



**TENDER DOSSIER**

**FOR**

**THE CONSTRUCTION AND SUPPLY**

**OF**

**HAWKERS' STALLS IN LUSIKISIKI, INGQUZA HILL LOCAL  
MUNICIPALITY, SOUTH AFRICA**

**TENDER REFERENCE: NETS\_EC\_2**



## TENDER DOSSIER

FOR

THE CONSTRUCTION AND SUPPLY

OF

HAWKERS' STALLS IN LUSIKISIKI, INGQUZA HILL LOCAL MUNICIPALITY, SOUTH AFRICA

TENDER REFERENCE: NETS\_EC\_2

### TABLE OF CONTENTS

<b>Part 1</b>	<b>Tendering Procedures</b>
1.1	Call for tender
1.2	Procurement Guidelines
<b>Part 2</b>	<b>Agreement and Contract Data</b>
2.1	Application Forms
2.2	Additional Particulars Of Tenderer
<b>Part 3</b>	<b>Pricing Data</b>
3.1	Pricing Instructions
3.2	Standard Preambles
3.3	Bills of Quantities
<b>Part 4</b>	<b>Scope of Work</b>
4.1	Scope of Work
4.2	Health and Safety
4.3	HIV/Aids Specification
<b>Part 5</b>	<b>Drawings</b>
5.1	Architect's Drawings



**TENDER DOSSIER**

**FOR**

**THE CONSTRUCTION AND SUPPLY**

**OF**

**HAWKERS' STALLS IN LUSIKISIKI, INGQUZA HILL LOCAL  
MUNICIPALITY, SOUTH AFRICA**

**TENDER REFERENCE: NETS\_EC\_2**

**PART. 1- TENDERING PROCEDURES**



## **PROGRAMME: AID 8875**

### **Support Programme to Decentralisation and Local Development Policies in South Africa- A Network of Tuscan and South African Local Governments**

#### **CALL FOR TENDER**

**Tender Ref: NETS\_EC\_2**

In the framework of the programme **Support Programme to Decentralisation and Local Development Policies in South Africa - A Network of Tuscan and South African Local Governments- NETSAFRICA (AID 8875)**, which is financed by the Italian Ministry of Foreign Affairs and the Regional Government of Tuscany, Oxfam intends to award a contract for the "Construction and Supply of Hawkers' Stalls in Lusikisiki, Ingquza Hill Local Municipality, South Africa".

The tender dossier is available at the 30 Princess Drive, Bonza Bay, East London 5201, Tel 043 748 3478 from 14<sup>th</sup> November 2011 at 12:00 and at Oxfam Italia website ([www.oxfamitalia.org](http://www.oxfamitalia.org)) at this link:

<http://www.oxfamitalia.org/scopri/cosa-facciamo/gare-dappalto>

**Compulsory clarification meeting** will be held in Lusikisiki at Ingquza Hill Local Municipality offices on 21<sup>st</sup> November 2011 at 10.

**The deadline for the submission of tenders is 5<sup>th</sup> of December 2011 at 12:00 local time at NetsAfrica offices, 30 Princess Drive, Bonza Bay, 5201.**

A tender opening session will take place at the above-mentioned address on 5th December 2011 at 12:30.

For enquiries, contact Mr Mteteli Caba and Mrs Sara Albiani **ONLY** by email, up to **7 days** before the deadline for submission of tenders, **specifying the tender reference**. All written communication for this tender procedure and contract must be in English.

**E-mail:** [mteteli.caba@oxfamitalia.org](mailto:mteteli.caba@oxfamitalia.org) and [sara.albiani@oxfamitalia.org](mailto:sara.albiani@oxfamitalia.org)



# **Tender Dossier For “Construction And Supply Hawkers’Stalls in Lusikisiki, Ingquza Hill Local Municipality, South Africa”**

# Guidelines

**Publication reference:**  
**[NETS\_EC\_2]**

## **PREAMBLE**

### **A. CONTENT**

- 1. TIMETABLE**
- 2. WORK AND SUPPLIES TO BE PROVIDED**
- 3. SUBMISSION OF THE TENDER**

### **B. GENERAL CONDITION**

- 4. ELIGIBILITY**
- 5. ETHICS CLAUSES**
- 6. LANGUAGE OF OFFERS**
- 7. PERIOD OF VALIDITY**
- 8. PRICING AND CURRENCY**
- 9. PACKAGING AND MARKING**
- 10. DELIVERY PLAN**
- 11. INSURANCE**
- 12. COSTS OF PREPARING TENDERS**
- 13. TENDER GUARANTEE**
- 14. PERFORMANCE GUARANTEE**
- 15. OWNERSHIP OF TENDERS**
- 16. JOINT VENTURE OR CONSORTIUM**
- 17. SUBCONTRACTING**
- 18. RESPONSIBILITIES**
- 19. LAW APPLICABLE**

### **C. TENDER PROCESS**

- 20. ADDITIONAL INFORMATION BEFORE THE DEADLINE FOR SUBMISSION OF TENDERS**
- 21. CLARIFICATION MEETING / SITE VISIT**
- 22. ALTERATION OR WITHDRAWAL OF TENDERS**
- 23. CANCELLATION OF THE TENDER PROCEDURE**
- 24. OPENING OF TENDERS**
- 25. EVALUATION OF TENDERS**
- 26. SIGNATURE OF THE CONTRACT**

### **D. CONTRACT - GENERAL CLAUSES**

- 27. TYPE OF CONTRACT**
- 28. PRELIMINARY INSPECTION**
- 29. DOCUMENTATION**
- 30. DELIVERY INSPECTION AND ACCEPTANCE OF THE DELIVERY**
- 31. NON CONFORMITY OF DELIVERY**
- 32. PAYMENT PROCEDURE**

### **E. ANNEX**

- ANNEX I: ADMINISTRATIVE COMPLIANCE GRID**
- ANNEX II: TECHNICAL EVALUATION GRID**
- ANNEX III: FINAL EVALUATION GRID**
- ANNEX IV : TECHNICAL DESCRIPTION**
- ANNEX V: DRAFT CONTRACT**

**PUBLICATION REF. NETS\_EC\_2:**

**By submitting a tender, the tenderer accepts in full and without restriction the following conditions as the sole basis of this tendering procedure, whatever his own conditions of sale may be, which he hereby waives. Tenderers are expected to examine carefully and comply with all instructions, forms, contract provisions and specifications contained in this tender dossier. Failure to submit a tender containing all the required information and documentation within the deadline specified will lead to the rejection of the tender. No account can be taken of any reservation in the tender as regards the tender dossier; any reservation will result in the immediate rejection of the tender without further evaluation.**

### **Preamble**

Or Tambo District Municipality was nominated as one of the municipalities that would have participated on the Support Programme to Decentralisation and Local Development Policies in South Africa, which is financed by the Italian Foreign Ministry, the Government of Tuscany and implemented by Oxfam Italia. The programme is a network of Tuscan and South African Local Governments (NETSAFRICA), whose overall objective of is to support the process of administrative decentralization of the Republic of South Africa with a view to consolidate the role of local institutions on the path towards democratization and peace, as well as in the formulation of policies and implementation of Initiatives to fight poverty and ensure access to basic services within the context of the National Framework for Local Economic Development in South Africa.

In order to achieve the above objective, Or Tambo District Municipality proposes an intervention, which seeks to contribute towards the development of local trade (micro and informal enterprises) in Lusikisiki. This will be achieved principally through the provision of technical and financial assistance for **a)** targeted capacity building of the local municipality to support informal trading (including facilitating access to business support services, upgraded infrastructure and an improved regulatory environment), and **b)** building the associational and institutional capacity of local trade associations (e.g. in representing the interests of members and engaging with decision makers on trade and business development issues; on accessing technical and financial state support; and in exploring alternative business models e.g. cooperatives to strengthen informal trading activities).

The procedures applied by NETSAFRICA in the present tender are inspired by the principles of:

- Transparency in the procurement procedures;
- Proportionality between the procedures followed for awarding contracts and the value of the contracts;
- Equal treatment and non-discrimination of potential contractors and donors.



## **A. CONTENT**

### **1. Timetable**

	<b>DATE</b>	<b>TIME *</b>
<b>Clarification meeting / site visit (if any)</b>	<b>21 November 2011</b>	<b>10:00</b>
<b>Deadline for requesting any clarifications from the Contracting Authority</b>	<b>28 November 2011</b>	<b>16:00</b>
<b>Last date on which clarifications can be issued by the Contracting Authority</b>	<b>01 December 2011</b>	<b>16:00</b>
<b>Deadline for the submission of tenders</b>	<b>05 December 2011</b>	<b>12:00</b>
<b>Tender opening session</b>	<b>05 December 2011</b>	<b>12:30</b>
<b>Notification of award to the successful tenderer</b>	<b>Within 3 days after opening session **</b>	<b>-</b>
<b>Signature of the contract</b>	<b>Within 7 days after opening session **</b>	<b>-</b>

\* All times are in the time zone of South Africa

\*\* Provisional date

### **2. Works and supplies to be provided**

- 2.1.** The subject of the contract is the construction and supply by the Contractor of the following goods: **100 Table Top Stalls, 4 Covered Stalls, 9 Chicken Stalls, 4 Kitchen Stalls and 4 Livestock Stalls** as described in Annex IV.
- 2.2.** The amount to be provided may increase or decrease within a range of 25% without any change in the unit price.
- 2.3.** The Contracting Authority may issue contract instructions to the contractor regarding the alteration to design, quality or quantity of the works provided that such contract instructions shall not substantially change the scope of the works. The works must comply with the specification set out in Annex IV.
- 2.4.** Tenderers and related controlling or controlled entities may not submit more than one bid.

### **3. Submission of the Tender**

- 3.1.** Tenders must be received before the deadline specified in the timetable above that is, **05<sup>th</sup> December 2011 at 12:00**. They must include the Tender submission form in **Annex I to Annex VII of the Tender Dossier - Application Forms** and be sent or delivered by hand to the following addresses:

**NETSAFRICA South African-Tuscan Network  
30 Princess Drive, Bonza Bay, East London, 5201  
(for location, please call 043 748 3478)**

- 3.2.** All tenders must be submitted in one (1) original, marked "original", and one (1) copy signed in the same way as the original and marked "copy". All tenders must be received at the abovementioned addresses before the deadline, **05<sup>th</sup> December 2011 at 12:00**, by registered letter with acknowledgement of receipt or hand-delivered against receipt.
- 3.3.** All tenders, including annexes and all supporting documents, must be submitted in a **sealed envelope** bearing only:
  - a. the abovementioned addresses;
  - b. the reference code of this tender, **[NETS\_EC\_2]**;

- c. the words "Not to be opened before the tender opening session" in English.
- d. the name of the tenderer.

## **B. General Condition**

### **4. Eligibility**

- 4.1.** Participation in tendering is open on equal terms to natural and legal persons (participating either individually or in a grouping [consortium] of tenderers). Tenderers must provide evidence of their status.
- 4.2.** These rules apply to:
  - a. tenderers;
  - b. members of a consortium;
  - c. sub-contractors.
- 4.3.** The Contracting Authority will exclude from participation in a procurement procedure candidates or tenderers falling into any of the following cases:
  - a. They are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
  - b. They have been convicted of an offence concerning their professional conduct by a judgment that has the force of res judicata;
  - c. They have been guilty of grave professional misconduct proven by any means that the Contracting Authority can justify;
  - d. They have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the Contracting Authority or those of the country where the contract is to be performed;
  - e. They have been the subject of a judgment that has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;
  - f. Following another procurement procedure or grant award procedure financed by the Community budget, they have been declared to be in serious breach of contract for failure to comply with their contractual obligations. Candidates or tenderers must certify by any relevant means that they are not in one of the situations listed above.
- 4.4.** Contracts shall not be awarded to candidates or tenderers who, during the procurement procedure:
  - a. Are subject to a conflict of interest;
  - b. Are guilty of misrepresentation in supplying the information required as a condition of participation in the contract procedure or fail to supply this information. Tenderers or candidates who have been guilty of making false declarations will also incur financial penalties representing 10% of the total value of the contract being awarded. That rate may be increased to 20% in the event of a repeat offence within five years of the first infringement.

- 4.5.** To be eligible for participation in this tender procedure, tenderers must prove to the satisfaction of the Contracting Authority that they comply with the necessary legal, technical and financial requirements and have the wherewithal to carry out the contract effectively. In particular, with reference to the Annex III of this tender dossier - Application Form, Information chart of the tenderer, they should provide, as supporting documents, certified copy of: the bylaws, the certificate of registration with local professional register. All tenders must include the following documents, failure to do so could lead to disqualification:
- a) Valid original tax clearance
  - b) Proof of registration for Value Added Tax
  - c) Certified copies of company registration documents
  - d) Certified Copy of Directors' and members identification documents
  - e) Proof of Registration with Compensation Commissioner and Letter of Good standing
  - f) Comprehensive Company profile

## **5. *Ethics clauses***

- 5.1.** Any attempt by a candidate or tenderer to obtain confidential information, enter into unlawful agreements with competitors or influence the committee or the Contracting Authority during the process of examining, clarifying, evaluating and comparing tenders will lead to the rejection of their candidacy or tender and may result in administrative penalties.
- 5.2.** Without the Contracting Authority's prior written authorisation, a Contractor and its staff or any other company with which the Contractor is associated or linked may not, even on an ancillary or subcontracting basis, supply other services, carry out work or supply equipment for the project. This prohibition also applies to any other projects that could, owing to the nature of the contract, give rise to a conflict of interest on the part of the Contractor.
- 5.3.** When putting forward a candidacy or tender, the candidate or tenderer shall declare that he is affected by no potential conflict of interest and has no particular link with other tenderers or parties involved in the project. Should such a situation arise during performance of the contract, the Contractor must immediately inform the Contracting Authority.
- 5.4.** The Contractor must at all times act impartially and as a faithful adviser in accordance with the code of conduct of his profession. The Contractor shall refrain from making public statements about the project or services without the Contracting Authority's prior approval. The Contractor may not commit the Contracting Authority in any way without its prior written consent.
- 5.5.** For the duration of the contract the Contractor and its staff shall respect human rights and undertake not to offend the political, cultural and religious mores of the beneficiary state.
- 5.6.** The Contractor may accept no payment connected with the contract other than that provided for therein. The Contractor and its staff must not exercise any activity or receive any advantage inconsistent with their obligations to the Contracting Authority.
- 5.7.** The Contractor and its staff shall be obliged to maintain professional secrecy for the entire duration of the contract and after its completion. All reports and documents drawn up or received by the Contractor shall be confidential.

- 5.8.** The contract shall govern the Contracting Parties' use of all reports and documents drawn up, received or presented by them during the execution of the contract.
- 5.9.** The Contractor shall refrain from any relationship likely to compromise his independence or that of its staff. If the Contractor ceases to be independent, the Contracting Authority may, regardless of injury, terminate the contract without further notice, and without the Contractor having any claim to compensation.
- 5.10.** The Contracting Authority reserves the right to suspend or cancel project financing if corrupt, fraudulent, collusive or coercive practices of any kind are discovered at any stage of the award process. For the purposes of this provision:
- **Corrupt practice** is defined as is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the activities of the Contracting Authority;
  - **Fraudulent practice** is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, the Contracting Authority to obtain a financial or other benefit or to avoid an obligation;
  - **Collusive practice** is an undisclosed arrangement between two or more tenderers or candidates designed to artificially alter the results of the tender procedure to obtain a financial or other benefit;
  - **Coercive practice** is impairing or harming, or threatening to impair or harm, directly or indirectly, any participant in the tender process to influence improperly its activities.
- 5.11.** All tenders will be rejected or contracts terminated if it emerges that the award or execution of a contract has given rise to unusual commercial expenses.
- 5.12.** Such unusual commercial expenses are commissions not mentioned in the main contract or not stemming from a properly concluded contract referring to the main contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a recipient who is not clearly identified or commissions paid to a company which has every appearance of being a front company.
- 5.13.** The Contractor shall supply the Contracting Authority on request with all supporting documents relating to the conditions of the contract's execution. The Contracting Authority may carry out whatever documentary or on-the-spot checks it deems necessary to find evidence in cases of suspected unusual commercial expenses.
- 5.14.** When putting forward a candidacy or tender, the candidate or tenderer shall declare its commitment to the non-exploitation of child labour and to the respect of basic social rights and working conditions. The Contracting Authority may carry out whatever documentary or on-the-spot checks it deems necessary to find evidence of the enforcement of the above mentioned principles.

## **6. *Language of offers***

- 6.1.** The offers, all correspondence and documents related to the tender exchanged by the tenderer and the Contracting Authority should be written in the language of the procedure, which is English.
- 6.2.** Supporting documents and printed literature furnished by the tenderer may be in another language, provided they are accompanied by a translation into the

language of the procedure. In case any problem of interpretation will arise, English version will prevail.

## **7. Period of validity**

- 7.1.** Tenderers shall be bound by their tenders for a period of **90 days** from the deadline for the submission of tenders.
- 7.2.** In exceptional cases and prior to the expiry of the original tender validity period, the Contracting Authority may ask tenderers in writing to extend this period by **40 days**. Tenderers that agree to do so will not be permitted to modify their tenders. If they refuse, their participation in the tender procedure will be terminated.
- 7.3.** The successful tenderer will be bound by his tender for a further period of **60 days**. The further period is added to the initial period of **90 days** irrespective of the date of notification

## **8. Pricing and Currency**

- 8.1.** The prices of the offers will be expressed in **ZAR** and they must be expressed in a way that must be inclusive of all annexed costs such as purchase of the material, transport, insurance, proper maintenance guide, full installation, 2 years warranty and 2 years of free technical assistance, handover and work on site.
- 8.2.** The prices should be expressed numerical and in words **inclusive of 14% VAT**.
- 8.3.** The prices will be considered fixed and valid for the entire duration of the contract until the complete execution of the delivery. No additional charge of whatsoever nature and type will be accepted by the Contracting Authority.
- 8.4.** The amounts cannot exceed **R 1.986.000,00 (VAT included)**.

## **9. Packaging and marking**

- 9.1.** The supply should make provision for branding material to exhibit COOPERAZIONE ITALIANA, REGIONE TOSCANA, Or Tambo District Municipality, Hingquza Hill Local Municipality NETSAFRICA and Oxfam logos. The Contracting Authority will provide, after the signature of the contract, the Contractor with the branding material and the visibility requirements set by the Programme donors.

## **10. Delivery plan**

- 10.1.** The Contractor is requested to provide a delivery plan preferably using the format attached as Annex VII of the Application Form document attached to this guidelines. The supply and construction should be carried out **within 50 days** from the signature of the contract. The contractor should adhere to the approved delivery plan as submitted.

## **11. Insurance**

- 11.1.** The Contracting Authority shall bear no responsibility over losses or damage of the procured products incurred during the performance period and before acceptance of the products. It is therefore up to the Contractor to insure the products if necessary.

## **12. Costs of preparing tenders**

- 12.1.** No costs incurred by the tenderer in preparing and submitting the tender are reimbursable. All such costs will be borne by the tenderer.

### **13. Tender Guarantee**

**13.1.** There will be no tender guarantee required for this project.

### **14. Performance guarantee**

**14.1.** The performance guarantee is set at **10%** of the amount of the contract and should be presented at the signature of the contract as precondition for the finalization of the contract itself. It should be preferably presented in the form specified in the Annex VIII of the Tender Dossier - Application Forms. The Performance Guarantee must remain valid **30 days** beyond end of the works, installation and delivery. Personal cheques will not be accepted as performance guarantee.

**14.2.** The Performance Guarantee will be released within **30 days** after the successful conclusion of the supply together with the last instalment as per Article 27.

### **15. Ownership of tenders**

**15.1.** The Contracting Authority retains ownership of all tenders received under this tender procedure. Consequently, tenderers have no right to have their tenders returned to them.

### **16. Joint venture or consortium**

**16.1.** If a tenderer is a joint venture or consortium of two or more persons, the tender must be single with the object of securing a single contract; each person must sign the tender and shall be jointly and severally liable for the tender and any contract. Those persons shall designate one of their members to act as leader with authority to bind the joint venture or consortium. The composition of the joint venture or consortium must not be altered without the prior consent in writing of the Contracting Authority.

**16.2.** The tender may be signed by the representative of the joint venture or consortium only if he has been expressly so authorised in writing by the members of the joint venture or consortium, and the authorising contract, notarial act or deed must be submitted to the Contracting Authority in accordance with article 4 of this Tender Dossier. All signatures to the authorising instrument must be certified in accordance with the national laws and regulations of each party comprising the joint venture or consortium together with the powers of attorney establishing, in writing, that the signatories to the tender are empowered to enter into commitments on behalf of the members of the joint venture or consortium. Each member of such joint venture or consortium must provide the proof required under Article 5.5 as if it, itself, were the tenderer.

### **17. Subcontracting**

**17.1.** Subcontracting, the whole or part of the contract, cannot be carried out without previous authorisation of the Contracting Authority.

**17.2.** In any case, the Subcontractor have to comply with the eligibility criteria stated in Articles 4 and 5.

### **18. Responsibilities**

**18.1.** The Contractor will be responsible for:

- Construction, manufacture or assembly of the products;
- Storage of the products until the delivery or loading;
- Installation and Loading of the products;

- Installation and delivery of the products to the locations specified in Annex IV.

## **19. Law applicable**

**19.1.** The Laws of South Africa shall apply, in particular but not exclusively the National Building Regulation and Building Standards Act.

## **C. TENDER PROCESS**

### **20. Additional information before the deadline for submission of tenders**

**20.1.** If the Contracting Authority, either on its own initiative or in response to the request of a prospective tenderer, provides additional information on the tender dossier, it must send such information in writing to all other prospective tenderers at the same time. Tenderers may submit questions in writing to the following address up to **7 days** before the deadline for submission of tenders, **specifying the publication reference: (NETS\_EC\_2)**;

Contact names: Mteteli Caba and Sara Albiani

Fax: +27 (0)437483478

E-mail: [mteteli.caba@oxfamitalia.org](mailto:mteteli.caba@oxfamitalia.org) and [sara.albiani@oxfamitalia.org](mailto:sara.albiani@oxfamitalia.org)

**20.2.** Any prospective tenderers seeking to arrange individual meetings with either the Contracting Authority and/or the partner Municipality, OR Tambo District Municipality and /or the beneficiary municipality, Ingquza Hill Local Municipality during the tender period may be excluded from the tender procedure.

### **21. Clarification meeting / site visit**

**21.1.** A compulsory clarification meeting will be held on **21 November 2011 at 10:00am at Ingquza Hill Municipality Offices in Lusikisiki** to answer any questions on the tender dossier which have been forwarded in writing or are raised at the meeting.

**21.2.** Minutes will be taken during the meeting and these will be communicated - together with any clarifications in response to written requests which are not addressed during the meeting - in writing to all the tenderers at the latest **5 days** before the deadline for submission of tenders. No further clarification will be provided after this date. All the costs of attending this meeting will be borne by the tenderers.

**21.3.** Visits by individual prospective tenderers during the tender period other than this site visit for all prospective tenderers cannot be permitted.

### **22. Alteration or withdrawal of tenders**

**22.1.** Tenderers may alter or withdraw their tenders by written notification prior to the deadline for submission of tenders referred to in Article 4. No tender may be altered after this deadline. Withdrawals must be unconditional and will end all participation in the tender procedure.

**22.2.** Any such notification of alteration or withdrawal must be prepared and submitted in accordance with Article 4. The outer envelope must be marked 'Alteration' or 'Withdrawal' as appropriate.

**22.3.** No tender may be withdrawn in the interval between the deadline for submission of tenders referred to in Article 4 and the expiry of the tender validity period.

Withdrawal of a tender during this interval may result in forfeiture of the tender guarantee.

### **23.Cancellation of the tender procedure**

**23.1.** The cancellation of the tender procedure must be made in the same form used for the publicity on the tender procedure. In this case, the cancellation of the tender procedure is also effective towards those who have not heard about. Anyway in case of cancellation of the tender procedure, the Contracting Authority will make every effort to notify the event to the tenderers. If the tender procedure is cancelled before the outer envelope of any tender has been opened, the sealed envelopes will be returned, unopened, to the tenderers.

**23.2.** Cancellation may occur where:

- a) the tender procedure has been unsuccessful, namely where no qualitatively or financially worthwhile tender has been received or there has been no response at all;
- b) the economic or technical parameters of the project have been fundamentally altered;
- c) exceptional circumstances or *force majeure* render normal performance of the project impossible;
- d) all technically compliant tenders exceed the financial resources available;
- e) there have been irregularities in the procedure, in particular where these have prevented fair competition.

**In no circumstances will OXFAM ITALIA in the framework of NETSAFRICA Program be liable for damages, whatever their nature (in particular damages for loss of profits) or relationship to the cancellation of a tender, even if OXFAM ITALIA has been advised of the possibility of damages.**

**The publication of a procurement notice does not commit OXFAM ITALIA to implement the programme or project announced.**

### **24.Opening of tenders**

**24.1.** The opening and examination of tenders is for the purpose of checking whether the tenders are complete, whether the requisite tender guarantees have been furnished, whether the documents have been properly signed and whether the tenders are generally in order.

**24.2.** The tenders will be opened in public session on **05 December 2011 at 12:30 at 30 Proncess Drive, Bonza Bay, East London, 5201** by the committee appointed for the purpose consisting of at least three people. The committee will draw up minutes of the meeting, which will be available on request.

**24.3.** At the tender opening, the tenderers' names, the tender prices, any discount offered, written notifications of modification and withdrawal, and such other information as the Contracting Authority may consider appropriate must be announced.

**24.4.** After the public opening of the tenders, no information relating to the examination, clarification, evaluation and comparison of tenders, or recommendations concerning the award of the contract can be disclosed until after the contract has been awarded.

**24.5.** Any attempt by a tenderer to influence the evaluation committee in the process of examination, clarification, evaluation and comparison of tenders, to obtain information on how the procedure is progressing or to influence the Contracting



Authority in its decision concerning the award of the contract will result in the immediate rejection of his tender.

- 24.6.** All tenders received after the deadline for submission specified in the procurement notice or these instructions will be kept by the Contracting Authority. No liability can be accepted for late delivery of tenders. Late tenders will be rejected and will not be evaluated.

## **25. Evaluation of tenders**

### **25.1. Examination of the administrative conformity of tenders**

The aim at this stage is to check that tenders comply with the essential requirements of the tender dossier according to the evaluation form in ANNEX I. A tender is deemed to comply if it satisfies all the conditions, procedures and specifications in the tender dossier without substantially departing from or attaching restrictions to them. Decisions to the effect that a tender is not technically compliant must be duly justified in the evaluation minutes.

If a tender does not comply with the tender dossier, it will be rejected immediately and may not subsequently be made to comply by correcting it or withdrawing the departure or restriction.

### **25.2. Technical evaluation**

After analysing the tenders deemed to comply in administrative terms, the evaluation committee will rule on the technical admissibility of each tender, classifying it as technically compliant or non-compliant according to the evaluation form in Annex II. The technical evaluation will be based on the documents annexed in the tender concerning both the task to be carried out under the tender, and the professional ability of the tenderer.

### **25.3. Financial evaluation**

The rates and prices inserted in the bill of quantities must correspond to the conditions laid down in the tender dossier. The financial and economic standing of the tenderer will be evaluated by the evaluation committee.

### **25.4. Request of clarifications**

To facilitate the examination, evaluation and comparison of tenders, the evaluation committee may ask each tenderer individually for clarification of their tender, including breakdowns of prices. The request for clarification and the response must be in writing only, but no change in the price or substance of the tender may be sought, offered or permitted. Decisions to the effect that a tender is not technically compliant must be duly justified in the evaluation minutes.

### **25.5. Award criteria**

The tender commission will not necessarily choose on the basis of lowest price alone but will award one of received offer on the basis of value for money, price, quality, delivery plan, compliance with international norms, and delay for delivery; according to the evaluation form in Annex III. The experience of the tenderer in the performance of similar contracts will be as well a criterion for selection. The decision is final and unquestionable.

## **26. Signature of the contract**

- 26.1.** The result of the tender will be communicate to all tenderer in writing.
- 26.2.** Within 5 working days of receipt of the contract already signed by the Contracting Authority, the selected tenderer must sign and date the contract and return it, to

the Contracting Authority. Upon signing the contract, the successful tenderer will become the Contractor and the contract will enter into force.

- 26.3.** The signature of the contract is subject to the availability of funds.
- 26.4.** If the successful tenderer fails to sign and return the contract and any financial guarantee required within **10 days** after receipt of notification, the Contracting Authority may consider the acceptance of the tender to be cancelled without prejudice to the Contracting Authority's right to seize the guarantee, claim compensation or pursue any other remedy in respect of such failure, and the successful tenderer will have no claim whatsoever on the Contracting Authority.
- 26.5.** The Contracting Authority reserves the right to vary the quantities stipulated at the time of ordering within a range of **25%** of the contract price. Under this variation, the unit prices used in the tender shall be applicable to the quantities procured.
- 26.6.** After the signature of the contract, the Contractor shall provide any detailed information requested by the Contracting Authority, or by any other qualified outside body chosen by the Programme donors, partners or by the Contracting Authority for the purposes of checking that the activities implemented in the context of the present contract are being properly carried out. The Contractor therefore allows the Contracting Authority, the programme donors and partners to carry out the documentary and on-the-spot checks deemed necessary by the abovementioned authorities.

## ***D. CONTRACT - GENERAL CLAUSES***

### ***27. Type of contract***

- 27.1.** The contract that will be signed between the successful tenderer and the Contracting Authority will follow the template shown in Annex IV.

### ***28. Preliminary Inspection***

- 28.1.** The Contracting Authority reserves the right to conduct preliminary inspections. Preliminary inspections can be lead by internal staff of the Contracting Authority or by authorised third parties.
- 28.2..** The contractor may be requested to provide a sample of the product to the Contracting Authority for approval of the composition and quality as defined in Annex IV or packaging and marking at the sole discretion of the Contracting Authority.
- 28.3.** The storage of the product in the supplier's warehouse will have to be separated from other deliveries in order to facilitate the preliminary inspection.
- 28.4.** Once the product is ready for a preliminary inspection the Contractor must inform the Contracting Authority.
- 28.5.** During the preliminary inspection the Contracting Authority or an authorised third party will:
- Verify the exact quantity prepared;
  - Take samples to analyse the quality and the composition of the product delivered if not sample was provided
- 28.6.** The Contractor has to replace the quantity of product taken for sampling. Following the sample analysis, all defective products have to be replaced by the Contractor.

## **29. Documentation**

**29.1.** The Contractor has to hand over the following documents to the Contracting Authority when delivering the products or when the products are ready for delivery inspection.

- Certificate of conformity of the products to the technical specification of Annex V of the Application Forms;
- Delivery notes.

## **30. Delivery Inspection and Acceptance of the Delivery**

**30.1.** The Contracting Authority representative or an independent or reliable inspection company will carry out the delivery inspection of the product. The delivery inspection will take place in the place and moment of delivery. The personnel carrying out the delivery inspection will release delivery notes, certifying the quantity of the delivered supplies. These notes should be signed by the truck driver and countersigned by the Contracting Authority authorized personnel. Failing to show the delivery notes will be ground for possible payment deductions.

**30.2.** The Contracting Authority reserves also the right to carry out a quality inspection on some samples. At the end of this inspection the Contracting Authority will issue a quality note. Failing to show the quality notes will be ground for possible payment deductions

**30.3.** The objective of the delivery inspection is to assess the compliance with the terms of contract of:

- The documentation provided by the Contractor;
- The quantity delivered/loaded/ constructed;
- The quality of the product delivered/loaded/constructed.

**30.4.** The Contracting Authority representative will indicate any remarks or non-conformity of the products on the delivery note provided by the Contractor. These remarks will be the ground for possible payment deductions.

**30.5.** If the delivery inspection concludes that the delivery complies with the requirements of the contract, the Contracting Authority will accept the products.

## **31. Non conformity of delivery**

### **31.1. Quality and condition**

**31.2.** Should the quality or the condition of the products not satisfy the requirements of the contract at the moment of:

- Preliminary inspection;
- Delivery inspection.

**31.3.** They must be replaced by the Contractor at his/her own expenses.

The replacement must be executed as soon as possible, at the latest within **10 days** from the discovery of the non-compliance . The replaced products are again subject to the rules laid down in the signed contract.

The Contractor has to remove specific markings of the non-accepted products when mentioning OXFAM ITALIA or the institutional donor name.

### **31.4. Quantity**

Whether at the delivery inspection the quantities will not respect the amount required from the contract, the Contractor:

- Must deliver the missing quantities as soon as possible, at the latest **10 days** after its discovery, at his/her expenses. In case the

Contractor will not be able to provide the missing quantities, a payment deduction will be applied accordingly

- The then delivered products are subject to the rules laid down in the signed contract.

### **31.5. Non conformity of delivery - Delays**

In the event of delays of delivery, a penalty of 1/1000 per day of the nominal value of the products to be delivered shall apply. The sum will be retained from the performance guarantee.

In the case that the delay will be more than **15 days**, the contract will be deemed void. In this case:

- The performance guarantee submitted by the Contractor will be retained by the Contracting Authority as an indemnity for the pro rata of the non-delivered quantities.
- In case of non delivery of good meant to replace non-compliant products as delivered previously, or in case of missing quantities, the contract will be deemed void at the pro rata of the quantities still undelivered/missing. The performance guarantee will thus be collected according to this pro rata.

### **32.Payment procedure**

**32.1.** All payments will be carried out in **ZAR** via bank transfer to the Contractor's bank account.

**32.2.** Payments will occur only after verification of the compliance of the supply with the technical specification attached as Annex IV, according to the procedure as per Article 29, 30 and 31 and upon receipt of an original invoice issued by the Contractor.

**32.3.** OXFAM ITALIA will pay the Contractor in x instalments, to be agreed with the contractor in terms of the delivery plan and detailed in the contract.

**32.4.** The payment is subject to the availability of the funds. Should any delay will occur the Contracting Authority will inform the Contractor in due time

## ANNEX I: ADMINISTRATIVE COMPLIANCE GRID

**Contract title**

---

**Publication reference**

---

Tender envelope N.	Name of Tenderer	Is documentation complete? (Y/N)	Is language as required? (Y/N)	Is tender submission form complete? (Y/N)	Is tenderer's declaration signed (by all consortium partners)? (Y/N/ Not Applicable)	Criteria for participation respected (article 3 of the these guidelines) (Y/N)	Other administrative requirements for tender dossier? (Y/N/Not applicable)	Overall decision (Accept / Reject)

<b>Chairperson's name</b>	
<b>Chairperson's signature</b>	
<b>Date</b>	

## ANNEX II: TECHNICAL EVALUATION GRID

**Contract title**

---

**Publication reference**

---

<b>Tender envelope No.</b>	<b>Name of Tenderer</b>	<b>Economic &amp; financial capacity? (OK/a/b/...)</b>	<b>Professional capacity? (OK/a/b/...)</b>	<b>Technical capacity? (OK/a/b/...)</b>	<b>Compliance with technical specifications? (OK/a/b/...)</b>	<b>Other technical requirements in tender dossier?(Y/N/Not applicable)</b>	<b>Technically compliant? (Y/N)</b>	<b>Notes:</b>

<b>Evaluator's name</b>	
<b>Evaluator's signature</b>	
<b>Date</b>	

### ANNEX III: FINAL EVALUATION GRID

**Contract title**

---

**Publication reference**

---

<b>N. Envelope</b>	
<b>Tenderer Name</b>	

	<b>Maximum score</b>	<b>Candidate's score</b>
<b>1. Quality</b>	___/100	___/100
<b>2. Timing</b>	___/100	___/100
<b>3. Compliance with international standards</b>	___/100	___/100
<b>4. Cost</b>	___/100	___/100
<b>5. Reliability and experience of the candidate companies</b>	___/100	___/100
<b>Total</b>	<b>100/100</b>	<b>___/100</b>

<b>Evaluator's name</b>	
<b>Evaluator's signature</b>	
<b>Date</b>	

## **Annex IV : TECHNICAL DESCRIPTION**

### **1. General Conditions**

- **Table Top Stall – Single Trader**

Precast concrete table 100 mm thick size 1085mm long x 600mm wide x 700mm High with a steel cupboard double doors. (See attached drawing)

- **Chicken Stall**

Steel cage made of 50 x 50 x 3mm angle iron enclosed with welded mesh with a hatch opening fixed to concrete base, with a precast concrete bench on a concrete base. (See attached drawing)

- **Covered Stall**

Steel Structure comprising I-section columns, roof beams and lipped channel purlins covered with corrugated iron sheeting fixed to a concrete base, with a precast concrete table 100 mm thick size 1085mm long x 600mm wide x 700mm High with a steel cupboard double doors. (See attached drawing)

- **Livestock Stall**

Brick and mortar kraal structure with mesh infill panel and steel single gates. (See attached drawing)

- **Kitchen Stall**

Brick and mortar structure with a covered roof, precast windows with winvents, granolithic floors, plastered and painted walls. (See attached drawing)

### **2. Other requirements:**

The Contracting Authority requires that the stalls make provision for marketing and branding material to be provided by the contracting authority on completion of project.

### **3. Quantities, Distribution Places & Delivery of goods:**

**Quantities:** the total quantity of stalls to be constructed and supplied to be delivered according to the table here below:

<b>Type of Stall</b>	<b>Location Of Stall</b>	<b>No. Of Stalls At Location</b>
Table Top Stalls	Road Reserve in front of Erf 164 in Main Road	45
Table Top Stalls	Undercover Taxi Rank on Erf 40 adjacent to Boxer Superstore	45
Table Top Stalls	Proposed New Taxi Rank next to Erf 55 off Stanford Road	10



Covered Stalls	Road Reserve along side Erf 26 in Brickfield Street	4
Livestock Stalls	Proposed New Taxi Rank next to Erf 55 off Stanford Road	4
Kitchen Stalls	Proposed New Taxi Rank next to Erf 55 off Stanford Road	4
Chicken Stalls	Existing Bus Rank Behind Erf 164 off Deodar Road	6
Chicken Stalls	Proposed New Taxi Rank next to Erf 55 off Stanford Road	3
<b>TOTAL</b>		<b>121</b>

## **Annex V: DRAFT CONTRACT**

OXFAMITALIA in the framework of NETSAFRICA Programme hereinafter referred to as "The Contracting Authority", represented by (name of the representative)

of the one party, and

(Name of the successful tender) (acronym) hereinafter referred to as "the Contractor"  
(name of the representative)

of the other party,

have agreed as follows:

Construction and Supply of Hawkers' Stalls in Lusikisiki, Ingquza Hill Local Municipality,  
South African

**Identification number** NETS\_EC\_2

### **Article 1 Subject**

**1.1** The parties acknowledge that the position regulated by this Agreement is envisaged within the framework of the Support Programme to "Decentralisation and Local Development Policies in South Africa - A Network of Tuscan and South African Local Governments" – NETSAFRICA (hereinafter called "The Programme"), a decentralized co-operation Programme of the Regional Government of Tuscany, funded by the Italian Ministry of Foreign Affairs (Directorate-General for Development Cooperation) and the Regional Government of Tuscany itself.

**1.2** For the implementation of the above project, the following agreements have been signed:

- i. Operative Arrangement between Ministry of Foreign Affairs and Regional Government of Tuscany No. 1303 signed on 14th July 2008
- ii. Agreement between the Regional Government of Tuscany and Ucodep (now Oxfam Italia) approved by Decree No. 5948 of the 20th of October 2008
- iii. Memorandum of Understanding – Operational Provisions on the Program to Support the Department of Provincial and Local Government in the implementation of a development project that seeks to promote decentralization and local development in South Africa between the Department of Provincial and Local Government and the Regional Government of Tuscany, signed on the 6th of March 2009

**1.3** The Programme foresees the creation of a Secretariat to support the Regional Government of Tuscany in the implementation of the Programme with regards to the activities to be carried out both in South Africa and Italy. The Regional Government of Tuscany entrusted OXFAM Italia (an international non-governmental organization headquartered in Italy/Tuscany) with the responsibility to run the Programme Secretariat under its direct supervision.

**1.4** For the purpose of this Agreement the parties acknowledge that OXFAM Italia operates under the direct supervision of the Regional Government of Tuscany.

- 1.5** The subject of the contract shall be the supply and distribution within 45 days from the signature of the contract by the Contractor, of the following works:

**100 Table Top Stalls, 4 Covered Stalls, 9 Chicken Stalls, 4 Kitchen Stalls  
and 4 Livestock Stalls**

- 1.6** The Contractor shall comply strictly with the terms of the conditions spelled out in the instructions for tenderer and the technical specification attached as Annex V of the tender dossier (Application Form documents)(including any changes under the proposed variant). The document called "Tender Dossier For Construction And Supply Hawkers' Stalls in Lusikisiki, Ingquza Hill Local Municipality, South Africa" must be considered as an integral part of this Contract.
- 1.7** The place of acceptance of the supplies shall be (.....), the time limits for delivery shall be (.....)The delivery shall be completed within 45 days from the signature of the contract by both Parties.
- 1.8** The Contractor shall provide any detailed information requested by the Contracting Authority, the Programme donors and partners or by any other qualified outside body chosen by the Programme donors or by the Contracting Authority for the purposes of checking that the activities implemented in the context of the present contract are being properly carried out. The Contractor therefore allows the Contracting Authority, Programme donors and partners to carry out the documentary and on-the-spot checks deemed necessary by the abovementioned authorities.

## **Article 2 Price**

- 2.1** The contractor acknowledges the content of the technical specifications and will execute the task as described in the subject for the total amount of:  
\_\_\_\_\_ **ZAR**
- 2.2** The price referred to in Article 3.1 above shall be the sole remuneration owed by the Contracting Authority to the Contractor under the contract. It shall be firm and shall not be subject to revision.
- 2.3** Since the Contractor is deemed to have determined its prices on the basis of its own calculations, operations and estimates, it shall, at no additional charge, carry out any work that is the subject of any item in the tender for which the Contractor indicates neither a unit price nor a lump sum.

## **Article 3 Order of precedence of contract documents**

- 3.1** The contract is made up of the following documents, in order of precedence:

- the contract agreement;
- the Contractor's tender, including annexes
- other provisions of the tender dossier.

The various documents making up the contract shall be deemed to be mutually explanatory; in cases of ambiguity or divergence, they should be read in the order in which they appear above.

## **Article 4 General Obligations**

- 4.1** The Contractor shall perform the contract with due care and diligence including, where specified, the design, manufacture, delivery to site, erecting, testing and commissioning of the supplies and carrying out of any other work including the remedying of any defects in the supplies. The Contractor shall also provide all necessary equipment, supervision, labour and facilities required for the performance of the contract.
- 4.2** The Contractor shall respect and abide by all laws and regulations in force in the state of the Contracting Authority and shall ensure that its personnel, their dependants, and its local employees also respect and abide by all such laws and regulations. The Contractor shall indemnify the Contracting Authority against any claims and proceedings arising from any infringement by the Contractor, its employees and their dependants of such laws and regulations.
- 4.3** The Contractor shall treat all documents and information received in connection with the contract as private and confidential. It shall not, save insofar as may be necessary for the purposes of the contract's execution, publish or disclose any particulars of the contract without the prior written consent of the Contracting Authority or the Project Manager. If any disagreement arises as to the necessity for any publication or disclosure for the purpose of the contract, the decision of the Contracting Authority shall be final.
- 4.4** The Contractor shall be bound by the documents that form its tender dossier that are annexed to the present contract.

## **Article 5            Period of Execution**

- 5.1** Specify the execution period(s).

## **Article 6            Warranty**

- 6.1** The Contractor shall warrant that the supplies are new, unused, of the most recent models and incorporate all recent improvements in design and materials. The Contractor shall further warrant that none of the supplies have any defect arising from design, materials or workmanship. This warranty shall remain valid for one year after provisional acceptance.

## **Article 7            Payments**

- 7.1** The payment will be done according the following timetable: (specify the installments' structure)
- 7.2** All payments will take place according and proportionally to the execution of the task and they will be paid as specified in the commercial invoice handed over to the Contracting Authority by the Contractor

## **Article 8            Delivery**

- 8.1** The Contractor shall bear all risks relating to the goods until provisional acceptance at destination. The supplies shall be packaged following the visibility requirements foreseen by the technical specification attached as Annex IV of the tender dossier, so as to prevent their damage or deterioration in transit to their destination.

## **Article 9            Delay**

- 9.1** In case of delay in the execution of the task, a penalty of 1/1000 per day of the nominal value of the products to be delivered per day will be applied to the Contractor.

## **Article 10          Disputes**

- 10.1** All disputes between contractual parties arising from implementation of the tasks herein that cannot be automatically settled, shall be referred to the exclusive jurisdiction of the South African court.

## **Article 11          Termination of the contract**

- 11.1** The Contracting Authority may, after giving the Contractor 7 days' notice, terminate the contract in any of the following cases:

- a) the Contractor substantially fails to perform its obligations under this contract;
- b) the Contractor fails to comply within a reasonable time with a notice given by the Project Manager requiring him to perform his obligations under the contract which seriously affects the proper and timely performance of the work;
- c) the Contractor refuses or neglects to carry out administrative orders given by the Project Manager;
- d) the Contractor assigns the contract or subcontracts without the authorisation of the Contracting Authority;
- e) the Contractor is bankrupt or being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- f) the Contractor has been convicted of an offence concerning professional conduct by a judgment which has the force of res judicata;
- g) the Contractor has been guilty of grave professional misconduct proven by any means which the Contracting Authority can justify;
- h) the Contractor has been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Programme donors' financial interests;
- i) the Contractor, following another procurement procedure or grant award procedure by the same contracting authority and Programme donors, has been declared to be in serious breach of contract for failure to perform its contractual obligations;
- j) any organisational modification occurs involving a change in the legal personality, nature or control of the Contractor, unless such modification is recorded in an addendum to the contract;
- k) any other legal disability hindering performance of the contract occurs;
- l) the Contractor fails to provide the required guarantee or insurance, or if the person providing the earlier guarantee or insurance required under the present contract is not able to abide by its commitments.
- m) The Contracting Authority during the course of documentary or on-the-spot checks discovers an infringement of the Contractor concerning the non-exploitation of child labour and the respect of basic social rights and working conditions.

- 11.2** In the event of termination, the Project Manager shall, as soon as possible and in the presence of the Contractor or his representatives or having duly summoned them, draw up a report on the supplies delivered and the work performed and take an inventory of the materials supplied and unused. A statement shall also be drawn up of monies due to the Contractor and of monies owed by the Contractor to the Contracting Authority as at the date of termination of the contract. This contract shall be automatically terminated if it has given risen to no payment in the three years following its signing.

## **Article 12      Termination by the Contractor**

- 12.1** The Contractor may, after giving 30 days' notice to the Contracting Authority, terminate the contract if the Contracting Authority:
- fails to pay the Contractor the amounts due under any certificate issued by the Project Manager after the expiry of the deadline stated in the Special Conditions;
  - consistently fails to meet its obligations after repeated reminders; or
  - suspends the delivery of the supplies, or any part thereof, for more than 180 days, for reasons not specified in the contract or not attributable to the Contractor.

In the event of such termination, the Contracting Authority shall pay the Contractor for any loss or damage the Contractor may have suffered.

## **Article 13      Force majeure**

- 13.1** Neither Party shall be considered to be in default or in breach of its obligations under the contract if the performance of such obligations is prevented by any event of force majeure arising after the date of notification of award or the date when the contract becomes effective, whichever is earlier.
- 13.2** For the purposes of this Article, the term "force majeure" means strikes, lock-outs or other industrial disturbances, wars whether declared or not, blockades, insurrection, riots, epidemics, landslides, earthquakes, storms, lightning, floods, washouts, civil disturbances, explosions and any other similar unforeseeable events which are beyond the Parties' control and cannot be overcome by due diligence.
- 13.3** If circumstances of force majeure have occurred and continue for a period of 180 days then, notwithstanding any extension of time for completion of the contract that the Contractor may by reason thereof have been granted, either Party shall be entitled to serve the other with 30 days' notice to terminate the contract. If, on the expiry of the period of 30 days, the situation of force majeure still applies, the contract shall be terminated and, by virtue of the law governing the contract, the Parties shall be released from further performance of the contract.

Done in English in three originals, two originals being for the Contracting Authority and one original being for the Contractor.

**For the Contractor**

Name:

Position:

Signature:

Date

**For the Contracting Authority**

Name:

Position:

Signature:

Date