiokop  
Honeydew  
Roodepoort  
South Africa

Tel: +27 235 1721

Email: [phatang.nkhereanye@infraco.co.za](mailto:phatang.nkhereanye@infraco.co.za)

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## 21. GENERAL

### 21.1 No Commitment to Invest:

No provision of this MOU shall be construed as creating an obligation or a firm undertaking by either Party to invest equity capital into any partnership, corporation or other business association; and no such commitment shall arise except after approval of the Board of Directors of both Parties and after receipt of required regulatory approvals.

### 21.2 No Assignment and Transfer:

No Party may assign or transfer any or all of its rights and obligations, under this MOU without the written consent of the other Party, whose consent shall not be unreasonably withheld.

### 21.3 Choice of Governing Law:

The validity, interpretation and interpretation of this MOU shall be governed by and construed in accordance with the laws of the Republic of South Africa.

### 21.4 Severability:

Should one or more provisions of this MOU be found to be invalid, illegal or unenforceable, in any respect, the validity, legality and enforceability of the remaining provisions of this MOU shall remain in full force and effect as if such provision had not made a part hereof.

### 21.5 Limitation of Liability:

No Party shall be liable to another, in contract, for any damages (whether arising from omission or negligence) or any special, consequential, indirect or punitive damages, including, but not limited to, any loss of revenue, loss of profit, loss of business opportunity, pollution or environmental damages.

**21.6 Third Party Beneficiaries:**

This MOU is intended solely for the benefit of the Parties. Nothing herein shall be construed to create any duty to, standard of care with reference to, or any liability to, any party other than the Parties to this MOU.

**21.7 Indemnification:**

Each Party shall indemnify, defend and hold harmless the other Party from and against all actions, legal or any administrative proceedings, claims, demands, costs (including reasonable attorney's fees) and expenses of any nature for bodily injury, death, or physical damage to any property whether same arises out of the negligence or fault of such Party.

**21.8 No Partnership:**

No provision of this MOU shall be construed as creating a partnership or any other type of a formal business association between the Parties.

**21.9 Waivers:**

21.9.1 The failure of either Party at any time to perform in terms of any provision of this MOU, shall in no way affect the right of such Party, at any time to enforce same.

21.9.2 No waiver by either Party of a breach of any term, covenant, representation or warranty contained in this MOU, whether by conduct or otherwise, in any one or more instances, shall be deemed to be construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of any breach of any other term, covenant, representation or warranty contained in this MOU.

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**21.9.3 No Agency:**

No provision of this MOU shall be construed as authorizing either Party to act as an agent of the other Party; and no Party shall represent, through words or conduct, that it is an agent of the other Party.

**21.9.4 Entire Agreement:**

This MOU contains the entire understanding between the Parties and supersedes all prior written or oral agreements between them.

**21.9.5 Modification:**

No modification or alteration of this MOU shall be effective except made in writing and signed by both Parties, duly authorised.

**21.9.6 Counterparts:**

This MOU may be executed in counterparts and all such counterparts, when taken together, shall constitute one and the same document.

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SIGNED at MIDRAND on this 30TH day of MAY 2025

For: **ICT Chamber**  
**Siphokazi Simandla**  
**Non-Executive Director**

  
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In the presence of the undersigned witnesses:

1. Witness:

NAME	SURNAME	SIGNATURE
<u>DUDUZILE</u>	<u>COKOTO</u>	<u>DCokoto</u>

2. Witness:

NAME	SURNAME	SIGNATURE
_____	_____	_____

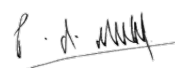
SIGNED at Radiokop on this 28th day of May 2025

For **Broadband Infracore SOC Limited**

  
\_\_\_\_\_  
**Mr Gift Zowa**  
**Chief Executive Officer**

In the presence of the undersigned witnesses:

1. Witness:

NAME	SURNAME	SIGNATURE
<u>Phatang</u>	<u>Nkhereanye</u>	 _____

2 Witnesses:

NAME	SURNAME	SIGNATURE
_____	_____	_____