Memorandum of Agreement

FOR THE

SUPPLY, SUPPORT AND MAINTENANCE OF PUBLIC KEY INFRASTRUCTURE, SOFTWARE, SERVICES, DEVELOPMENT AND LICENSING

MADE AND ENTERED INTO BETWEEN

CITY OF CAPE TOWN METROPOLITAN MUNICIPALITY

And

Altron TMT (Pty) Ltd t/a Altron Systems Integration, a division of Altron TMT (Pty) Ltd

(REGISTRATION NO. [redacted])

Contract No 336S/2020/21

[redacted]

PREAMBLE

WHEREAS Term Tender 336S/2020/21 was awarded to **Altron TMT (Pty) Ltd t/a Altron Systems Integration, a division of Altron TMT (Pty) Ltd,** in line with resolution **SCMB 46/08/21** dated **16 August 2021** for the **SUPPLY, SUPPORT AND MAINTENANCE OF PUBLIC KEY INFRASTRUCTURE, SOFTWARE, SERVICES, DEVELOPMENT AND LICENSING**, for the period from **date of commencement of contract (01 July 2022) until 30 June 2028.**

AND WHEREAS in line with resolution SCMB 336S/2020/21, the conclusion of this Contract between the City of Cape Town and **Altron TMT (Pty) Ltd t/a Altron Systems Integration, a division of Altron TMT (Pty) Ltd** is subject to the conclusion of the process prescribed by section 33 of the Local Government: Municipal Finance Management Act 56 of 2003;

AND WHEREAS it is recorded that this Contract will be governed by the provisions of General Conditions of Contract for the Supply of Goods and Services, Revised July 2010 (“GCC”), read with the Special Conditions of Contract (“SCC”) annexed hereto marked “**PART 2: SPECIAL CONDITIONS OF 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 Employer**”), herein represented by the **Executive Director: Corporate Services** duly authorised hereto;

1.2. **Altron TMT (Pty) Ltd t/a Altron Systems Integration, a division of Altron TMT (Pty) Ltd,** a private company duly 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] (the “**Contractor**”), herein represented by its duly authorised representative, **Cheran Esau** in her capacity as duly authorised representative.

hereinafter jointly referred to as each a “Parties” and in singular, a “Party”.

[redacted] [redacted]

2. INTERPRETATION

2.1. In the event of any conflict between the provisions of this Contract, the GCC and any Part 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, the terms and conditions of the SCC;

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

2.1.3. third, Parts and Annexures to this Contract; and

2.1.4. fourth, any other documents incorporated by reference.

2.2. 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 Employer hereby appoints the Contractor to perform the Scope of Work for 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 **01 July 2022 and shall terminate on 30 June 2028.**

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.

[redacted] [redacted]

5. OBLIGATIONS OF THE EMPLOYER

5.1. The Employer undertakes to perform its obligations in accordance with the Contract, including but not limited to the Scope of Work (**PART 5: SCOPE OF WORK**), subject to the satisfactory fulfilment of the obligations by the Contractor as set out in this Contract.

5.2. The Employer shall monitor and evaluate the Contractor's performance in respect of the Scope of Work.

6. OBLIGATIONS OF THE CONTRACTOR

6.1. The Contractor hereby agrees and undertakes to perform the Services to the Employer as set out in Scope of Work (**PART 5: SCOPE OF WORK**).

6.2. The Contractor 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 Contractor will ensure that the Works will be of a satisfactory quality and in accordance with the Scope of Work (**PART 5: SCOPE OF WORK**).

6.4. The Contractor 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.

6.5. The Contractor will not conduct any activity of whatsoever nature which may be detrimental to the Employer's reputation and goodwill.

7. PRICING DATA

7.1. The Contract Price for the Works shall be as set out in the Pricing Data annexed marked "**PART 4: PRICING SCHEDULE**".

7.2. The Contractor shall not be entitled to any other consideration for the rendering of the Works other than as provided for in this Contract.

[redacted] [redacted]

DETAILS OF CONTRACTOR

1.1 Type of Entity (Please tick one box)

- [ ] Individual / Sole Proprietor
- [ ] Close Corporation
- [x] Company
- [ ] Partnership or Joint Venture or Consortium
- [ ] Trust
- [ ] Other: ....

1.1 Required Details (Please provide applicable details in full):

Name of Company / Close Corporation or Partnership / Joint Venture / Consortium or Individual /Sole Proprietor	Altron TMT (Pty) Ltd
Trading as (if different from above)	Altron Systems Integration, a division of Altron TMT (Pty) Ltd
Company / Close Corporation registration number (if applicable)	[redacted]
Postal address	[redacted]
Physical address **(Chosen domicilium citandi et executandi)**	[redacted]
Contact details of the person duly authorised to represent the tenderer	Name: [redacted] (Name & Surname) Telephone: [redacted] Fax: [redacted] Cellular Telephone: [redacted] E-mail address: [redacted]
Income tax number	[redacted]
VAT registration number	[redacted]
SARS Tax Compliance Status PIN	[redacted]
City of Cape Town Supplier Database Registration Number (See Conditions of Tender)	[redacted]
National Treasury Central Supplier Database registration number (See Conditions of Tender)	[redacted]

[redacted]

PART 1 : AGREEMENTS

336S/2020/21: TENDER SUPPLY, SUPPORT AND MAINTENANCE OF PUBLIC KEYINFRASTRUCTURE, SOFTWARE, SERVICES, DEVELOPMENT AND LICENSING

OFFER: (TO BE FILLED IN BY TENDERER):

Required Details (Please provide applicable details in full):

Name of Tendering Entity* **("the tenderer")**	**Altron TMT (Pty) Ltd**
Trading as (if different from above)	**Altron Systems Integration, a division of Altron TMT (Pty)Ltd**

AND WHO IS represented herein by: (full names of signatory)

[redacted]

duly authorised to act on behalf of the tenderer in his capacity as: (title/ designation)

[redacted]

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

1. confirms that it has examined the documents listed in the Index (including Schedules andAnnexures) and has accepted all the Conditions of Tender;
2. confirms that it has received and incorporated any and all notices issued to tenderers issued by theCCT;
3. confirms that it has satisfied itself as to the correctness and validity of the tender offer; that the price(s) and rate(s) offered cover all the goods and/or services specified in the tender documents; 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 in thetender document to the CCT in accordance with the:
   4.1 terms and conditions stipulated in this tender document;
   4.2 specifications stipulated in this tender document; and
   4.3 at the prices as set out in the **Price Schedule.**

5. accepts full responsibility for the proper execution and fulfilment of all obligations and conditionsdevolving on it in terms of the Contract.

[redacted]

Signature(s)

[redacted]

Print name(s): On behalf of the tenderer (duly authorised)

[redacted]

Date

INITIALS OF CITY OFFICIALS		
1	2	3

[redacted] [redacted]

336S/2020/21: SUPPLY, SUPPORT AND MAINTENANCE OF PUBLIC KEY INFRASTRUCTURE, SOFTWARE, SERVICES, DEVELOPMENT AND LICENSING

ACCEPTANCE (TO BE FILLED IN BY THE CITY)

By signing this part of this form of offer and acceptance, the employer identified below accepts the tenderer's offer. In consideration thereof, the employer shall pay the service provider the amount due in accordance with the conditions of contract identified in the contract data. Acceptance of the tenderer's offer shall form an agreement between the employer and the tenderer upon the terms and conditions contained in this agreement and in the contract that is the subject of this agreement.

The terms of the contract are contained in:

Clause 1 to 7, and the sub-clauses therein, cited in pages 1 to 3 above;
Part 1: Agreements and contract data (which includes this framework agreement)
Part 2: Special Conditions to Contract
Part 3: General Conditions of Contract
Part 4: Pricing Schedules
Part 5: Scope of Work
Part 6: Site Information
Part 7: Occupational Health and Safety Agreement
Part 8: Technical Specification

and drawings and documents or parts thereof, which may be incorporated by reference into the above listed Parts.

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 tenderer and the Employer during this process of offer and acceptance, are contained in the schedule of deviations attached to 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.

The tenderer shall within two (2) weeks after receiving a completed copy of this agreement, including the schedule of deviations (if any), contact the Employer's representative (whose details are given in the contract data) to arrange the delivery of any securities, bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the conditions of contract identified in the contract data. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this agreement.

Notwithstanding anything contained herein, this agreement comes into effect on 1 July 2022. The tenderer (now contractor) shall within five working days of the agreement coming into effect notify the employer in writing of any reason why he cannot accept the contents of this agreement as a complete and accurate memorandum thereof, failing which the agreement presented to the contractor shall constitute the binding Contract between the parties.

[redacted]

[redacted] [redacted]

The Parties	Employer	Contractor
Business Name	**City of Cape Town**	**Altron TMT (Pty) Ltd t/a Altron Systems Integration, a division of Altron TMT (Pty) Ltd**
Business Registration	N/A	[redacted]
Tax number (VAT)	[redacted]	[redacted]
Physical Address	Tower Block, Civic Centre, 12 Hertzog Boulevard Cape Town 8001	[redacted]
Accepted contract sum including tax	Rates based	Rates based
Accepted contract duration	from date of commencement (01 July 2022) until 30 June 2028	from date of commencement (01 July 2022) until 30 June 2028
Signed – who by signature hereto warrants authority	[redacted]	[redacted]
Name of signatory	[redacted]	[redacted]
Signed: Date	01/03/22	18/03/22
Signed: Location	Cape Town	[redacted]
Signed: Witness	[redacted]	[redacted]
Name of Witness	[redacted]	[redacted]

[redacted] [redacted]

FORM OF OFFER AND ACCEPTANCE (Continued)

336S/2020/21: SUPPLY, SUPPORT AND MAINTENANCE OF PUBLIC KEY INFRASTRUCTURE, SOFTWARE, SERVICES, DEVELOPMENT AND LICENSING

(TO BE FILLED IN BY THE CITY)

Schedule of Deviations

Notes:

1. The extent of deviations from the tender documents issued by the employer before the tender closing date is limited to those permitted in terms of the conditions of tender.
2. A tenderer'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 Contract.

1 Subject **NONE.**

Details **NONE.**

1

By the duly authorised representatives signing this agreement, the employer and the tenderer agree to and accept the foregoing schedule of deviations as the only deviations from and amendments to the documents listed in the tender data 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 tenderer and the employer 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 tenderer of a completed signed copy of this Agreement shall have any meaning or effect in the contract between the parties arising from this agreement.

[redacted]

[redacted] [redacted]

PART 2- SPECIAL CONDITIONS OF CONTRACT

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

1. **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

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

1.27 "Intellectual Property" means any and all intellectual property rights of any nature anywhere in the world whether registered, registerable or otherwise, including patents, trademarks, registered designs and domain names, applications for any of the foregoing, trade or business names, copyright and rights in thenature of copyright, design rights, rights in databases, know-how, trade secrets and any other intellectualproperty rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the"look and feel" of any websites

<u>3. General Obligations</u>

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.

3.3 All parties in a joint venture or consortium shall be jointly and severally liable to the purchaser in terms ofthis 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 suchauthorities.

3.4.1 The parties agree that this contract shall also be subject to the CCT's Supply Chain

[redacted] [redacted]

Management Policy ('SCM Policy') that was applicable on the date the bid was advertised, **save that if the Employer adopts a new SCM Policy which contemplates that any clause therein would apply to the contract emanating from this tender, such clause shall also be applicable to that contract**. Please refer to this document contained on the CCT's website.

3.4.2 Abuse of the supply chain management system is not permitted and may result in cancellation of the contract, restriction of the supplier, and/or the exercise by the City of any other remedies available to it asdescribed in the SCM Policy.

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 compensationinsurer (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 goodsincluding 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 termsof 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 professional techniques and standards.

3.6 The **purchaser** shall:

[redacted]

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 withthe 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.

<u>5. Use of contract documents and information; inspection, copyright, confidentiality, etc.</u>

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 andthe purchaser hereby indemnifies the supplier against any claim which may be made against him by anyparty 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.

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.

5.8 Intellectual Property

5.8.1 The supplier acknowledges that it shall not acquire any right, title or interest in or to the Intellectual Property of the Employer.

5.8.2 The supplier hereby assigns to the Employer, all Intellectual Property created,

[redacted] [redacted] [redacted]

developed or otherwise brought into existence by it for the purposes of the contract, unless the Parties expressly agree otherwise in writing.

5.8.3 The supplier shall, and warrants that it shall:

5.8.3.1 not be entitled to use the Employer's Intellectual Property for any purpose other than as contemplatedin this contract;

5.8.3.2 not modify, add to, change or alter the Employer's Intellectual Property, or any information or data related thereto, nor may the supplier produce any product as a result of, including and/or arising from any such information, data and Intellectual Property, and in the event that it does produce any such product, the product shall be, and be deemed in law to be, owned by the Employer;

5.8.3.3 not apply for or obtain registration of any domain name, trademark or design which is similar to any Intellectual Property of the Employer;

5.8.3.4 comply with all reasonable directions or instructions given to it by the Employer in relation to the form and manner of use of the Employer Intellectual Property, including without limitation, any brand guidelines which the Employer may provide to the supplier from time to time;

5.8.3.5 procure that its employees, directors, members and contractors comply strictly with the provisions of clauses 5.8.3.1 to 5.8.3.3 above; unless the Employer expressly agrees thereto in writing after obtainingdue internal authority.

5.8.4 The supplier represents and warrants to the Employer that, in providing goods, services or both, asthe case may be, for the duration of the contract, it will not infringe or make unauthorised use of the Intellectual Property rights of any third party and hereby indemnifies the Employer from any claims, liability, loss, damages, costs, and expenses arising from the infringement or unauthorised use by the supplier of any third party's Intellectual Property rights.

5.8.5 In the event that the contract is cancelled, terminated, ended or is declared void, any and all of the Employer's Intellectual Property, and any and all information and data related thereto, shall be immediately handed over to the Employer by the supplier and no copies thereof shall be retained by the supplier unless the Employer expressly and in writing, after obtaining due internal authority, agrees otherwise.

7. Performance Security

Delete clause 7.1 and replace with the following:

'Not Applicable. Tenderers must disregard **Form of Guarantee / Performance Security** and are not required tocomplete same.

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 contractorshall be open, at all reasonable hours, for inspection by a representative of the purchaser or an organisationacting 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

[redacted] [redacted] [redacted]

specified in the contract.The time for delivery of the goods shall be the date as stated on the order. Orders for the supply and deliveryof goods may be raised up until the expiry of a framework agreement bid, provided that the goods can be delivered within 30 days of expiry of the framework contract. All orders, other than for the supply and delivery of goods, must be completed prior to the expiry of the contract period.

10.2 The purchaser shall determine, in its sole discretion, whether the goods have been delivered in compliancewith 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. <u>Insurance</u>

Add the following after clause 11.1:

11.2 Without limiting the obligations of the supplier in terms of this contract, the supplier shall effect and maintainthe 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 [redacted] 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 broker or the insurance company itself (see **Proof of Insurance / Insurance Broker's Warranty** section in document for a pro forma version).

d) Professional indemnity insurance providing cover in an amount of not less than R5 million in respectof each and every claim during the contract period.

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

11.3 The supplier shall be obliged to furnish the CCT with proof of such insurance as the CCT may require fromtime 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.

<u>15. Warranty</u>

Add to Clause 15.2:

15.2 This warranty for this contract shall remain valid for 12 months after the goods have been delivered.

<u>16. Payment</u>

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

[redacted]

16.1 A monthly payment cycle will be the norm. All invoices which are dated on or before the 20th of a particularmonth 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 Employer's Director: Expenditure for consideration. Requests for more frequent payments will be considered at the sole discretion of the Employer 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, clearlyshowing 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 CCT is not liable for payment of any invoice that pre-dates the date of delivery of the goods.

16.6 The purchaser will only make advanced payments to the supplier in strict compliance with the terms and details as contained on **Proforma Advanced Payment Guarantee** and only once the authenticity of suchguarantee has been verified by the City's Treasury Department.

<u>17. Prices</u>

Add the following after clause 17.1

17.2 If as a result of an award of a contract beyond the original tender validity period, the contract execution will be completed beyond a period of twelve (12) months from the expiry of the original tender validity period, then the contract may be subject to contract price adjustment for that period beyond such twelve (12) months. An appropriate contract price adjustment formula will be determined by the Director: Supply Chain Management if such was not included in the bid documents.

17.3 If as a result of any extension of time granted the contract execution will be completed beyond a period of twelve (12) months from the expiry of the original tender validity period, then contract price adjustment mayapply to that period beyond such twelve (12) months. An appropriate contract price adjustment formula willbe determined by the Director: Supply Chain Management if such was not included in the bid documents.

17.4 The prices for the goods delivered and services performed shall NOT be subject to contract price adjustmentand not applicable in this contract.

17.5 If price adjustment for variations in the cost of plant and materials imported from outside of South Africa is provided for in the contract, such adjustment shall be based on the information contained in the schedule titled "**Price Basis for Imported Resources"** and as below. For the purposes of this clause the Rand valueof imported Plant and Materials inserted on the schedule titled "**Price Basis for Imported Resources"** (column (F)) shall be the value in foreign currency (column (A)) converted to South African Rand (column (C)) by using the closing spot selling rate quoted by **CCT's** main banker, NEDBANK, on the Base Date (seven calendar days before tender closing date) rounded to the second decimal place (column(B)), to whichshall be added any Customs Surcharge and Customs Duty applicable at that date (columns (D) and (E)).

17.5.1 Adjustment for variations in rates of exchange:

[redacted]

(a) The value in foreign currency inserted in column (A) shall be subject to clause (h) below whenrecalculating the Rand value.

(b) The rate of exchange inserted in column (B) shall be the closing spot selling rate quoted by Council's main banker, NEDBANK, on the Base Date, rounded to the second decimal place, subject to sub-paragraph C below.

(c) If the rate of exchange inserted by the Tenderer differs from the NEDBANK rate referred to above, then the NEDBANK rate shall apply and the Rand value in columns (C) and (F) shall be recalculated accordingly,without altering the price in the Price Schedule for the relevant items.

(d) If a tender from a supplier or sub-contractor provides for variations in rates of exchange, the Supplier may**only** claim for variations in rates of exchange if he binds the supplier or sub-contractor to the same provisionto take out forward cover as described in sub-paragraph (e) below.

(e) The Supplier (or sub-contractor) shall within five working days from the date of placing a firm order on anoverseas supplier, cover or recover forward by way of a contract with a bank which is an authorised foreign exchange dealer, the foreign exchange component of the cost of any imported Plant and Materials insertedby the Tenderer on the scheduled titled "**Price Basis for Imported Resources".**

(f) When the Supplier (or sub-contractor) so obtains forward cover, the Supplier shall immediately notify theCCT of the rate obtained and furnish the CCT with a copy of the foreign exchange contract note.

(g) Based on the evidence provided in sub-paragraph (f) above, the value in Rand inserted in column (C) ofon the schedule titled "**Price Basis for Imported Resources** "shall be recalculated using the forward coverrate obtained, and any increase or decrease in the Rand value defined in this clause shall be adjusted accordingly, subject to sub-paragraph (h) below.

(h) The adjustments shall be calculated upon the value in foreign currency in the Supplier's (or sub- contractor's) **forward cover contract**, provided that, should this value exceed the value in foreign currencyinserted in column (A) of on the schedule titled "**Price Basis for Imported Resources"**, then the value in column (A) shall be used.

17.5.2 Adjustment for variations in customs surcharge and customs duty

(a) Any increase or decrease in the Rand value between the amounts of Customs Surcharge and Customs Duty inserted in on the schedule titled "**Price Basis for Imported Resources"** and those amounts actually paid to the Customs and Excise Authorities, which are due to changes in the percentage rates applicable orto the foreign exchange rate used by the authorities, shall be adjusted accordingly.

(b) The Tenderer shall state the Customs Duty Tariff Reference applicable to each item and the Supplier shall advise the CCT's Agent of any changes which occur.

17.5.3 Adjustment for variation in labour and material Costs

If the prices for imported Plant and Materials are not fixed, the Supplier shall in his Tender specify the formula for calculating Contract Price Adjustments normally used in the country of manufacture and the indices andrelative proportions of labour and material on which his Tender prices are based. Evidence of the indices applicable shall be provided with each claim. The indices applicable 42 days before contractual dispatch date from the factory will be used for the purposes of Contract Price Adjustment.

Failure to specify a formula in the Tender shall mean that the prices are fixed or shall

[redacted]

be deemed to be fixed.

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:

Variations means changes to the goods, extension of the duration or expansion of the value of the contract that the purchaser issues to the supplier as instructions in writing, subject to prior approval by the purchaser's delegated authority. 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 beenissued by the purchaser.

20. Subcontracts

Add the following after clause 20.1:

20.2 The supplier shall be liable for the acts, defaults and negligence of any subcontractor, his agents or employees as fully as if the were the acts, defaults or negligence of the supplier.

20.3 Any appointment of a subcontractor shall not amount to a contract between the CCT and the subcontractor, or a responsibility or liability on the part of the CCT to the subcontractor and shall not relivethe supplier from any liability or obligation under the contract.

20.4 Where sub-contracting or a joint venture is applied to provide goods and services under this contract, theterms and conditions as specified in "**Schedule 3: Preference Schedule"** will apply.

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 shallnotify the purchaser in writing, within 7 Days of first having become aware of these conditions, of the factsof 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 entitledto 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 respectof 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:

[redacted]

22.1 Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods within the period(s) specifiedin the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct fromthe 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 is covered by clauses 6.10 and 6.11 of the service level agreement within this document.

22.2 The purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, financial penalties as contained on the **Preference Schedule** relaying to breaches of the conditionsupon which preference points were awarded.

23. Termination for default

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

2. 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 an Order has been issued incorrectly, or to the incorrect recipient, the resulting contract may be terminated by the purchaser by written notice

23.8.4 If a material irregularity vitiates the procurement process leading to the conclusion of the contract, rendering the procurement process and the conclusion of the resulting contract unfair, inequitable, non- transparent, uncompetitive or not cost-effective, provided the City Manager follows the processes as described in the purchasers SCM Policy.

23.8.5 After providing notice to the supplier, if the implementation of the contract may result in reputational risk or harm to the City as a result of (inter alia):

23.8.5.1 reports of poor governance and/or unethical behaviour;
23.8.5.2 association with known family of notorious individuals;
23.8.5.3 poor performance issues, known to the Employer;
23.8.5.4 negative social media reports; or
23.8.5.5 adverse assurance (e.g. due diligence) report outcomes.

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

26. Termination for insolvency

Delete clause 26.1 and replace with the following:

26.1 The purchaser may make either of the following elections to ensure its rights are

[redacted]

protected and anynegative impact on service delivery is mitigated:

26.1.1 accept a supplier proposal (via the liquidator) to render delivery utilising the appropriate contractualmechanisms; or

26.1.2 terminate the contract, as the liquidator proposed supplier is deemed unacceptable to the purchaser, atany time by giving written notice to the supplier (via the liquidator).

26.2 Termination will be without compensation to the supplier, provided that such termination will not prejudiceor affect any right of action or remedy which has accrued or will accrue thereafter to the purchaser.

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 ManagementAct, 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 concerningthe 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 theparties. The mediator may meet the parties together or individually to enable a settlement.

Where the parties reach settlement of the dispute or any part thereof, the mediator shall record suchagreement 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 courtproceedings, 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:

(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 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:

[redacted]

28.2 Without detracting from, and in addition to, any of the other indemnities in this contract, the supplier shallbe 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, saveto the extent caused by the gross negligence or wilful misconduct of the purchaser.

The supplier and/or its employees, agents, concessionaires, suppliers, sub-contractors or customers shallnot 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.

28.3 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 (inwhose 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 actuallyforeseen or reasonably foreseeable), sustained by the other party, its directors and/or servants, includingbut not limited to any loss of profits, loss of operation time, corruption or loss of information and/or loss ofcontracts.

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

<u>31. Notices</u>

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 tothe Contract shall be in writing and forwarded to the addresses specified in the contract and may be givenas 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 email or telefax – one (1) working day after transmission

<u>32. Taxes and Duties</u>

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

In this regard, it is the responsibility of the supplier to submit documentary evidence in the form of a validTax Clearance Certificate issued by SARS to the CCT at the Supplier Management Unit located within the Supplier Management / Registration Office, 2nd Floor (Concourse Level), Civic Centre, 12 Hertzog Boulevard, Cape Town (Tel [redacted]).

Add the following after clause 32.3:

32.4 The **VAT registration** number of the City of Cape Town [redacted].

3. **ADDITIONAL CONDITIONS OF CONTRACT**

[redacted]

[redacted]

[redacted]

Add the following Clause after Clause 34:

<u>35. Reporting Obligations.</u>

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.

<u>36. Periodic review</u>

This Agreement is valid from the commencement date outlined herein and is valid until further notice. This Agreement shall be reviewed once every three years; however, in lieu of a review during any period specified, the current Agreement will remain in effect. The purchaser reserves the right to reduce or increase the scope of works according to the dictates of the budget, to terminate this contract, and/or to review and terminate this contract as is contemplated in Section 116(1)(b)(iii) of the Local Government: Municipal Finance Management Act 56 of 2003, without adjustment to the agreed rates, sums or fees and without payment of any penalty or surcharge in this regard. The supplier shall however be entitled to pro-rata payment for all services carried out in terms of any adjustment to the Scope of Work or, in the case of termination, payment for good delivered.

<u>36. Protection of Personal Information</u>

The supplier acknowledges that it will be processing personal information as defined in the Protection of Personal Information Act No. 4 of 2013 relating to City customers, on behalf of the City. Accordingly, it undertakes to ensure compliance with the Act in respect of its processing activities. In particular, it undertakes to keep such information confidential and not to disclose it unless required by law or in the course of the proper performance of its duties. Furthermore, it undertakes to maintain security measures as envisaged in Sections 19 and 21 of the Act. The requirements of this apply to all agents and subcontractors acting on behalf of tenderers and must be included in all contracts between tenderers and their agents or subcontractors.

[redacted]

CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD VAN KAAPSTAD

SERVICE LEVEL AGREEMENT

SUPPLY, SUPPORT, MAINTENANCE AND SERVICES OF
For the provision of
Public Key Infrastructure SERVICES

Between

CITY OF CAPE TOWN

(of the one part)

And

Altron TMT (Pty) Ltd

--Company

Of the other part

[redacted]

[redacted]

[redacted]

1. INTERPRETATION AND DEFINITIONS

1.1 In this Agreement and unless the context otherwise requires:-

1.1.1 words, including their definitions in clause 1.4, which import the singularnumber only, shall include the plural and vice versa;

1.1.2 words importing persons shall include bodies corporate;

1.1.3 words importing the singular, includes the plural and vice versa.

1.2 The head notes to the various clauses of this Agreement are inserted for referencepurposes only and shall in no way govern or affect the construction hereof.

1.3 All references to this Service Level Agreement shall be references to this Agreement and all Annexures hereto, which Annexures form an integral part of this Agreement, and expressions defined in this Agreement shall bear the same meanings when used in any Annexure to this Agreement and vice versa.

1.4 Unless the context otherwise requires, the under-mentioned expressions shall have themeanings respectively assigned to them hereunder, namely:-

Access	right or opportunity to reach or visit (to gain access); securityand keys;
Accessories	not part of basic equipment, additional or extra items;
Accident	unfortunate, usually harmful event, caused unintentionally Third Party Liability:______________________________ the suppliermust insure against eventuality (personal or equipment) at ______________________ the supplier's expense; comply with COIDA. Refer to Clause 11: Insurance under the General Conditions of Contract as contained on page 193 of the Tender Document and Special Conditions of Contract as contained on page 184 of the Tender Document;
Authorised representative	Person appointed and duly authorised respectively by the City and the Supplier, to act (and speak) upon the respectiveparties behalf;
"City"	City" means the City of Cape Town, a municipality established by the City of Cape Town Establishment Notice No. 479 of 22 September 2000, issued in terms of the Local Government: Municipal Structures Act, 1998, (Act 117 of 1998) or any structure or employee of the City acting interms of delegated authority;
"Commencement date"	date of signature of last party hereto or date as agreed by both parties in this agreement – kicks in 30 days after going live, anticipated date is 1 JULY 2022;

[redacted]

[redacted]

[redacted]

"Contract Management"	Monthly statistical reporting on service levels;
Defects	faults, imperfection in manufacture or shortcoming ofequipment possibly causing other components to become faulty;
Equipment	Any associated material required for solution infrastructure;
Failure	1. breaking down or ceasing to function 2. non-performance of duties or responsibilities;
Guarantees	undertaking to answer and compensate for the loss of performance or for an obligation by another person. Refer toClause 7 of the Special Conditions of Contract; Annexure 1: Form of Guarantee / Performance Security in the Tender Document;
Grief Point	Objective measure of a penalty to be applied in the event of a required performance metric not being met as defined by the City
Job Completion	To be considered complete, each job must be signed off by the line department before the City will entertain honoring aninvoice.
Line departments	Departments within the organizational structure of the City.
Malfunction	When equipment fails to function normally;
Misuse	wrong or improper use or application of equipment;
Negligence	Lack of proper care and attention;
Normal working hours	Hours between 08:00 and 16:30 from Monday to Friday, excluding public holidays;
"Parties"	the City and the Supplier collectively;
Repairs	Restore to good, working condition after damage, wear or malfunction;
"Reporting"	Timely periodic reporting on monthly meetings in the formatas agreed upon between City of Cape Town and the Supplier;
Resolution	System is repaired and made operationally available;
Response	Representative from the Supplier arrives on-site or email acknowledgement that the Supplier has received a requestfor work

[redacted] [redacted] [redacted]

Service agent	Authorised technician, able to perform to specified requirements
“Service Level”	the required quantitative level or degree of performance of the Services by the Supplier as set out by Service Level Measure, see the Service Level Measurements Section;
“Service Level Agreement (“SLA”)”	the agreement concluded between the parties as evidencedin this written document, any annexures and the related tender;
“Service Level Measure”	the method specified in this Service Level Agreement for quantitatively calculating the Supplier’s actual performance. The results of these calculations are compared with Service Levels to evaluate the Supplier’s compliance with Service Levels, see the Service Level Measurements Section;
“Service Level Termination Event”	an event wherein the City shall have the option, but not the obligation, to terminate this agreement without further obligations;
“Service Penalty”	the amount calculated which the City shall have the option, but not the obligation, to recover as a reduction in the fee payable for the Services, each time the Supplier fails to meetthe Service Levels, reference clause 22: Penalties of the Special Conditions of Contract
“Stock Management”	Stock levels of appropriate spares and equipment of the rightquality and quantity in the right location to enable the Supplierto operate within the agreed upon for response;
Sundries	items or oddments not mentioned individually;
“Supplier”	Altron Systems Integration a Division of Altron TMT (Pty) Ltd, Registration Number: [redacted] of physical address: [redacted];, a company duly incorporated in accordance with the company laws of South Africa, represented herein by [redacted], who warrants that he~~/she~~ is duly authorised by board resolutionto sign this Agreement for and on behalf of the Supplier. The Supplier warrants that- “Supplier” is a generic term which may include suppliers of goods and services, contractors and/or consultants;
Technical skills	technical ability / expertise of installation and test equipment technicians

[redacted]

Useful life	Minimum duty cycle of equipment or components
Warranties	undertaking as to the ownership or quality of an item, accepting responsibility for defects or repairs over a specified period. Refer to Clause 15 of the General Conditions of Contract as contained on page 185 of the Tender document and Clause 15 of Special Conditions ofContract;
Working day	Any day between Monday and Friday, 08:00 till 17:00, excluding Saturdays, Sundays and Public Holidays
Working hours	Eight hours in any given working day

2 SERVICE LEVELS

2.1 These Service Levels are the minimally acceptable level of service as detailed hereunder forthe Services and failure to comply may give rise to the calculation of Service Penalties and they may give rise to a Service Level Termination Event.

2.2 Any failure to meet a Service Level is unacceptable and may constitute a material breach ofthe Supplier's obligations.

2.3 Maximum Delivery Period - on-site within six weeks of purchase order date. Failure to complymay result in defaulting the preferred supplier and ultimately, suspension.

2.4 Communication Plan

E-mail is the preferred means of communication between the Supplier and the City of CapeTown.

The City's authorised representatives, see names below, will provide _the Supplier's authorised representatives, see names below, with an Order number by Fax or email. This number must be reflected on the related invoice. _The Supplier's must send an email acknowledgement within the following timeframes of receiving an order or request for a warranty repair or replacement:

[redacted]

[redacted] [redacted]

When order received	08:00 to 17:00	After 17:01 and weekends
Response	Before 17:00 next business day	Before 17:00 next business day

________________________(Company)'s contact details:

Authorised Representative	Name: [redacted] Telephone number: [redacted]______________ E-mail address: [redacted] Fax Number:N/A	Provide Percentage of not meeting Service Level (Example 60%)
Escalation Level 1	Name: [redacted] Telephone number: [redacted] E-mail address: [redacted] Fax Number: N/A [redacted]	Provide Percentage of not meeting Service Level (Example 80%)
Escalation Level 2	Name: [redacted] Telephone number: [redacted]	
	E-mail address: [redacted] Fax Number:N/A [redacted]	

[redacted]

Warranty or fault repairs / Replacement

Authorised Representative	Name: [redacted] [redacted] [redacted] Telephone number: [redacted] [redacted] E-mail address: [redacted] Fax Number: N/A	Provide Percentage of not meeting Service Level (Example 60%)
Escalation Level 1	Name: [redacted] [redacted] [redacted] Telephone number: [redacted] [redacted] E-mail address: [redacted] [redacted] Fax Number: N/A	Provide Percentage of not meeting Service Level (Example 80%)
Escalation Level 2	Name: [redacted] Telephone number: [redacted] E-mail address: [redacted] Fax Number:N/A	

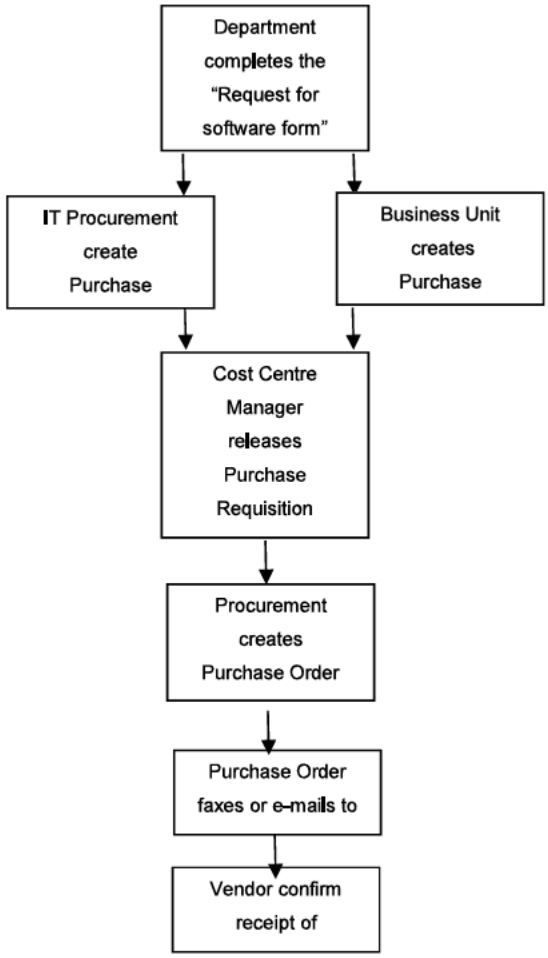
[redacted]

[redacted] [redacted]

City of Cape Town contact detail:

Procurement
Authorised representative: [redacted]
E-Mail address: [redacted]
Telephone Number: [redacted]
Fax Number: [redacted]

City of Cape Town Procurement process:

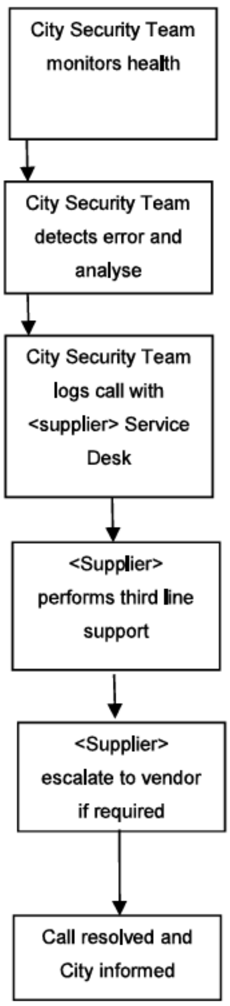


[redacted]

Warranty Repairs / Services / Fault Reporting
Authorised representative: [redacted]
E-mail address: [redacted]
Telephone number: [redacted]

[Insert your process flow to request warranty repairs or a service or to report a fault]

Insert process flow from above and modify – just log call



[redacted]

2.5 Roles and Responsibilities

The Supplier

Party	Functional Role	Service Responsibility
Service Provider	Maintain guaranteed service levels and service assurance	Logging and tracking of contractual incidents for all problemsfrom receipt of issue from City to resolution.
Service Provider	Performance Management Report	Monthly reports to the City
Service Provider	Contractual IncidentReport	Monthly reports to the City
Service Provider	Supply and delivery ofgoods	Supply and deliver of equipment within a period of six weeksfrom date of purchase order received from City
Service Provider	SLA measurement	Calculation of any Service Credits if due
Service Provider	Adherence to all changecontrol, maintenance and emergency procedures	Communication with City contacts only
Service Provider	Support and maintenance	Provide support and maintenance services from receipt oflogged call from City This includes managing escalation procedures to the vendor support centre
Service Provider	Solution Design	Drafting of solution designs, scenarios and associated quotations in order to meet the information security requirementsof the City

City of Cape Town

Party	Functional Role	Service Responsibility
City of Cape Town IS & T department	Request for solutions	Clearly defined requirements
City of Cape Town IS & T department	Generate purchaseorder	Supply orders with official City order number, delivery addressand contact person
City of Cape Town IS & T department	Taking receipt of goods,and support and maintenance certificates	Sign Invoices or delivery notes on delivery of orders
City of Cape Town IS & T department	Fault notification	Log support calls with supplier with relevant details
City of Cape Town IS & T department	SLA measurement	Measure and /or audit the measurement of delivery schedule,arrange Goods Receipt Note (GRN)

[redacted] [redacted]

[redacted]

2.6 Scope

2.6.1 In-Scope

- Quotations
- Solution design and proposals
- Supply and delivery of services, licenses, goods, and support and maintenancecertificates
- Support and maintenance processes with supplier

2.6.2 Out-of-Scope

- Informal telephonic queries

2.7 Description of Services:

- Quotations
- Support and maintenance
- Managed services
- Log calls with vendor
- Management of vendor processes on behalf of the City

3. Types of equipment:

- Appliances
- Servers
- On premise

Refer to Pricing Schedules within the tender document, regarding the SLA costs to be provided in order to meet the terms and conditions of the Service Level Agreement measurements as per Schedules listed below.

4 SERVICE LEVEL MEASUREMENTS

4.1 The provision of each Service will be measured by comparing the level at which the actual Services are provided against the level at which the parties agreed that the Services will beprovided as set out below;

4.2 The method that the parties will use to make this comparison is set out below:

[redacted]

#	Service Element	Service Measure	Service Metric	Grief Points incurred for non-performance
1.	Device Availability	Uptime of each individual PKI Device	Better than or equal to 99% over the period of each Calendar month	10 Grief Points
2.	Service Availability	Uptime of the PKIservice	Better than or equal to 99.9% over the period of each Calendar month	15 Grief Points
3.	Incident Response	Mean Time To Respond (MTTr) –Priority 1, 2 & 3 Incidents	Less than 60 minutes	5 Grief Points
		Maximum Time ToRestore (TTR^{MAX}) – Priority 1 & 2 Incidents	Remediate configuration issueswithin one (1) full Working Day	5 Grief Points
		Maximum Time ToReplace ($TTRp^{MAX}$)	Five (5) full WorkingDays	5 Grief Points
4.	Provide Maintenance andTechnical Support	Technical support services available asspecified	Provided (yes / no) Assessed monthly byrandom check Note: non-availability oftechnical support may result in Device and/or Service Unavailability, and will be penalised consequently	5 Grief Points
5.	Provide and maintainContact Information	Provide and maintaincontact details	Provided (yes/no) Assessed monthly byrandom check	2 Grief Points
		Key Contact Personresponds timeously	Not defined	--
6.	Adhere to procurement, ordering, delivery and payment process	Responses to requests for Design Proposals as required	Design Proposals provides within ten (10)full Working Days (yes /no)	5 Grief Points

[redacted]

#	Service Element	Service Measure	Service Metric	Grief Points incurred for non-performance
		Responses to requests for Quotations providedas required	Quotations provided within seven (7) full Working Days (yes / no)	1 Grief Point
			Specified items delivered – not defined	--
#	**Service Element**	**Service Measure**	Service Metric	Grief Points incurred for non-performance
		Equipment Delivery process followed as specified	Packaging as specified – not defined	--
			Labelling as specified – not defined	--
			Delivery within quoted lead time - not defined	--
			Delivery at the place specified in the Purchase Order – not defined	--
		Fault handling process followed	Not defined	--
		Repair or replacement process followed	Not defined	--
7.	Report to the City	**Provide monthly Summary Report as specified, including record of all Incidents and related resolutions, plus root cause when requested**	Provided within seven (7) full Calendar Days after the last day of each month (yes/no) Assessed monthly	2 Grief Points
		Report on an outstanding software updates, security updates and related	Provided within seven (7) full Calendar Days after the last day of each month	2 Grief Points

[redacted]

#	Service Element	Service Measure	Service Metric	Grief Points incurred for non-performance
		recommendations	(yes/no) Assessed monthly	
8.	Attend Service ReviewMeetings	**Physical attendance at the Service Review Meeting of the Key Contact Person**	Present as per attendance register (yes/no) Assessed per meeting as evidenced by Attendance Register	2 Grief Points

5. FREQUENCY FOR REPORTING COMPLIANCE OF THE SERVICE LEVEL

5.1 The Measurement Period will be daily and the Reporting Period will be monthly. Information, such as grief points, termination events and performance statistics against service levels, will beconsolidated in the form of a Report and presented at the scheduled monthly meetings. Meetingsto be scheduled post award with successful bidder. The supplier will compile a monthly report anddeliver the report to the City of Cape Town authorised representative two days prior to the scheduled meeting date.

Communication to be done by the City's delegated Information Technology Manager andauthorised representatives fromthe Supplier.

6 SERVICE PENALTY

6.1 In each case of a failure to satisfy a Service Level, the Supplier will satisfy the applicable Service Level within seven days from date of notification of service level failure.

6.2 In addition, in each case that a Service Level is not complied with, the City shall be entitled (butnot obliged) to recover a Service Penalty, calculated in the manner described in the

6.3 Service Penalty Calculation Section.

7 SERVICE PENALTY CALCULATION

7.1 Each Service Penalty is made up of an accumulation of Grief Points.

7.2 Grief Points are accumulated automatically by the City due to failures by the Supplier to meetService Levels.

7.3 Grief points shall be allocated for each failure to meet any Service Levels

[redacted]

in each calendarmonth.

7.4 Each block of 15 (fifteen) Grief Points that is accumulated by the City in each month will constitute a Service Penalty, which may be claimed by the City. Consistently high monthly Grief Points over several months will be reviewed and consideration given to this constituting aService Level Terminal Event.

7.5 Before every monthly SLA meeting the Supplier will generate a report with all the details of thenon-compliance of the service levels and the grief points that the City is entitled.

7.6 The City may claim a Service Penalty by informing the Supplier at the SLA meeting or inwriting that it is claiming the Service Penalty.

7.7 On the first accumulation of a Service Penalty, the penalty which may be claimed will be 5% (five percent) of the Order or Service Fee affected that the City must pay the Supplier in termsof this agreement for the month in which the Grief Points were incurred.

7.8 The penalty will be claimed as a discount in following month's account.

7.9 A 12-month rolling period will commence on the first (1st) day of each month. A 12-monthrolling period is defined as the current month and the previous 11 months.

7.10 At the second accumulation of a Service Penalty in any 12-month rolling period, the penaltythat may be claimed will be 10% (ten percent) of the Order or Service Fee affected for the month in which the Grief Points were incurred.

7.11 On the third and subsequent occurrence of a Service Penalty in any rolling 12-month period, the penalty that may be claimed will be 15% (fifteen percent) of the Order or Service Fee affected for the month in which the Grief Points were incurred and may constitute a Service Level Termination Event.

8 TERMINATION – GENERAL EVENTS

8.1 Termination for default: See clause 23 of the GCC

8.2 Termination for insolvency: See clause 26 of the GCC

9 NOTICES

9.1 All notices given by any party to any other hereunder shall be given in writing and shall be sentby prepaid registered post, or shall be delivered by hand, to the recipient's *domicilium* for the time being.

9.2 Notwithstanding anything to the contrary herein contained, a written notice or communicationactually received by a party shall be an adequate written notice or communication to him notwithstanding that it was not sent nor delivered to the recipient's chosen *domicilium.*

10 DOMICILIA CITANDI ET EXECUTANDI ADDRESSES

[redacted] [redacted]

[redacted]

10.1 For all purposes of, and arising in connection with, this Agreement the parties choose as theirrespective *domicilia citandi et executandi* addresses the above addresses.

10.2 Any party may from time to time change its address for the purpose of this clause to any otheraddress within South Africa upon not less than 10 (ten) days' notice given to the other party tosuch effect.

11 GENERAL

11.1 This Agreement and the related tender sets out the entire agreement and understanding between the parties in connection with the subject matter hereof and supercedes all prioragreements, if any, between them.

11.2 None of the parties shall be bound by any express or implied term, representation, warranty,promise or the like, not recorded herein.

11.3 No addition to, variation or consensual cancellation of this Agreement, shall be of any force oreffect unless in writing and signed by or on behalf of all parties.

11.4 No indulgence which any party may grant to the any other shall constitute a waiver of any of the rights of the grantor who shall not thereby be precluded from exercising any rights againstthe grantee which might have arisen in the past or which might arise in the future.

11.5 All parties acknowledges that, in entering into this Agreement, they are not relying upon anywarranties, representations or undertakings howsoever or to whomsoever made, save and except in so far as same are embodied in this Agreement.

11.6 This Agreement is read together with the General Conditions of Contract and the Special Conditions of Contract as contained in the Tender Document.

12 APPLICABLE LAW

This Agreement shall in all respects be construed in accordance with, and shall be governed by,South African law.

[redacted] [redacted] [redacted]

ANNEXURE A: INSURANCE BROKER'S WARRANTY

Logo

Letterhead of Contractor's Insurance Broker

Date ______________________

CITY OF CAPE TOWN
City Manager
Civic Centre
12 Hertzog Boulevard
Cape Town
8001

Dear Sir

CONTRACT NO.: **336S/2020/21**

CONTRACT TITLE: **SUPPLY, SUPPORT AND MAINTENANCE OF PUBLIC KEY INFRASTRUCTURE, SOFTWARE, SERVICES, DEVELOPMENT AND LICENSING**

NAME OF CONTRACTOR: [redacted] ______________________

I, the undersigned, do hereby confirm and warrant that all the insurances required in terms of the abovementioned term tender contract have been issued and, in the case of blanket/umbrella policies, will be endorsed to reflect the interests of the CITY OF CAPE TOWN with regard to each Works Project contract, and that all the insurances and endorsements, etc., are all in accordance with the requirements of the contract.

I furthermore confirm that all premiums in the above regard have been paid.

Yours faithfully

[redacted]

Signed: ______________

For: Altron Systems Integration, a Division of Altron TMT (Pty) Ltd

[redacted]

PART 3: GENERAL CONDITIONS OF CONTRACT

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

TABLE OF CLAUSES

1. **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.

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.

[redacted]

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 andmajor 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 purchaserin 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, dock dues, import duty, sales duty or other similar tax or duty at the South African place ofentry 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.

[redacted]

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 andprofessional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovableproperty, unless otherwise indicated in the bidding documents.

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

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.

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 theperformance 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.

[redacted] [redacted]

[redacted]

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.

7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than 30 (thirty) days follo