

SERVICE LEVEL AGREEMENT

ENTERED INTO BY AND BETWEEN

CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY

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

Hereafter represented by the Group Executive Director in Group Corporate and Shared Services, a Department of the City of Johannesburg Metropolitan Municipality, him being duly authorised to enter into this Agreement

(Hereafter referred to as “the City”)

AND

AFRIRENT (PTY) LIMITED

Hereafter represented by Mr Senzo Tsabedze., in his capacity as Chief Operating Officer of AFRIRENT (PTY) LIMITED, him being duly authorized to enter into this Agreement.

(Hereafter referred to as “**the Service Provider**”)

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DRAFT FOR PUBLIC PARTICIPATION

PREAMBLE

WHEREAS:

- a) the City procured services from the Service Provider in line with a contracting process.
- b) this Agreement shall regulate the relationship between the City and AFRIRENT(PTY) LIMITED.

the objectives of this Agreement have been aligned to the strategic objectives of the City.

DRAFT FOR PUBLIC PARTICIPATION

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

DEFINITIONS

The following definitions shall apply to this Agreement:

- a) **“The City”** means the City of Johannesburg Metropolitan Municipality a metropolitan municipality duly established by virtue of Provincial Notice 6766 dated 1 October 2000, including its entities;
- b) **“City Manager”** means the official appointed in that position and who is the Accounting Officer of the City of Johannesburg, who has delegated Group Executive Director: Group Corporate and Shared Service to sign the Agreements on behalf of the City.
- c) **“Day(s)”** means any number of calendar days prescribed, which shall be determined by excluding the first day and including the last day unless the context indicates otherwise.
- d) **“Delivery”** means delivery in compliance of the conditions of the contract or order.
- e) **“Effective Date”** means date of award
- f) **“Financial Year”** means the Financial Year of the City beginning on 1 July and ending on 30 June of the following year;
- g) **“Intellectual Property”** means patents, designs and manufacturing techniques, specifications and formulae, know-how, copyright, data systems and processes, production methods, trade secrets, trademarks, undisclosed inventions, confidential information and includes all future additions or improvements to that Intellectual Property;
- h) **“MFMA”** means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
- i) **“Party or Parties”** means the City and the Service Provider individually as the context may require or both parties collectively.
- j) **“Services”** means services rendered as set out in clause 7 herein rea with the Bid document stipulated in Tender No : A895
- k) **“Service Provider”** means AFRIRENT (LTD) LIMITED “
- l) **Force majeure**” means an event beyond the control of the supplier and not involving the supplier’s fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.

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1. INTERPRETATION

In this Agreement, the following rules of interpretation shall apply unless otherwise indicated:

- a) All words and expressions to any one gender shall include the other gender;
- b) The words signifying the singular shall include the plural and vice versa;
- c) A reference to a natural person shall include a juristic person and vice versa;
- d) Headings shall be for reference purposes only;
- e) The rule of construction that the Agreement shall be interpreted against the party responsible for the drafting or preparation of the Agreement, shall not apply.
- f) In the event of a conflict between the provisions of this Agreement and its annexures, the provisions of this Agreement will supersede those of the annexures.

2. EFFECTIVE DATE

Notwithstanding the date of signature, this Agreement shall be deemed to have commenced on the date of award.

3. DURATION

- a) This Agreement shall commence on the Effective Date and shall remain in force for 60 months from award date as per Bid No:A895
- b) Should the Agreement be terminated:-
 - The City shall pay to the Service Provider all fees which are due in consideration for Services rendered prior to the termination of this Agreement,;
 - The Service Provider shall deliver to The City all interim and/or draft reports and/or all working papers, models, analyses or any other work conducted by the Service Provider in the rendering of the Services (without the right of retention) excluding information that constitute the Intellectual property (IP) of the service provider; and
 - The Service Provider shall deliver to the City all documentation made available by The City for purposes of rendering the Services;

4. NO EXPECTATION OF EXTENSION OR RENEWAL

4.1 The Service Provider agrees that there shall be no expectation of future extension or renewal of this Agreement.

5. NO PARTNERSHIP

The Parties hereby agree that nothing in this Agreement shall be construed as creating a partnership between them and neither Party shall have any authority to incur any liability on behalf of the other.

6. BACKGROUND

6.1 The methodology used in the management & control of fleet is operated on a shared service delivery model. Group Corporate and Shared Services (GCSS) is responsible for the formulation of the Group Fleet Policy and fleet compliance. Fleet management and other operational responsibilities are executed within each fleet user group's operational environment.

6.2 The City of Johannesburg Metropolitan Municipality provides services throughout its area of jurisdiction which comprises 7(seven) regions. It is structured with various regional offices, department offices, municipal entity offices and depots.

6.3 The CoJ provides services to citizens within the Greater Johannesburg Municipal Area, including, but not limited to the following:

6.3.1. Provision of water and sanitation and maintenance of the infrastructure

6.3.2. Provision of agricultural services

6.3.3. Provision of electricity and maintenance of electrical infrastructure

6.3.4. Provision of emergency / disaster Management Services

6.3.5. Provision of security, law enforcement and police services

6.3.6. Provision and maintenance of parks and zoo services

6.3.7. Provision and maintenance of road infrastructure

7. SERVICES LEVEL STANDARDS

The Service Provider must provide inter alia services as stipulated listed below . in line with the tender documents provided for Bid no:A895 :

7.1 PROVISION OF NON-SPECIALISED VEHICLES ON FULL MAINTENANCE LEASE

7.1.1. The CoJ requires the services of a suitably qualified and capable service provider to provide services in relation to the provision of non-specialized vehicles to the City on a full maintenance lease for the period of five years (5).

7.1.2. The CoJ requires the use and enjoyment of the vehicles with no intention of ownership.

7.1.3. Source suitable pricing from relevant manufacturers and suppliers in line with the approved specifications supplied by CoJ, for the period of five (5) years.

7.1.4. The service providers will be required to price accessories based on specifications provided by the City Users Departments and Entities.

7.1.5. Finance the procurement, initial licensing, registration and delivery of nonspecialized vehicles.

7.1.6. Vehicles delivered must be "fit for purpose" (required attachments, accessories and modifications are completed to fulfill the necessary requirements).

7.1.7. To manage the value chain, including production schedules, branding, securing the relevant warranties and/ or maintenance plans, as well as the delivery of each vehicle to the CoJ.

7.1.8. The successful service provider will be required to deliver a leased vehicle within three (3) months from date of order. Service provider can indicate a lesser time where it is able to deliver vehicles before the required date.

7.1.9. The successful service provider will be liable for a penalty for each instance where it fails to provide the services as required.

7.2 MAINTENANCE OF VEHICLES PROVIDED ON FULL MAINTENANCE LEASE (FML)

7.2.1 The service provider will be required to maintain/ repair all leased vehicles in accordance with the OEM specifications.

7.2.2 The service provider must maintain/ repair all other vehicles in accordance with

industry and OEM acceptable standards.

7.2.3 Service providers must identify vehicles that are due for maintenance/ repair, and how the CoJ will be informed in this regard.

7.2.4 Service providers must ensure availability requirements are maintained during planned maintenance/repair of a vehicle.

7.2.5 Service providers must maintain all accessories and fitments on the vehicles in terms of OEM specifications.

7.3 MANAGED MAINTENANCE SERVICES FOR NON-SPECIALISED VEHICLES OWNED BY THE CITY

7.3.1 The service providers must submit proposals on how they will provide managed maintenance services for non-specialized vehicles owned by the City.

7.3.2 The service provider will be required to provide managed maintenance services, including but not limited to the following responsibilities in relation thereto:

7.3.3 Registering the Vehicles onto their fleet management system, and capturing information about the Vehicle make, range, model, registration number as well as the commencement date of the Managed Maintenance Services.

7.3.4 Ensuring that each Vehicle has a signed schedule to acknowledge activation of the Managed Maintenance services for purposes of accurate monthly billing and maintaining record of each Vehicle schedules signed by the CoJ.

7.3.5 Providing Managed Maintenance Services on a planned and unplanned basis, as well as at the occurrence of emergencies and breakdown, as required by the CoJ, including tyre management services, i.e. repairs and replacement, roadside breakdown assistance and the procurement of tyres at competitive prices.

7.3.4 Pre-empting and scheduling routine maintenance and/or servicing from the vehicles utilising management information available to it through the various sources, including information acquired from the vehicle management device.

7.3.5 Facilitating and co-ordination of maintenance, repairs, support and servicing of vehicles, including procuring and supplying quotation to CoJ for the maintenance and repairs to be undertaken.

7.3.6 Scrutinising maintenance quotations and invoices from third party manufacturers and sub-contractors, to ensure market competitiveness in relation to pricing and nature of repairs.

7.3.7 Authorising maintenance and repairs subject to the agreed levels of authorisation granted by the CoJ and issuing an authorisation number to the Maintenance Provider, when the Vehicle is delivered for the Maintenance Services.

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7.3.8 Ensuring that the maintenance provider carries out the work in accordance with the standards set out by the manufacturer and processing the maintenance providers' maintenance invoices for payment, including managing the vehicle warranty claims on behalf of CoJ.

7.3.9 Maintaining up to date records of all maintenance undertaken on each vehicle, including date of maintenance, description, maintenance provider details, odometer reading (if applicable), invoice details, and cost.

7.3.10 The service provider will be required to highlight exceptions to the CoJ in terms of repetitive repairs and/or` replacements.

7.3.11 Invoicing the CoJ for the actual cost of maintenance and repairs (without mark-up), carried out by third party maintenance providers.

7.3.12 Service providers must submit their proposals of how they intend processing the manufacturers service warranties and claims as and when they arise.

7.3.13 The Contractor will be liable for a penalty for each instance where it fails to provide the services as required.

7.4 AVAILABILITY REQUIREMENTS

7.4.1 Ensuring that each vehicle is available for the minimum required 85% of the Scheduled Operating Hours (SOH) per month,

7.4.2 The service provider will be required to capture and record the information of availability for each vehicle into an information system, including the scheduled operating hours of each vehicle, in order to monitor the achievement of availability and to report such availability accurately.

7.4.3 The successful service provider must inform the CoJ about the anticipated downtime on a vehicle that has been submitted for maintenance and/ or repairs.

7.4.4 The availability shall be calculated per Vehicle, and expressed as a percent of the Scheduled Operating Hours for each month, whereby:

7.4.5 The Daily Vehicle Working Hours (DVWH) shall be expressed either as 12 hours per day or as 24 hours per day.

7.4.6 Vehicle Working Days (VWD) shall be expressed either as seven (7) days/ week or as five (5) days/week.

7.4.7 The service provider must submit its proposed interventions that it will implement in order to achieve the availability service levels of any vehicle provided.

7.4.8 The service provider will be required to provide the following reports to the CoJ, in relation to the management and oversight of the vehicle:

7.4.9 A cumulative monthly report of all vehicles and the levels of availability maintained for each vehicle.

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7.4.10 A cumulative monthly report of all vehicles maintained, serviced and/or repaired during the preceding month/s, including the vehicle class/category, date of repair, description of the repair and total costs incurred in respect of maintenance, service and/or repairs.

7.5 PROVISION OF VMT SERVICES

7.5.1 Service providers must provide facilities to ensure that each vehicle is fitted with GPS enabled Vehicle Management Technology (VMT) and how the system will be managed.

7.5.2 The GPS enabled unit must be Insurance and OEM approved.

7.5.3 The VMT must not be open to human manipulation (Override).

7.5.4 Service providers must provide for specialized activity-based reporting.

7.5.5 Service providers must provide emergency alert in the form of a vehicle based as well as remote panic button system where required.

7.5.6 Service providers must arrange for the fitment of cameras to record activities on all Public Safety, Pikitup JCPZ vehicles and any other Users vehicle where required.

7.5.7 Service providers must provide an automated log-book facility for each vehicle and how this system will be managed.

7.5.8 The automated logbook facility must interface with the VMT.

7.5.9 The proposed system offered by the service provider must be capable of interfacing with existing or newly developed ICT platforms without significant/major cost to the CoJ.

7.5.10 Service providers must provide mechanism that will ensure that only authorized drivers are given access to utilise vehicles.

VMT must provide for:

- (a) Vehicle utilization exception, including utilization percentage
- (b) Use of vehicles outside normal working hours
- (c) Use of vehicles outside of geo-fenced areas
- (d) Excessive speed
- (e) Harsh braking
- (f) Excessive idling
- (g) Main battery disconnected
- (h) Daily unit health check.

7.6 PROVISION OF CALL CENTRE SERVICES

7.6.1 The CoJ requires vehicles to be supported through a CoJ dedicated call centre service wherein affected parties can call in to log their queries and report vehicle breakdowns and receive assistance.

7.6.2 Service providers must ensure that vehicles/ clients are supported in terms of call centre services (24/7). Calls should be responded to within a prescribed period (30 seconds) and all calls should be recorded. The call centre should be on a Free Call Facility (service providers will be required to provide evidence in this regard).

7.6.3 The call centre will respond to maintenance, breakdowns and service requests. Preference will be given to an integrated solution that ensures that the services/information are/is provided within the City environment and that the data can easily be interfaced with the operational information of the City.

7.6.4 The possibility of interface with CoJ ERP systems or platforms.

7.6.5 Service providers must provide a fully automated reports, not allowing for human intervention or manipulation of information, in terms of required reports.

7.6.6 The call abandonment rate should not exceed 5%

7.6.7 The service providers will be liable for a penalty for each instance where it fails to provide the services as required.

7.7 PROVISION OF BREAKDOWN AND ROADSIDE ASSISTANCE

7.7.2 The service provider must provide, facilitate and manage services related to vehicle breakdown, roadside assistance and towing services including but not limited to execution of the following responsibilities in relation thereto:

7.7.3 Service providers must ensure that the service are available on a 24/7/365 basis, through a toll-free help desk.

7.7.4 Service providers must manage the entire breakdown response process, ensuring continuous liaison and update to the relevant line manager and or driver until the breakdown is resolved.

7.7.5 The CoJ requires that a vehicle is attended (first call) to within 1 hour after the breakdown has been reported.

7.7.6 Service providers must ensure that breakdown calls are recorded and kept for future reference.

7.7.7 The CoJ requires security services for specified instances of breakdown, roadside assistance and accidents as and when required.

7.8 PROVISION OF AD-HOC RENTALS FOR THE NON-SPECIALISED FLEET

7.8.1 The service provider will be required to provide and manage services and facilities related to the Ad-Hoc rental of specified vehicles in accordance with CoJ requirements.

7.8.1 Service providers must provide Ad-Hoc vehicle requirements, including, but not limited to, the following:

- a) Ensuring that Ad-Hoc vehicles are made available at the required locations, as and when necessary and within the shortest possible period after a request (Maximum 4 hours).
- b) Assisting the CoJ to reasonably plan for Ad-Hoc vehicles in order to improve efficiency, quality, reliability, scheduling and the reduction of cost.
- c) Providing a call logging facility through which the CoJ can register a request, extension or termination of an Ad-Hoc vehicle.
- d) Ensuring that the Ad-Hoc vehicle is fit for the purposes required in terms of the Ad-Hoc vehicle request form; and that it is delivered to the correct location, as specified.
- f) Providing an analysis of all Ad-Hoc vehicles provided.
- g) Providing VMT facilities to track the movement of vehicles and service provider must propose how they will manage VMT on the Ad-Hoc rental vehicles.
- h) Providing a monthly report or relating to Ad-Hoc vehicles ordered and/or delivered for use, including reference number, date of order, date of delivery, vehicle category, term of rental, rental rate/cost, and kilometres travelled as well as indicate the delivery timing of the Ad- Hoc vehicle.
- i) Ensuring that each Ad-Hoc Vehicle delivered to the User Department is available for 100% of scheduled operating hours.
- j) Ad-Hoc rental usage will not exceed 120 days, unless specifically required.
- k) Service providers must provide pricing in terms of the Ad-Hoc rental unit rates (own format) including their mark-up for each vehicle category.

NB: AD-HOC GENERATOR/S RENTALS ARE SPECIFICALLY EXCLUDED FROM THIS CONTRACT.

7.9 PROVISION OF LICENSING SERVICES AND ELETRONIC TOLLING DEVICES.

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7.9.1 The service provider will be required to provide, facilitate and manage services to ensure that vehicles are registered and licensed at all times, including obtaining certificate of fitness (COF) and operator cards where necessary.

7.9.2 The service provider will be required to arrange for and provide facilities for registration and licensing of the specified vehicles in accordance with relevant legislation, including the registration of specified vehicles as emergency vehicles.

7.9.3 The CoJ will only pay for the actual registration or licencing of vehicles as and when required.

7.9.4 Service providers must fulfil the requirements of the City as it relates to the licensing of vehicles.

NB: ALL VEHICLES REGISTRATION AND LICENSE RENEWAL TRANSACTIONS MUST BE COMPLETED IN THE CITY OF JOHANNESBURG LICENSING OFFICES.

7.10 TRAFFIC FINE MANAGEMENT SERVICE

7.10.1 The service provider will be required to arrange for and provide facilities for the administration of driving licences as well as the redirection and settlement of traffic fines, including but not limited to:

- a) Registration and authorisation of each driver that has been approved to drive a vehicle managed by the successful service provider.
- b) Issuing each authorised driver with an electronic driver identification tag that is able to link each driver to a specific vehicle each time that the driver has driven such vehicle.
- c) Informing the CoJ of the validity of the driver's licenses or Professional Driving Permit of any driver that intends to use a vehicle.
- d) Redirecting all infringement notices in respect of relevant Vehicles in accordance with the AARTO regulations.
- e) Developing and maintaining an updated database of all authorized drivers and all other information or data relevant for the management and redirection of fines.
- f) Identifying repeat offenders and reporting same for intervention and management of the risk by the User Department Fleet Manager.
- g) Service providers must ensure that traffic fines are registered and administered timeously, including redirecting of fines to the relevant driver, where necessary.
- h) Service providers must ensure they manage the driver database.

7.11 NON-SPECIALISED VEHICLE CLEANING, LUBRICATION, SANITATION AND DECONTAMINATION SERVICES

7.11.1 The service provider will be required to arrange for and provide vehicle cleaning services for the vehicles in accordance with manufacturer's specifications/ recommendations and pre-agreed schedules.

7.11.2 Service providers must ensure that the vehicles and equipment will be cleaned/ sanitized regularly, including the decontamination, e.g. primary response vehicles.

7.11.3 Service providers must ensure that cleaning and sanitization of vehicle fitments are completed as required by the OEM's.

7.11.4 Service providers must provide monthly reports indicating each vehicle that was cleaned, lubricated, sanitised and decontaminated.

7.12 PROVISION OF VEHICLE INSURANCE AND INSURANCE CLAIM REPORTING

7.12.1 The successful service provider/s are not required to quote/cost for insurance, CoJ has inhouse insurance.

7.13 PROVISION OF FLEET ADMINISTRATION AND PERFORMANCE REPORTING SERVICES

7.13.1 The service providers will be required to arrange for and provide all facilities for proper administration of the fleet.

7.13.2 Service providers must ensure that proper administration of fleet will be adhered to within a governance framework (MFMA).

7.14 COST REDUCTION, REBATES AND DISCOUNTS

7.14.1 The service provider/s will be required to ensure that assets and services are used optimally, and that cost are reduced, contained or averted (where possible) in relations to the services.

The service provider/s will be required to pass all volume-based discounts directly to the City.

7.14.2 Service providers must ensure cost reduction, including rebates and discounts that they can/will secure in relation to each of the services on behalf of the City in this regard.

7.15 AVAILABILITY, LOSS CONTROL AND COMPLIANCE MANAGEMENT

7.15.1 Service providers must ensure the availability of goods/services required in terms of this bid are achieved and to ensure that losses are controlled/ avoided. Service providers must note that the City will levy penalties for service level failures. The availability, loss control and compliance management mechanisms must be articulated in detail as stipulated in the terms of the bid

7.16 PERFORMANCE REPORTING

7.16.1 The service providers will be required to collect, maintain and provide “up to date” vehicle information (including exceptions), management records and related reports to stakeholders and line managers periodically.

7.16.1 Service providers must supply fleet management software, that they will implement within the City’s environment (SAP) to facilitate the efficient management of the fleet in consultation with Group ICT. CoJ must be granted full access to the FMS for viewing and extracting reports.

7.16.1 Service providers must propose a reporting regime that includes, but not be limited to:

- a) Detailed operational exception reports (Daily and Weekly);
- b) Detailed consolidated operational reports with detailed analysis, exceptions and interventions/ solutions (Monthly);
- c) Comparative summary reports with trend analysis and projections (Quarterly);
- d) Cumulative reports with trend analysis and projections (Annually).

The system needs to be fully operational within three (3) months after award of the contract.

7.17 FLEET PERFORMANCE REPORTING

7.17.1 Service providers must provide specific mechanisms and systems that they will use to report performance in relation to the following fleet performance indicators:

- a) Vehicle Availability Ratio - To measure and report on the average time that a vehicle is available for use during any scheduled operating time or shift.
- b) Vehicle Utilization Ratio - To measure and report on the extent to which the vehicles are used.
- c) Spare Capacity Ratio - To measure whether sufficient vehicles are available to perform work to the required service level standards and to justify the fleet size or population.

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d) Measure and report on the Cost-to-Service Ratio.

e) Measure and report on the adequacy of the maintenance regime, this will include the provision of the fleet replacement methodology which will assist in determining whether vehicles should be replaced or retained in the fleet.

The reports must be presented to the City and Moe' s within three **(3) months after award of the contract.**

7.18 OPERATING PROCEDURES

7.18.1 The service providers will be required to develop and maintain standard operating procedures that will be applicable in the provision of services in line with the requirements of the City.

7.18.2 Service providers must submit draft operating procedures (by way of flow process chart) to demonstrate their understanding of the processes required in the provision of services.

7.18.3 The drafts will also be used as a basis in the event that the service provider is successful in their bid to provide services.

The final operating procedures must be presented to the City and Moe' s within three (3) months after award of the contract.

7.19 SKILLS TRANSFER TO CITY EMPLOYEES

7.19.1 The service providers are required to train CoJ employees (drivers) on product specifications.

7.19.2 The service providers are required to train CoJ employees (fleet managers) on fleet management annually, three people per User Group.

7.20 SERVICE STANDARDS AND COMPLIANCE TO SERVICE LEVEL STANDARDS

7.20.1 The contract will be for a period of 60 months.

7.20.2 The service provider will be required to ensure that the solutions proposed in the bid are in line with the industry norms and standards, including but not be limited to the designs and developments in the market.

7.20.3 The service provider will be required to maintain compliance with relevant service levels and to report any non-compliance detected to the CoJ.

7.20.4 The CoJ will use the reports or documentation provided by the service providers as well as its own records to confirm instances of non-compliance and levy the applicable penalties.

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7.20.5 Service providers should note that penalties will be implemented by the CoJ in order to ensure compliance to agreed service levels, where the failure is as a result of the service provider's own fault or negligence.

7.21 PRICING

7.21.1 Service providers must provide costing reflecting the actual cost of goods or services, cost of acquiring the goods and services from third party providers, the cost of providing the services in-house, as well as any levies and fees payable by service provider to secure the goods and services on behalf of the CoJ.

7.21.2 Service providers must provide a complete pricing on the rate card provided by CoJ. Responsive proposals will be tested for affordability, value for money, and optimal risk transfer based on the CoJ's best assessments of the key cost drivers, the quoted rates and other pricing information provided by the service providers.

7.22 RE-ASSESSMENT OF ACTUAL KILOMETRES

7.22.1 The service provider together with CoJ will be required to re-assess actual kilometers utilized for each vehicle bi-annually. Average KMs travelled by each CoJ User is 2500 per month, with the exception of

JMPD, JW(meter reading vehicles), JPCZ (maximum 15 vehicles) with an average of 4500km.

The City reserves the right to increase the number of vehicles that averages 4500km.

7.23 SOCIAL INVESTMENT AND TRANSFORMATION

7.22.1 The CoJ is committed to integrated and coherent socio-economic empowerment for a direct contribution to the economic transformation of the country.

7.22.2 In accordance with the Department of Trade and Industry's BBBEE Codes of Good Practice and on an annual basis, the service provider shall ring fence and contribute a percentage (at least 1%) of its audited net profit after tax arising from this contract towards Social Investment and Transformation initiatives within the municipal boundaries of the CoJ.

7.22.3 The service provider and the CoJ shall collaborate and agree on relevant projects, allocation of resources and areas in need of support in order to address the social transformation issues within the context of the City's Growth and Development Strategy (GDS). Projects to be targeted may include

donations to specified charity organizations, other charitable causes, bursaries, etc. This will be monitored annually.

7.22.4 The service provider shall adhere to and comply with the Social Investment and Transformation commitments as submitted to the City in its tender submission. Where the service provider fails to ring fence and contribute towards the Socio-Economic Transformation initiatives, it shall be liable for a Penalty equal to two percent (2%) of the amount of the shortfall on the anticipated contribution.

N.B. SERVICE PROVIDERS MUST REPORT AND PROVIDE EVIDENCE OF THE 1% SOCIAL INVESTMENT AND TRANSFORMATION ANNUALLY.

8. PAYMENT CONDITIONS

8.1 All payments to the Service Provider under this Agreement shall be made in South African Rands.

8.2 All amounts are VAT inclusive and shall be in line with the National Treasury rates approved for the Service Provider in the main SLA.

8.3 The Service Provider shall submit original invoices (which must reflect the Service Provider's official Stamp or an original signature and official letterhead), along with the relevant supporting documentation, invoices to be submitted directly to the User entities, where services are consumed by each User entity.

8.4 Service Notes issued by the City's representative officials confirming the completion of the Services shall be deemed to be supporting documentation for purposes of payment in terms of this Agreement, unless otherwise stipulated in writing by the City.

8.5 All payment related documentation including this Agreement, quo invoices, supporting documentation etc. should be delivered in line with the agreement to be signed with the City's designated officials after the Services have been rendered;

The City shall only make payment upon the receipt of all documentation with no exception. Payment shall be due and payable within thirty (30) Days after receipt of the valid and original invoice and supporting documentation by the City's Contract Manager.

8.6 The factors and conditions to be considered before the issuing of a Service Note shall be within the sole discretion of the City, provided that the City applies the principles of good faith and reasonableness in its assessment.

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8.7 The Service Provider shall ensure that any invoices submitted to the City for payment shall contain the following details:

8.8 the Purchase Order Number which shall be provided to the Service Provider by the City;

8.9 the Contract Reference Number as stipulated in this agreement;

8.10 name and address of the Service Provider;

8.11 bank details where payment must be made identical to banking details provided upon appointment of the Service Provider, unless otherwise amended in writing by the Service Provider; and

8.12 where the Service Provider is a VAT registered concern, tax invoices must specify the amount of VAT payable.

8.13 The Service Provider undertakes to take all reasonable care in ensuring that incorrect invoices and documentation are not submitted indemnifies the City against any and all losses occasioned as a result of incorrectly submitted invoices and supporting documentation.

8.14 If the City objects to an item or part of an item in the invoice then the City shall give written notice to the Service Provider within 5 (Five) business days of receipt of such invoice together with the reasons for such objection, to the Service Provider and shall not delay payment of the uncontested amount.

8.15 The Service Provider shall maintain up to date records of time and costs incurred in the performance of the Services.

8.16 Notwithstanding any term of this Agreement, the Service Provider shall without additional charge to the City make such additions, modifications, or amendments to the output documentation provided in terms of the Services. These shall be limited to the correction of mistakes, defects or problems discovered and reported by the City in writing. The City may only rely on this clause if notice is provided to the Service Provider within one (1) month after the receipt date.

9. OBLIGATIONS OF THE PARTIES

9.1 The Service Provider shall:

9.2 Ensure that it complies with all the relevant terms of the Special Conditions of Contract;

9.3 Ensure that all required documents remain valid throughout the contract period;

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- 9.4 Comply with all applicable laws, by-laws and regulations, provide and maintain such necessary management skills to effectively manage and supervise its operation;
- 9.5 Provide its Personnel with all equipment and resources necessary for their performance of the Services;
- 9.6 Ensure that the best interests of the City are served when performing the Services.
- 9.7 Keep accurate records of Services and on instruction from the City collect and submit the records and any documentation, report or other materials associated with the Services.
- 9.8 Produce statistics arising from the Services that may be required by the City when requested to do so;
- 9.9 Communicate all information, findings and knowledge gained during the Services that is, or may be, beneficial to the City.
- 9.10 Be truthful in their dealings with the City or in all instances. This entails that they must at all times avoid situations of conflict of interest. Where any potential or actual conflict of interest exists, the Service Provider shall immediately notify the City thereof in writing.
- 9.11 Provide the required Services diligently and in a professional manner. The Service Provider shall exercise all reasonable skill, care and diligence in discharging its obligations in terms of this Agreement.
- 9.12 Render the required services in a timely manner and the Service Provider will use reasonable endeavours to adhere to the time limits agreed upon. Where no time limits are agreed, the Services will be rendered within a reasonable period and where necessary, in accordance with prevailing legislation. Where matters of urgency arise the Service Provider agrees to use its best endeavours to deal with the matter as quickly as possible.
- 9.13 Assist the City to save costs and not to overcharge or inflate costs. The Service Provider shall adhere to the rates of charges stated in the letter of appointment and as per submission in the bid document.
- 9.14 The Service Provider warrants that it is fully entitled to enter into this agreement;

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- 9.16 The Service Provider warrants that it possesses and has the right to use knowledge and sufficient expertise to enable it to provide the Services in terms of this agreement.
- 9.17 Avoid any undue delay in carrying out its obligations in terms of this agreement;
- 9.18 Comply with all applicable legislation as may be amended from time to time;
- 9.19 Provide the Services in accordance with industry best practices;
- 9.20 At all times exercise all reasonable skill, care and diligence in providing the Services and in the performance of all its obligations in terms of this Agreement;
- 9.21 Refrain from engaging in any activity that may prejudice the business of the City or place it at risk.
- 9.22 Act as an independent Service Provider in respect of the Services;
- 9.23 attend meetings with officials of the City to obtain information or advice with regard to the Services;
- 9.23.1 at all times during the execution of Services adhere to all professional standards, relevant legislation and laws of the Republic of South Africa;
- 9.23.2 advise the City in matters relating to the Services and, in so far as any of its duties are discretionary, use all reasonable endeavors to act fairly between the City and third parties;
- 9.24 The City shall:
- 9.24.1 make payment in accordance with clause 10 above; and
- 9.24.2 supply all reasonable, relevant, available data and information required and requested by the Service Provider for the proper execution of the Services.
- 9.24.3 Provide such assistance as reasonably required by the Service Provider in carrying out its duties in terms of this Agreement.



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- 9.24.4 Comply with all applicable laws, including, but not limited to the Local Government: Municipal Finance Management Act, 56 of 2003 and the Public Finance Management Act, 1 of 1999;
- 9.24.5 At all times act in good faith towards the Service Provider, free of any fraudulent or dishonest conduct;
- 9.24.6 Provide such assistance as may be required by the Service Provider in order for the Service Provider to deliver the Services to the City.
- 9.25 The Parties record that the relationship envisaged by them and created by this Agreement is that of principal (The City) and independent contractor (the Service Provider) and is not one of employment or of agency of any sort.
- 9.26 Failure by the Service Provider to deliver any or all of the goods or to perform the services within the period specified in this Agreement or the Transversal Contract, shall be dealt with in accordance with the applicable clauses in the General Conditions of Contract and the Special Conditions of Contract and/or any other directive as may be issued by National Treasury.

10 CONTRACT MANAGEMENT

10.22 Each Party shall appoint a designated Contract Manager as liaison for this Agreement.

10.23 The City's Contract Manager shall be:

Name :
Designation :
Telephone number :
Email :

24.3 Service Provider's Contract Manager:

Name :
Designation :
Telephone number :
E-mail :

10.24 The City's Contract Manager shall:

10.24.1 co-ordinate the daily activities of this Agreement between the Parties;

10.24.2 hold at least 1 (one) meeting for every 1 (one) month with the Service Provider for the duration of the Contract unless otherwise agreed to by the Parties, to discuss the performance of the service provider.

10.24.3 Arrange meetings with the service provider and maintain minutes, attendance registers and all records of the meetings.

10.24.4 Complete and sign the monthly supplier performance monitoring questionnaire, inform the service provider of such completion, and ensure that the

service provider makes inputs and signs the questionnaire.

10.25 The Service Provider's Contract Manager shall:

10.25.1 Meet with the City's Contract Manager once a month to discuss the performance of the Service Provider for the duration of the contract. These meetings are compulsory.

10.25.2 Make inputs to and sign a supplier performance monitoring questionnaire completed by the City's Contract Manager on a monthly basis for the duration of the contract.

11 REPORTING

The Service Provider shall provide a monthly report to the City in relation to its obligations in terms of this Agreement.

12 WARRANTIES

The Service Provider warrants that:

12.22 it has the all the required skill, expertise and experience to provide the Services;

12.23 it holds and maintains any and all such licenses, permits, approvals, authorisation, rights, clearances, consents, exemptions and registrations from any person, organization, or authority as may be necessary to fulfil their obligations and warranties under this Agreement for the term hereof;

12.24 it shall not do anything that will be defamatory, injurious or in any way bring the City, or any other party into disrepute or expose the Parties to any action, claim or demand by any third party arising out of any intentional or negligent act or omission on the part of any of the Parties or its employees, or any other person(s) acting under its authority with regard to the provisions of this Agreement;

12.25 ;

12.26 all representations and warranties made by it, shall remain true and in force during the term of this Agreement.

13 INTELLECTUAL PROPERTY RIGHTS

13.22 All intellectual property rights created, acquired or otherwise obtained, including but not limited to copyright in documents and operational analysis, concepts, ideas, methods, methodologies, procedures, processes, know-how, techniques, models, templates; generalized features of the structure, sequence and organisation of software, user interfaces and screen designs; general purpose consulting and software tools, utilities and routines; and logic, coherence and methods of

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operation systems, related to and in the reports, documents, databases developed and supplied prior to the conclusion of this Agreement shall remain the sole property and right of each party responsible for such creation or acquisition.

13.23 Except for cases where a license is expressly granted in writing, neither Party shall acquire any right or interest in the other Party's Intellectual Property stated above in clause 16.1.

13.24 Each Party (the "**warranting party**") warrants that no aspect of its Intellectual Property rightfully utilised by the other Party in terms of this Agreement will infringe any patent, design, copyright, trade secret or other proprietary right of any third party ("**third party proprietary rights**"), and the warranting party shall, at its cost, defend the other Party against any claim that the Services infringe any such third party proprietary rights, provided that the other Party gives prompt notice to the warranting party of such claim, the warranting party controls the defence thereof, and the Parties agree to co-operate and provide reasonable support to each other in the defence of the claim.

15.4. The City will assume intellectual property rights all data and information obtained during the course of this Agreement and reserves the right to use these items as it deems fit .

13.25 5.4.5 No documents may be reproduced, copied or distributed without the consent of the City.

13.26 5.4.4 The City will assume intellectual property rights all data and information obtained during the course of this Agreement and reserves the right to use these items as it deems fit .

13.27 5.4.5 No documents may be reproduced, copied or distributed without the consent of the City.

14 CONFIDENTIALITY

14.22 The Parties undertake and warrant that they will not directly or indirectly divulge or communicate, or use for their own purpose confidential information not connected with the Service Level Agreement, or otherwise permit to be divulged or communicated by them or by any consultant, officer, employee or agent of either any Party, any confidential information supplied to it by the other Parties in respect of the Service Level Agreement to any unauthorised person.

14.23 The restrictions above shall not apply to information to the extent that the Party to this Agreement in possession of it ("possessing party") can show that:

14.23.1 the information is in the public domain otherwise than by virtue of a breach of this Agreement; or

14.23.2 the information was expressly permitted to be disclosed by the other; or

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- 14.23.3 the information was independently developed or created by the possessing Party otherwise than for the purposes of or relating to this Agreement; or
- 14.23.4 disclosure is required by law; or
- 14.23.5 such information related only to this Agreement and is required by any regulatory body;
- 14.23.6 the disclosure of same by the possessing Party to its legal advisers, auditors or other professional advisors for any purpose connected with this Agreement provided that they in turn keep the same confidential in accordance with this clause 19.
- 14.24 "**Confidential information**" for the purpose of this Agreement, means any and all technical and marketing information, data, formulae, specifications, photographs, designs, drawings, proposals, samples, and other material relating to the SLA and furnished or disclosed by any one Party to another.
- 14.25 The undertakings contained in this clause shall terminate on the 3rd (third) anniversary of the termination of this Agreement.
- 15 ANTI-CORRUPTION AND GOOD FAITH**
- 15.22 In implementing this Agreement and in all further dealings with each other, the Parties undertake to observe utmost good faith and to give effect to the intent and purpose of the Agreement.
- 15.23 In recognition of the principles enshrined in the pertinent international and regional conventions on combating corruption and to ensure compliance with the anti-corruption laws applicable to the activities under this Agreement and any other anti-corruption laws otherwise applicable to the Parties, such as the South African Prevention and Combating of Corrupt Activities Act, 12 of 2004, the U.S. Foreign Corrupt Practices Act 1977, the UK Bribery Act 2010, the French Anti-Corruption Act, 2016-1691 and other public and commercial anti-bribery laws which may apply.
- 15.24 The Parties in respect of this Agreement, the matters that are the subject of this Agreement or otherwise, warrants that neither it nor to its knowledge anyone on its behalf, has made or offered or received nor will make or offer or receive any payment, gift, or promise or give any advantage, whether directly or through an intermediary, to or for the use of any public official, where such payment, gift, promise or advantage would be for purposes of:
- 15.24.1 influencing any act or decision of such public official;
- 15.24.2 inducing such public official to do or omit to do any act in violation of his or her lawful duties;
- 15.24.3 securing any improper advantage; or

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15.24.4 inducing such public official to use his or her influence to affect any act or decision of any department, agency or instrumentality of any government or public enterprise.

15.25 The Service Provider shall not make or cause to be made any offer, gift or payment or consideration or benefit of any kind, which would or could be construed as an illegal or corrupt practice, either directly or indirectly to any Party, as an inducement or reward in relation to relaxation of any provision in the execution of this Agreement. Any such practice will constitute a ground for termination of this Agreement.

16 CONFLICT OF INTEREST

16.22 Unless agreed in writing between the Parties, neither the Service Provider nor the City and their employees shall have an interest or receive remuneration in connection with this Agreement except as provided in this Agreement and agreed upon by the Parties.

16.23 the City and the Service Provider shall not engage in any activity, which may conflict with the interest of the City in terms of this Agreement.

17 FORCE MAJEURE

17.22 Neither Party shall be responsible for or liable due to any failure to observe its obligations in terms of this Agreement where such failure or liability is due to any event of *force majeure*.

17.23 A Party claiming *force majeure* hereunder shall notify the other Party within seven (7) business days of the circumstances of such *force majeure* event arising and, when known, of the likely duration of the *force majeure* event and shall use all reasonable diligence to remedy the *force majeure* event, or to avoid or minimize the consequences of suspending performance of the obligation affected by the *force majeure* event, provided that nothing herein shall require such Party to settle strikes or other labour disputes contrary to its interest, and shall continue with its obligations after the *force majeure* event has ceased to exist. Except as otherwise provided in sub clause 21.3, performance of the obligations affected by the *force majeure* event shall be deemed suspended for as long as such *force majeure* event continues to prevent or delay performance.

17.24 If any event(s) of *force majeure* continues for a period in excess of seven (7) Days, a Party not claiming *force majeure* may elect, at its sole discretion and upon written notice to the other Party, to terminate this Agreement.

18 DISPUTE RESOLUTION

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21.1 Any dispute arising from or in connection with this Agreement shall be dealt with in accordance with the applicable clauses in the General Conditions of Contract and the Special Conditions of Contract or any other directive as may be issued by National Treasury.

21.4 For the purposes of clause 21.1 and for the purposes of having any award being made an order of court, each of the Parties hereby submits itself to the non-exclusive jurisdiction of the North Gauteng High Court of South Africa.

21.5 This clause 21 -

21.5.1 Is severable from the rest of this Agreement and shall, notwithstanding the termination, cancellation, invalidity or alleged invalidity of this Agreement or any part of it for any reason, remain in full force and effect;

21.5.2 Constitutes an irrevocable consent by the Parties to any proceedings in terms hereof and no Party shall be entitled to withdraw therefrom or to claim in any such proceedings that it is not bound by this clause 21.

19 BREACH

19.22 Should any of the Parties commit a breach of its obligations under this Agreement, the non-defaulting Party shall give the defaulting Party written notice, calling upon the defaulting Party to remedy the breach or default within a period of fourteen (14) business Days.

19.23 If the defaulting Party fails to remedy the breach within the period stipulated in clause 26.1, the non-defaulting Parties will be entitled to cancel this Agreement without prejudice to any other rights which the Parties may have against the defaulting Party.

19.24 The remedies set out above shall not be construed to be exhaustive of any other remedies available to the Parties.

20 PENALTIES

In addition to the Penalties prescribed in Clause 9;

If the Service Provider fails to deliver any or all of the goods within the period specified in the contract, the City of Johannesburg may consider terminating the contract in terms of Clause 24 below.

The City of Johannesburg may also blacklist the service provider from doing business with the State, in the case of a breach of contract, non-performance, poor performance, failure to deliver as per the contractual obligations.

21. TERMINATION

20.22 The Parties may by thirty (30) Days prior written notice to the other Party terminate this Agreement at any time, if reasonable grounds for termination arise.

20.23 If either Party wishes to terminate this Agreement such termination, and the terms thereof, will be subject to agreement between the Parties, to be recorded in writing.

22. DOMICILIUM CITANDI ET EXECUTANDI

22.1 Any notice in terms of this Agreement may be hand delivered to the physical address of the Parties, in which event proof of acknowledgment shall be endorsed upon a copy of the notice together with the name of the recipient and date of receipt, or may be sent by registered post to the nominated postal address of the Parties, in which event a proof of receipt by the relevant postal authority will serve as proof.

22.2 The Service Provider chooses for the purpose of this Agreement its ***domicilium citandi et executandi*** as follows:

Street Address: 3 Bauhinia Street
Oxford Office Park
Centurion
0157

The Service Provider's designated representative:

Name: Mr. Senzo Tsabedze
Chief Executive Officer Director
AFRIRENT (PTY) LIMITED
Contact numbers: n/a

22.3 The City chooses for the purpose of this agreement its ***domicilium citandi et executandi*** as follows:

Street address: 158 Civic Boulevard
Braamfontein

2000

Postal Address: P O Box 31244
Braamfontein
2017

The City's designated representative:

Name: Dr Hennie Lubuschagne
Rank: Group Executive Director
E-mail: t/a

22.4 Any Party to this Agreement may change its **domicilium citandi et executandi** by giving the other Party thirty (30) Days' notice as prescribed above.

23. GENERAL

23.1 This Agreement, including this clause, the Main SLA, General Conditions of ct and Special Conditions of Contract constitutes the whole Agreement between the Parties and no agreements, representations or warranties between the Parties regarding the subject matter hereof other than those set out herein are binding on the Parties.

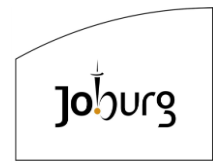
23.2 No amendment, consensual cancellation of this Agreement, waiver of any rights arising from this Agreement, nor breach or termination shall be of any force and effect unless reduced to writing and signed by all the Parties or their duly authorized representatives.

23.3 Any indulgence permitted or allowed by any Party to the other Parties in respect of the performance of any obligation hereunder, shall in any circumstances be construed to be implied consent or election by such Party or operate as a waiver or novation of or otherwise affect any of the Party's rights in terms of this Agreement or estop or preclude such Party from enforcing at any time and without notice, compliance with the terms of this Agreement.

23.4 The Parties undertake to perform their obligations under this Agreement in utmost good faith.

23.5 Each Party shall bear its own costs in the negotiation, preparation and finalization of this Agreement.

23.6 No Party shall cede, assign or otherwise alienate this Agreement without prior written consent of the other.



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23.7 If any clause or provision of this Agreement is found to be invalid, illegal or unenforceable in any way, such clause or provision shall be deemed to be separate and severable from the remaining provisions of this Agreement, and the validity and enforceability of those provisions shall not be affected.

23.8 Each of the Parties undertakes in favour of the other that it will not make any releases or public announcement to the press or other media on any issue pertaining to this Agreement without first having obtained the prior written consent of the other of them.

24. GOVERNING LAW

The Acts, the laws and the legal principles of the Republic of South Africa determine the interpretation of the provisions of this Agreement.

25. VARIATION

No variation of this Agreement or any part thereof shall be of any force or effect unless in writing and signed by or on behalf of the Parties

26. ATTESTATION

The Parties hereby acknowledge having read and signed this Agreement, the contents of which are understood and accepted by both the undersigned Parties.

Signed at _____ on this _____ day of July 2022

For the City (GCSS) _____

WITNESSES:

1. _____

2. _____

Signed at _____ on this _____ day of July 2022

For the Service Provider (AFRIRENT) (Pty) Ltd _____

WITNESSES:

1. _____

2. _____

DRAFT FOR PUBLIC PARTICIPATION