

**PART A  
INVITATION TO BID**

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)</b>					
BID NUMBER:	LCX/2024/25-1	CLOSING DATE:	15 NOVEMBER 2024	CLOSING TIME:	11H00
DESCRIPTION	APPOINTMENT OF A SERVICE PROVIDER TO PROVIDE LEASED LINES FOR THE LIMPOPO CONNEXION BROADBAND NETWORK FOR A PERIOD OF 12 MONTHS.				
<b>BID RESPONSE DOCUMENTS MAY BE EMAILED TO</b>					
<a href="mailto:Maxine.Mothotse@lieda.co.za">Maxine.Mothotse@lieda.co.za</a>					
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</b>			<b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b>		
CONTACT PERSON	Maxine Mothotse		CONTACT PERSON	Thulani Xhakaza	
TELEPHONE NUMBER			TELEPHONE NUMBER		
FACSIMILE NUMBER			FACSIMILE NUMBER		
E-MAIL ADDRESS	<a href="mailto:Maxine.mothotse@lieda.co.za">Maxine.mothotse@lieda.co.za</a>		E-MAIL ADDRESS	<a href="mailto:thulani.xhakaza@lcx.co.za">thulani.xhakaza@lcx.co.za</a>	
<b>SUPPLIER INFORMATION</b>					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
<b>QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>					
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? <input type="checkbox"/> YES <input type="checkbox"/> NO					
DOES THE ENTITY HAVE A BRANCH IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO					
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO					
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO					
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? <input type="checkbox"/> YES <input type="checkbox"/> NO					
<b>IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.</b>					

## PART B TERMS AND CONDITIONS FOR BIDDING

### 1. BID SUBMISSION:

- 1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
- 1.2. **ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED-(NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.**
- 1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
- 1.4. **THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).**

### 2. TAX COMPLIANCE REQUIREMENTS

- 2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
- 2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
- 2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE [WWW.SARS.GOV.ZA](http://WWW.SARS.GOV.ZA).
- 2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
- 2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
- 2.6 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
- 2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

**NB: FAILURE TO PROVIDE / OR COMPLY WITH ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.**

SIGNATURE OF BIDDER: .....

CAPACITY UNDER WHICH THIS BID IS SIGNED: .....  
(Proof of authority must be submitted e.g. company resolution)

DATE: .....

**PRICING SCHEDULE**  
**(Professional Services)**

NAME OF BIDDER: .....	BID NO.: .....
CLOSING TIME 11:00	CLOSING DATE..... 15/11/2024.....

OFFER TO BE VALID FOR 180 DAYS FROM THE CLOSING DATE OF BID

ITEM NO	DESCRIPTION	BID PRICE IN RSA CURRENCY **(ALL APPLICABLE TAXES INCLUDED)
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1. The accompanying information must be used for the formulation of proposals.
2. Bidders are required to indicate a ceiling price based on the total estimated time for completion of all phases and including all expenses inclusive of all applicable taxes for the project. R.....

3. PERSONS WHO WILL BE INVOLVED IN THE PROJECT AND RATES APPLICABLE (CERTIFIED INVOICES MUST BE RENDERED IN TERMS HEREOF)

4. PERSON AND POSITION	HOURLY RATE	DAILY RATE
-----	R-----	-----

5. PHASES ACCORDING TO WHICH THE PROJECT WILL BE COMPLETED, COST PER PHASE AND MAN-DAYS TO BE SPENT

-----	R-----	----- days

5.1 Travel expenses (specify, for example rate/km and total km, class of airtravel, etc). Only actual costs are recoverable. Proof of the expenses incurred must accompany certified invoices.

DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY	AMOUNT
-----	.....	.....	R.....
-----	.....	.....	R.....
-----	.....	.....	R.....
-----	.....	.....	R.....

TOTAL: R.....



\*\* "all applicable taxes" includes value- added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies.

5.2 Other expenses, for example accommodation (specify, eg. Three star hotel, bed and breakfast, telephone cost, reproduction cost, etc.). On basis of these particulars, certified invoices will be checked for correctness. Proof of the expenses must accompany invoices.

DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY	AMOUNT
.....	.....	.....	R.....
.....	.....	.....	R.....
.....	.....	.....	R.....
.....	.....	.....	R.....

TOTAL: R.....

- 6. Period required for commencement with project after acceptance of bid .....
- 7. Estimated man-days for completion of project .....
- 8. Are the rates quoted firm for the full period of contract? \*YES/NO
- 9. If not firm for the full period, provide details of the basis on which adjustments will be applied for, for example consumer price index. ....  
 .....  
 .....  
 .....

\*[DELETE IF NOT APPLICABLE]

Any enquiries regarding bidding procedures may be directed to the –

Name :.....

Address :.....

Tel :.....

Or for technical information –

Name :.....

Address :.....

Tel :.....

**BIDDER'S DISCLOSURE**

**1. PURPOSE OF THE FORM**

Any person (natural or juristic) may make an offer or offers in terms of this invitation to bid. In line with the principles of transparency, accountability, impartiality, and ethics as enshrined in the Constitution of the Republic of South Africa and further expressed in various pieces of legislation, it is required for the bidder to make this declaration in respect of the details required hereunder.

Where a person/s are listed in the Register for Tender Defaulters and / or the List of Restricted Suppliers, that person will automatically be disqualified from the bid process.

**2. Bidder's declaration**

2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest<sup>1</sup> in the enterprise, employed by the state? **YES/NO**

2.1.1 If so, furnish particulars of the names, individual identity numbers, and, if applicable, state employee numbers of sole proprietor/ directors / trustees / shareholders / members/ partners or any person having a controlling interest in the enterprise, in table below.

Full Name	Identity Number	Name of State institution

2.2. Do you, or any person connected with the bidder, have a relationship with any person who is employed by the procuring institution? **YES/NO**

2.2.1 If so, furnish particulars:  
 .....  
 .....

2.3 Does the bidder or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest in the enterprise have any interest in any other related enterprise whether or not they are bidding for this contract? **YES/NO**

<sup>1</sup> the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person/s having the deciding vote or power to influence or to direct the course and decisions of the enterprise.

2.3.1 If so, furnish particulars:

.....  
 .....

**3 DECLARATION**

I, the undersigned, (name)..... in submitting the accompanying bid, do hereby make the following statements that I certify to be true and complete in every respect:

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium<sup>2</sup> will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.
- 3.6 I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

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<sup>2</sup> Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.



**PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022**

This preference form must form part of all tenders invited. It contains general information and serves as a claim form for preference points for specific goals.

**NB: BEFORE COMPLETING THIS FORM, TENDERERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022**

**1. GENERAL CONDITIONS**

1.1 The following preference point systems are applicable to invitations to tender:

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

**1.2 To be completed by the organ of state**

*(delete whichever is not applicable for this tender).*

- a) The applicable preference point system for this tender is the 80/20 preference point system.
- b) 80/20 preference point system will be applicable in this tender. The lowest/ highest acceptable tender will be used to determine the accurate system once tenders are received.

1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:

- (a) Price; and
- (b) Specific Goals.

**1.4 To be completed by the organ of state:**

The maximum points for this tender are allocated as follows:

	POINTS
<b>PRICE</b>	80
<b>SPECIFIC GOALS</b>	20
<b>Total points for Price and SPECIFIC GOALS</b>	<b>100</b>

1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.

1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

## 2. DEFINITIONS

- (a) **“tender”** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
- (b) **“price”** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- (c) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (d) **“tender for income-generating contracts”** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and
- (e) **“the Act”** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

## 3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

### 3.1. POINTS AWARDED FOR PRICE

#### 3.1.1 THE 80/20 PREFERENCE POINT SYSTEMS

A maximum of 80 points is allocated for price on the following basis:

**80/20**

$$P_s = 80 \left( 1 - \frac{P_t - P_{min}}{P_{min}} \right)$$

Where

$P_s$  = Points scored for price of tender under consideration

$P_t$  = Price of tender under consideration

$P_{min}$  = Price of lowest acceptable tender

### 3.2. FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT

#### 3.2.1. POINTS AWARDED FOR PRICE

A maximum of 80 or 90 points is allocated for price on the following basis:

**80/20**

**or**

**90/10**

$$P_s = 80 \left( 1 + \frac{P_t - P_{max}}{P_{max}} \right) \quad \text{or} \quad P_s = 90 \left( 1 + \frac{P_t - P_{max}}{P_{max}} \right)$$

Where

$P_s$  = Points scored for price of tender under consideration

$P_t$  = Price of tender under consideration

$P_{max}$  = Price of highest acceptable tender

**4. POINTS AWARDED FOR SPECIFIC GOALS**

4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:

4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—

(a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system: or

(b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,

then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

**Table 1: Specific goals for the tender and points claimed are indicated per the table below.**

*(Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.*

*Note to tenderers: The tenderer must indicate how they claim points for each preference point system.)*

The specific goals allocated points in terms of this tender	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (80/20 system) (To be completed by the tenderer)	Means of verification
Black people ownership equity	6		Central Supplier Database and company registration documents
Women equity	3		Central Supplier Database and company registration documents
Youth equity	3		Central Supplier Database and company registration documents
Disability	2		Medical certificate or equivalent
Promotion of small businesses	3		Staff complement and annual turnover
Enterprises located within Limpopo	3		Proof of address

**5. DECLARATION WITH REGARD TO COMPANY/FIRM**

5.1. Name of company/firm.....

5.2. Company registration number: .....

5.3. TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
- One-person business/sole propriety
- Close corporation
- Public Company
- Personal Liability Company
- (Pty) Limited
- Non-Profit Company
- State Owned Company

[TICK APPLICABLE BOX]

5.4. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
  - (a) disqualify the person from the tendering process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation.
  - (d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
  - (e) forward the matter for criminal prosecution, if deemed necessary.

	..... <b>SIGNATURE(S) OF TENDERER(S)</b>
<b>SURNAME AND NAME:</b>	.....
<b>DATE:</b>	.....
<b>ADDRESS:</b>	.....
	.....
	.....

**TERMS OF REFERENCE  
FOR**

**APPOINTMENT OF A SERVICE PROVIDER TO PROVIDE LEASED  
LINES FOR THE LIMPOPO CONNEXION BROADBAND NETWORK FOR  
A PERIOD OF 12 MONTHS**

**REQUEST FOR BIDS (RFB): LCX/2024/25-1**

**CLOSING DATE : 15 NOVEMBER 2024**

**CLOSING TIME : 11H00**

**VALIDITY PERIOD : 180 DAYS**

## **1. BACKGROUND**

Limpopo Connexion (LCX) SOC Ltd, a subsidiary of the Limpopo Economic Development Agency (LEDA), was established by the Limpopo Province on April 1st, 2016. LCX's mission is to promote the development of the Information and Communication Technology (ICT) sector, enhance service delivery to citizens, and bolster the provincial economy through the strategic utilization of information and communication technologies, while also creating employment opportunities.

To fulfill its mandate, LCX implements broadband and science and technology park programs, offering a range of ICT services, including broadband services, software and application services, ICT skills training and incubation, program and project management, as well as research, development, and innovation services. These endeavors are carried out through partnerships and collaborations, ensuring accessibility for both public and private institutions, including civil society.

The primary focus of the Limpopo Broadband Project is to ensure sustainable and equitable access to reliable, affordable, and secure broadband network infrastructure services across the entire province. By extending broadband services to underserved areas, the project aims to stimulate economic growth in the ICT sector, enhance service delivery, and transform Limpopo into a province driven by knowledge and information, thus narrowing the digital divide.

## **2. OBJECTIVE**

The overarching objectives of this Terms of Reference (ToR) document are as follows:

- To furnish prospective bidders with comprehensive information, enabling them to comprehend and adequately respond to LCX's requirements.
- To ensure consistency and uniformity in the responses received from each prospective service provider.

## **3. PURPOSE**

LCX seeks to identify and appoint a suitable bidder to provide broadband leased line services for a period of 12 months.

The purpose of this ToR is to procure the services of a qualified bidder with the necessary capabilities to undertake this project, ensuring that the desired standards in quality, scope, timeline, and cost, as stipulated by LCX, are met.

#### 4. SCOPE OF THE REQUIRED SERVICES

- Provide leased line services to enable LCX to achieve its goals as a telecoms service provider as specified in Annexure A.
- Provide additional links or modify existing ones as needed throughout the duration of this contract.

***The preferred connection method in order of preference is as follows:***

1. ***Fiber***
2. ***Microwave***
3. ***SD-WAN / Mobile***
4. ***VSAT being the least preferred option.***

***NB: In the absence of the top three VSAT can be utilised however, new VSAT installations are generally discouraged.***

#### 5. CURRENT INFRASTRUCTURE

This section is provided to give potential service providers an insight into LCX's existing network infrastructure. It is for background purposes only and is not part of the scope or the services to be provided under this contract.

LCX has laid fiber in 12 towns within the Limpopo Province, namely BelaBela, Modimolle, Mookgopong, Mokopane, Polokwane, Seshego, Mankweng, Lebowakgomo, Makhado, Musina, Tzaneen, and Nkowankowa. LCX also utilizes other service providers to extend services to its clients in additional areas within the province.

Different connectivity technologies (fiber, microwave, and VSAT) are utilized to provide services to clients, with one Data Centre located in Polokwane. The list of present links for the LCX network is shown in Annexure A, with speeds ranging from 10 Mbps to 1 Gbps.

The core switch is currently hosted at the BBI POP and can be relocated as deemed necessary by the service provider, provided the medium is respected and the new location is agreed upon with LCX.

#### 6. PROJECT DELIVERABLES

The successful service provider must deliver the following:

- Connectivity as per the given list: The service provider must establish connections at the specified coordinates, which indicate the source and destination points. This includes providing connectivity at all sites listed in Annexure A.
- Preferred Connection Method: The preferred method of connection is fiber. Only the same or a superior method of connection to what is currently implemented will be accepted; no downgrades will be allowed.
- Connectivity Speeds: The connectivity speeds provided must match or exceed those listed in Annexure A.
- Service Availability: The service must maintain an availability of 96%-99%, with a turnaround time of 6 hours or better for any service disruptions.

***Important Note: The successful bidder will inherit the existing connectivity arrangements and associated costs from the various current vendors. Additionally, the service provider must develop and implement a migration plan to transition links from the current third-party providers at the sites listed in Annexure A. This migration plan must be completed within three months of the appointment.***

## 7. MANDATORY FUNCTIONAL REQUIREMENTS

Bidders must provide supporting documentation to enable LCX to verify their responses to the mandatory requirements listed below. In the "Verification Provided" column, bidders must indicate what evidence is being provided and specify where in the bid the verification documents can be found. If the mandatory requirements cannot be verified, the bidder will be disqualified, and no further evaluation will take place.

If a bidder indicates "No" for any of the mandatory requirements, they will be disqualified from the evaluation process.

Mandatory Requirement	Indicate YES/NO	Verification Provided
Does the company operate a fixed, wireless, or mobile network in South Africa, including Limpopo Province?		
Will the connectivity at all sites listed in Annexure A be between 96% and 98% uptime at the same or better speed?		
Migration plan detailing how transition of links from the current third-party providers at the sites listed in Annexure A will be implemented.		

I, \_\_\_\_\_ (Name), \_\_\_\_\_ (Signature), duly authorized by the bidding company, hereby confirm that I have read and complied with the above mandatory requirements.

## 8. PROJECT DURATION

The duration of the project is 12 months upon signing of the service level agreement.

## 9. EVALUATION OF BIDS

Bid proposals will be evaluated in accordance with the 80/20 preference point system as contemplated in the Preferential Procurement Regulations of 2022, and all bid offers received shall be evaluated based on the following criteria:

Preference points for this bid shall be awarded for:

- |    |                |     |
|----|----------------|-----|
| a. | Functionality  | 100 |
| b. | Price          | 80  |
| c. | Specific Goals | 20  |

### 9.1. Evaluation stage one: Administrative compliance

Compliance with administrative requirements as stated in the Standard Bidding Documents and the mandatory requirements as listed on section 7. In this evaluation stage, all bidders that fail to provide the required information and documentation will be disqualified from further evaluation:

Requirement	Comply/not comply	Disqualifying factor
Is the bidder tax compliant		No
Is the bidder registered on the National Treasury Central Supplier Database (CSD)		Yes
All SBD documents completed and signed by authorized person from the company		Yes

### 9.2. Evaluation stage two: Functionality criteria

The following criteria will be used to evaluate all bids/proposals for functionality. Bidders are expected to obtain a minimum of 70 out of 100 points to qualify for further evaluation. Failure to obtain the prescribed 70 points will automatically disqualify the bidder from proceeding to the next evaluation stage. Below is a table (9.2a) that shows how the 100 points of functionality will be allocated.

***NB: It is important to note that if bidders do not provide the documents as requested in the "Means of Verification" column, they will score 0 for that specific section. For example, a document requested to demonstrate connectivity cannot be substituted with a company profile or any other unrelated documentation. Bidders must provide the specific documents requested to support their claims, or they will forfeit the points for that criterion.***

#### 9.2a Functionality criteria

FUNCTIONALITY CRITERIA	MEANS OF VERIFICATION	MAXIMUM POINTS TO BE AWARDED
<b>Fully functional Points of Presence (PoPs) in Limpopo</b> 5 PoPs = 50 points 4 PoPs = 40 points 3 PoPs = 30 points 2 PoPs = 20 points	<b>Network diagram</b> showing all the different network connection options and the respective locations of the PoPs in Limpopo Province.  NB: The PoPs must be fully functional and clearly visible on the network diagram	50 Points
<b>Capacity to deliver</b> (Backhaul between Polokwane and Teraco) <ul style="list-style-type: none"> <li>• 1Gbps or more = 20 points</li> <li>• 500Mbps but less than 1Gbps = 10</li> <li>• Less than 500Mbps = 5 points</li> </ul>	<b>Network diagram</b> indicating the Backhaul between Polokwane and Teraco. The network diagram must show the backhaul capacity.	20 Points

FUNCTIONALITY CRITERIA	MEANS OF VERIFICATION	MAXIMUM POINTS TO BE AWARDED
<p><b>Ability to provide services as per Annexure A</b></p> <p><b>Capability to source links from other operators</b> 3 agreements = 30 points 2 agreements = 20 points 1 agreement = 10 points</p> <p style="text-align: center;"><b>OR</b></p> <p><b>Migration to own network</b></p> <ul style="list-style-type: none"> <li>• Migrate 100% to own network =30</li> <li>• Migrate 66% to own network =20</li> <li>• Migrate 33% to own network =10</li> </ul> <p>(If migrating to your own network, no points will be awarded for agreements with other service providers.</p> <p>The maximum points for this criterion is 30.)</p>	<ol style="list-style-type: none"> <li><b>1. Copies of Signed Agreements.</b> Only one agreement per type of service will be considered. E.g. If two agreements for V-SAT services sourced from different V-SAT providers are submitted, only one will be counted.</li> <li><b>2. Agreements must be fully signed</b> and valid at time of evaluation and for the duration of the contract.</li> <li><b>3. Network Diagram</b> indicating where links are sourced from other operators as well as own links as per the given list:</li> </ol> <p><b>NB:</b> The network diagram must display all the different connectivity options to provide the services requested in <b>Annexure A</b>, whether sourced externally or through owned infrastructure.</p> <p><i>(Fibre or Microwave or SD-WAN/Mobile or VSAT coverage or the combination thereof.)</i></p>	30 points
<b>TOTAL</b>		<b>100</b>

### 9.3. Evaluation stage three: Price and Specific Goal

Only qualifying bids that met the mandatory requirements will be evaluated for price and Specific Goals applying the 80/20 preference points system in accordance with the PPPFA Regulations of 2022, using the following formula to calculate points for price:

$$P_s = 80 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

- $P_s$  = Points scored for comparative price of bid under consideration
- $P_t$  = Comparative price of bid under consideration
- $P_{\min}$  = Comparative price of lowest acceptable bid

In terms of Regulation 5 (2) and 6 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the specific goals in accordance with the table below:

<b>Specific goal</b>	<b>Number of points (80/20 system)</b>	<b>Means of verification</b>
Black people ownership equity	6	Central Supplier Database and company registration documents
Women equity	3	Central Supplier Database and company registration documents
Youth equity	3	Central Supplier Database and company registration documents
Disability	2	Medical certificate or equivalent
Promotion of small businesses	3	Staff complement and annual turnover
Enterprises located within Limpopo	3	Proof of address
<b>Total</b>	<b>20</b>	

#### 9.4. Criteria for breaking deadlocks in scoring

- 9.4.1. If two or more tenderers score an equal total number of points, the contract shall be awarded to the tenderer that scored the highest points for specific goals.
- 9.4.2. If two or more tenderers score equal total points in all respects, the award shall be decided by the drawing of lots.
- 9.4.3. If functionality is part of the evaluation process and two or more tenders score equal total points and equal points for specific goals, the contract shall be awarded to the tenderer who scored highest points for functionality.

## 10. VALIDITY PERIOD

The bid offers and proposals should be valid and open for acceptance by LEDA for a period of **180** days from the date of submission.

## 11. PRICING STRUCTURE

- 11.1. Prices must be quoted in South African currency and must be inclusive of VAT.  
 11.2. The price must be fixed for the duration of the contract and include all expenses as well as disbursement.  
 11.3. Bidders are expected to price according to the below proposed pricing structure.

SITES REQUIRED		Service	SLA Option	Technology in use	Technology Proposed by Service Provider	PRICE	
Point A	Point B					Non-Recurring Charge (NRC)	Monthly Recurring Charge (MRC)
POP Polokwane	Teraco - Isando	1Gbps	98%	Fibre			
POP Musina	POP Polokwane	100Mbps	Best Effort	Fibre			
POP Polokwane		Switch	Best Effort	Fibre			
LEDA Lebowakgomo	LCX Data Center	1 Pair fibre	Best Effort	Fibre			
LEDA OSS	LCX Data Center	1 Pair fibre	Best Effort	Fibre			
LEDA Giyani	LCX Data Center	10Mbps	Best Effort	Microwave			
LEDA Thohoyandou	LCX Data Center	10Mbps	Best Effort	Microwave			
LEDA Nkowankowa	LCX Data Center	100Mbps	Best Effort	Microwave			
LEDA Lwamondo Training Centre	LCX Data Center	10Mbps	Best Effort	Microwave			
LEDA Giyani Training Centre	LCX Data Center	10Mbps	Best Effort	Microwave			
LEDA Mashashane Hatchery	LCX Data Center	10Mbps	Best Effort	VSAT			
Waterberg Mahwelereng TVET ICT College	LCX Data Center	10Mbps	Best Effort	VSAT			
LEDA Mukumbani	LCX Data Center	10Mbps	Best Effort	VSAT			
LEDA Molemole	LCX Data Center	10Mbps	Best Effort	VSAT			
LEDA Tubatse	LCX Data Center	10Mbps	Best Effort	VSAT			
LEDA Lephallale	LCX Data Center	10Mbps	Best Effort	VSAT			
LEDA Fetakgomo	LCX Data Center	10Mbps	Best Effort	VSAT			
<b>TOTAL EXCL.VAT</b>							
<b>DISBURSEMENTS</b>							
<b>VAT 15%</b>							
<b>TOTAL INCL. VAT PER MONTH</b>							
<b>TOTAL BID PRICE (12 MONTHS INCL. VAT)</b>							

## Pricing schedule for Additional/future links

Technology	Service	Price	
		Non-Recurring Charge (NRC)	Monthly Recurring Charge (MRC)
Fiber	1 Pair fibre		
Microwave	100Mbps		
	50Mbps		
	20Mbps		
	10Mbps		
<b>TOTAL EXCL. VAT</b>			
<b>VAT 15%</b>			
<b>TOTAL INCL. VAT</b>			

## 12. PROPOSAL RESPONSES

The format of the bid proposals to be submitted shall comprise cover letter and the following documents:

- 12.1. Returnable bid document with all the required documents fully completed and signed;
- 12.2. Detailed cost breakdown schedule, including all disbursement for the duration of the contract;
- 12.3. Prices must be quoted in South African currency and must be inclusive of VAT;
- 12.4. Company profile that illustrates the core business, services offered, company profile and staff compliment;
- 12.5. List of contactable references.

## 13. ADMINISTRATIVE SPECIAL CONDITIONS

- 13.1. LEDA reserves the right to appoint the bidder that proves to be fully capable and qualified to handle and execute the job.
- 13.2. Bids submitted must be in line with the detailed specification. Failure to bid accordingly will automatically disqualify the submitted bid.
- 13.3. LEDA reserves the right to cancel or withdraw this bid if:
  - 13.3.1. Due to changed circumstances, there is no longer a need for this services; or
  - 13.3.2. Funds are no longer available to cover the total envisaged expenditure; or
  - 13.3.3. No acceptable bids are received; or
  - 13.3.4. Negotiating a fair market price has failed; or
  - 13.3.5. There is a material irregularity in the tender process.
- 13.4. In the case of sub-contracting or joint venture agreement, Limpopo Connexion (LCX) will enter into a single contract with the principal bidder.
- 13.5. LCX reserves the right to call interviews with short-listed bidders before final selection.

- 13.6. LCX reserves the right to conduct supplier due diligence prior to final award or at any time during the contract period. This may include surprise site visits.
- 13.7. Bidders who are not registered on Central Supplier Database (CSD) must register before submission of bids.
- 13.8. Notwithstanding shortcomings and/or inconsistencies, if any, in this specification, which is only a minimum specification, a bidder shall make provision for a complete solution that will deliver the required service efficiently and cost-effectively.
- 13.9. Bid documents should be deposited in the tender box situated at the premises of LCX at Development House, 1 Main Street, Lebowakgomo on or before **15 November 2024** at 11h00 which is the closing date for this bid.
- 13.10. This request for bid document contains confidential information about LCX, which has been provided to supply potential bidders with the data necessary to provide a holistic response.
- 13.11. No part of the contents may be used, copied, disclosed or conveyed in whole or in part to any party, in any manner whatsoever without the prior written permission of LCX.
- 13.12. Any reproduction or transmission of information contained in this document except for the sole purpose of responding to this bid is strictly prohibited.
- 13.13. References to LCX must not be made in any literature, promotional material, and brochures or sales presentations without the express written consent of LCX.

#### **14. NON-COMPULSORY ONLINE BRIEFING SESSION**

- 14.1. A non-compulsory Briefing Session will be held as follows:

Date : 01 November 2024  
Time : 10h00 – 11h00  
Virtual link : [Join the meeting now](#)

#### **15. CLARIFICATION / QUERIES**

- 15.1. The process of clarification required by a bidder regarding the meaning or interpretation of the Terms of Reference, or any other aspects concerning the bid will be done in writing (letter, facsimile or e-mail).
- 15.2. Telephonic requests for clarification will not be considered.
- 15.3. The cut-off date for queries is **12 November 2024** at 16:00 pm
- 15.4. The bid reference number should be quoted in all correspondence.
- 15.5. Queries should be directed to Maxine Mothotse at [Maxine.Mothotse@lieda.co.za](mailto:Maxine.Mothotse@lieda.co.za)
- 15.6. Queries will be responded to within two working days of receipt.

# **GOVERNMENT PROCUREMENT GENERAL CONDITIONS OF CONTRACT July 2010**

## **NOTES**

The purpose of this document is to:

- (i) Draw special attention to certain general conditions applicable to government bids, contracts and orders; and
- (ii) To ensure that clients be familiar with regard to the rights and obligations of all parties involved in doing business with government.

In this document words in the singular also mean in the plural and vice versa and words in the masculine also mean in the feminine and neuter.

- The General Conditions of Contract will form part of all bid documents and may not be amended.
- Special Conditions of Contract (SCC) relevant to a specific bid, should be compiled separately for every bid (if applicable) and will supplement the General Conditions of Contract. Whenever there is a conflict, the provisions in the SCC shall prevail.

## **TABLE OF CLAUSES**

1. Definitions
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## General Conditions of Contract

### 1. Definitions

1. The following terms shall be interpreted as indicated:
  - 1.1. “Closing time” means the date and hour specified in the bidding documents for the receipt of bids.
  - 1.2. “Contract” means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
  - 1.3. “Contract price” means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
  - 1.4. “Corrupt practice” means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.
  - 1.5. "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
  - 1.6. “Country of origin” means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
  - 1.7. “Day” means calendar day.
  - 1.8. “Delivery” means delivery in compliance of the conditions of the contract or order.
  - 1.9. “Delivery ex stock” means immediate delivery directly from stock actually on hand.
  - 1.10. “Delivery into consignees store or to his site” means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
  - 1.11. "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.
  - 1.12. “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.
  - 1.13. “Fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.
  - 1.14. “GCC” means the General Conditions of Contract.
  - 1.15. “Goods” means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
  - 1.16. “Imported content” means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his

subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.

- 1.17. “Local content” means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.
- 1.18. “Manufacture” means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.19. “Order” means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.20. “Project site,” where applicable, means the place indicated in bidding documents.
- 1.21. “Purchaser” means the organization purchasing the goods.
- 1.22. “Republic” means the Republic of South Africa.
- 1.23. “SCC” means the Special Conditions of Contract.
- 1.24. “Services” means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.
- 1.25. “Written” or “in writing” means handwritten in ink or any form of electronic or mechanical writing.

## **2. Application**

- 2.1. These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.
- 2.2. Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.
- 2.3. Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

## **3. General**

- 3.1. Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.
- 3.2. With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from [www.treasury.gov.za](http://www.treasury.gov.za)

## **4. Standards**

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

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

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

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

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

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

**6. Patent rights**

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

**7. Performance security**

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

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

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

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

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

## **8. Inspections, tests and analyse**

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

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

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

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

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

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

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

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

## **9. Packaging**

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

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

**10. Delivery and documents**

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

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

**11. Insurance**

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

**12. Transportation**

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

**13. Incidental services**

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

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

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

**14. Spare parts**

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

- (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and
- (b) in the event of termination of production of the spare parts:
  - (i) Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
  - (ii) Following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

## **15. Warranty**

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

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

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

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

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

## **16. Payment**

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

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

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

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

## **17. Prices**

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

## **18. Contracts Amendments**

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

## **19. Assignment**

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

## **20. Subcontracts**

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

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

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

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

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

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

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

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

## **22. Penalties**

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

## **23. Termination for default**

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

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

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

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

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

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

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

- (i) the name and address of the supplier and / or person restricted by the purchaser;
- (ii) the date of commencement of the restriction
- (iii) the period of restriction; and
- (iv) the reasons for the restriction.

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

23.7 If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, the court may also rule that such person's name be endorsed on the Register for Tender Defaulters. When a person's name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website.

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

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

**25. Force Majeure**

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

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

**26. Termination for Insolvency**

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

**27. Settlement of Disputes**

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

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

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

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

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

- (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
- (b) the purchaser shall pay the supplier any monies due the supplier.

**28. Limitation of liability**

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

- (a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and
- (b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

**29. Governance language**

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

**30. Applicable law**

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

**31. Notices**

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

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

**32. Taxes and duties**

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

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

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

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

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

**34. Prohibition of restrictive practices**

34.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).

34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.

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