GOODS AND SERVICES CONTRACT DOCUMENT	CITY OF CAPE TOWN ISIXEKO SASEKAPA STAD KAAPSTAD

CONTRACT NO.: DP_4414S/2018/19

CONTRACT TITLE: TENDER 173S/2019/20

SUPPLY, DELIVERY, INSTALLATION AND MAINTENANCE OF COIN OPERATED PHOTOCOPIERS AND PRINTERS LINKED TO SMART CAPE SYSTEM

concluded between

[redacted]

(the "SUPPLIER")

and

THE CITY OF CAPE TOWN

(the "PURCHASER")

Contract Period:	60 months from date of commencement of the Contract

[redacted]

The Contract	
Part 1: Contract Documents	
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1.1	Form of Offer and Acceptance
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1.4	Supporting Schedules and Annexures
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	Service Level Agreement

[redacted]

CONTRACT NO.: DP 4414S/2018/19

CONTRACT TITLE: Tender 173S/2019/20

PREAMBLE

WHEREAS line with resolution **SCMB 48/04/20 dated 29 April 2020**, the Purchaser awarded Tender 173S/2019/20 for the Supply, Delivery, Installation and Maintenance of Coin Operated Photocopiers and Printers Linked to Smart Cape System, to the Supplier, from date of commencement of the Contract for a maximum period of 60 (sixty) months;

AND WHEREAS it is recorded that this Contract will be governed by the General Conditions of Contract of the **National Treasury General Conditions of Contract (revised July 2010)** ("**GCC**"), read with the Special Conditions of Contract ("**SCC**") as set out in the Contract.

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. PARTIES

The Parties to this Contract are:

1.1. **The City of Cape Town**, a metropolitan municipality, established in terms of the Local Government: Municipal Structures Act. 117 of 1998 read with the Province of the Western Cape: Provincial Gazette 5588 dated 22 September 2000, as amended ("**the Purchaser**"), herein represented by the **City Manager or his nominee** and duly authorised hereto;

1.2. [redacted] private company registered in terms of the laws of the Republic of South Africa with registration no: [redacted] with its principal place of business situated at [redacted] herein represented by its duly authorised representative, [redacted] his capacity as [redacted]

each a "**Party**" and together the "**Parties**".

2. INTERPRETATION

2.1. In the event of any conflict between the provisions of this Contract, the GCC and any Annexure attached hereto, or any other document incorporated by reference to this Contract, save to the extent expressly stated to the contrary, such conflict will be resolved by giving precedence to such different parts of this Contract in the following order of precedence:

2.1.1. first, Form of Offer and Acceptance

2.1.2. second, the terms and conditions of the SCC;

2.1.3. third, the terms and conditions of the GCC which includes the Part 3: Scope of Work and Part 2: Pricing Schedule;

2.1.4. third, Annexures and schedules to this Contract; and

2.1.5. fourth, any other documents incorporated by reference.

2.2. If any ambiguity or discrepancy is found in the documents, the Purchaser shall issue any necessary clarification or instruction.

[redacted]

2.3. The provisions of this Contract supersede and replace the provisions of any previous agreement entered into between the Parties relating to the same subject matter.

3. APPOINTMENT AND DURATION

3.1. The Purchaser hereby appoints the Supplier to perform the Scope of Work to the Employer from the Commencement Date.

3.2. Unless terminated earlier in accordance with the provisions as set out in the GCC or any other provision in terms of this Contract, this Contract shall commence on the Commencement Date and shall endure for a period not exceeding **60 (sixty) months**.

4. MUTUAL GOOD FAITH / CO-OPERATION

4.1. The Parties represent and undertake to do all such things, perform all such acts and take all steps to procure the doing of all such things and the performance of all such acts, as may be necessary or incidental to give effect to the execution of this Contract.

4.2. The Parties shall at all times during the continuance of this Contract observe the principles of good faith towards one another in the performance of their obligations in terms of this Contract.

5. OBLIGATIONS OF THE EMPLOYER

5.1. The Purchaser undertakes to perform its obligations in accordance with the Contract, including but not limited to the Scope of Work (Part 3: Scope of Work), subject to the satisfactory fulfilment of the obligations by the Supplier as set out in this Contract.

5.2. The Purchaser shall monitor and evaluate the Supplier's performance in respect of the Scope of Work (Part 3: Scope of Work).

6. OBLIGATIONS OF THE SUPPIER

6.1. The Supplier hereby agrees and undertakes to perform the Services to the Employer as set out in Part 3: Scope of Work.

6.2. The Supplier will perform the Works as expeditiously as possible and furthermore agrees and undertakes to perform the services in accordance with the operational requirements of the Employer.

6.3. The Supplier shall, ensure that its employees, agents, representatives, sub-contractors and suppliers comply with this Contract and all applicable Laws in the execution of the goods and/or Services.

6.4. The Supplier will not conduct any activity of whatsoever nature which may be detrimental to the Purchaser's reputation and goodwill.

7. PRICING DATA

7.1. The Contract Price for the Works shall be as set out in Part 2: Pricing Data.

7.2. The Supplier shall not be entitled to any other consideration for the rendering of the Goods and/or Services other than as provided for in this Contract.

[redacted]

[redacted]

Part 1: Contract Documents

PART 1.1 FORM OF OFFER AND ACCEPTANCE

OFFER

The Purchaser, has solicited offers to enter into a contract for the procurement in terms of **CONTRACT NO. TENDER 173S/2019/20**

SUPPLY, DELIVERY, INSTALLATION AND MAINTENANCE OF COIN OPERATIONED PHOTOCOPIERS AND PRINTERS LINNKED TO SMART CAPE SYSTEM

[redacted]

AND WHO IS represented herein by [redacted] uly authorised to act on behalf of the Supplier in his capacity as [redacted]

HEREBY AGREES THAT by signing the *Form of Offer and Acceptance,* the Supplier:

1. confirms that it has examined the Contract documents listed in the Index, including Schedules and Annexures, and has accepted all the Conditions of Contract;

2. confirms that it has received and incorporated any and all notices issued to the Supplier by the Purchaser;

3. confirms that it has satisfied itself as to the correctness and validity of the offer; that the price(s) and rate(s) offered cover all the goods and/or services specified; that the price(s) and rate(s) cover all its obligations and accepts that any mistakes regarding price(s), rate(s) and calculations will be at its own risk;

4. offers to supply all or any of the goods and/or render all or any of the services described, to the Purchaser in accordance with stipulated:
   4.1 terms and conditions of the Contract data (which includes the General Conditions of Contract and Special Conditions of Contract);
   4.2 price schedule;
   4.3 specifications stipulated in the tender document;
   4.4 notices issued;
   4.5 supporting schedules; and
   4.6 schedule of deviations.

5. accepts full responsibility for the proper execution and fulfilment of all obligations, liabilities and conditions devolving on it in terms of the Contract.

[redacted]

CONTRACT NO.: DP 4414S/2018/19

CONTRACT TITLE: Tender 173S/2019/20

ACCEPTANCE

1. By signing this *Form of Offer and Acceptance* the City of Cape Town the '**Purchaser**'):

   1.1 accepts the offer submitted by [redacted]

   1.2 (the "**Supplier**"), thereby concluding a contract with the Supplier for a contract period of **60 (sixty) months from commencement of Contract**; and

   1.3 undertakes to make payment for the goods/services delivered in accordance with the terms and conditions of the Contract.

2. The terms of the Contract are contained in:

   2.1 terms and conditions of the Contract data (which includes the General Conditions of Contract and Special Conditions of Contract);

   2.2 price schedule;

   2.3 specifications stipulated in the tender document;

   2.4 scope of work;

   2.5 notices issued;

   2.6 supporting schedules; and

   2.7 schedule of deviations.

3. Deviations from and amendments to the documents listed in the tender data and any addenda thereto as listed in the returnable schedules as well as any changes to the terms of the offer agreed by the Parties during this process of offer and acceptance, are contained in the schedule of deviations attached hereto and forming part of this form of offer and acceptance. No amendments to or deviations from said documents are valid unless contained in this schedule.

4. By the duly authorised representatives signing this agreement, the Purchaser and the Supplier agree to and accept the schedule of deviations as the only deviations from and amendments to this tender document and addenda thereto as listed in the returnable schedules, as well as any confirmation, clarification or changes to the terms of the offer agreed by the Supplier and the Purchaser during this process of offer and acceptance.

5. It is expressly agreed that no other matter whether in writing, oral communication or implied during the period between the issue of the tender documents and the receipt by the Supplier of a completed signed copy of this Contract shall have any meaning or effect in the contract between the parties arising from this agreement

[redacted]

SCHEDULE OF DEVIATIONS

Notes:

1. The extent of deviations from the tender documents issued by the Purchaser before the tender closing date is limited to those permitted in terms of the conditions of tender.
2. A Supplier's covering letter shall not be included in the final contract document. Should any matter in such letter, which constitutes a deviation as aforesaid, become the subject of agreements reached during the process of offer and acceptance, the outcome of such agreement shall be recorded here.
3. Any other matter arising from the process of offer and acceptance either as a confirmation, clarification or change to the tender documents and which it is agreed by the Parties becomes an obligation of the contract shall also be recorded here.
4. Any change or addition to the tender documents arising from the above agreements and recorded here, shall also be incorporated into the final draft of the Contract.

1. SUBJECT: **not applicable**

DESCRIPTION: **not applicable**

By the duly authorised representatives signing this agreement, the Purchaser and the Supplier agree to and accept the foregoing schedule of deviations as the only deviations from and amendments to this tender document and addenda thereto as listed in the returnable schedules, as well as any confirmation, clarification or changes to the terms of the offer agreed by the Supplier and the Purchaser during this process of offer and acceptance.

It is expressly agreed that no other matter whether in writing, oral communication or implied during the period between the issue of the tender documents and the receipt by the Supplier of a completed signed copy of this Agreement shall have any meaning or effect in the contract between the parties arising from this agreement.

THE CITY OF CAPE [redacted]		[redacted]	
Signature:	[redacted]	Signature:	[redacted]
Name:	[redacted]	Name:	[redacted]
Title:	[redacted]	Title:	[redacted]
Date:	[redacted]	Date:	[redacted]
Witness 1:	[redacted]	Witness 1:	[redacted]
Witness 2:	[redacted]	Witness 2:	[redacted]

[redacted]

1.2 GENERAL CONDITIONS OF CONTRACT

(National Treasury - General Conditions of Contract (revised July 2010))

TABLE OF CLAUSES

1. Definitions

1. The following terms shall be interpreted as indicated:

   1.1 'Closing time' means the date and hour specified in the bidding documents for the receipt of bids.

   1.2 'Contract' means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.

[redacted]

1.3 'Contract price' means the price payable to the supplier under the contract for the full and proper performance of his or her contractual obligations.

1.4 'Corrupt practice' means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.

1.5 'Countervailing duties' are imposed in cases in which an enterprise abroad is subsidised by its government and encouraged to market its products internationally.

1.6 'Country of origin' means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognised new product results that is substantially different in basic characteristics or in purpose or utility from its components.

1.7 'Day' means calendar day.

1.8 'Delivery' means delivery in compliance with the conditions of the contract or order.

1.9 'Delivery ex stock' means immediate delivery directly from stock actually on hand.

1.10 'Delivery into consignee's store or to his site' means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.

1.11 'Dumping' occurs when a private enterprise abroad markets its goods on its own initiative in the RSA at lower prices than that of the country of origin, and which action has the potential to harm the local industries in the RSA.

1.12 'Force majeure' means an event beyond the control of the supplier, not involving the supplier's fault or negligence, and not foreseeable. Such events may include, but are not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.

1.13 'Fraudulent practice' means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive the bidder of the benefits of free and open competition.

1.14 'GCC' means the General Conditions of Contract.

1.15 'Goods' means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.

1.16 'Imported content' means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs,

[redacted]

dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.

1.17 'Local content' means that portion of the bidding price which is not included in the imported content, provided that local manufacture does take place.

1.18 'Manufacture' means the production of products in a factory using labour, materials, components and machinery, and includes other, related value-adding activities.

1.19 'Order' means an official written order issued for the supply of goods or works or the rendering of a service.

1.20 'Project site', where applicable, means the place indicated in bidding documents.

1.21 'Purchaser' means the organisation purchasing the goods.

1.22 'Republic' means the Republic of South Africa.

1.23 'SCC' means the Special Conditions of Contract.

1.24 'Services' means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance, and other such obligations of the supplier covered under the contract.

1.25 'Written' or 'in writing' means handwritten in ink or any form of electronic or mechanical writing.

2. **Application**

2.1 These general conditions are applicable to all bids, contracts and orders, including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.

2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.

2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

3. **General**

3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable, a non-refundable fee for documents may be charged.

3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from www.treasury.gov.za.

[redacted]

4. **Standards**

4.1 The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.

5. **Use of contract documents and information; inspection.**

5.1 The supplier shall not, without the purchaser's prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for the purposes of such performance.

5.2 The supplier shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC clause 5.1, except for purposes of performing the contract.

5.3 Any document, other than the contract itself, mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier's performance under the contract if so required by the purchaser.

5.4 The supplier shall permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

6. **Patent rights**

6.1 The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from the use of the goods or any part thereof by the purchaser.

7. **Performance Security**

7.1 Within 30 (thirty) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in the SCC.

7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.

7.3 The performance security shall be denominated in the currency of the contract or in a freely convertible currency acceptable to the purchaser, and shall be in one of the following forms:

a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or
b) a cashier's or certified cheque.

[redacted]

7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than 30 (thirty) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified in the SCC.

8. **Inspections, tests and analyses**

8.1 All pre-bidding testing will be for the account of the bidder.

8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organisation acting on behalf of the Department.

8.3 If there are no inspection requirements indicated in the bidding documents and no mention of such is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.

8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.

8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.

8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.

8.7 Any contract supplies may on or after delivery be inspected, tested or analysed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier, who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do comply with the requirements of the contract. Failing such removal, the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.

8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 23 of the GCC.

[redacted]

9. **Packing**

9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.

9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, specified in the SCC, and in any subsequent instructions ordered by the purchaser.

10. **Delivery and documents**

10.1 Delivery of the goods shall be made by the supplier in accordance with the terms specified in the contract. The details of shipping and/or other documents to be furnished by the supplier are specified in the SCC.

10.2 Documents to be submitted by the supplier are specified in the SCC.

11. **Insurance**

11.1 The goods supplied under the contract shall be fully insured, in a freely convertible currency, against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified in the SCC.

12. **Transportation**

12.1 Should a price other than an all-inclusive delivered price be required, this shall be specified in the SCC.

13. **Incidental Services**

13.1 The supplier may be required to provide any or all of the following services, including additional services (if any) specified in the SCC:

a) performance or supervision of on-site assembly, and/or commissioning of the supplied goods;
b) furnishing of tools required for the assembly and/or maintenance of the supplied goods;
c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.

[redacted]

13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.

14. **Spare parts**

14.1 As specified in the SCC, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:

a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and (b) in the event of termination of production of the spare parts:

b) Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and

c) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

15. **Warranty**

15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications), or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.

15.2 This warranty shall remain valid for 12 (twelve) months after the goods, or any portion thereof, as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for 18 (eighteen) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in the SCC.

15.3 The purchaser shall notify the supplier promptly, in writing, of any claims arising under this warranty.

15.4 Upon receipt of such notice, the supplier shall, within the period specified in the SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.

15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified in the SCC, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

[redacted]

16. **Payment**

16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in the SCC.

16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfilment of any other obligations stipulated in the contract.

16.3 Payments shall be made promptly by the purchaser, but in no case later than 30 (thirty) days after submission of an invoice or claim by the supplier.

16.4 Payment will be made in Rand unless otherwise stipulated in the SCC.

17. **Prices**

17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices tendered by the supplier in his bid, with the exception of any price adjustments authorized in the SCC or in the purchaser's request for bid validity extension, as the case may be.

18. **Contract Amendments**

18.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.

19. **Assignment**

19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.

20. **Subcontracts**

20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contract if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.

21. **Delays in the supplier's performance**

21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.

21.2 If at any time during the performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his or her discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.

21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.

[redacted]

21.4 The right is reserved to procure, outside of the contract, small quantities of supplies; or to have minor essential services executed if an emergency arises, or the supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.

21.5 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.

21.6 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without cancelling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and, without prejudice to his other rights, be entitled to claim damages from the supplier.

22. **Penalties**

22.1 Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services, using the current prime interest rate, calculated for each day of the delay until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC Clause 23.

23. **Termination for default**

23.1 The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:

a) if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;
b) if the supplier fails to perform any other obligation(s) under the contract; or
c) if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

23.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner as it deems appropriate, goods, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.

23.3 Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.

[redacted]

23.4 If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than 14 (fourteen) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated 14 (fourteen) days the purchaser may regard the intended penalty as not objected against and may impose it on the supplier.

23.5 Any restriction imposed on any person by the Accounting Officer/Authority will, at the discretion of the Accounting Officer/Authority, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person is or was, in the opinion of the Accounting Officer/Authority, actively associated.

23.6 If a restriction is imposed, the purchaser must, within 5 (five) working days of such imposition, furnish the National Treasury with the following information:

a) the name and address of the supplier and/or person restricted by the purchaser;
b) the date of commencement of the restriction;
c) the period of restriction; and
d) the reasons for the restriction.

These details will be loaded in the National Treasury's central database of suppliers or persons prohibited from doing business with the public sector.

23.7 If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, Act 12 of 2004, the court may also rule that such person's name be endorsed on the Register for Tender Defaulters. When a person's name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period of not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction, and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website.

24. **Anti-dumping and countervailing duties and rights**

24.1 When, after the date of bid, provisional payments are required, or anti-dumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidised import, the State is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favourable difference shall, on demand, be paid forthwith by the contractor to the State, or the State may deduct such amounts from moneys (if any) which may otherwise be due to the contractor in regard to supplies or services which he or she delivered or rendered, or is to deliver or render in terms of the contract or any other contract or any other amount which may be due to him or her.

[redacted]

25. **Force majeure**

25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if, and to the extent that, his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.

25.2 If a force majeure situation arises, the supplier shall notify the purchaser promptly, in writing, of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

26. **Termination for insolvency**

26.1 The purchaser may at any time terminate the contract by giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the purchaser.

27. **Settlement of Disputes**

27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve such dispute or difference amicably, by mutual consultation.

27.2 If, after 30 (thirty) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.

27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.

27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.

27.5 Notwithstanding any reference to mediation and/or court proceedings herein,

a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and

b) the purchaser shall pay the supplier any monies due to the supplier.

28. **Limitation of Liability**

28.1 Except in cases of criminal negligence or wilful misconduct, and in the case of infringement pursuant to Clause 6:

a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and

[redacted]

b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

29. **Governing language**

29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.

30. **Applicable Law**

30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in the SCC.

31. **Notices**

31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail, and any other notice to him shall be posted by ordinary mail, to the address furnished in his bid or to the address notified later by him in writing; and such posting shall be deemed to be proper service of such notice.

31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.

32. **Taxes and Duties**

32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, licence fees, and other such levies imposed outside the purchaser's country.

32.2 A local supplier shall be entirely responsible for all taxes, duties, licence fees, etc., incurred until delivery of the contracted goods to the purchaser.

32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.

33. **National Industrial Participation (NIP) Programme**

33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.

34. **Prohibition of Restrictive practices**

34.1 In terms of section 4 (1) (b) (iii) of the Competition Act, Act 89 of 1998, as amended, an agreement between or concerted practice by firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder(s) is/are or a contractor(s) was/were involved in collusive bidding (or bid rigging).

[redacted]

34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has/have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act, Act 89 of 1998.

34.3 If a bidder(s) or contractor(s) has/have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and/or terminate the contract in whole or part, and/or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding 10 (ten) years and/or claim damages from the bidder(s) or contractor(s) concerned.

1.3 SPECIAL CONDITIONS OF CONTRACT

The following Special Conditions of Contract, referring to the National Treasury – Conditions of Contract (revised July 2010), are applicable to this Contract:

1. Definitions

Delete Clause 1.15 and substitute with the following

1.15 The word 'Goods' is to be replaced everywhere it occurs in the GCC with the phrase 'Goods and / or Services' which means all of the equipment, machinery, materials, services, products, consumables, etc. that the supplier is required to deliver to the purchaser under the contract. This definition shall also be applicable, as the context requires, anywhere where the words "supplies" and "services" occurs in the GCC.

Delete Clause 1.19 and substitute with the following

1.19 The word 'Order' is to be replaced everywhere it occurs in the GCC with the words 'Purchase Order' which means the official purchase order authorised and released on the purchaser's SAP System and the date of the Purchase Order will be the contract commencement date

Delete Clause 1.21 and substitute with the following:

1.21 'Purchaser' means the City of Cape Town. The address of the Purchaser is 12 Hertzog Boulevard, Cape Town, 8001.

Add the following after Clause 1.25:

1.26 'Supplier' means any provider of goods and / or services with whom the contract is concluded

3. General Obligations

Delete Clause 3.2 in its entirety and replace with the following clauses.

3.2 The parties will be liable to each other arising out of or in connection with any breach of the obligations detailed or implied in this contract, subject to clause 28.

[redacted]

3.3 All parties in a joint venture or consortium shall be jointly and severally liable to the purchaser in terms of this contract and shall carry individually the minimum levels of insurance stated in the contract, if any.

3.4 The parties shall comply with all laws, regulations and bylaws of local or other authorities having jurisdiction regarding the delivery of the goods and give all notices and pay all charges required by such authorities.

3.5 The supplier shall:

3.5.1 Arrange for the documents listed below to be provided to the Purchaser prior to the issuing of the order:

a) Proof of Insurance (refer to clause 11) or Insurance Broker's Warrantee
b) Letter of good standing from the Compensation Commissioner, or a licensed compensation insurer (refer to clause 11)
c) Initial delivery programme
d) Other requirements as detailed in the tender documents

3.5.2 Only when notified of the acceptance of the bid by the issuing of the order, the supplier shall commence with and carry out the delivery of the goods in accordance with the contract, to the satisfaction, of the purchaser

3.5.3 Provide all of the necessary materials, labour, plant and equipment required for the delivery of the goods including any temporary services that may be required

3.5.4 Insure his workmen and employees against death or injury arising out of the delivery of the goods

3.5.5 Be continuously represented during the delivery of the goods by a competent representative duly authorised to execute instructions;

3.5.6 In the event of a loss resulting in a claim against the insurance policies stated in clause 11, pay the first amount (excess) as required by the insurance policy

3.5.7 Comply with all written instructions from the purchaser subject to clause 18

3.5.8 Complete and deliver the goods within the period stated in clause 10, or any extensions thereof in terms of clause 21

3.5.9 Make good at his own expense all incomplete and defective goods during the warranty period

3.5.10 Pay to the purchaser any penalty for delay as due on demand by the purchaser. The supplier hereby consents to such amounts being deducted from any payment to the supplier.

3.5.11 Comply with the provisions of the OHAS Act & all relevant regulations.

3.5.12 Comply with all laws relating to wages and conditions generally governing the employment of labour in the Cape Town area and any applicable Bargaining Council agreements.

3.5.13 Deliver the goods in accordance with the contract and with all reasonable care, diligence and skill in accordance with generally accepted

[redacted]

professional techniques and standards.

3.6 The purchaser shall:

3.6.1 Issue orders for the goods required under this Contract. No liability for payment will ensue for any work done if an official purchase order has not been issued to the supplier.

3.6.2 Make payment to the **supplier** for the goods as set out herein.

3.6.3 Take possession of the goods upon delivery by the supplier.

3.6.4 Regularly inspect the goods to establish that it is being delivered in compliance with the contract.

3.6.5 Give any instructions and/or explanations and/or variations to the supplier including any relevant advice to assist the supplier to understand the contract documents.

3.6.6 Grant or refuse any extension of time requested by the supplier to the period stated in clause 10.

3.6.7 Inspect the goods to determine if, in the opinion of the purchaser, it has been delivered in compliance with the contract, alternatively in such a state that it can be properly used for the purpose for which it was intended.

3.6.8 Brief the supplier and issue all documents, information, etc. in accordance with the contract.

5. Use of contract documents and information; inspection, copyright, confidentiality, etc.

Add the following after clause 5.4:

5.5 Copyright of all documents prepared by the supplier in accordance with the relevant provisions of the copyright Act (Act 98 of 1978) relating to contract shall be vested in the purchaser. Where copyright is vested in the supplier, the purchaser shall be entitled to use the documents or copy them only for the purposes for which they are intended in regard to the contract and need not obtain the supplier's permission to copy for such use. Where copyright is vested in the purchaser, the supplier shall not be liable in any way for the use of any of the information other than as originally intended for the contract and the purchaser hereby indemnifies the supplier against any claim which may be made against him by any party arising from the use of such documentation for other purposes.

The ownership of data and factual information collected by the supplier and paid for by the purchaser shall, after payment, vest with the purchaser

5.6 **Publicity and publication**
The supplier shall not release public or media statements or publish material related to the services or contract within two (2) years of completion of the services without the written approval of the purchaser, which approval shall not be unreasonably withheld.

[redacted]

5.7 **Confidentiality**

Both parties shall keep all information obtained by them in the context of the Contract confidential and shall not divulge it without the written approval of the other party.

7. Performance Security

Not Applicable

8. Inspections, tests and analyses

Delete Clause 8.2 and substitute with the following:

8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the purchaser or an organisation acting on behalf of the purchaser.

10. Delivery and documents

Delete clauses 10.1 and 10.2 and replace with the following:

10.1 Delivery of the goods shall be made by the supplier in accordance with the terms specified in the contract. The time for delivery of the goods shall be the date as stated on the order.

10.2 The purchaser shall determine, in its sole discretion, whether the goods have been delivered in compliance with the contract, alternatively in such a state that it can be properly used for the purpose for which it was intended. When the purchaser determines that the goods have been satisfactorily delivered, the purchaser must issue an appropriate certification, or written approval, to that effect. Invoicing may only occur, and must be dated, on or after the date of acceptance of the goods.

11. Insurance

Add the following after clause 11.1:

11.2 Without limiting the obligations of the supplier in terms of this contract, the supplier s hall effect and maintain the following additional insurances:

a) Public liability insurances, in the name of the supplier, covering the supplier and the purchaser against liability for the death of or injury to any person, or loss of or damage to any property, arising out of or in the course of this Contract, in an amount not less than **R20 million** for any single claim;

b) Motor Vehicle Liability Insurance, in respect of all vehicles owned and / or leased by the supplier, comprising (as a minimum) "Balance of Third Party" Risks including Passenger Liability Indemnity;

c) Registration / insurance in terms of the Compensation for Occupational Injuries and Disease Act, Act 130 of 1993. This can either take the form of a certified copy of a valid Letter of Good Standing issued by the Compensation Commissioner, or proof of insurance with a licenced compensation insurer, from either the bidder's

[redacted]

broker or the insurance company itself (see **Proof of Insurance / Insurance Broker's Warranty** section in document for a pro forma version).

In the event of under insurance or the insurer's repudiation of any claim for whatever reason, the Purchaser will retain its right of recourse against the supplier.

11.3 The supplier shall be obliged to furnish the Purchaser with proof of such insurance as the Purchaser may require from time to time for the duration of this Contract. Evidence that the insurances have been effected in terms of this clause, shall be either in the form of an insurance broker's warranty worded precisely as per the pro forma version contained in the **Proof of Insurance / Insurance Broker's Warranty** section of the document or copies of the insurance policies.

15. Warranty

Add to Clause 15.2:

15.2 This warranty for this contract shall remain valid for **60 (sixty) month period** after the goods have been delivered depending on the specification requirements.

16. Payment

Delete Clause 16.1 in its entirety and replace with the following:

16.1 A monthly payment cycle will be the norm. All invoices which are dated on or before the 20th of a particular month will typically be paid between the 23rd and 26th of the following month. The supplier may submit a fully motivated application regarding more frequent payment to the Purchaser for consideration. Requests for more frequent payments will be considered at the sole discretion of the Purchaser and is not a right in terms of this contract.

Delete Clause 16.2 in its entirety and replace with the following:

16.2 The supplier shall furnish the purchaser's Accounts Payable Department with an original tax invoice, clearly showing the amount due in respect of each and every claim for payment.

Add the following after clause 16.4

16.5 Notwithstanding any amount stated on the order, the supplier shall only be entitled to payment for goods actually delivered in terms of the Project Specification and Drawings, or any variations in accordance with clause 18. Any contingency sum included shall be for the sole use, and at the discretion, of the purchaser.

The Purchaser is not liable for payment of any invoice that pre-dates the date of delivery of the goods.

17. Prices

Add the following after clause 17.1

17.2 The prices for the goods delivered and services performed shall **NOT** be subject to contract price adjustment and **FIXED FOR THE DURATION OF THE CONTRACT AS PER THE PRICING SCHEDULE**

[redacted]

18. Contract Amendments

Delete the heading of clause 18 and replace with the following:

18. Contract Amendments and Variations

Add the following to clause 18.1:

18.1 Variations means changes to the goods or any extension of the duration of the contract that the purchaser issues to the supplier as instructions in writing, subject to prior approval by the purchaser's delegated authority as reflected on an authorised amended order. Should the supplier deliver any goods not described in a written instruction from the purchaser, such work will not become due and payable until amended order has been issued by the purchaser.

21. Delays in the supplier's performance

Delete Clause 21.2 in its entirety and replace with the following:

21.2 If at any time during the performance of the contract the supplier or its sub-contractors should encounter conditions beyond their reasonable control which impede the timely delivery of the goods, the supplier shall notify the purchaser in writing, within 7 Days of first having become aware of these conditions, of the facts of the delay, its cause(s) and its probable duration. As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation, and may at his discretion extend the time for delivery.

Where additional time is granted, the purchaser shall also determine whether or not the supplier is entitled to payment for additional costs in respect thereof. The principle to be applied in this regard is that where the purchaser or any of its agents are responsible for the delay, reasonable costs shall be paid. In respect of delays that were beyond the reasonable control of both the supplier and the purchaser, additional time only (no costs) will be granted.

The purchaser shall notify the supplier in writing of his decision(s) in the above regard.

21.3 No provision in a contract shall be deemed to prohibit the obtaining of goods from a national department, provincial department, or a local authority.

22. Penalties

Delete clause 22.1 and replace with the following:

22.1 Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum as stated herein for each day of the delay until actual delivery or performance.

The penalty for this contract shall be determined in accordance with provisions of the Service Level Agreement (SLA) entered into between the contracting parties as set out in Part 4: Service Level Agreement.

[redacted]

23. Termination for default

Delete the heading of clause 23 and replace with the following:

23. Termination

Add the following to the end of clause 23.1:

"if the supplier fails to remedy the breach in terms of such notice."

Add the following after clause 23.7:

23.8 In addition to the grounds for termination due to default by the supplier, the contract may also be terminated:

23.8.1 Upon the death of the supplier who was a Sole Proprietor, or a sole member of a Close Corporation, in which case the contract will terminate forthwith.

23.8.2 The parties by mutual agreement terminate the contract.

23.8.3 If a Purchase Order has been issued incorrectly, or to the incorrect recipient, the resulting contract may be terminated by the purchaser by written notice

23.9 If the contract is terminated in terms of clause 23.8, all obligations that were due and enforceable prior to the date of the termination must be performed by the relevant party.

27. Settlement of Disputes

Amend clause 27.1 as follows:

27.1 If any dispute or difference of any kind whatsoever, with the exception of termination in terms of clause 23.1(c), arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve such dispute or difference amicably, by mutual consultation.

Delete Clause 27.2 in its entirety and replace with the following:

27.2 Should the parties fail to resolve any dispute by way of mutual consultation, either party shall be entitled to refer the matter for mediation before an independent and impartial person appointed by the City Manager in accordance with Regulation 50(1) of the Local Government: Municipal Finance Management Act, 56 of 2003 – Municipal Supply Chain Management Regulations (Notice 868 of 2005). Such referral shall be done by either party giving written notice to the other of its intention to commence with mediation. No mediation may be commenced unless such notice is given to the other party.

Irrespective whether the mediation resolves the dispute, the parties shall bear their own costs concerning the mediation and share the costs of the mediator and related costs equally.

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

[redacted]

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

Save for reference to any portion of any settlement or decision which has been agreed to be final and binding on the parties, no reference shall be made by or on behalf of either party in any subsequent court proceedings, to any outcome of an amicable settlement by mutual consultation, or the fact that any particular evidence was given, or to any submission, statement or admission made in the course of amicable settlement by mutual consultation or mediation.

28. Limitation of Liability

Delete clause 28.1 (b) and replace with the following:

23.1(b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the sums insured in terms of clause 11 in respect of insurable events, or where no such amounts are stated, to an amount equal to twice the contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

Add the following after clause 28.1:

28.2 Without detracting from, and in addition to, any of the other indemnities in this contract, the supplier shall be solely liable for and hereby indemnifies and holds harmless the purchaser against all claims, charges, damages, costs, actions, liability, demands and/or proceedings and expense in connection with:

a) personal injury or loss of life to any individual;
b) loss of or damage to property;

arising from, out of, or in connection with the performance by the supplier in terms of this Contract, save to the extent caused by the gross negligence or wilful misconduct of the purchaser.

28.3 The supplier and/or its employees, agents, concessionaires, suppliers, sub-contractors or customers shall not have any claim of any nature against the purchaser for any loss, damage, injury or death which any of them may directly or indirectly suffer, whether or not such loss, damages, injury or death is caused through negligence of the purchaser or its agents or employees.

28.4 Notwithstanding anything to the contrary contained in this Contract, under no circumstances whatsoever, including as a result of its negligent (including grossly negligent) acts or omissions or those of its servants, agents or contractors or other persons for whom in law it may be liable, shall any party or its servants (in whose favour this constitutes a *stipulatio alteri*) be liable for any indirect, extrinsic, special, penal, punitive, exemplary or consequential loss or damage of any kind whatsoever, whether or not the loss was actually foreseen or reasonably foreseeable), sustained by the other party, its directors and/or servants, including but not limited to any loss of profits, loss of operation time, corruption or loss of information and/or loss of contracts.

28.5 Each party agrees to waive all claims against the other insofar as the aggregate of compensation which might otherwise be payable exceeds the aforesaid maximum amounts payable.

[redacted]

31. Notices

Delete clauses 31.1 and 31.2 and replace with the following:

31.1 Any notice, request, consent, approvals or other communications made between the Parties pursuant to the Contract shall be in writing and forwarded to the addresses specified in the contract and may be given as set out hereunder and shall be deemed to have been received when:

a) hand delivered – on the working day of delivery
b) sent by registered mail – five (5) working days after mailing
c) sent by telefax – one (1) working day after transmission
d) sent by email – at time of transmission

32. Taxes and Duties

Delete the final sentence of 32.3 and replace with the following:

32.3 In this regard, it is the responsibility of the supplier to submit documentary evidence in the form of a valid Tax Clearance Certificate issued by SARS to the Purchaser at the Supplier Management Unit located within the Supplier Management / Registration Office, 2nd Floor (Concourse Level), Civic Centre, 12 Hertzog Boulevard, Cape Town (Tel 021 400 9242/3/4/5).

Add the following after clause 32.3:

32.4 [redacted]

ADDITIONAL CONDITIONS OF CONTRACT

Add the following Clause after Clause 34:

35. Reporting Obligations.

35.1 The supplier shall complete, sign and submit with each delivery note, all the documents as required in the Specifications. Any failure in this regard may result in a delay in the processing of any payments.

[redacted]

Part 2: Price Schedule

Bid specifications may not make any reference to any particular trade mark, name, patent, design, type, specific origin or producer, unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words "or equivalent".

All descriptions or clauses where trade names or proprietary products are specified herein, are deemed to include the phrase "or equivalent."

1. COIN OPERATED PHOTOCOPIERS

1.1 Photo copies

Copy Paper size	Firm Charge per Coin copy: Rand, Excluding VAT Community					
	Year 1 Rates	Year 2 Rates	Year 3 Rates	Year 4 Rates	Year 5 Rates	Indicate MAKE and MODEL of copiers offered to CCT
A3	R1,39	R1,57	R1,91	R1.47	R2,17	INEO+284287
A4	R0.70	R0,78	R0,87	R0.80	R1,04	INEO+284287

Copy Paper size	Firm Charged per Bypass for the City of Cape Town's use, Excluding Vat,Per copy					
	Year 1 Rates	Year 2 Rates	Year 3 Rates	Year 4 Rates	Year 5 Rates	Indicate MAKE and MODEL of copiers offered to CCT
A3	R1,39	R1,57	R1,91	R1.47	R2,17	INEO+284287
A4	R0.70	R0,78	R0,87	R0.80	R1,04	INEO+284287

The Supplier confirms that the proposed devices are not older than 3 (three) years.

1.2 Scanned copies

[redacted]

Sir Lowry's Pass	1	1959	1	1062
Somerset West	1	3251	1	1751
Southfield Library	1	2060	1	1806
Strand Library	1	1985	1	1328
Strandfontein Library	1	2151	1	1334
Suider Strand library	1	2183	1	1221
Table View	1	8801	1	483
Tafelsig Library	1	948	1	400
Tokai Library	1	5012	1	731
Town Centre Library	1	9864	1	3478
Valhalla Park Library	1	1258	1	798
Vredehoek	1	891	1	376
Weltevreden Library	1	2010	1	1105
Wesfleur	2	15908	1	3797
Westridge Library	1	4887	1	1220
Woodstock	1	1003	1	426
Wynberg Library	1	1372	1	1700
Muizenberg Library	1	1185	1	1461

[redacted]

Huguenot Square Library	1	10668	1	548
Kensington	1	3852	1	979
Khayelitsha Site B library	1	2916	2	2273
Kloof Street	1	1950	1	361
Koeberg	1	2550	1	793
Kommetjie Library	1	245	1	488
Kraaifontein library	1	111	1	2955
Kuilsriver library	Friends of the Library Copier		1	2162
Kulani library	1	500	1	369
Kuyasa library	1	4441	1	3531
Langa	1	6328	1	1485
Lansdowne Library	1	4929	1	698
Lentegeur Library	1	2250	1	958
Leonsdale Library	1	3543	1	334
Lotus River Library	1		1	3635
Lwandle Library	1	1000	1	75
Macassar Library	1	100	1	1411
Maitland	1	408	1	350
Mamre	1	2344	1	1968
Manenberg Library	1	1600	1	1175
Masakhane library	1	3903	1	956
Masiphumelele Library	1	4967	1	2916
Meadowridge Library	1	2528	1	223
Melton Rose	1	4729	1	1498
Mfuleni library	1	4191	1	2032
Milnerton	1	3120	1	664
Moses Mabhida library	Friends of the Library Copier		1	1887
Mowbray	1	612	1	949
Nazeema Isaacs library	1	3643	1	320
Nyanga Library	1	1211	1	1204
Observatory	1	1928	1	153
Ocean View Library	1	2659	1	1168
Ottery Library	1	2486	1	863
Parow Library	1	2940	1	2416
PD Paulse library	1	250	1	544
Pelican Park Library	1	1744	1	1400
Phillipi East Library	1	5011	1	1278
Pinelands	1	2655	1	606
Plumstead Library	1	3438	1	1853
Ravensmead Library	1	5449	1	1630
Retreat Library	1	3409	1	3267
Rocklands Library	1	950	1	840
Rondebosch Library	1	225	1	439
Rylands Library	1	1595	1	1549
Scottsdene Library	1	1807	1	931
Sea Point	1	1860	1	564
Simons Town Library	1	1871	1	649

[redacted]

1.4 SUPPORTING SCHEDULES AND ANNEXURES

1.4.1 The following schedules and annexures shall be applicable for the duration of the Contract, which may be amended by agreement from time to time:

ESTIMATED FIGURES FOR THE USAGE OVER 3 MONTHS

Name	Number of **Copiers**	Average Copies Made with **Copiers**	Number of **Printers**	Average Copies Made with **Printers**
Adriaanse Library	2	446	1	772
Athlone Library	3	5457	1	1282
Avondale	1	966	1	452
Belhar Library	1	2037	1	2831
Bellville Library	Friends of the Library Copier		1	3821
Bellville South Library	Friends of the Library Copier		1	1531
Bishop Lavis Library	1	8866	1	1565
Bloubergstrand	1	151	1	117
Bonteheuwel Library	1	5795	1	1658
Bothasig	1	1245	1	356
Brackenfell library	2	1268	1	3314
Bridgetown Library	1	1887	1	1513
Brooklyn	1	987	1	309
Browns Farm Library	1	2457	1	722
Camps Bay	1	158	1	837
Central library	7	13741	2	4765
Claremont Library	1	708	1	654
Crossroads Library	1	3207	1	2129
Delft Library	3	24642	1	4936
Delft South Library	1	5524	1	1597
Durbanville library	1	2115	1	1363
DuNoon	1		1	0
Edgemead	1	2034	1	919
Eerste River	1	1466	1	1359
Eikendal library	1	24000	1	680
Elsies River Library	1	5756	1	817
Fisantekraal	1	6023	1	276
Fish Hoek Library	1	922	1	938
Goodwood Library	1	2535	1	1097
Gordon's Bay Library	1	1642	1	325
Grassy Park Library	2	5285	1	2626
Gugulethu Library	1	2537	1	1337
Hangberg	1	2089	1	766
Hanover Park Library	1	2890	1	1657
Harare library	1	2313	1	1509
Heideveld Library	1	2815	1	1727
Hout Bay	1	983	1	1354

[redacted]

Scan Paper size	Firm Charge per Coin scanned copy: Rand, Excluding VAT Community					
	Year 1 Rates (exclusive VAT)	Year 2 Rates	Year 3 Rates	Year 4 Rates	Year 5 Rates	Indicate MAKE and MODEL of copier offered to CCT
A3	R0.35	R0.35	R0.43	R0.33	R0.43	INEO+284287
A4	R0.17	R0.17	R0.17	R0.13	R0.17	INEO+284287

Scan Paper size	Firm Charged per Bypass for the City of Cape Town's use, Excluding Vat, Per scanned copy					
	Year 1 Rates	Year 2 Rates	Year 3 Rates	Year 4 Rates	Year 5 Rates	Indicate MAKE and MODEL of copier to CCT
A3	R0.35	R0.35	R0.43	R0.33	R0.43	INEO+284287
A4	R0.17	R0.17	R0.17	R0.13	R0.17	INEO+284287

2. PRINTER LINKED TO THE SMART CAPE SYSTEM

2.1 Printers

Copy size	Year 1 Rates (exclusive VAT) Community	Year 2 Rates (exclusive VAT) Community	Year 3 Rates (exclusive VAT) Community	Year 4 Rates (exclusive VAT) Community	Year 5 Rates (exclusive VAT) Community
A4	R0.70	R0,78	R0,87	R0.80	R1,04
A3	R1,39	R1,57	R1,91	R1.47	R2,17

NOTE TO TENDERERS: Name the denominations of coins that can be used: Please indicate by √

20c	√
50c	√
R1	√
R2	√
R5	√

[redacted]

Pricing Instructions:

2.1 State the rates and prices in Rand unless instructed otherwise in the tender conditions.

2.2 Include in the rates, prices, and the tendered total of the prices (if any) all duties, taxes (except Value Added Tax (VAT), and other levies payable by the supplier, such duties, taxes and levies being those applicable 14 days before the closing time stated in the General Tender Information.

2.3 All prices tendered must include all expenses, disbursements and costs (e.g. transport, accommodation etc.) that may be required for the execution of the Supplier's obligations in terms of the Contract, and shall cover the cost of all general risks, liabilities and obligations set forth or implied in the Contract as well as overhead charges and profit (in the event that the tender is successful). All prices tendered will be final and binding.

2.4 All prices shall be tendered in accordance with the units specified in this schedule.

2.5 Where a value is given in the Quantity column, a Rate and Price (the product of the Quantity and Rate) is required to be inserted in the relevant columns.

2.6 The Supplier is required to perform all tasks listed against each item. The Supplier must therefore tender prices/rates on all items as per the section in the Price Schedule. **An item against which no rate (or rates, in the case of rate categories if provided) is/are entered, or if anything other than a rate or a nil rate (for example, a zero, a dash or the word "included" or abbreviations thereof) is entered against an item, it will also be evaluated as a nil rate having been entered against that item, i.e. that there is no charge for that item.**

2.7 Provide fixed rates and prices for the duration of the contract that are not subject to adjustment except as otherwise provided for in clause 17 of the Conditions of Contract and as amplified in the Special Conditions of Contract

2.8 Only firm prices will be accepted. Non-firm prices (including prices subject to rate of exchange variations) will not be considered and the tender will be declared non-responsive.

2.9 The Purchaser reserves the right to appoint one supplier for both the photocopiers and the printers.

2.10 The Purchaser reserves the right to appoint an alternative supplier in the event of the Supplier defaulting during the tenure of the contract.

2.11 Tenderers to tender on all items to be deemed responsive.

[redacted]

Part 3: Scope of Work

3.1 The Supplier hereby agrees and undertakes to perform the Goods and/or Services to the Purchaser as set out in Part 3 Scope of Work: Specifications.

3.2 The Supplier will perform the Goods and/or Services as expeditiously as possible and furthermore agrees and undertakes to perform the services in accordance with the operational requirements of the Purchaser.

3.3 The Supplier will ensure that the Goods and/or Services will be of a satisfactory quality and fit for purpose.

3.4 The Supplier shall, ensure that its employees, agents, representatives, sub-contractors and suppliers comply with this Contract and all applicable Laws in the execution of the Works.

3.5 The Supplier will not conduct any activity of whatsoever nature which may be detrimental to the Purchaser's reputation and goodwill.

3.6 The Supplier undertakes to and in favour of the Purchaser that it –

- 3.6.1 has the resources, necessary expertise and skill, capabilities and technology to provide the Works to the Purchaser; and
- 3.6.2 has effective, efficient and transparent financial management and control systems in place.

SPECIFICATION

3.7 This Contract is for the supply, installation and maintenance of multi-coin box operated photocopiers at a number of libraries, +-104, and the supply of all consumables in return for the income collected through the coin boxes, thus no cost to the City of Cape Town, as well as for the supply, installation and maintenance of printers for the Smart Cape System at libraries, and the supply of all consumables in return for payment by the City at the tender price.

3.8 Supplier must tender on the Photocopiers, as well as the Printers.

3.9 **The specification for the Coin operated Photocopiers**:

3.9.1 The Supplier must provide the machines & coin boxes, paper, toner and consumables as well as collect monies from the copiers; money taken from the coin boxes and held on behalf of the tenderer would be entirely at the risk of the tenderer, and the Council can in no way be held responsible should discrepancies occur.

3.9.2 The control system of the photocopier must allow the user the option to select the type of service required, i.e. Photocopying, scanning of documents or images to USB thumb drive or Recognising and Printing documents or images located on a USB thumb drive. The control system must be able to recognise the user selection and activate the service once the appropriate service fee has been deposited in the coin box.

[redacted]

3.9.3 The control system for the coin box must make provision by means of a code (or any applicable method) for the coin box to be bypassed to enable the staff to make official copies or scan documents on these machines. The system must keep record of the number of copies made by using the bypass system, with the Supplier Billing Library and Information Services on a monthly basis for these costs. Because malfunctions occur on any copier from time to time, any discrepancy between the money taken through the coin box and the copies recorded by the copier's counter, will not be for the Purchaser account.

3.9.4 The supplier must supply all paper, toners as well as any other material necessary free of charge to Council. Such materials must at all times be available on the library premises and Purchaser Staff will replenish the copiers as necessary. (These materials will be held at the risk of the tenderer). Additional materials must be provided within 48 hours of request from Purchaser. If the material is not provided within the stipulated time, Council reserves the right to utilize the requested materials from own stock and the cost of such materials will be for the tenderers account based on the current rate that the Purchaser procures at. The tenderer will be required to issue a credit note to the value of the materials purchased by Purchaser.

3.9.5 Supplier should note different usage of consumables per library based on higher volumes at certain library locations compared to other locations

3.9.6 The money from the copiers must be collected at least once a week.

3.9.7 Response to service difficulties must be within 24 hours. Contact names and telephone numbers must be provided in a covering letter. If a copier cannot be fixed within 72 hours a loan unit must be provided to the library. All spares and parts for copiers must be readily available.

3.9.8 The photocopiers must be capable of making A3 and A4 copies without the need to change cassettes, at a rate of at least 20 per minute, option one, and 40 per minute, option two.

3.9.9 The photocopiers must have a Front USB 2.0 Specification Hi-Speed port to allow:

- Scanning of Documents and or Images (A3 and A4) to a USB Thumb drive
  - Scanned Documents or Images must be saved to the USB thumb drive in most common recognised file formats in use in the industry e.g. PDF, JPEG, Tiff
  - Scanning preset options to include Black & White Document, Grayscale Document, Colour Image, and Colour Document
- Printing of Documents and or Images (A3 and A4) located on a USB Thumb drive
  - The control system must be able to recognise Documents and or Images located on the USB Thumb drive in the most common recognised file formats i.e. PDF, JPEG, Tiff and allow the user to print their selection on A3 and/or A4

3.9.10 The denominations of coins are listed and indicated on the pricing schedule.

3.9.11 As the photocopiers will be utilised by the general public, Council will not be liable for any damages thereto. In the event of any damages, the tenderer must replace the copier and coin boxes at no charge to Council.

3.9.12 The Supplier must note that the number of copiers at any of the City of Cape Town Libraries (irrespective of whether the library is included in [redacted]

[redacted]

increased or decreased during the tenure of the contract and that the library facilities could also close or new facilities be opened. **Should a library be added to the list, or the services at existing facilities be extended an additional copier(s) must be delivered and be operational within 4 (four) weeks) from date of purchase order.** Should a library be removed from the list or services at existing facilities be reduced, the copier/s must be removed from the library within 5 working days from receipt of written notification from Purchaser. At some of the listed libraries copiers on lease and those belonging to the "Friends of the Library" could be concurrently utilised with the tenderer's equipment. Leased copiers where applicable would be utilised concurrently until the lease has lapsed.

3.9.13 The system must keep record of the number of copies made and statistics must be supplied in electronic format to the City by the 7th working day of the month to:

Name: Ronnie Hendricks

E-mail: Andries.Hendricks@capetown.gov.za

3.10 <u>Specifications – Printers linked to Smart Cape system</u>

3.10.1 Supply, installation and maintenance of printers for the Smart Cape System at a number of libraries, +-104, and the supply of all consumables in return for payment by the City at the Contract Price.

3.10.2 The Supplier must supply and deliver all paper, toners as well as any other material necessary free of charge to Council at the library. Such materials must at all times be available on the library premises and Council Staff will replenish from this stock as necessary. These materials will be held at the risk of the Supplier. Additional materials must be provided within 48 hours of request from Council. If the material is not provided within the stipulated time, Council reserves the right to purchase the requested materials from another source and the cost of such materials will be for the Supplier's account.

3.10.3 The system must keep record of the number of copies printed with the Supplier Billing Libraries on a monthly basis at the tender price. Because malfunctions occur on any copier from time to time, any discrepancy will not be for the Council's account.

3.10.4 Response to service difficulties must be within 24 hours. Contact names and telephone numbers must be provided in a covering letter. If a printer cannot be fixed within 72 hours a loan unit must be provided to the library. All spares and parts for printers must be readily available.

3.10.5 The printer must be capable of printing A4 and A3 paper.

3.10.6 The minimum printer specification are as follows:

a) Linux Compatibility
b) PCL 5/6 & Poscript Compatible
c) Network Ready / wired LAN connection
d) 256MB RAM

[redacted]

e) The printers needs to be standardised as far as possible for the period of the tender (All proposed models during the duration of the contract must be submitted to IS&T to ensure that stipulated specifications are met and may only be utilized in the libraries upon approval from IS&T whose decision is final) The IP settings has to be applied via the printer on-board screen.

f) During evaluation the city would need a printer to test as well as create a new image for SmartCape which includes the new printer.

3.10.7 The Supplier may tender on a similar printer provided that full details be submitted with their submissions.

3.10.8 As the printers will be utilised by the general public, Council will not be liable for any damages thereto. In the event of any damages, the Supplier must replace the printer at no charge to Council.

3.10.9 The Supplier must note that the number of Printers at any of the City of Cape Town Libraries (irrespective of whether the library is included in the list below) could be increased or decreased during the tenure of the contract and that the library facilities could also close or new facilities be opened. Should a library be added to the list, or the services at existing facilities be extended, an additional printer(s) must be delivered and be operational within 4 (four) weeks) from date of purchase order. Number of machines per library (Supplier to supply the same amount of existing machines per library). Should a library be removed from the list or services at existing facilities be reduced, the printer/s must be removed from the library within 5 working days from receipt of written notification from Purchaser.

3.11 <u>Refurbished Photocopiers and Printers</u>

3.11.1 The Purchaser will consider Refurbished Machines (Photocopiers and Printers) provided that it is not older than 3 years.

3.11.2 The Supplier confirms that the machines to be provided in accordance with this Contract are not more than 3 years old, as indicated in Part 2: Price Schedule.

3.12 <u>Timelines</u>

3.12.1 The Supplier must make provision for the lead time to purchase new machines, being 60 (sixty) days.

3.12.2 The Supplier shall ensure that new machines are procured and delivered to the Purchaser within 60 (sixty) working days after receipt of an official instruction from the Purchaser.

3.13 <u>Staff and Transport</u>

[redacted]

A minimum of 5 technicians with reliable transport must be available to respond to service requests.

3.14 Value Added Services (Copiers Printers with change dispensers)

More often, the Patrons using the Library Facilities, requires change to operate the machines. It would be beneficial if the machines would be able to provide change, in the coin denomination as indicated in the pricing schedule

3.15 The Supplier shall provide a copy of the planned rollout schedule to the Purchaser 15 (fifteen) working days prior to commencement of the Contract.

3.16 Employment Of Security Personnel

All security staff employed by the supplier on behalf of the Purchaser or at any Purchaser property must be registered with Private Security Industry Regulatory Authority (PSiRA). Proof of such registration must be made available to the Purchaser's agent upon request.

3.17 Forms For Contract Administration

3.17.1 The supplier shall complete, sign and submit with each invoice, the following:

a) Monthly Project Labour Report **(Annex 3)**.
b) B-BBEE Sub-Contract Expenditure Report **(Annex 4)**.
c) Joint Venture Expenditure Report **(Annex 5)**.

3.17.2 The Monthly Project Labour Report must include details of all labour (including that of sub-contractors) that are South African citizens earning less than R350.00 per day, as adjusted from time to time (excluding any benefits), who are employed on a temporary or contract basis on this contract in the month in question.

3.17.3 In addition to the Monthly Project Labour Report the Supplier shall simultaneously furnish the Purchaser's Agent with copies of the employment contracts entered into with such labour, together with certified copies of identification documents as well as evidence of payments to such labour in the form of copies of payslips or payroll runs. If the worker is paid in cash or by cheque, this information must be recorded on the envelope and the worker must acknowledge receipt of payment by signing for it and proof of such acknowledgement shall be furnished to the Purchaser's Agent.

3.17.4 The Monthly Project Labour Reports shall be completed and submitted in accordance with the instructions therein.

3.17.5 The B-BBEE Sub-Contract Expenditure Report is required for monitoring the supplier's compliance with the sub-contracting conditions of the Preference Schedule.

3.17.6 The Joint Venture Expenditure Report is required for monitoring the joint venture's/consortium/partnership compliance with the pe [redacted] partners as tendered, where the joint venture/consortium/partnership has been awarded preference points in respect of its consolidated B-BBEE scorecard.

[redacted]

Part 4: Service Level Agreement

SERVICE LEVEL AGREEMENT

BETWEEN

THE CITY OF CAPE TOWN (THE "PURCHASER")

AND

[redacted]

FOR THE SUPPLY, DELIVERY, INSTALLATION AND MAINTENANCE OF COIN OPERATED PHOTOCOPIERS AND PRINTERS LINKED TO SMART CAPE SYSTEM PHOTOCOPIERS AND PRINTERS

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[redacted]

1. AGREEMENT OVERVIEW

1.1 This SLA represents a Service Level Agreement ("SLA"") between the Supplier and the Purchaser for the provisioning of services required to support and sustain the Goods and/or Services in accordance with the provisions of the Contract.

1.2 This SLA remains valid until superseded by a revised agreement mutually endorsed by the Parties.
This Agreement outlines the parameters of all services covered as they are mutually understood by the primary stakeholders. This Agreement does not supersede current processes and procedures unless explicitly stated herein.

2. GOALS & OBJECTIVES

2.1 The purpose of this SLA is to ensure that the proper elements and commitments are in place to provide consistent service support and delivery to the Purchaser by the Supplier
2.2 The goal of this SLA is to obtain mutual agreement for service provision between the parties.
2.3 The objectives of this SLA are to:

2.3.1 Provide clear reference to service ownership, accountability, roles and/or responsibilities;
2.3.2 Present a clear, concise and measurable description of service provision to the Purchaser; and
2.3.3 Match perceptions of expected service provision with actual service support & delivery.

3. STAKEHOLDERS

The following Parties will be used as the basis of the Agreement and represent the **primary stakeholders** associated with this SLA:

3.1 Evolution Technology Group (PTY) LTD ("Supplier"); and

4. CITY OF CAPE TOWN LIBRARY AND INFORMATION SERVICES ("PURCHASER") PERIODIC REVIEW

4.1 This SLA is valid from the **Effective Date** outlined herein and is valid until further notice. This Agreement should be reviewed at a minimum once per fiscal year; however, in lieu of a review during any period specified, the current Agreement will remain in effect.

4.2 The **Business Owner** ("Document Owner") is responsible for facilitating regular reviews of this document. Contents of this document may be amended as required, provided mutual agreement is obtained from the primary stakeholders and communicated to all affected parties. The Document Owner, being the contract manager of the Purchaser will incorporate all subsequent revisions and obtain mutual agreements / approvals as required.

Business Owner: City Library and Information Services
Review Period: Annual
Previous Review Date: Not applicable
Next Review Date: 01 July 2022

[redacted]

5. SERVICE AGREEMENT

The following detailed service parameters are the responsibility of the Supplier in the ongoing support of this SLA.

5.1 Service Scope

The following Services are covered by this SLA;

5.1.1 Manned telephone support – Requests for consumables
5.1.2 Manned telephone support – Technical support (Fault identification and resolution)
5.1.3 Planned or Emergency Onsite assistance (extra costs apply)
5.1.4 New and additional Equipment installations
5.1.5 Repairs and Maintenance of existing equipment and equipment in use
5.1.6 Repairs and Maintenance of New System installations
5.1.7 Meeting response times associated with service related incidents as per Contract and stipulations in this SLA – see section 6 Service Management
5.1.8 Appropriate notification to Purchaser for all scheduled maintenance.

5.2 Purchaser Requirements

The Purchaser's responsibilities and/or requirements in support of this SLA include:

5.2.1 Payment for all agreed service and support costs at the specified intervals.
5.2.2 Reasonable availability of Purchaser's representative(s) when resolving a service related incident or request.

5.3 Service Assumptions

Assumptions related to in-scope services and/or components include:

5.3.1 Changes to services will be communicated in writing to the Parties

[redacted]

5.3.2 Service Management

5.3.3 Effective support of in-scope services is a result of maintaining consistent service levels. The following sections provide relevant details on service availability, monitoring of in-scope services and related components.

5.4 ***Service Availability***

Coverage parameters specific to the service(s) covered in this Agreement are as follows:

5.4.1 Telephone support: (Consumables & Technical) 8:00 A.M. to 5:00 P.M. Monday – Friday
5.4.2 Telephone support – Saturdays: 09h00-12h00
5.4.3 Onsite assistance guaranteed within 24 hours during the business week for service difficulties

5.5 ***Service Requests***

In support of services outlined in this Agreement, the Supplier will respond to service related incidents and/or requests submitted by the Purchaser within the following time frames:

5.5.1 Within 24 hours (during business hours) for issues classified Service difficulties (Equipment are not working)
5.5.2 Within 48 hours for delivery of materials such as consumables
5.5.3 Within 72 hours with a loan unit if printer / copier cannot be fixed

6. SERVICE MANAGEMENT

6.1 **<u>Penalties</u>**:

6.1.1 Council reserves the right to purchase consumables from another source if not provided within the stipulated time.
6.1.2 The cost of these consumables will be for the Supplier's account

6.2 **Service Expansions**

6.2.1 Delivery of Copiers within 4 weeks from date of order
6.2.2 Delivery of Printers within 4 weeks from date of order.

7. FORCE MAJEURE

7.1 If the performance of this SLA is suspended due to force majeure (any event which makes the performance due by any Party to this SLA impossible and which is beyond the reasonable control of such Party, e.g. an act of God), such Party shall give the other Party written notice of the condition of force majeure within 5 (five) working days of the date on which the condition of force majeure takes effect, and shall do its utmost to reinstate the performance due in terms of this SLA in the shortest possible time

7.2 The suspension of performance of this SLA due to force majeure is restricted to a

[redacted]

period of no longer than 30 (thirty) days from the date of commencement of the condition of force majeure.

7.3 If the period of 30 (thirty) days has elapsed, and if the condition of force majeure persists, Either Party shall be entitled to cancel this SLA with immediate effect and without prejudice to such Party's rights obtained in terms of this SLA or otherwise.

8. GENERAL

8.1. This SLA constitutes the entire agreement between the Parties in respect of the subject matter hereof and neither party shall be bound by any undertakings, representations, warranties or promises not recorded in this agreement.

8.2. No variation or consensual cancellation of this agreement and no addition to this SLA shall be of any force or effect unless reduced to writing and signed by the parties or their duly authorized representatives.

8.3. No waiver of any of the terms and conditions of this SLA will be binding or effectual for any purpose unless expressed in writing and signed by the party hereto giving the same, and any such waiver will be effective only in the specific instance and for the purpose given. No failure or delay on the part of either party hereto in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will 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.

8.4. Should any of the terms and conditions of this agreement be held to be invalid, unlawful or unenforceable, such terms and conditions will be severable from the remaining terms and conditions which will continue to be valid and enforceable. If any term or condition held to be invalid is capable of amendment to render it valid, the parties agree to negotiate an amendment to remove the invalidity.

8.5 This SLA will be governed by and construed in accordance with the law of the Republic of South Africa and all disputes, actions and other matters relating thereto will be determined in accordance with such law.

8.6 Each Party shall bear and pay its own fees and costs of and incidental to the negotiation, drafting, preparation and execution of this SLA.

THE CITY OF [redacted]	
Signature:	[redacted]
Name:	
Title:	
Date:	
Witness 1:	
Witness 2:	

[redacted]	
Signature:	[redacted]
Name:	
Title:	
Date:	
Witness 1:	
Witness 2:	

[redacted]