



**REQUEST FOR PROPOSALS FOR THE PROVISION OF CONTRACTOR APPOINTMENT FOR SUPPLY,
DELIVERY & OFFLOADING OF LOW AND MEDIUM VOLTAGE SPARES AT O.R TAMBO
INTERNATIONAL AIRPORT AND REMOTE AREAS FOR A PERIOD OF THIRTY- SIX (36) MONTHS.**

Bid Number: : ORTIA7586/2024/RFP

Issue Date : 30 July 2024

Query Closing Date : 20th August 2024

Briefing Session and Site : Monday 12th August 2024 10:00 am hrs.

Bid Closing Date and Time : 04th September 2024 @ 12:00 pm

Tel +27 11 723 1400 Fax +27 11 453 9354
Western Precinct, Aviation Park, O.R. Tambo International Airport, 1 Jones Road, Kempton Park, Gauteng, South Africa,
1632
P O Box 75480, Gardenview, Gauteng, South Africa, 2047
www.airports.co.za

Airports Company South Africa SOC Ltd Reg No 1993/004149/30 VAT no 4930138393 Board of Directors: Advocate S Nogxina (Chairperson), M Mpofu (Chief Executive Officer), N Zikala-Mvelase, N Nokwe-Macamo, Y Pillay, K Esterhuizen, GA Victor, D Hlatswayo, Dr KH Badimo, F Sefara (Company Secretary)

1. SECTION 1: INSTRUCTIONS TO BIDDERS

1.1. Access to RFP documents

Tender Document Availability

Tender documents are available from **30 July 2024** for free download from National Treasury's eTender Publication Portal (<http://www.etenders.gov.za>)

KINDLY PRINT AND COMPLETE.

2. Submission of bid documents

The envelopes containing bid documents must have on the outside, the bidder's return address, the full description of the bid, bid number and the details of the Supply Chain Management department where the bid will close.

The documents must be signed and completed by a person who has been given authority to act on behalf of the bidder. The bottom of each page of the bid documents must be **signed or stamped** with the bidder's stamp as proof that the bidder has read the bid documents.

Bid documents must be submitted on or before the following method(s):

04th September 2024	CLOSING TIME:	12:00 pm
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2.1.1. Hand delivery:

The bid document must be delivered to the address below and must be addressed as follows:

O R Tambo International Airport (Kempton Park, Johannesburg)

Tel +27 11 723 1400 Fax +27 11 453 9354
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2.1.2. Tender box:

The Tender box is located at:

3rd Floor in Terminal A Building, (en route to the Viewing Deck; ACSA Offices North wing)

TENDER BOX "B"

2.1.3. Proposals must both be in printed format (**an original copy**). The original will be legal and binding, in the event of discrepancies between any of the submitted documents; the original will take precedence.

2.2. **Alternative Bids** *(*not applicable)*

As a general rule ACSA only accepts bids which have been prepared in response to the bid invitation. However, for this bid alternative bids will **NOT** be accepted.

2.3. **Late Bids**

Bids which are submitted after the closing date and time will not be accepted.

2.4. **Clarification and Communication**

Name: Onkgopotse Boikanyo

Designation: Senior Buyer

Tel: 011 723 1568

Email: Onkgopotse.Boikanyo@airports.co.za

2.4.1. Request for clarity or information on the bid may only be requested until 07th August 2024

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- 2.4.2. Any responses to queries or for clarity sought by a bidder will also be sent to all the other entities which have responded to the Request for Proposal.
- 2.4.3. Bidders may not contact any ACSA employee on this bid other than those listed above. Contact will only be allowed between the successful bidder and ACSA Business Unit representatives after the acceptance of the letter of award bid. Contact will also only be permissible in the case of pre-existing commercial relations which do not pertain to the subject of this bid.

2.5. Compulsory Briefing & Site Inspection Session

A compulsory clarification meeting with representatives of the Employer will take place on **Monday, 12 August 2024 10:00 am hrs.**

Venue: ORTIA Kudu Boardroom

Physical Address: O R Tambo International Airport (Kempton Park, Johannesburg)

3rd Floor in Terminal A Building, (enroute to the Viewing Deck; ACSA Offices North wing)

ACSA offices

Signed (A1) -Certificate of Attendance at Compulsory Briefing session will be sent to bidders who attended the compulsory session.

2.6. Bid Responses

Bid responses must be strictly prepared and returned in accordance with this bid document. Bidders may be disqualified where they have not materially complied with any of ACSA's requirements in terms of this bid document.

Changes to the bidder's submission will **NOT be allowed** after the closing date of the bid. All bid responses will be regarded as offers unless the bidder indicates otherwise. No bidder or any of its consortium/joint venture members may have an interest in any of the other bidder/joint venture/consortium participating in this bid.

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2.7. Disclaimers

It must be noted that ACSA reserves its right to:

- 2.7.1. Award the whole or a part of this bid;
- 2.7.2. Split the award of this bid;
- 2.7.3. Negotiate with all or some of the shortlisted bidders;
- 2.7.4. Award the bid to a bidder other than the highest scoring bidder where objective criteria allows;
- 2.7.5. To reject the lowest acceptable bid received; and/or
- 2.7.6. Cancel this bid.

2.8. Validity Period

- 2.8.1. ACSA requires a validity period of hundred and twenty **(120) business/working days** for this bid. During the validity period the prices which have been quoted by the bidder must remain firm and valid. It is only in exceptional circumstances where ACSA would accommodate a proposal to change the price.

2.9. Confidentiality of Information

- 2.9.1. ACSA will not disclose any information disclosed to ACSA through this bid process to a third party or any other bidder without any written approval from the bidder whose information is sought. Furthermore,
- 2.9.2. ACSA will not disclose the names of bidders until the bid process has been finalised.
- 2.9.3. Bidders may not disclose any information given to the bidders as part of this bid process to any third party without the written approval from ACSA. In the event that the bidder requires to consult with third parties on the bid, such third parties must complete confidentiality agreements, which should also be returned to ACSA with the bid.

2.10. Hot – Line

ACSA subscribes to fair and just administrative processes. ACSA therefore urges its clients, suppliers and the general public to report any fraud or corruption to:

Tel +27 11 723 1400 Fax +27 11 453 9354
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Airports Company South Africa TIP-OFFS ANONYMOUS

Free Call: 0800 00 80 80 or 086 726 1681

Email: **office@thehotline.co.za**

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SECTION 3: EVALUATION CRITERIA

3.1 Evaluation Criteria

- 3.1.1 ACSA will use a pre-determined evaluation criteria when considering received bids. The evaluation criteria will consider **mandatory administrative, local production and content criteria, functionality/ Price and Preference,**
- 3.1.2 During the evaluation of received bids ACSA will make an assessment whether all the bids comply with set minimum requirements and whether all returnable documents/information have been submitted. Bidders which fail to meet minimum requirements, thresholds or have not submitted required mandatory documents will be disqualified from the bid process.
- 3.1.3 The requirements of any given stage must be complied with prior to progression to the next stage. ACSA reserves the right to disqualify bidders without requesting any outstanding document/information.

3.2 A staged approach will be used to evaluate bids and the approach will be as follows:

Stage 1	Stage 2	Stage 3	Stage 4	Stage 5	Stage 6
Test for Responsiveness As per Clause C3.8	Mandatory Requirements	Evaluate on functionality or the technical aspect of the bid	Evaluate price and Preference	Post tender negotiations. (If necessary)	Security Vetting (If necessary)

3.3 Mandatory Requirements

A list of mandatory returnable documents must be consulted to understand which documents are required at the closing date and time. Further, to the mandatory returnable documents/information ACSA will only consider bidders which have:

- (a) Completed in full and signed Form of offer C1.1.
- (b) Bidders must complete, sign and acknowledge Bidder's Disclosure form SBD4.
- (c) Bidders must attend a compulsory site briefing session.

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***Signed (A1)** - Certificate of Attendance at Compulsory Briefing session will be sent to bidders who attended the compulsory session.

(e) Valid Letter of Good standing with workman's compensation commissioner COIDA.

3.5 Functionality

Functionality Evaluation Criteria

Functionality is the terminology used to define the technical ability of the Tenderer, based on experience to deliver the required product in accordance with the specialised quality, reliability, and functionality.

- 1) Points allocated for Functionality shall be evaluated in accordance with the criteria as listed below. An overall minimum threshold of **60 points out of 100** must be achieved for the tender to be eligible for further evaluation on Price and B-BBEE. Bidders who also fail to achieve the **minimum score per criteria** will be disqualified and not be eligible for further evaluations. The thresholds on each element of the evaluation are as follows:

Description of quality criteria	WQ	Sub criteria	Max Score	Minimum Threshold
		Quality Score		
Tenderer's resource proposal	40	Qualifications	20	6
		Years of experience in similar works	20	6
Company references and experience	20	Similarity of Supply of Low and Medium Voltage Spares with references	20	8
Data sheet for the goods to be provided	20	The datasheet must include specifications or technical data	40	40
Total			100	60

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Functionality breakdown:

Qualifications - (20-point Max) (Proof of qualification should be attached to the resource's CV)	
The bidder should provide a valid certification by an approved professional institution.	
Electrician (10)	Logistics Coordinator (10)
Electrical qualification (N3 or higher)	The logistics coordinator must at least have diploma in logistics management or procurement.
No Certificate (0)	No certificate (0)
N3 and trade (3)	Diploma (3)
N3 or higher and trade (10)	Diploma and higher (10)
Minimum threshold: 3	Minimum threshold: 3
Weight: 10	Weight: 10
Years of experience - (20-point Max) (Proven experience and reference to be supplied on the resources CV)	
Electrician (10)	Logistics Coordinator (10)
Relevant technician Experience (minimum of four (4) years' experience performing, troubleshooting, testing, networks, report writing, post- trade test certification.	Relevant experience in managing the inventory of low and medium voltage spares, coordinated shipments and have mechanical or electrical background.
5 years or higher (10)	4 years or higher (10)
4 years (4)	3 years (3)
<4 years (0)	<3 years (0)
Minimum threshold: 3	Minimum threshold: 3
Weight: 10	Weight: 10
Company references and experience - (20-point Max) (The tenderer should provide proven experience in supply and delivery of low and medium voltage spares)	
Proven experience must be demonstrated by means of complexion certificate /with a letter head /with a contactable detail of the responsible project lead.	
1 Sites in supply, delivery and offloading of low and medium voltage (0)	
Between 1 and 2 sites in supply, delivery and offloading of low and medium voltage (8)	
More than 3 sites in supply, delivery and offloading of low and medium voltage (20)	
Proven experience must be demonstrated by means of complexion certificate.	

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NB: If the bidder was subcontracted, please provide a letter from the primary company confirming the specifics of the subcontracting arrangement to the individual who was originally contracted.

Data sheet- (40-point Max) (The datasheet must include specifications and technical data of spares to be procured, and be attached as technical functionality returnable that will be assessed)

No datasheet of spares provided (0)

Data sheet provided for all spares with specifications or technical data (40)

The datasheet or technical data must match the specifications on the BOQ to ensure the accuracy of the spares being procured.

To satisfy the criterion for a datasheet or technical data, all 40 points needs to be met. Failure to submit the detailed datasheet with all requirements will result in a disqualification for the sub criteria.

Bidders who also fail to achieve the minimum score per criteria will be disqualified and not be eligible for further evaluations.

3.5.1. Price and Preference

This is the final stage of the evaluation process and will be based on the PPPFA preference point system. Bidders will be ranked by applying the preferential point scoring *80/20 for bids with the rand value equal to or below R50 million.*

A maximum of 80 points is allocated for price based on the following formulae (delete formula not applicable):

80/20

$$Ps = 80 \left(1 - \frac{Pt - Pmin}{Pmin} \right)$$

Where:

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

Where:

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Ps	=	Points scored for price of tender under consideration
Pt	=	Price of tender under consideration
Pmin	=	Price of lowest acceptable tender

Evaluation of Preference

ACSA will score specific goals out of 20 in accordance with the PPP Regulations 2022/2023. If a bidder fails to meet the Specific goals as outlined on the table below and to submit proof, the bidder will score zero (0) out of 20. ACSA will not disqualify the bidder. See below Specific goals that must be achieved for this bid:

Category	Specific Goals	Score
		20
Construction	≥51% owned by Black male and/or Black women and Black youth and People living with disabilities	20
	≥51% owned by Black male or Black women or Black youth or People living with disabilities (at least two of the above designated groups must achieved)	15
	≥51% owned by Black male or Black women or Black youth or People living with disabilities	10
	< 51% owned by Black male, Black women, Black youth, People living with disabilities	5
	Other	0

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INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)					
BID NUMBER:	ORTIA7586/2024/RFP	CLOSING DATE:	04th September 2024	CLOSING TIME:	12:00 pm
DESCRIPTION	CONTRACTOR APPOINTMENT FOR SUPPLY, DELIVERY & OFFLOADING OF LOW AND MEDIUM VOLTAGE SPARES AT O.R TAMBO INTERNATIONAL AIRPORT AND REMOTE AREAS FOR A PERIOD OF THIRTY- SIX (36) MONTHS.				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
O R Tambo International Airport (Kempton Park, Johannesburg)					
3rd Floor in Terminal A Building, (en route to the Viewing Deck; ACSA Offices North wing)					
TENDER BOX "B"					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	Onkgopotse Boikanyo		CONTACT PERSON	Onkgopotse.Boikanyo@airports.co.za	
TELEPHONE NUMBER	011 732 1568		TELEPHONE NUMBER	011 732 1568	
FACSIMILE NUMBER	N/A		FACSIMILE NUMBER	N/A	
E-MAIL ADDRESS	Onkgopotse.Boikanyo@airports.co.za		E-MAIL ADDRESS	Onkgopotse.Boikanyo@airports.co.za	
SUPPLIER INFORMATION					
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

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AIRPORTS COMPANY
SOUTH AFRICA

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES OFFERED?	☐ Yes ☐ No [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES OFFERED?	☐ Yes ☐ No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]
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QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?	☐ YES ☐ NO
DOES THE ENTITY HAVE A BRANCH IN THE RSA?	☐ YES ☐ NO
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?	☐ YES ☐ NO
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?	☐ YES ☐ NO
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?	☐ YES ☐ NO
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.	

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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, 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.
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 PIN 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:

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SECTION 4: RETURNABLE DOCUMENTS

4.1 Mandatory Returnable documents

ACSA will disqualify from the bid process any bidder that has failed to submit mandatory returnable documents and information. Bidders should therefore ensure that all the mandatory returnable documents and information have been submitted. In order to assist bidders, ACSA has also included a column next to the required mandatory document and information to enable bidders to keep track of whether they have submitted or not. The mandatory documents and information are as follows:

MANDATORY RETURNABLE DOCUMENTS AND INFORMATION	SUBMITTED [Yes or No]
Completed in full and signed Form of offer C1.1.	
(b) Bidders must complete, sign and acknowledge Bidder's Disclosure form SBD4.	
(c) Bidders must attend a compulsory site briefing session.	
*Signed (A1) - Certificate of Attendance at Compulsory Briefing session will be sent to bidders who attended the compulsory session.	
(e) Valid Letter of Good standing with workman's compensation commissioner COIDA.	

4.2 Other Returnable Documents and information

These types of documents and information are required but are not mandatory or are only mandatory at specific stages of the process. ACSA may request bidders to submit these documents or information after the closing date and time or might already have them on the system. Where a document or information is only mandatory at a specific stage in the process, ACSA may only disqualify a bidder for non-submission at that stage and after reasonable efforts were made to request the document from the bidder. The documents are as follows:

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OTHER RETURNABLE DOCUMENTS AND INFORMATION	SUBMITTED [Yes or No]
<i>BEE Certificate and Scorecard or BBBEE QSE/EME Affidavit</i>	
<i>Verifiable medical certificate of report as proof of disability (For preference claims)</i>	
<i>Tax Pin number (ACSA may not award to a bidder whose tax affairs have not been declared to be in orders by SARS)</i>	
<i>Names and identity numbers of Directors, / Trustees / Members / Shareholders and Senior management</i>	
<i>Certificate of Incorporation of the bidding entity showing ownership split</i>	
<i>Central Supplier Database Report (CSD)</i>	

4.3 Validity of submitted information.

Bidders must ensure that all conditions, documents and information which has been submitted in pursuance to this bid remains valid for the duration of the contract period.

In the event where a validity document expires an updated document must be submitted.

The duty is on the bidder to provide updated information to ACSA immediately after such information has changed.

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www.airports.co.za

Airports Company South Africa SOC Ltd Reg No 1993/004149/30 VAT no 4930138393 Board of Directors: Advocate S Nogxina (Chairperson), M Mpofu (Chief Executive Officer), N Zikala-Mvelase, N Nokwe-Macamo, Y Pillay, K Esterhuizen, GA Victor, D Hlatwayo, Dr KH Badimo, F Sefara (Company Secretary)

SECTION 5: RETURNABLE DOCUMENTS

5.1 DECLARATION OF INTEREST AND POLITICALLY EXPOSED PERSONS FORM

Making a Declaration

Any legal person or persons having a relationship with persons employed by ACSA, including a blood relationship, may submit a bid in terms of this tender document. In view of possible allegations of unfairness, should the resulting bid, or part thereof, be awarded to persons connected with or related to ACSA employees, it is required that the bidder or his/her authorised representative declare his/her position in relation to ACSA employees or any member of the evaluation or adjudication committee which will consider bids.

ACSA requires all bidders to declare that they have not acted in any manner inconsistent with the law, policy, or fairness. Furthermore, ACSA requires bidders to declare if they have Politically Exposed Persons (PEP) also known as Domestic Prominent Influential Persons (DPIP) in their organisation. See below definition of PEP/DPIP.

Politically Exposed Persons or DPIP are individuals who are or have been entrusted with prominent public functions in the country or a foreign country, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state-owned corporations, important political party officials. Business relationships with family members or close associates of PEPs involve reputational risks similar to those with PEPs themselves. PEP status in the following areas shall be declared:

- Current or former senior official in the executive, legislative, administrative, military, or judicial branch of government or foreign government (elected or not)
- A senior official of a major political party or major foreign political party;
- A senior executive of government owned commercial enterprise
- or a foreign government owned commercial enterprise, being a corporation, business or other entity formed by or for the benefit of any such individual;
- A related and or inter-related immediate member of such individual; meaning spouse, parents, siblings, children, and spouse's parents or siblings etc

5.1.1 All bidders must complete a declaration of interest form below:

Full name of the bidder or representative of
the bidding entity

Identity Number

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Position held in the bidding entity

Registration number of the bidding entity

Tax Reference number of the bidding entity

VAT Registration number of the bidding entity

I/We certify that there is / no PEP/DPIP conflict of interest/ no relationship between the bidding entity or any of its shareholders / directors / owner / member / partner/ senior management with any ACSA employee or official.

Where a relationship or PEP/DPIP conflict of interest exists, please provide details of the ACSA employee or official and the extent of the relationship below:

PEP/DPIP Declaration

DPIP/PEP Declaration for self/family member or close associate:

Nature of Political Exposure	Term of the office	Description of activities relating to political exposure

Full Names of Directors / Trustees / Members / Shareholders/ Senior Management of the bidding entity

Full Name	Identity Number	Personal Income Tax Reference Number

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5.1.2. I/We declare that we have not acted in any manner which promotes unfairness, contravenes any law or is against public morals. We further certify that we will in full compliance of this tender terms and conditions as well as ACSA policies in the event that we are successful in this tender.

Declaration:

I/We the undersigned _____ (Name) hereby certify that the information furnished in this tender document is true and correct. We further certify that we understand that where it is found that we have made a false declaration or statement in this tender, ACSA may disqualify our bid or terminate a contract we may have with ACSA where we are successful in this tender.

Signature

Date

Position

Name of bidder

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5. 2 BIDDER'S DISCLOSURE FORM SBD 4

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 interest¹ 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

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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**

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 consortium² 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.

2 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.

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- 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.

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 1, 2 and 3 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....	
Signature	Date
.....	
Position	Name of bidder

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5.3 PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022 SBD 6.1

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 **90/10** preference point system.
- b) The applicable preference point system for this tender is the **80/20** preference point system.
- c) Either the **90/10 or 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 / Preference.

1.4 To be completed by the organ of state:

The maximum points for this tender are allocated as follows:

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	POINTS
PRICE	
SPECIFIC GOALS / PREFERENCE	
Total points for Price and SPECIFIC GOALS	100

- 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 OR 90/10 PREFERENCE POINT SYSTEMS

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

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80/20**or****90/10**

$$Ps = 80 \left(1 - \frac{Pt - P_{min}}{P_{min}} \right) \quad \text{or} \quad Ps = 90 \left(1 - \frac{Pt - P_{min}}{P_{min}} \right)$$

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = 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**

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmax = 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

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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/preference point allocated points in terms of this tender	Number of points allocated (90/10 system) (To be completed by the organ of state)	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (90/10 system) (To be completed by the tenderer)	Number of points claimed (80/20 system) (To be completed by the tenderer)
51% owned by Black male and Black women and Black youth and People living with disabilities	10	20		
51% owned by Black male or Black women or Black youth or People living with disabilities (at least two of the above designated groups must achieved)	8	15		
51% owned by Black male or Black women or Black youth or People living with disabilities	6	10		
Less than 51% owned by Black male, Black women, Black youth, People living with disabilities	4	5		
Other	0	0		

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DECLARATION WITH REGARD TO COMPANY/FIRM

4.3. Name of company/firm.....

4.4. Company registration number:

4.5. 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]

4.6. 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

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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.

.....
SIGNATURE(S) OF TENDERER(S)

SURNAME AND NAME:

DATE:

ADDRESS:

.....
.....
.....

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5.4 DECLARATION CERTIFICATE FOR LOCAL PRODUCTION AND CONTENT FOR DESIGNATED SECTORS SBD 6.2 *(Delete if not applicable)*

This Standard Bidding Document (SBD) must form part of all bids invited. It contains general information and serves as a declaration form for local content (local production and local content are used interchangeably).

the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:2011 (Edition 1) and the Guidance on the Calculation of Local Content together with the Local Content Declaration Templates [Annex C (Local Content Declaration: Summary Schedule), D (Imported Content Declaration: Supporting Schedule to Annex C) and E (Local Content Declaration: Supporting Schedule to Annex C)].

1. General Conditions

- 1.1. Preferential Procurement Regulations, 2017 (Regulation 8) make provision for the promotion of local production and content.
- 1.2. Regulation 8.(2) prescribes that in the case of designated sectors, organs of state must advertise such tenders with the specific bidding condition that only locally produced or manufactured goods, with a stipulated minimum threshold for local production and content will be considered.
- 1.3. Where necessary, for tenders referred to in paragraph 1.2 above, a two stage bidding process may be followed, where the first stage involves a minimum threshold for local production and content and the second stage price and B-BBEE.
- 1.4. A person awarded a contract in relation to a designated sector, may not sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- 1.5. The local content (LC) expressed as a percentage of the bid price must be calculated in accordance with the SABS approved technical specification number SATS 1286: 2011 as follows:

$$LC = [1 - x / y] * 100$$

Where

x is the imported content in Rand

y is the bid price in Rand excluding value added tax (VAT)

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Prices referred to in the determination of x must be converted to Rand (ZAR) by using the exchange rate published by South African Reserve Bank (SARB) at 12:00 on the date of advertisement of the bid as indicated in paragraph 4.1 below.

The SABS approved technical specification number SATS 1286:2011 is accessible on [http://www.thedti.gov.za/industrial development/ip.jsp](http://www.thedti.gov.za/industrial%20development/ip.jsp) at no cost.

- 1.6. A bid may be disqualified if this Declaration Certificate and the Annex C (Local Content Declaration: Summary Schedule) are not submitted as part of the bid documentation;

- 2. The stipulated minimum threshold(s) for local production and content (refer to Annex A of SATS 1286:2011) for this bid is/are as follows:**

<u>Description of services, works or goods</u>	<u>Stipulated minimum threshold</u>
XXXXX	XX%

3. Does any portion of the goods or services offered have any imported content?

(Tick applicable box)

YES		NO	
-----	--	----	--

- 3.1 If yes, the rate(s) of exchange to be used in this bid to calculate the local content as prescribed in paragraph 1.5 of the general conditions must be the rate(s) published by SARB for the specific currency at 12:00 on the date of advertisement of the bid.

The relevant rates of exchange information is accessible on www.reservebank.co.za

Indicate the rate(s) of exchange against the appropriate currency in the table below (refer to Annex A of SATS 1286:2011):

Currency	Rates of exchange
US Dollar	
Pound Sterling	
Euro	
Yen	
Other	

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NB: Bidders must submit proof of the SARB rate (s) of exchange used.

3. Where, after the award of a bid, challenges are experienced in meeting the stipulated minimum threshold for local content the dti must be informed accordingly in order for the dti to verify and in consultation with the AO/AA provide directives in this regard.

LOCAL CONTENT DECLARATION
(REFER TO ANNEX B OF SATS 1286:2011)

LOCAL CONTENT DECLARATION BY CHIEF FINANCIAL OFFICER OR OTHER LEGALLY RESPONSIBLE PERSON NOMINATED IN WRITING BY THE CHIEF EXECUTIVE OR SENIOR MEMBER/PERSON WITH MANAGEMENT RESPONSIBILITY (CLOSE CORPORATION, PARTNERSHIP OR INDIVIDUAL)

IN RESPECT OF BID NO.

ISSUED BY: (Procurement Authority / Name of Institution):

.....

NB

- 1 The obligation to complete, duly sign and submit this declaration cannot be transferred to an external authorized representative, auditor or any other third party acting on behalf of the bidder.
- 2 Guidance on the Calculation of Local Content together with Local Content Declaration Templates (Annex C, D and E) is accessible on http://www.thdti.gov.za/industrial_development/ip.jsp. Bidders should first complete Declaration D. After completing Declaration D, bidders should complete Declaration E and then consolidate the information on Declaration C. **Declaration C should be submitted with the bid documentation at the closing date and time of the bid in order to substantiate the declaration made in paragraph (c) below.** Declarations D and E should be kept by the bidders for verification purposes for a period of at least 5 years. The successful bidder is required to continuously update Declarations C, D and E with the actual values for the duration of the contract.

I, the undersigned, (full names),

do hereby declare, in my capacity as

of(name of bidder entity), the following:

- (a) The facts contained herein are within my own personal knowledge.
- (b) I have satisfied myself that:

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P O Box 75480, Gardenview, Gauteng, South Africa, 2047

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- (i) the goods/services/works to be delivered in terms of the above-specified bid comply with the minimum local content requirements as specified in the bid, and as measured in terms of SATS 1286:2011; and
- (c) The local content percentage (%) indicated below has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E which has been consolidated in Declaration C:

Bid price, excluding VAT (y)	R
Imported content (x), as calculated in terms of SATS 1286:2011	R
Stipulated minimum threshold for local content (paragraph 3 above)	
Local content %, as calculated in terms of SATS 1286:2011	

If the bid is for more than one product, the local content percentages for each product contained in Declaration C shall be used instead of the table above.

The local content percentages for each product has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E.

- (d) I accept that the Procurement Authority / Institution has the right to request that the local content be verified in terms of the requirements of SATS 1286:2011.
- (e) I understand that the awarding of the bid is dependent on the accuracy of the information furnished in this application. I also understand that the submission of incorrect data, or data that are not verifiable as described in SATS 1286:2011, may result in the Procurement Authority / Institution imposing any or all of the remedies as provided for in Regulation 14 of the Preferential Procurement Regulations, 2017 promulgated under the Preferential Policy Framework Act (PPFA), 2000 (Act No. 5 of 2000).

SIGNATURE: _____

DATE: _____

WITNESS No. 1 _____

DATE: _____

WITNESS No. 2 _____

DATE: _____

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Form 5.5: CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

between

AIRPORTS COMPANY SOUTH AFRICA SOC LIMITED

(Registration No. 1993/004149/30)

(“Airports Company”)

of

Western Precinct, Aviation Park

O.R. Tambo International Airport

1 Jones Road

Kempton Park

1632

AND

[NAME OF SERVICE PROVIDER]

(Registration No: _____)

(“_____”)

of

[Service Providers Address]

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Issue: 2

Issue Date: 30/09/2022

1. **INTERPRETATION**

In this agreement -

- 1.1 "confidential Information" – is information which is confidential to the disclosing party, and includes whether in written, graphic, oral, proprietary, tangible, intangible, electronic or other form, and, -
 - 1.1.1 any information in respect of know-how, formulae, statistics, processes, systems, business methods, marketing, trading and merchandising methods and information, promotional and advertising plans and strategies, pricing, financial plans and models, inventions, long-term plans, research and development data, user or consumer/ customer data and profiles, ideas, computer programmes, drawings and any other information of confidential nature of the disclosing party, in whatever form it may be;
 - 1.1.2 the contractual business and financial arrangements of the disclosing party and others with whom it has business arrangements of whatever nature;
 - 1.1.3 all information peculiar to the business of the disclosing party which is not readily available to a competitor of the disclosing party in the ordinary course of business;
 - 1.1.4 the fact of and content of any discussions between the disclosing party and the receiving party as well as the existence and content of any agreement, which may be concluded between the disclosing party and the receiving party;
 - 1.1.5 all other matters of a confidential nature which relate to the disclosing party's business;
 - 1.1.6 generally, information which is disclosed in circumstances of confidence or would be understood by the parties, exercising reasonable business judgement, to be confidential;
 - 1.1.7 all information of whatsoever nature relating to the disclosing party as contemplated in 2.1 below; but does not include information which -
 - 1.1.8 is or hereafter becomes part of the public domain, otherwise than as a result of a breach or default of the receiving party or of a representative or affiliate of the receiving party;
 - 1.1.9 can be shown to have been lawfully in the possession of the receiving party or its affiliates or consultants prior to its disclosure and is not subject to an existing agreement between the disclosing party and the receiving party;
 - 1.1.10 is acquired by the receiving party independently from a third party who lawfully acquired such information without restriction and who had not previously obtained the confidential information directly or indirectly under a confidentiality obligation from the disclosing party;
 - 1.1.11 is acquired or developed by the receiving party independently of the disclosing party and in circumstances which do not amount to a breach of the provisions of this agreement; is disclosed or released by the receiving party to satisfy an order of a court of competent jurisdiction or to otherwise comply with the provisions of any law or regulation in force at the time or the

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requirements of any recognised stock exchange; provided that, in these circumstances, the receiving party shall inform the disclosing party of the requirement to disclose prior to making the disclosure and provided further that the receiving party will disclose only that portion of the confidential information which it is legally required to so disclose; and the receiving party will use its reasonable endeavours to protect the confidentiality of such information to the widest extent lawfully possible in the circumstances (and shall co-operate with the disclosing party if it elects to contest any such disclosure);

For the purposes of this agreement the party, which discloses confidential information, shall be referred to as “the disclosing party” and the party, which receives the confidential information, shall be referred to as “the receiving party”.

- 1.2 ““affiliate” –of a Party means any person, now or hereafter existing, who directly or indirectly controls, (*holding company*) or is controlled or is under common control of such Party (subsidiary company); a Person “controls” another person if it holds or is beneficially entitled to hold , directly or indirectly, other than by way of security interest only, more than 50% of its voting , income or capital;
- 1.3 “disclosing party” – the party disclosing confidential information in terms of this agreement and being Airports Company;
- 1.4 “receiving party” – the party receiving confidential information in terms of this agreement;
- 1.5 “the parties” – the Airports Company and _____.

2. **INTRODUCTION**

- 2.1 The parties intend to provide each other with certain information pertaining to their operations and the parties are in the process of discussing certain matters with a view to concluding an agreement (“the potential agreement”), which discussions have required and will require the disclosure to one another of information of a proprietary, secret and confidential nature. Whether or not the parties conclude the potential agreement will not affect the validity of this agreement.
- 2.2 If the confidential information so disclosed is used by the receiving party for any purpose other than that for which its use is authorised in terms of this agreement or is disclosed or disseminated by the

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receiving party to another person or entity which is not a party to this agreement, this may cause the disclosing party to suffer damages and material financial loss.

- 2.3 This agreement shall also bind the parties, notwithstanding the date of signature hereof, in the event that either party shall have disclosed any confidential information to the other party prior to date of signature hereof.
- 2.4 The parties wish to record the terms and conditions upon which each shall disclose confidential information to the other, which terms and conditions shall constitute a binding and enforceable agreement between the parties and their agents.

3 USE OF CONFIDENTIAL INFORMATION

Any confidential information disclosed by the disclosing party shall be received and used by the receiving party only for the limited purpose described in 2.1 above and for no other purpose.

4 NON-DISCLOSURE

- 4.1 THE RECEIVING PARTY undertakes that –
- 4.1.1 it will treat the disclosing party's confidential information as private and confidential and safeguard it accordingly;
- 4.1.2 it will not use (except as permitted in 3 above) or disclose or release or copy or reproduce or publish or circulate or reverse or engineer and/or decompile or otherwise transfer, whether directly or indirectly, the confidential information of the disclosing party to any other person or entity; and the receiving party shall take all such steps as may be reasonably necessary to prevent the disclosing party's confidential information falling into the hands of unauthorised persons or entities;
- 4.1.3 it shall not disclose the confidential information of the disclosing party to any employee, consultant, professional adviser, contractor or sub-contractor or agent of the receiving party (collectively referred to herein as "representative") or an affiliate of the receiving party, nor shall they be given access thereto by the receiving party -
- 4.1.4 unless it is strictly necessary for the purposes referred to in 2.1 above; and
- 4.1.5 the receiving party shall have procured that the representative, affiliate or consultant to whom or to which such information is disclosed or made available shall have agreed to be bound by all the terms of this agreement, and, in such event, the receiving party hereby indemnifies the disclosing party

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against any loss, harm or damage which it may suffer as a result of the unauthorised disclosure of confidential information by a representative, affiliate or consultant.

- 4.2 Any documentation or written record or other material containing confidential information (in whatsoever form) which comes into the possession of the receiving party shall itself be deemed to form part of the confidential information of the disclosing party. The receiving party shall, on request, and in any event if the discussions referred to in 2.1 above should not result in an agreement, return to the disclosing party all of its confidential information which is in physical form (including all copies) and shall destroy any other records (including, without limitation, those in machine readable form) as far as they contain the disclosing party's confidential information. The receiving party will, upon written or oral request from the disclosing party and within five (5) business days of the disclosing party's request, provide the disclosing party with written confirmation that all such records have been destroyed.

5. **COPIES**

- 5.1 The receiving party may only make such copies of the disclosing party's confidential information as are strictly necessary for the purpose and the disclosures which are not in breach of this agreement and authorised in terms of this agreement. The receiving party shall clearly mark all such copies as "Confidential".
- 5.2 At the written request of the disclosing party, the receiving party shall supply to the disclosing party a list showing, to the extent practical –
- 5.2.1 where copies of the confidential Information are held;
 - 5.2.2 copies that have been made by the receiving party (except where they contain insignificant extracts from or references to confidential information) and where they are held; and
 - 5.2.3 the names and addresses of the persons to whom confidential information has been disclosed and, if applicable, a copy of the confidentiality undertaking signed by such persons complying with the provisions of this agreement.

6. **THE USE OF THE COMPANY'S INTELLECTUAL PROPERTY**

- 6.1 The receiving party shall not use any intellectual property of the Company (including trademarks, service marks, logos, slogans, trade names, brand names and other indicia of origin) (collectively, the "**Company IP**") for any reason whatsoever without first obtaining the Company's prior written consent which consent the Company shall be entitled to grant solely at its own discretion.

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- 6.2 If the receiving party requires the use of such Company IP, a request must be sent to the **[INTERNAL NOTE: INSERT EMAIL ADDRESS OF THE SCM OFFICIAL]**. Each single request by the same receiving party shall be treated as a new request.
- 6.3 Should the Company provide its consent in terms of clause 6.1 above, the receiving party shall comply with the Company's policies and standards with regard to the use of the Company IP. Such policies and standards shall be communicated to the receiving party at the time the Company grants the consent to the receiving party.
- 6.4 Failure to adhere to the provisions of this clause 6 or the policies, brand requirements and protocols that will be communicated by the Brand Custodians Office to the receiving party, shall result in the penalty equal to the value of 2% (two per cent) of the receiving party's annual turnover in the financial year in which the aforesaid failure occurred.

7. **DURATION**

- 7.1 Subject to Clause 2.3 this agreement shall commence or shall be deemed to have commenced on the date of signature of this agreement by the last party to sign the agreement.
- 7.2 This agreement shall remain in force for a period of **5 years** ("the term"), or for a period of one (1) year from the date of the last disclosure of confidential information to the receiving party, whichever is the longer period, whether or not the parties continue to have any relationship for that period of time.

8. **TITLE**

- 8.1 All confidential information disclosed by the disclosing party to the receiving party is acknowledged by the receiving party:
- 8.1.1 to be proprietary to the disclosing party; and
- 8.1.2 not to confer any rights to the receiving party of whatever nature in the confidential information.

9. **RELATIONSHIP BETWEEN THE PARTIES**

- 9.1 The disclosing party is not obliged, by reason of this agreement, to disclose any of its confidential information to the receiving party or to enter into any further agreement or business relationship with the receiving party. Nothing herein shall imply or create any exclusive relationship between the Parties

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or otherwise restrict either Party from pursuing any business opportunities provided it complies at all times with the non-disclosure obligations set forth herein

- 9.2 The disclosing party retains the sole and exclusive ownership of intellectual property rights to its confidential information and no license or any other interest in such confidential information is granted in terms hereof or by reason of its disclosure.
- 9.3 The termination of the discussions referred to in 2.1 above shall not release the parties from the obligations set out in this agreement.

10. **ENFORCEMENT, GOVERNING LAWS AND JURISDICTION**

- 10.1 This agreement shall be governed by and interpreted according to the laws of the Republic of South Africa, without reference to the choice of laws' provisions of the Republic of South Africa. In the event of a conflict between or inconsistency in the laws applicable in the various provinces of the Republic of South Africa, the law as applied and interpreted in the Gauteng Province shall prevail.
- 10.2 The parties irrevocably submit to the exclusive jurisdiction of the High Court of South Africa, Witwatersrand Local Division, in respect of any action or proceeding arising from this agreement.
- 10.3 The parties agree that, in the event of a breach of this agreement, monetary damages would not be an adequate remedy. In the event of a breach or threatened breach of any provisions of this agreement by the receiving party, the disclosing party (and/or its relevant affiliate) shall be entitled to injunctive relief in any court of competent jurisdiction and the receiving party shall reimburse the disclosing party for any costs, claims, demands or liabilities arising directly or indirectly out of a breach. Nothing contained in this agreement shall be construed as prohibiting a party or its affiliate from pursuing any other remedies available to it for a breach or threatened breach.
- 10.4 The failure by the disclosing party to enforce or to require the performance at any time of any of the provisions of this agreement shall not be construed to be a waiver of such provision, and shall not affect either the validity of this agreement or any part hereof or the right of the disclosing party to enforce the provisions of this agreement.

11. **DOMICILIUM**

- 11.1 The parties choose as their *domicilium* the addresses indicated in the heading to this agreement for the purposes of giving any notice, the payment of any sum, the serving of any process and for any other purpose arising from this agreement.
- 11.2 Each of the parties shall be entitled from time to time, by written notice to the other, to vary its domicilium to any other address which is not a post office box or poste restante.

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- 11.3 Any notice required or permitted to be given in terms of this agreement shall be valid and effective only if in writing.
- 11.4 Any notice given and any payment made by one party to the other ("the addressee") which:
- 11.4.1 is delivered by hand during the normal business hours of the addressee at the addressee's domicile for the time being shall be presumed, until the contrary is proved, to have been received by the addressee at the time of delivery;
- 11.4.2 is posted by prepaid registered post from an address within the Republic of South Africa to the addressee at the addressee's domicile for the time being shall be presumed, until the contrary is proved, to have been received by the addressee on the fourth day after the date of posting;
- 11.4.3 is transmitted by facsimile to the addressee's receiving machine shall be presumed, until the contrary is proved, to have been received within one (1) hour of transmission where it is transmitted during normal business hours or, if transmitted outside normal business hours, within one (1) hour of the resumption of normal business hours on the next normal business day.
12. **GENERAL**
- 12.1 No party shall be bound by any representation, warranty, undertaking, promise or the like not recorded in this agreement.
- 12.2 No addition to, variation or agreed cancellation of this agreement shall be of any force or effect unless in writing and signed by or on behalf of the parties.
- 12.3 Any indulgence which either party may show to the other in terms of or pursuant to the provisions contained in this agreement shall not constitute a waiver of any of the rights of the party which granted such indulgence.
- 12.4 The parties acknowledge that this agreement and the undertakings given by it in terms hereof are fair and reasonable in regard to their nature, extent and period and go no further than is reasonably necessary to protect the interests of the parties.
- 12.5 The parties hereby confirm that they have entered into this agreement with full and clear understanding of the nature, significance and effect thereof and freely and voluntarily and without duress.
- 12.6 Neither party shall have the right to assign or otherwise transfer any of its rights or obligations under this agreement.
- 12.7 This agreement may be executed in several counterparts that together shall constitute one and the same instrument.
- 12.8 In this agreement, clause headings are for convenience and shall not be used in its interpretation.

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- 12.9 Each clause of this agreement is severable, the one from the other and if any one or more clauses are found to be invalid or unenforceable, that clause shall not affect the balance of the clauses which shall remain in full force and effect.

SIGNED at _____ on _____ day of _____ 202__

**AIRPORTS COMPANY SOUTH AFRICA SOC
LIMITED**

the signatory warranting that he is duly authorised
thereto.

Name: _____

Designation: _____

AS WITNESSES

1. _____

2. _____

SIGNED at _____ on _____ day of _____ 202__

[NAME OF SERVICE PROVIDER]

the signatory warranting that s/he is duly authorised
thereto.

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Name: _____

Designation: _____

AS WITNESSES

1. _____

2. _____

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FORM 5.6: ACCEPTANCE OF TERMS AND CONDITIONS OF RFP AND BIDDER'S PARTICULARS

TO: Airports Company South Africa SOC Limited (ACSA)

Airports Company South Africa Limited.

Proposal No: _____

1. Bidder's Name and Contract Details

Bidder:	
Physical Address:	
Correspondence to be addressed to:	
Phone numbers:	
Email Address:	
Contact Person:	

2. Proposal Certification

We hereby submit a Proposal in respect of the contractor appointment for supply, delivery & offloading of low and medium voltage spares at O.R Tambo International Airport and remote areas for a period of thirty- six (36) months.in accordance with Airports Company South Africa's requirements.

- We acknowledge that Airports Company South Africa's terms and conditions (as amended and mutually agreed between the parties if necessary) shall apply to the agreement with the successful Bidder.

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- We have read, understand and agree to be bound by the content of all the conditions of this bid and documentation provided by Airports Company South Africa in this Request for Proposal.
- We accept that Airports Company South Africa's Bid Adjudication Committee decision is final and binding.
- We acknowledge that the bidder/s, directors, shareholders and employees may be subjected to security vetting by Airport Company South Africa or its agent.
- We certify that all forms of Proposal as required in the Proposal document are included in our submission.
- We certify that all information provided in our Proposal is true, accurate, complete and correct.
- This Proposal is specific to this bid only.
- The undersigned is/are authorized to submit and sign the Proposal that shall be binding on closure of the Proposal submission.
- The Proposal is binding on this Bidder for a period which lapses after *one hundred and twenty (120) days* calculated from the closing date for Proposal submission.

Thus done and signed at		on this the		day of		202
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Signature:	
Name:	

For and behalf of:

Bidding entity name:	
Capacity:	

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