##

## University of the Witwatersrand, Johannesburg

Supplement to Standard Contract for the

Acquisition of Goods and Services

## Form of Offer and Acceptance

The University requires the provision of the Goods and/or Services as more fully described herein.

The Supplier has the capacity and undertakes to deliver the Goods and/or Services described herein subject to the terms of the Standard Contract for the Acquisition of Goods and Services.

**On behalf of the Supplier:**

|  |  |  |
| --- | --- | --- |
| **Signature(s)** |  |  |
| **Name(s)** |  |  |
| **Capacity** | being duly authorised thereto and representing ……………….. |  |
| **Date** |  |  |
| **For the Supplier**  |  *(Insert organisation name, company registration number if applicable, physical and postal addresses and legal officer address)* |
| **Name and signature of Witness** |  | **Date** |  |

**On behalf of the University:**

|  |  |  |
| --- | --- | --- |
| **Signature(s)** |  |  |
| **Name(s)** |  |  |
| **Capacity** |  |  |
| **Date** |  |  |
| **For the University**  | University of the Witwatersrand, JohannesburgPrivate Bag 3, Wits 2050 |
| **Name and signature of Witness** |  | **Date** |  |

1. **CONTRACT INFORMATION**

|  |  |
| --- | --- |
| Contract Name: |  |
| Project Overview Description: |  |
| Objective: |  |
| Start Date: |  |
| End Date: |  |

1. **UNIVERSITY DETAILS**

|  |  |
| --- | --- |
| University Representative: |  |
| Phone: |  |
| Cell: |  |
| E-mail: |  |

1. **SUPPLIER DETAILS**

|  |  |
| --- | --- |
| Supplier Representative: |  |
| Phone: |  |
| Cell: |  |
| E-mail: |  |

1. **NOTICES**
2. Address for Operational Correspondence

|  |
| --- |
| The University |
| Marked for the attention of: |  |
| Phone: |  |
| Electronic mail address: |  |
| Physical Address: |  |

|  |
| --- |
| The Supplier |
| Marked for the attention of: |  |
| Electronic mail address: |  |
| Physical Address: |  |

1. Address for the Service of Legal Documents

|  |
| --- |
| The University |
| Marked for the attention of: | Director: Legal Services |
| Electronic mail address: | Nkosinathi.Mavimbela@wits.ac.za |
| Physical Address: | 5th Floor, Room 5006A, Solomon Mahlangu House, East Campus, Braamfontein, 1 Jan Smuts Ave, Braamfontein, Johannesburg, 2000 |

|  |
| --- |
| The Supplier |
| Marked for the attention of: |  |
| Electronic mail address: |  |
| Physical Address: |  |

1. **INTRODUCTION**
2. This Agreement governs the relationship between the University and the Supplier in respect of the provision of the Goods and/or Services by the Supplier.
3. The Supplier acknowledges and agrees that in entering into this Agreement no form of exclusivity has been conferred on the Supplier nor volume or value guarantee granted by the University in relation to the provision of the Goods and/or Services by the Supplier and that the University is at all times entitled to enter into other agreements with other suppliers for the provision of any or all goods and/or services which are the same as or similar to the Goods and/or Services or may obtain such Goods and/or Services internally.
4. This Agreement consists of the following:
5. The Standard Contract for the Acquisition for Goods and Services; and then
6. This Supplement.
7. **SCOPE OF WORK**
8. The Scope of Work includes but is not limited to:
9. …
10. ….
11. **SUPPLIER RESPONSIBILITIES**

This section does not replace the provisions contained in the Standard Contract for the Acquisition for Goods and Services.

1. The Supplier will must:
2. provide the Goods and/or Services which are fit for the purpose required by the University on time, within budget, with reasonable care and skill, and in accordance with the provisions of section 6;
3. assign Personnel who are sufficiently qualified and competent both in numbers and skill to provide the Goods and/or Services and ensure the due and proper performance of its obligations under this Agreement;
4. do all that is reasonably necessary within the course and scope of the Agreement to prevent or minimise the risk of loss or damage to University property and injury to persons.
5. **ACCEPTANCE AND ACCEPTANCE CRITERIA**
6. The University will have 10 (ten) Business Days after Supplier provides the Goods to inspect and test the Goods and/or Services to ensure it meets the acceptance criteria outlined in section 8.4 (the “Inspection Period”). If in the University’s opinion the Goods and/or Services meet the acceptance criteria, the University shall accept the Goods and/or Services and notify Supplier that it is accepting it.
7. If in the University’s opinion, the Goods and/or Services fail in a material way to meet the acceptance criteria, the University may reject the deliverable by delivering to the Supplier a written list detailing each failure to satisfy the acceptance criteria. If the University rejects the deliverable, the Supplier will have the opportunity to promptly cure each failure in the deliverable and re-deliver the deliverable to the University to re-inspect and/or test.
8. If in the University’s opinion, the Supplier’s corrections fail to satisfy the acceptance criteria, the University may either terminate the Agreement, or adjust the acceptance criteria for that deliverable, or obtain a full refund for the Goods and/or Services.
9. The University’s duly authorised representative when obtaining the Goods and/or Services, shall conduct an inspection to verify the following minimum conditions:
10. The Goods and/or Services conform to the Order requirements and section 6; and
11. The Goods and/Services are fit for purpose and within budget.
12. **PENALTIES**
13. In the event of late delivery or non-conformance with the provisions of sections 6, 7, and 8 penalties will apply.
14. Such penalties may include withholding payment until proper delivery, and/or a penalty of x% (x percent) of the total Order of the Goods and/or Services requested by the University will apply each day the Supplier remains in breach.
15. **FEES**
16. The total contract value is R …… (…………….. Rand) excluding VAT.
17. The Supplier confirms that the fees set out in this section cover all activities associated with the Scope of Work and the University will incur no additional costs whatsoever, over and above this amount.
18. **WARRANTIES AND GUARANTEES**
19. Each person signing this Agreement on behalf of a Party expressly warrants his/her authority to do so.
20. The Supplier warrants that:
21. all Goods and/or Services will be fit for the purposes for which these types of Goods and/or Services are commonly required and for any other purposes described in this Agreement, of suitable quality, and within budget.
22. it is free and able to grant the rights and perform the obligations undertaken by it in this Agreement;
23. it has the necessary skills and qualifications to carry out all activities required to perform its obligations hereunder in a professional and proper manner and in accordance with best practice;
24. it has not entered into any agreement with any third party that conflicts with the terms of this Agreement; and
25. its trade marks, name, logos and intellectual property rights, do not infringe the trade marks, names, logos or intellectual property rights of any other person.
26. Each Party warrants that all software, information, data, materials, and other assistance directly provided by it to the other party (“receiving party”) during the performance of the Services are either owned by it or are in the lawful possession of it and will not infringe the intellectual property rights of any third party. Each Party agrees to indemnify and hold the receiving party fully indemnified and harmless against any loss, damages, costs, and expenses including reasonable attorneys’ fees which may be incurred as a result of any action or claim that may be made or initiated against the receiving party by any third-party alleging infringement of intellectual property rights.

1. **DATA PROTECTION**
2. The Parties agrees that they will at all times comply with the Protection of Personal Information Act 4 of 2013 (“POPI”).
3. The Supplier undertakes to implement and maintain all such technical and organisational security procedures and measures necessary or appropriate to preserve the security and confidentiality of the Confidential Information or personal information (as defined in POPI) in its possession and to protect such Confidential Information or personal information (as defined in POPI) against unauthorised or unlawful disclosure, access or processing, accidental loss, destruction, or damage.
4. The Supplier shall only provide, collect, use, store, or process personal information (as defined in POPI):
5. in compliance with the applicable legislation in the Republic of South Africa;
6. as is necessary for the purposes of this Agreement; and
7. in accordance with the lawful and reasonable instructions of the University.
8. The Supplier will report to the University orally and confirmed in writing any actual and/or suspected breaches such as security incidents, unauthorised access, or disclosure of Confidential and/or personal information (as defined in POPI) immediately upon discovery of the unauthorised disclosure but in no event more than 2 (two) days after the Supplier reasonably believes there has been such unauthorised use or disclosure.
9. **GENERAL**
10. This Agreement commences on the Start Date and terminates on the End Date, unless terminated earlier as provided in this Agreement.
11. Notwithstanding the provisions of section 13.1 above, the University may terminate this Agreement on 1 (one) month written notice to the Supplier.
12. The Supplier warrants that it has and will maintain the following insurance cover to the satisfaction of the University’s insurance brokers, for the duration of this Agreement:
13. insurance covering its liability to any employees, its agents or representatives as contemplated in the Compensation for Occupational Injuries and Diseases Act, 130 of 1993;
14. public liability insurance cover;
15. any other insurance cover deemed necessary by the University’s insurers 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 University;
16. professional indemnity insurance; and
17. general and commercial liability insurance which includes defective workmanship, public liability, Products and equipment liability, bodily injury and death, and property damage.
18. The Supplier must maintain the above insurance, which includes indemnities for the liabilities stated above and which adequately insures against all the liabilities imposed by this Agreement.
19. The Supplier agrees forward proof of its insurance cover to the University on the anniversary date of this Agreement or when requested by the University.
20. Notwithstanding the provisions of clause 16 of the Standard Contract for the Acquisition for Goods and Services, all IP in naming the new cultivar and any other Goods and/or Services will vest in the University free and clear of all liens and encumbrances on receipt of payment by the Supplier. To the extent that any Goods and/or Services contain any intellectual property of the Supplier, Supplier hereby grants to the University a worldwide, royalty-free, non-exclusive, perpetual license to use, copy, modify and distribute such Intellectual Property as part of the Goods and/or Services. The Supplier agrees to provide to the University all assistance reasonably requested by the University to perfect the rights described herein, including obtaining all assignments and waivers of moral rights necessary or appropriate to vest the entire right, title, and interest in such materials in the University and its successors and assigns.
21. To the extent that any provision of this Agreement is considered to be, or qualifies as, a penalty stipulation in terms of the Conventional Penalties Act 15 of 1962, it shall not be construed or interpreted in such a way as entitling the University to recover both damages and the penalty; and the University shall be entitled to recover damages instead of the relevant penalty and, as far as the law allows, the Supplier acknowledges and agree, having taken account of the prejudice that will be suffered by the University, that the penalty stipulation is equitable in the circumstances.
22. Neither Party shall be bound by any express or implied term, representation, warranty, promise nor the like not recorded herein.
23. No addition to, variation, or agreed cancellation of this Agreement shall be of any force or effect unless in writing and signed by or on behalf of the Parties.
24. For purposes hereof a “written document” shall exclude any written document that is in the form, either wholly or partly, of a data message as defined in the Electronic Communications and Transactions Act 25 of 2002, and “signed” shall mean a signature executed by hand with a pen and without any electronic process or intervention.
25. No indulgence which either Party (the “grantor”) may grant to the other (the “grantee”) shall constitute a waiver of any of the rights of the grantor, who shall not thereby be precluded from exercising any rights against the grantee which may have arisen in the past or which might arise in the future.
26. This Agreement may be executed in any number of counterparts and by the Parties hereto on separate counterparts, each of which when executed and delivered will be an original and each of the counterparts will together constitute one and the same instrument.
27. By signing this Agreement electronically, the Parties agree to the acceptance of the terms and conditions of this Agreement as if it was physically signed by them by hand and in writing.