



UNIVERSITY OF THE
WITWATERSRAND,
JOHANNESBURG

University of the Witwatersrand, Johannesburg

Contract No: Services Department 2018/01

Central Print Unit

CONTRACT DOCUMENT

March 2018

Issued by:

Head: Services Department

University of the Witwatersrand, Johannesburg

Name of *Supplier*:



UNIVERSITY OF THE
WITWATERSRAND,
JOHANNESBURG

University of the Witwatersrand, Johannesburg

Contract No: Services Department 2018/01

Central Print Unit

Table of Contents

Number	Heading
--------	---------

THE CONTRACT

Part C1: Main Contract

Part C1.1	Form of Offer and Acceptance
Part C1.2	Contract Data

Part C2: Pricing Data

Part C3: Annexures

- Annexure 1:** Scope of Work
- Annexure 2:** Pricing Schedule
- Annexure 3:** Functional Compliance Schedule
- Annexure 4:** Services Standards
- Annexure 5:** Project Plan
- Annexure 6:** Access to University Precincts
- Annexure 7:** Goods and Services Variance Order



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Central Print Unit

C1.1 Form of Offer and Acceptance

Offer

The *Purchaser*, identified in the Acceptance signature block, has solicited offers to enter into a contract for the provision of goods and services as described in Part 1 of the Contract Data.

The *Supplier*, identified in the Offer signature block has examined the draft contract as listed in the Acceptance section and agreed to provide this Offer.

By the representative of the *Supplier*, deemed to be duly authorised, signing this part of this Form of Offer and Acceptance, the *Supplier*, offers to perform all of the obligations and liabilities of the *Supplier* under the contract for an amount set out in the conditions of contract identified in the Contract Data and any Goods and Services Variance Orders.

The offered prices of the purchase of Goods and Services inclusive of VAT are as stated in the **Annexure 2: Pricing Schedule** and any Goods and Services Variance Orders .

This Offer will be accepted when the *Purchaser* signs the Acceptance part of this Form of Offer and Acceptance.

Signature	Date
Name			
Capacity			
For the Supplier:			
Name & signature of witness	Date

Acceptance

By signing this part of this Form of Offer and Acceptance, the *Purchaser* identified below accepts the *Supplier's Offer*. In consideration thereof, the *Purchaser* shall pay the *Supplier* the amount due in accordance with the *conditions of contract* identified in the Contract Data and any Goods and Services Variance Orders. Acceptance of the *Supplier's Offer* shall form an agreement between the *Purchaser* and the *Supplier* upon the terms and conditions contained in this Contract.

The terms of the contract, are contained in:

- Part C1 Main Contract (which includes this Form of Offer and Acceptance)
- Part C2 Pricing Data
- Part C3 Annexures (tabled under Contents above)

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

Notwithstanding anything contained herein, this agreement comes into effect on the date set out in 30.1. The *Supplier* accepts the contents of this agreement which constitutes a binding contract between the Parties.

Signature		Date:	
Name			
Capacity			
for the Purchaser	University of the Witwatersrand, Johannesburg Private Bag 3 Wits 2050 1 Jan Smuts Avenue Braamfontein Johannesburg		
Name & signature of witness		Date:	



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Part C1.2 Mono and Colour Printing Units

Part one - Supply, install and maintain high quality Central Print Units for the production of mono and colour printing

1	General
	The <i>conditions of contract</i> are the core clauses:
10.1	The <i>Purchaser</i> (also referred to in this Agreement as the “University” and “Wits”) is the University of the Witwatersrand, Johannesburg, acting through its Protection Services
	Address: 1 Jan Smuts Avenue, Braamfontein, 2001 Johannesburg
	Tel No: 011-717-1000
10.1	The <i>Purchaser’s Supply Manager</i> is the Head of the Services Department, Israel Mogomotsi
	Tel No: 011- 717- 1701
	Email: israel.mogomotsi@wits.ac.za
	The Purchaser’s Project Manager its Operations Manager, Services Department, Ricardo Fernandes (Tel No: 011-717-1351) Email: ricardo.fernandes@wits.ac.za
	The <i>Purchaser’s</i> Legal Representative is: The Director: Legal Services, 5 th Floor Solomon Mahlangu House, University of the Witwatersrand, Johannesburg, 1 Jan Smuts Avenue, Braamfontein, Johannesburg
11.2(6)	The <i>delivery date</i> of the goods and services is as set out in the Project Plan contained in Annexure 5
11.2(8)	The <i>Goods and Services</i> are described in this Contract and the Annexures hereto
11.2(8)	The Goods and Services Information is in Annexure 1: Scope of Work
11.2(12)	The Pricing schedule is in Annexure 2: Pricing Schedule
11.2(14)	The known risks are included in the Risk Register which is contained in the Scope of Work. The risk matters will be documented during the Project and included in the Project Plan. The risk matters will be included in the Risk Register composed by the Parties during the normal project management process. The Risk Register contains known risks with corresponding <i>Supplier</i> or <i>Purchaser</i> responsibility for each risk, and what action is to be taken to reduce or avoid each risk.
11.2(16)	The Supply Requirements as part of the Goods Information is in Annexure 1: Scope of Work and in the Goods and Services Variation Order/s
11.2(17)	Additional Defined terms: Acceptance means, subject to Z5 (Warranty), written acceptance by the <i>Purchaser</i> that the Goods and Services are fit for Purpose and meet the Acceptance Criteria. Acceptance Criteria means the performance standards, response, replacement and repair times, Equipment requirements and specifications set out in Section 44 below and Annexures 1, 2, 3 and 4.

Additional Goods and Services means those Goods and Services which the *Purchaser* requires from the *Supplier* in addition to those Good and Services stipulated in the Scope of Work and Pricing Schedules attached hereto as **Annexures 1 and 2**.

Annexures means the Annexures to this Agreement and any annexure agreed by the Parties that is attached hereto from time to time.

Background Intellectual Property means any Intellectual Property of a Party or its sub-contractor/s which is in existence at the commencement date of this Agreement; or comes into existence after the commencement date otherwise than in connection with this Agreement.

CPI means the average annual rate of change (expressed as a percentage) in the Consumer Price Index for all metropolitan areas as published by Statistics South Africa (or such other index reflecting the official rate of inflation in the Republic of South Africa as may replace it). Such annual change shall be determined by comparing the most recently published index with the average index published over the 12 months preceding the anniversary of the starting date specified in clause 30.1, and applying the lower of the two compared indices.

Click is a single A4 simplex print image as counted by a meter or meters forming part of the Equipment, and applies in respect of the *Supplier's* maintenance and associated service levels of the Equipment.

CPU means the Central Printing Unit of the *Purchaser*.

Delivery Date means the date of acceptance by the *Purchaser* that the Goods are installed, that they are fit for Purpose and that they function according to the Acceptance Criteria and that the Services have been delivered to the satisfaction of the *Purchaser*.

Equipment means the movable equipment described under Goods.

Foreground Intellectual Property means such Intellectual Property as may be created or developed, including Background Intellectual Property forming an integral part of the Foreground Intellectual Property and not specifically excluded from the Foreground Intellectual Property, by the Supplier:

- a. during and as part of the rendering of the Services and in the fulfilment of its obligations in terms of this Agreement,
- b. in the course and scope of the Services,
- c. directly related to the Services, or
- d. resulting from overall system integration, refinements or resultant research or that which is derived from the Services.

Fixed Costs means those costs recorded in **Annexure 2** which remain fixed for the duration of the Contract notwithstanding exchange rate fluctuations and changes in CPI and which include but are not limited to the rental costs of the Equipment.

Goods means:

- a. the equipment, machines, hardware, the Bills of Materials (**BoMs**) set out in the **Annexures**
- b. the movable equipment, articles and things, including all accessories, appurtenances, materials, parts and components, and Software set out in the **Annexures**
- c. all ancillary and complementary things and appurtenances which are necessary for the equipment and Software to function properly, and
- d. an appropriate machine server, a scanner and a PC provided by the *Purchaser* which the Software is run on to manage and operate the equipment
- e. the design specifications of the original equipment manufacturer (**OEM**).

Goods and Services Variance Order means the order form attached as **Annexure 7** that is used to acquire Additional Goods and Services (that are compensation events) and which when completed and agreed by the Parties forms part of the Agreement.

Goods Information also means the design specifications of the original equipment manufacturer (**OEM**), and, as applicable, the Deliverables, the Project Plans, and other elements contained in the Scope of Work.

Intellectual Property or IP means intellectual capital whether or not subject to statutory protection embodied in any and all technical and commercial information, including chemical structures, biological or chemical information, manufacturing techniques and designs, specifications and formulae, know-how, data, database rights, systems and processes, production methods, test results, models, drawings, prototypes, methodologies, trade secrets, undisclosed inventions, financial and marketing information, as well as registered and unregistered

intellectual property in the form of patents, utility models, trademarks, designs and plant breeders' rights (whether granted, registered or applied for), and copyright in any works including literary works or computer software programs in source and object code format.

Milestone means the scheduled event that indicates the completion of a major deliverable of the Project. A **Milestone Date** is the date on which a Milestone is reached. The Milestone Dates are stipulated in the Project Plan.

OEM means the original equipment manufacturer of the Goods as described in the Goods Information.

Order means the *Purchaser's* official purchase order including an order resulting from a Goods and Services Variance Order.

Others means, in addition to the specification in the Core Clause, those 3rd party suppliers and service providers that are contracted to the University.

Owner means the natural or juristic person that has an enforceable claim or title to, or is the holder of rights in the Goods, and is recognized as such by law.

Party means either the *Purchaser* or the *Supplier* and **Parties** means both of them.

Project means the tasks and work described in the **Annexures** including the delivery of all Services and Goods contained in this Agreement.

Project Plan means the systematic sequencing and scheduling of the tasks that comprise the Project, as may necessarily be modified and agreed by the Parties, and as is contained in **Annexure 5** or in the Annexures to be annexed hereto from time to time.

PURCO SA means the Purchasing Consortium Southern Africa, which is a 'not for profit' private purchasing organisation, acting on behalf of universities, technikons and other higher educational institutions.

Purpose means the seamless and continuous supply, installation, support and maintenance of a high quality and high volume Central Printing Unit, for the efficient and cost effective production of mono and colour documents required by the University Community as more fully described in **Annexure 1** and all functions ancillary and complementary thereto.

Services mean the supply, installation, support and maintenance of high-volume, high-quality Equipment and all related software to achieve the Purpose and as more fully described in the Annexures attached hereto.

University Rules means the rules, regulations, policies, procedures, practices, standing orders and the like, approved by the University Senate or Council or both.

Variable costs means those costs recorded in **Annexure 2** which may be adjusted and which include but are not limited to the costs of consumables such as toner and the Click costs.

12.2	The <i>law of the contract</i> is the law of South Africa
12.3	In addition to the provisions of clause 12.3 of the Core Clauses, any terms and conditions on any quotation, delivery note or other documentation provided by the <i>Supplier</i> will be of no force and effect, and the <i>Purchaser</i> will not be bound by any such terms and conditions. This clause shall mutatis mutandis apply to any <i>Purchaser</i> order.
13	<p>In addition to the provisions of clause 13 of the Core Clauses, the following apply:</p> <p>Any notice in connection with this Agreement may be sent to either Party at the applicable addresses set out in clause 10.1 of Part one and Part two of the Contract Data respectively for the <i>Purchaser</i> and the <i>Supplier</i>. Legal notices required by this Agreement to be given to either Party will be sent to the Legal Representative set out in the same clause above.</p> <p>Notices given in terms of this Agreement shall be sent by registered mail or delivered by hand or (except for legal notices) sent by email and shall be deemed to have been received on the date of delivery or transmission (as the case may be) if same takes place during normal business hours, or if not, on the next following business day, in the case of hand delivery or email transmission, or in the case of forwarding by registered mail, on the 7th day after posting.</p> <p>The Parties may, by 14 (fourteen) days' written notice, change their nominated address or email address for the</p>

	purposes of this clause, to any other physical address, within South Africa.
13.1	The <i>language of this contract</i> is English
13.3	The <i>period for reply</i> is 5 days
2	The <i>Supplier's</i> main responsibilities The <i>Supplier</i> Provides the Goods and Services in accordance with the Main Contract and the Annexures
22.1	Subject to clause Z4, all drawings, documents, designs, and the like and the Intellectual Property therein, is owned by the University
23.1	At the request of the <i>Purchaser</i> , the <i>Supplier</i> will also effectively manage Others who are currently contracted to the <i>Purchaser</i> for goods and services that are being replaced by Goods and Services provided under this Agreement. In some instances, the <i>Purchaser</i> may require that the <i>Supplier</i> continue or take over the services of Others where necessary. In such instances, the Parties will agree an appropriate amendment to the Agreement
3	Time
30.1	The <i>starting date</i> is 01 May 2018, notwithstanding the date of signature hereto. The <i>ending date</i> is 60 months from the <i>starting date</i> .
30.1	The <i>delivery dates</i> of the <i>Goods and Services</i> are as set out in the Project Plan contained in Annexure 5
4	Testing and Defects
42	Subject to Clause Z5 of the Additional Conditions of Contract below, the <i>defects date</i> is 12 months after Delivery. The <i>defects date</i> in respect of Goods is the end of the manufacturer's warranty period or the above specified <i>defects date</i> , whichever is later and, in respect of Services, the above specified <i>defects date</i> .
43.2	The <i>defect correction period</i> is one week
43.3	The <i>defect access period</i> is one day
44	Acceptance Criteria (as set out on the Scope of Work) Subject to Z5 (Warranty), the <i>Supplier's</i> services under this Agreement will be considered accepted by the <i>Purchaser</i> when the Goods and Services function correctly and when University is satisfied that the Goods and Services are fit for Purpose. The below tests together with their associated remedies and acceptance criteria will be used to gauge correct function.
	Acceptance Testing <u>Acceptance Testing Requirements and Procedure</u> The Equipment, once installed, must be fit for Purpose and must comply with the Acceptance Criteria. The below tests together with their associated remedies and Acceptance Criteria will be used to gauge correct function, according to the following procedure: <ol style="list-style-type: none"> a. Acceptance testing will be carried out by the <i>Supplier</i> in the presence of the <i>Purchaser</i>, at such times and places as agreed upon by the Parties in writing. b. Following each acceptance testing session, the <i>Purchaser</i> will provide the <i>Supplier</i> with a list of defects (if any) to be rectified within the defects correction period and will inform the <i>Supplier</i> of the time and place where the acceptance testing may be re-conducted. c. The <i>Supplier</i> acknowledges that time is of the essence and undertakes to successfully complete the acceptance testing within a further defects correction period. d. Upon successful acceptance testing the <i>Supplier</i> shall confirm that the Goods and Services are fit for Purpose and the <i>Purchaser</i> shall confirm acceptance of this in writing. e. The <i>Supplier</i> will provide to the <i>Purchaser</i> all documents and reports, which are developed by the <i>Supplier</i> for these acceptance tests. <ul style="list-style-type: none"> • <u>CPU Acceptance</u> <p>The <i>Purchaser's</i> determination of Project success is based on end to end proper function and</p>

	<p>performance improvement according to the requirements and specifications set out in the Annexures. The <i>Supplier</i> will be expected to work closely with other suppliers where applicable to ensure that this requirement is met.</p> <p>The <i>Purchaser</i> will provide its acceptance when the Goods and Services the <i>Supplier</i> is responsible for performs according to the Acceptance Criteria including <i>Supplier</i> performance related to applicable specified Service Levels set out in X7 and X17 below and in the Annexures.</p> <ul style="list-style-type: none"> • <u>Tests</u> <p>For each component of the Project, 'before & after' tests, stress and load tests, and the measurement tools that need to be supplied to perform these tests and other <i>Supplier</i>-suggested tests, will be provided and run by the <i>Supplier</i> with <i>Purchaser</i> involvement.</p> <p>The <i>Supplier</i> will need to conduct the above tests to prove that all of the components of the CPU work together correctly and as a whole and is fit for Purpose.</p> <ul style="list-style-type: none"> • <u>Remedies</u> <p>Penalties will apply if the CPU does not function properly or correctly, is not fit for Purpose or Project completion or performance criteria are not met. Such penalties may include withholding payment until proper function is proven and/or the University is satisfied that the delivery of Goods and Services are fit for Purpose, the retention of payments due including the use of escrow accounts for selected portions of the services, and/or the penalties described in X7 and X17 below and in Annexure 4.</p> <p>If individual parts of the Equipment do not function properly or correctly, payment will not be made until the Acceptance Criteria are met.</p>
5	Payment
50	The <i>assessment date</i> is each payment Milestone Date specified in the Project Plan contained in Annexure 5 .
50.2	Amounts, including those charges, damages and penalties described herein, to be paid by or retained from the <i>Supplier</i> may, at the <i>Purchaser's</i> option, be set off against any amounts due by the <i>Purchaser</i> .
50.2 to 50.4	The amounts due on each payment are stipulated in the Pricing Schedule and the Milestone Dates are set out in the Project Plan. For the purposes of clarity payment will be made once the University is satisfied that the deliverables attached to the relevant Milestone Dates have been met.
51.1	The <i>currency of this contract</i> is the South African Rand
51.2	Subject to Clauses 50.2-50.4, the period within which payments are made is 30 days from the date of invoice
51.4	The <i>interest rate</i> on late payment is the prime lending rate of the <i>Purchaser's</i> bank at the time that interest is due
6	Compensation events
	<p>Changes to Goods and Services, including scope, resources, quantities, prices and other requirements that the <i>Purchaser</i> may have, are compensation events.</p> <p>Such changes will be quoted for by the <i>Supplier</i> and if accepted by the <i>Purchaser</i> will be contained in a Goods and Services Variance Order which will be signed by the Parties and become part of this Agreement.</p>
7	Title
	Title to the Goods transfer to the <i>Purchaser</i> when the Goods are fully paid for or on the <i>ending date</i> whichever is the earlier.
8	Risks, liabilities, indemnities and insurance
82.1	Risks of loss or damage to the Goods provided by the <i>Supplier</i> passes on the transfer of Title to the <i>Purchaser</i> as more fully described in Clause 7.0 above. The <i>Supplier</i> will promptly replace lost Goods and/or replace or repair damaged Goods.
84.1	Except as set out below, the <i>Purchaser</i> provides no insurances from the Insurance Table or any additional insurance.

	<p>The <i>Purchaser</i> has insured itself against the acts and omissions of persons acting on its behalf and its registered students and staff are insured during the course and scope of the <i>Purchaser's</i> business. The <i>Purchaser's</i> maximum liability will accordingly be limited, whether for a single or for multiple events, to the extent of its insurance cover for this Agreement.</p>
84.1	<p>The <i>Supplier</i> has insured itself against the acts and omissions of persons acting on its behalf during the course and scope of its business.</p> <p>The insurance cover which the <i>Supplier</i> is required to take out in terms hereof must contain terms acceptable to the <i>Purchaser's</i> insurance broker. A reason for not accepting the cover is that it does not comply with the Contract.</p> <p>The <i>Supplier</i> provides the following insurances which must be acceptable to the <i>Purchaser's</i> insurers:</p> <ul style="list-style-type: none"> • Insurance against liability for death of or bodily injury to employees, agents or representatives of the <i>Supplier</i>, as contemplated in the Compensation for Occupational Injuries and Diseases Act, 130 of 1993 or any act succeeding it, arising out of and in the course of their employment in connection with this contract for any one event, • Insurance against loss or damage to Goods for a sum sufficient to provide for their replacement, • SASRIA Special Risk Insurance in respect of riot and associated risk of damage to the Goods, plant and materials, • Professional Indemnity and Public Liability Insurance, • General and Commercial Liability Insurance. Cover must include defective workmanship, public liability, products and equipment liability, unlimited bodily injury and death, and property damage, and • Any other insurance cover that will adequately make provision for any possible losses and/or claims arising from its, employees, agents or representatives' acts and/or omissions on the <i>Purchaser</i>.
85	<p>The <i>Supplier</i> must maintain the above insurances at all times while this Agreement is in force. The <i>Supplier</i> will provide the <i>Purchaser's</i> insurance broker with documentary proof of such insurance cover and written notice of any material changes, cancellations or lapses in such insurance. The <i>Purchaser</i> shall be entitled to request updated current certificates of any changed policies at any time.</p>
88	<p>The <i>Supplier's</i> maximum liability to the <i>Purchaser</i> for any and all proven and awarded damages (whether direct, actual, indirect, special, consequential or otherwise and whether for a single or for multiple events) arising out of the supply of Goods or the performance of Services under this Agreement will not exceed an amount equal to the value of the <i>Supplier's</i> insurance cover.</p>
9	Termination and dispute resolution
90	<p>Without prejudice to other remedies available to it in terms of this Agreement or in law, including the right to specific performance, the <i>Purchaser</i> may cancel this Agreement if the <i>Supplier</i> fails to remedy any material breach within 30 (thirty) days, or such other shorter reasonable period as may be determined by the <i>Purchaser</i>, of receipt of written notice calling upon it to remedy such breach.</p>
94	<p>Disputes arising under or in connection with this contract will not be referred to an Adjudicator as contemplated under Clause 94 of the Supply Contract. Dispute resolution will be according to the following:</p> <p>The Parties will negotiate in good faith to resolve any disputes that may arise out of this Agreement.</p> <p><u>Informal resolution</u></p> <p>Within a period of 14 days after the date on which the dispute arose (the Dispute Date) the Parties will meet to discuss the dispute and will endeavour to resolve the dispute amicably. Each Party undertakes at such meeting to make full disclosure to the other of all information and records relating to the dispute.</p> <p>If the Parties are unable to resolve the dispute amicably within 30 days from the Dispute Date, either Party may refer the dispute to the University's Chief Operations Officer (or his/her nominee) and the <i>Supplier's</i> Chief Executive Officer or their duly appointed representatives, who will use their best endeavours to resolve the dispute. Their determination will be final and binding and will be carried into effect by the Parties.</p> <p><u>Formal resolution</u></p> <p>If the individuals referred to above are unable to resolve the dispute within a period of 30 days after it had been referred to them, either Party may submit the matter for mediation. The Parties will refer the matter for mediation to a mediator appointed by agreement between the Parties, or, failing agreement, to a mediator appointed by the Chairman of the Bar Council of South Africa on written request by either Party. The costs of mediation will be borne</p>

	<p>equally by the Parties. The determination by the mediator will be final and binding and must be carried into effect by the Parties.</p> <p>If the mediator is unable to resolve the dispute or difference to the mutual satisfaction of the Parties, the Parties will submit to the jurisdiction of the South Gauteng Local Division of the High Court of South Africa in regard to such dispute or difference.</p> <p><u>Interim relief</u></p> <p>Nothing in this clause 94 will preclude a Party from seeking interim relief from any competent court having jurisdiction pending the institution of any dispute resolution proceedings.</p> <p><u>General</u></p> <p>The successful Party will, in each of the methods of dispute resolution provided for above, be entitled to be awarded a full indemnity for all the costs reasonably incurred by that Party, including attorney and own client costs.</p> <p>The provisions of this clause 94 will survive the termination of the Agreement.</p>
X	<i>Option clauses</i>
	Options clauses that are <i>conditions of contract</i>
X1	Price adjustment for inflation
X1	The Fixed Costs will remain unchanged for the duration of the Contract. The Variable Costs may be adjusted in accordance with CPI on the first and subsequent anniversary of the <i>starting date</i> set out in Clause 30 provided that the Supplier gives one month's written notice of such adjustment.
X7	Delay damages
X7.1	<p>Subject to clause Z3 (Force Majeure), delay damages will not be incurred where any delay is caused by circumstances beyond the reasonable control of the <i>Supplier</i>. If there are repeated delays by the <i>Supplier</i> which in the aggregate could reasonably be considered material, the <i>Purchaser</i> may terminate this Agreement and recover damages as are allowable in law.</p> <p>Delay damages is 0.01% of total contract value per day.</p> <p>The damages in respect of all other delays save for the delay stipulated herein before is recorded in Annexure 4.</p>
X17	Low performance damages
X17.1	Low performance damages are 0.01% of contract value per day.
Z	<i>Additional conditions of contract</i>
	The <i>additional conditions of contract</i> are
Z1	The <i>Supplier's</i> invoice
	<p>Z.1.1 The <i>Supplier</i> submits its original valid VAT tax invoices satisfying the requirements of the Goods Information and having been signed by a member of the <i>Purchaser's</i> staff who is duly authorised to do so (the Tax Invoices), shall be submitted to the <i>Purchaser's</i> <i>Supply Manager</i> for payment purposes one week after receiving a payment certificate from the <i>Supply Manager</i> in terms of clause 51.1.</p> <p>Z.1.2 Where the <i>Supplier</i> does not submit the Tax Invoices within the time required, the period within which payment is made in terms of clause 51.2 is extended by the length of time from the date when the <i>Supplier</i> should have submitted the Tax Invoices to the date when he does submit it.</p> <p>Z.1.3 Tax invoices that are submitted to the <i>Purchaser</i> shall include the following details:</p> <ul style="list-style-type: none"> • Purchaser's VAT No: 4390128942 • Addressed to: University of the Witwatersrand, Johannesburg P O Box 464 Wits

	<p>2050 Attention: Head: Creditors (ommesh.bennie@wits.ac.za)</p> <ul style="list-style-type: none"> • <i>Purchaser's</i> purchase order number • <i>Supplier</i> details including: <ul style="list-style-type: none"> ▪ Company registration number ▪ <i>Supplier's</i> VAT number ▪ Tax invoice number ▪ <i>Supplier's</i> banking details for payment
Z2	<p>Acts or omissions by mandatories</p> <p>In terms of Section 37(2) of the Occupational Health and Safety Act of 1993 (Act 85 of 1993), the <i>Supplier</i> hereby agrees that the <i>Purchaser</i> is relieved of any and all of its liabilities in terms of Section 37(1) of this Act in respect of any acts or omissions of the <i>Supplier</i> and his employees to the extent permitted by this Act, and that this contract comprises the written agreement between the <i>Purchaser</i> and the <i>Supplier</i> contemplated in section 37(2).</p>
Z3	<p>Force Majeure</p> <p>Neither Party will be held liable to fulfil its obligations under this Agreement if such failure is caused by circumstances beyond its reasonable control, including lightning, fire, flood, war (whether declared or not), terrorism, sabotage, revolution, invasion, insurrection, strikes, lock-outs or other industrial action, riot, civil commotion, mob violence, blockade, boycott, the exercising of military power, acts or restraints of government including the imposition or restriction of or embargos on imports or exports, and breakdown of external services.</p> <p>The affected Party must take all reasonable steps in the circumstances to limit the duration of the failure to fulfil its obligations and duties in terms of this Agreement, and should make every effort to provide the best Service possible under the circumstances.</p> <p>If any event that the Force Majeure delays the performance of the obligation for a continuous period of 60 days, the Party not claiming Force Majeure may, at its option and without further obligation, terminate this Agreement upon written notice to the other Party.</p>
Z4	<p>Transfer of rights</p> <p>The Parties hereby record that the ownership of rights in and to all Background Intellectual Property will be and remains unaffected by this Agreement.</p> <p>The University grants the <i>Supplier</i> a non-exclusive, non-transferable, revocable royalty free licence to use the University's Background Intellectual Property solely to the extent necessary to enable the Supplier to comply with its obligations hereunder.</p> <p>Foreground Intellectual Property in the deliverables, including but not limited to all specific documentation, manuals, designs, reports and plans specifically created or developed by the Supplier in the course and scope of this Agreement is owned by the University.</p> <p>Unless otherwise agreed, where such Foreground Intellectual Property incorporates the Supplier's Background Intellectual Property, systems, and processes not developed by the Supplier, in the course and scope of performing Services in terms of this Agreement, the Supplier hereby grants to the University (including third party service providers) a royalty-free, perpetual, non-exclusive licence to perform any lawful act, including the right of use of the Supplier's Background Intellectual Property.</p> <p>The Supplier agrees to execute any documents or take any other actions as may reasonably be necessary, or as the University may reasonably request in writing, to perfect the University's ownership of the Foreground Intellectual Property.</p> <p>Any sub-contract the Supplier enters into in relation to this Agreement must contain a condition that the sub-contractor agrees to assign to the University all rights in any Foreground Intellectual Property created by it for the purposes of this Agreement.</p> <p>The provisions of this clause Z4 will survive the termination or expiry of this Agreement.</p>
Z5	<p>Warranty</p> <p>The Supplier warrants that the <u>Goods</u>:</p> <ul style="list-style-type: none"> ▪ are free of any encumbrances and liens and the <i>Supplier</i> will be the Legal Owner upon transfer of <i>Title</i>, ▪ will be new and in good condition and no second-hand, used, reconditioned, old or previously sold and returned Goods, materials, parts or components will be supplied or used by the <i>Supplier</i> in the

	<ul style="list-style-type: none"> ▪ supply of the Goods, ▪ will be of the equivalent type and quality as any sample which may have been provided by the <i>Supplier</i>, ▪ comply with any applicable standards of the South African Bureau of Standards and any other standards specified in this Agreement, ▪ will be in good working condition on the date of delivery to the <i>Purchaser</i>, ▪ will be free from patent and latent defects in design and manufacture, defective materials and workmanship and general failure, save where same arises from fair wear and tear, for a period of one year from Acceptance, provided that any defect in such Goods will not be as a result of improper use of the Goods, ▪ will be promptly repaired if they fail to perform in accordance with their published specifications, for one billion Clicks or for ten years, whichever comes first, if maintained under this Agreement, and if the failure is not caused by accident, misuse or supplies not authorised by the <i>Supplier</i>, and ▪ will comply with all applicable laws and regulations relating to their manufacture, use, export and import. <p>The Supplier warrants that, in respect of the <u>Services</u>:</p> <ul style="list-style-type: none"> ▪ it has the capacity to perform the Services timeously and competently, ▪ the Services will meet the Acceptance Criteria, ▪ in performing the Services the Supplier will employ only persons who are careful, competent and efficient, and who are properly qualified and skilled to render the Services, and ▪ the Services will comply with the Purchaser's specifications, standards and such other requirements as may reasonably be inferred from the Annexures attached hereto. Any departure from such specifications or standards is a breach of this Agreement unless such departure has been authorised in advance by the Purchaser. <p>Without derogating from the aforesaid, the <i>Supplier</i> warrants that all Goods and Services will function properly and will be fit for purpose for which these types of Goods and Services are commonly required and for any other Purpose described in this Agreement.</p> <p>This warranty is in addition to any other rights of the <i>Purchaser</i> and prevails over any conflicting clauses of the Supply Contract terms.</p>
Z6	<p>Conflict of terms</p> <p>If there is a conflict among the terms in the various documents within this Agreement, the following order of precedence will prevail:</p> <ol style="list-style-type: none"> 1. Part C1: Main Contract 2. These "Z" clauses 3. The NEC3 Supply Contract terms and conditions 4. Annexure 1: Scope of Work 5. Annexure 2: Pricing Schedule 6. Annexure 3: Functional Compliance Schedule 7. Annexure 4: Services Standards 8. Annexure 5: Project Plan 9. Annexure 6: Access to University Precincts 10. Annexure 7: Goods and Services Variance Order. <p>The <i>Purchaser</i> and <i>Supplier</i> negotiated this Agreement jointly, and this Agreement will be construed neither against nor in favour of either, but rather in accordance with its fair meaning.</p>
Z7	<p>Protection of Confidential Information</p> <p>Confidential information of either Party which is disclosed as being confidential, is marked with a confidential legend of either Party, is protected under law or is by its nature confidential, and is exchanged between the Parties, is confidential information of the <i>Purchaser</i> and the <i>Supplier</i>.</p> <p>Such confidential information shall not be disclosed by either Party to any third party without the prior written consent of the other Party, provided that no consent shall be required for disclosure of confidential information to the auditor and professional advisors and employees of either Party to whom disclosure is reasonably necessary for the purposes of the implementation of this Agreement, or to any authorities who by law are entitled thereto.</p>
Z8	<p>Cession and delegation of rights or obligations</p> <p>Neither Party may cede and/or assign its rights or obligations under this Agreement including, without limitation, the</p>

	right to receive payments, without the other Party's prior written consent which will not unreasonably be withheld.
Z9	<p>Intellectual Property indemnity</p> <p>The <i>Supplier</i> agrees, in so far as it receives this indemnity from the manufacturer of the Goods, to indemnify the <i>Purchaser</i> against any action to the extent that such action is based on a claim that intellectual property provided by the <i>Supplier</i> :</p> <ul style="list-style-type: none"> • infringes a copyright perfected under applicable law, or • constitutes an unlawful disclosure, use or misappropriation of another party's intellectual property. <p>The provisions of this clause Z9 shall not extend to any other intellectual property which has been modified (other than by the <i>Supplier</i>) or has been used incorrectly and not for its intended use or has been utilised in conjunction with any other software or other intellectual property not supplied by the <i>Supplier</i> and such utilisation gives rise to the infringement action referred to above.</p> <p>For purposes of this clause Z9, the <i>Supplier</i> will bear the expense of such defence and pay any damages that are attributable to such claim finally awarded by a court of competent jurisdiction. If any intellectual property becomes the subject of a claim under this clause, or in the <i>Supplier's</i> opinion is likely to become the subject of such a claim, then the <i>Purchaser</i> may, at its option, require the <i>Supplier</i> to:</p> <ul style="list-style-type: none"> • modify the other intellectual property to make it non-infringing, provided such modification does not adversely affect the functionality of the other intellectual property, or • procure for the <i>Purchaser</i> the right to continue using the other intellectual property, or • replace the other intellectual property with substantially equivalent intellectual property that is non-infringing. <p>Any costs associated with implementing any of the alternatives referred to in this clause Z9 shall be borne by the <i>Supplier</i>.</p>
Z10	<p>Change Management</p> <p>Notwithstanding clause 12.3, in the event that the scope, schedule, budget and prices, resources, quality and/or any other terms of this Contract are required to be changed by either Party, the change management process described in this Agreement including the use and signature by both Parties of a Goods and Services Variance Order/s will apply.</p>
Z11	<p>Compliance with Laws and Regulations</p> <p>The <i>Supplier</i> must comply with all relevant Legislation, including but not limited to the Occupational Health and Safety Act, 85 of 1993, the Labour Relations Act 66 of 1995, the Employment Equity Act 55 of 1998, the Basic Conditions of Employment Act 75 of 1997, the Skills Development Act 97 of 1998, the Unemployment Insurance Act 63 of 2001 and the Compensation for Occupational Injuries and Diseases Act 130 of 1993. In particular, the <i>Supplier</i> must comply fully with the provisions of the Labour Relations Act to the extent that section 197 thereof may be held to be applicable to the provision of the Service in terms of this Agreement.</p> <p>The <i>Supplier</i> must ensure that it and its Personnel comply with all applicable laws. Without limiting the generality of this, the <i>Supplier</i> must comply with legislation relating to the Service. The <i>Supplier</i> must keep statistics, minutes and other records required by legislation on file and available for inspection by the <i>Purchaser</i>.</p> <p>Without prejudice to any of the <i>Purchaser's</i> rights under the Agreement or at law, if the <i>Supplier</i> breaches any of its obligations specified above and fails to remedy such breach within 7 (seven) days after receiving a demand that it be remedied, the <i>Purchaser</i> will be entitled to claim a penalty in respect of each instance of such breach in an amount equivalent to 1 (one) day's charges for the Service per day that the <i>Supplier</i> is and remains in such breach. For the purposes of calculating such penalty one day's charges will be deemed to be 1/30 (one thirtieth) of the total charges due to the <i>Supplier</i> in terms of this Agreement for the calendar month preceding the date of such breach.</p> <p>The <i>Purchaser</i> will be entitled to elect whether to claim damages or the penalty described above from the <i>Supplier</i> in the event of a breach specified above and may without prejudice to any other method of recovery deduct the amount of such penalty from any monies in its hands due or which may become due to the <i>Supplier</i>. The payment or deduction of such penalty will not relieve the <i>Supplier</i> from its obligations to comply with its obligations specified above or from any of its obligations and liabilities under the Agreement or at law.</p> <p>On or before the date set out in 30.1, the <i>Supplier</i> shall produce documentary proof to the <i>Purchaser</i> that it has complied in all respects with the provisions of COIDA - Compensation for Occupational Injuries and Diseases Act,</p>

	130 of 1993. The <i>Supplier</i> shall perform and comply with all the provisions of the Act and more particularly shall render all returns and pay all assessments for which it is liable in terms of such Act.
Z12	<p>Supplier Personnel</p> <ol style="list-style-type: none"> 1. The <i>Supplier</i> acknowledges that on termination of this Contract, certain personnel employed by the <i>Supplier</i> may be available for employment by a newly appointed supplier ("New Supplier") and the University may, at that time be desirous that the New <i>Supplier</i> offers such persons employment. 2. To the extent that any person as envisaged in clause Z12.1 makes him or herself available for employment by the New <i>Supplier</i>, the New <i>Supplier</i> may employ such person in terms of the requirements of Section 197 of the Labour Relations Act, 66 of 1995, as amended ("the Act"). 3. The University will not be responsible in any manner whatsoever in respect of any claim, howsoever arising in respect of the employment relationship between the <i>Supplier</i> and such employee/s irrespective of whether those claims arose prior to the commencement of employment with the <i>Supplier</i>. The <i>Supplier</i> indemnifies the University and holds it harmless in respect of any such claim or claims. In so far as the <i>Supplier</i> is not in compliance with the provisions of the Act, the <i>Supplier</i> shall be liable for all claims arising out of such non-compliance. This indemnity shall remain in force for the duration of the Contract. 4. If applicable, the <i>Supplier</i> shall meet with the New <i>Supplier</i> to determine and agree on the extent of the potential liability and/or claims that will be inherited by the New <i>Supplier</i> in terms of Section 197 of the Act. The terms agreed to by the <i>Supplier</i> and the New <i>Supplier</i> shall be recorded in writing in an agreement. A copy of such agreement between the <i>Supplier</i> and the New <i>Supplier</i> shall be provided to the University for its records. 5. The <i>Supplier</i> shall ensure that the process of concluding the said agreement is finalised within 30 days of the New <i>Supplier</i> being appointed ("the Prescribed Period"). In the event that the <i>Supplier</i> and New <i>Supplier</i> fail to conclude the transfer agreement within the Prescribed Period due to any disputes arising out of the Section 197 transfer process, the University reserves the right to refer the matter to arbitration, at the cost of the <i>Supplier</i> and New <i>Supplier</i>. 6. The <i>Supplier</i> acknowledges the importance of an orderly transition from the <i>Supplier</i> to the New <i>Supplier</i>. On termination of this Contract the <i>Supplier</i> undertakes to cooperate with, and assist the University and any New <i>Supplier</i> appointed by the University to comply with the requirements of paragraph Z12.2. In complying with the requirements of paragraph Z12.2, the <i>Supplier</i> shall provide the University with all information, data and documentation pertaining to its staff complement including the grades, task allocations and remuneration details of the relevant staff members. The <i>Supplier</i> further acknowledges that the obligation to cooperate and assist the University may extend beyond the termination date and that the obligation will arise irrespective of whether the Contract is terminated due to breach of the Contract or the effluxion of time, at the prevailing rates in effect at that time or as may otherwise be agreed by the Parties.
Z13	<p>Purco SA Rebate</p> <p>The <i>Supplier</i> will pay to PURCO SA a 2% (two percent) service fee which is calculated on the total value of each monthly invoice issued by the <i>Supplier</i> to the <i>Purchaser</i> for the provision of the Goods and Services (including any additional Goods and Services set out in a Goods and Services Variance Order).</p> <p>The <i>Supplier</i> will send copies of its monthly invoice and statement to both PURCO SA and the <i>Purchaser</i>. Upon receipt of the <i>Supplier's</i> invoice, PURCO SA will invoice the <i>Supplier</i> the 2% (two percent) service fee which is payable to PURCO SA by the <i>Supplier</i> within 30 (thirty) days of PURCO SA's invoice date.</p>
Z15	<p>Damages</p> <p>The University's rights to claim damages in terms of Clauses X7 and X17 are without prejudice to any other rights the University may have in law.</p>
Z16	<p>Unknown Risks</p> <p>Those risks which are not recorded in the Risk Register referred to in Clause 11.2 (14) lies with the Supplier.</p>



UNIVERSITY OF THE
WITWATERSRAND,
JOHANNESBURG

University of the Witwatersrand, Johannesburg

Contract No: Services Department 2018/01

Central Printing Unit

Part C1.2 Mono and Colour Printing Units

Part two - Supply, install and maintain high quality Central Print Units for the production of mono and colour printing

10.1	The <i>Supplier</i> is (Name):
	Address:
	Tel No:
	E-mail address:
	The <i>Supplier's</i> Account Manager is:
	The <i>Supplier's</i> Legal Representative is:
11.2(8)	The Goods Information for the <i>Supplier's</i> design is in Annexure 1: Scope of Work
11.2(12)	The price lists and pricing schedule are in Annexure 2: Pricing Schedule
11.2(14)	The known risks are included in the Risk Register which is contained in Annexure 1 Further risk matters as they become known will be documented during the Project and included in the Project Plan. The risk matters will be included in the Risk Register composed by the Parties during the normal project management process. The Risk Register (or RADE document) contains known risks with corresponding <i>Supplier</i> or <i>Purchaser</i> responsibility for each risk, and what action is to be taken by which Party to reduce, transfer, avoid or accept each risk.



UNIVERSITY OF THE
WITWATERSRAND,
JOHANNESBURG

University of the Witwatersrand, Johannesburg

Contract No: Services Department 2018/1

Central Printing Unit

C2: Pricing Data

C2.1 Pricing assumptions and terms

C.2.1.1	The prices are as set out in the Pricing Schedule contained in Annexure 2 .
C.2.1.2	The Fixed Costs will remain unchanged for the duration of the Contract. The Variable Costs may be adjusted in accordance with CPI on the first and subsequent anniversary of the <i>starting date</i> set out in Clause 30 provided that the Supplier gives one month's written notice of such adjustment.
C.2.1.3	Prices for purchases of Additional Goods will be the subject of a Goods and Services Variance Order and price amounts are as set out in the Price Lists and Rates in Annexure 2 where applicable.
C.2.1.4	Prices for Additional Services will be the subject of a Goods and Services Variance Order and price amounts are as set out in the Price Lists and Rates in Annexure 2 where applicable.
C.2.1.5	<ol style="list-style-type: none">The Click Costs include Maintenance Service costs i.e costs of labour, repair and replacement parts, software upgrades and consumables such as toner and developer.Click Costs are assessed and invoiced by the Supplier at the end of each month.Click Costs are calculated by multiplying the applicable Click Cost per Click set out in Annexure 2.Subject to Clause C2.1.2, Click Costs remain unchanged regardless of number of Clicks.In the event of a breakdown or malfunction of any Click meters, monthly volume for billing purposes will be established by reference to the average copy volume over the previous 12 months or if less than 12 months since contract <i>starting date</i>, the number of months since contract <i>starting date</i>.
C.2.1.6	Fixed costs remain unchanged regardless of exchange rate fluctuations.
C.2.1.7	Other than for adjustments to price amounts described above, and for increased price amounts for agreed changes to scope and quantities resulting from a Goods and Services Variance Order, there is no increase to any prices or price amounts in this Agreement.
C.2.1.8	Subject to the provisions contained in Clause Z.14 and C 2.1.5, the <i>Supplier</i> is paid an amount in accordance with the Milestone Dates specified in the Project Plan after acceptance by the <i>Purchaser</i> that Milestones have been achieved on the Milestone Dates, that the relevant Goods and Services have been properly supplied and are functional according to the Acceptance Criteria.
C.2.1.9	As the <i>Supplier</i> has an obligation to correct Defects (Core Clause 42) and there is no change to the prices set out in the Pricing Schedules, other than those adjustments described above, such Prices and rates must also incorporate the correction of Defects unless the Defect was due to a <i>Purchaser's</i> risk.
C.2.1.10	The Prices in the <i>price schedule</i> are inclusive of everything necessary (including sufficient quantities of Goods) and incidental to Provide the Goods and Services in accordance with the Annexures .

C.2.1.11	If the Supplier has decided not to identify or to price a particular item of work, it will be assumed that the Supplier has included the cost to the Supplier of doing the work within the other Prices or rates in order to fulfil the obligation to complete the goods and services for the tendered total of the Prices. There is no adjustment to any price amount if the amount, or quantity, of work within that item later turns out to be different to that which the Supplier estimated at time of tender. The Prices tendered by the Supplier in the price schedule are inclusive of everything necessary and incidental to Provide the Goods and Services in accordance with the Goods Information, as it was at the time of tender, as well as correct any Defects not caused by a Purchaser's risk.
C.2.1.12	All prices in the Pricing Schedule are inclusive of VAT.

C3: Annexures