



## **Section C**

### **Conditions of Contract**

#### **Contract for Supply and Install of *CrimSafe or similar security screens for doors and windows on 39 houses on Tiwi Islands***

<b>Tender no:</b>	<b>T07-19-20</b>
<b>Tender Superintendent</b>	David Ciosmak 0407 304 622 <a href="mailto:david.ciosmak@tiwiislands.nt.gov.au">david.ciosmak@tiwiislands.nt.gov.au</a>
<b>Tender documents</b>	Tender documents are available for download on <a href="https://www.tenderlink.com/tiwiislands/">https://www.tenderlink.com/tiwiislands/</a> or on the Tiwi Island Regional Council website <a href="http://www.tiwiislands.org.au/services/tenders">www.tiwiislands.org.au/services/tenders</a>
<b>Tender closing information</b>	TIME: 2:00 PM (Central Standard time) DATE: 13 March 2020
<b>How to submit your tender</b>	Submit your tender on <a href="https://www.tenderlink.com/tiwiislands/">https://www.tenderlink.com/tiwiislands/</a>

All tenders for this Contract must be lodged through the Tiwi Islands Regional Council electronic tender portal <https://www.tenderlink.com/tiwiislands/>

### Reference Schedule

<b>Council you</b>	Tiwi Islands Regional Council <b>&lt;Here insert name of contractor&gt;</b>
<b>Council's service address and postal address</b>	Lot 834 Puti Drive Wurrumiyanga, NT, 0822 Postal: PMB 267 Winnellie, NT, 0822
<b>superintendent</b>	The person nominated in writing from time to time by (as applicable): the General Manager Infrastructure Tiwi Islands Regional Council
<b>Council's email address</b>	As notified in writing from time to time by Council's superintendent
<b>your service address</b>	<b>&lt;Here insert contractor's address&gt;</b>
<b>your email address</b>	<b>&lt;Here insert contractor's email address&gt;</b>
<b>your representative</b>	<b>&lt;Here insert name of contractor's representative&gt;</b>
<b>commencement date</b>	<b>&lt;Here insert commencement date&gt;</b>
<b>expiry date</b>	<b>&lt;Here insert commencement date, if applicable, or delete if not applicable&gt;</b>
<b>insurances</b>	Workers compensation insurance as required by statute; Public liability insurance in the sum of not less than \$20M for each occurrence; <b>&lt;Here insert any other appropriate insurances&gt;</b>

## **1 Agreement**

You agree to ensure that the goods supplied under this contract are of reasonable quality and fit for purpose and to perform the services for the Council for the term with reasonable care and skill and to the standard expected of a reasonably competent supplier providing such services, and otherwise on the terms of this contract. The Council agrees to pay you the contract price, for the goods supplied and for the provision of the services.

## **2 Superintendent**

The superintendent shall be the person named in the Reference Schedule or such other person as is nominated by Council from time to time. Only the superintendent has authority to bind Council.

## **3 Your Representative**

Your representative must have sufficient command of the English language to be able to read, converse and receive instructions in English.

## **4 Your General Obligations**

You must:

- a. Supply the goods and perform the services in accordance with the specifications set out in Annexure 1;
- b. Install all components necessary for the completion of the tender;
- c. Provide to Council all information and documentation necessary for Council to obtain the benefit of any manufacturer warranties;
- d. Provide stages of completion to Council at pre-agreed times

## **5 Making a Claim for Payment**

- 5.1 You are entitled to payment for the goods or services in accordance with the payment schedule or schedule of rates and at the time specified as set out in Annexure 2. Unless expressly stated otherwise in Annexure 2, all amounts are expressed exclusive of GST.
- 5.2 To make a claim for payment you must supply a valid tax invoice to the Council in respect of goods and services supplied.

- 5.3 Your invoice must include the following:
- a. The Council purchase order number or Instruction to Contractor number;
  - b. The amount of the payment you claim and the basis for calculation;
  - c. The amount of any GST paid or payable you with respect to the payment;
  - d. The date of delivery of the goods delivered and/or services performed;
  - e. A description (including quantity) of the goods delivered and/or services performed;
  - f. Your address and/or bank account details for payment;

## **6 Responding to a Claim for Payment**

- 6.1 Provided that the Council is reasonably satisfied that the goods supplied and/or the services performed in each case fit the description in the relevant purchase order and are in the quantity specified in the relevant purchase order, your tax invoice will be paid within 28 days of its receipt by the Council.
- 6.2 If Council is not reasonably satisfied in accordance with subclause 1 of this clause, then within 28 days of receipt of your claim for payment, Council will pay to you the amount (if any) which Council reasonably believes is due and payable to you and will provide to you a summary of why Council believes the full amount of your claim is not payable, including any necessary calculations, and including details of any setoff or counterclaim which Council maintains in respect of your claim for payment.

## **7 Contract Term**

The contract term shall be from the commencement date to the expiry date, unless extended in accordance with the terms of this contract.

## **8 Compliance with Laws and Standards**

- 8.1 Throughout the term, in supplying the goods and/or carrying out the services, you must comply with all laws.
- 8.2 Throughout the term, in supplying the goods and/or carrying out the services, where any Australian Standard applies to the goods and/or services, you must comply with the relevant Australian Standard unless the Council authorises you otherwise in writing.

- 8.3 If after the commencement date any applicable Australian Standard is amended, the superintendent may direct you to comply with such amendment, in which case that direction will be treated as a variation under this contract.

## **9 Power to Remove Personnel**

The superintendent may require the immediate removal, from the work site any agent or any other person employed by you. You shall immediately comply with that requirement.

## **10 Subcontractors**

- 10.1 You may not subcontract any part or whole of the services to any person without the consent in writing of the Council.
- 10.2 The Council may refuse consent to the appointment of a subcontractor in its absolute discretion.
- 10.3 The approval by Council of a subcontractor does not affect your liability under this contract. The Council will not be obliged to deal directly with any approved subcontractor.

## **11 Assignment**

You shall not assign the contract, or assign, mortgage, charge or encumber any of the moneys payable under the contract or any other benefit whatsoever arising under this contract.

## **12 Insurances**

- 12.1 By no later than the commencement date you must take out and maintain for the term the insurance specified in the Reference Schedule.
- 12.2 You must take out insurance with an insurer approved of by Council.
- 12.3 You must produce to Council evidence of the currency of these insurance policies when reasonably required by Council to do so.

## **13 Damage to Third Party or Property**

- 13.1 If you cause any damage to a third party's person or property in the performance of this contract, you must give immediate notification to the superintendent and inform

the owner or representative. Any such damage caused should be replaced or made good at your expense.

- 13.2 You shall exercise extreme care when driving vehicles and machinery within the work site. During wet conditions, you must ensure that the ground is firm enough to prevent wheel ruts, damage to lawn/garden irrigation, installations etc. Any damage caused will be made good at your expense, or, if you fail to make good the damage the Council may employ others to rectify the damage and deduct the cost from moneys due to you under this contract.

#### **14 Your Responsibility for Safety of the Public**

- 14.1 You must ensure that all areas under the contract that are accessible to the public are in a safe condition before, during and after the performance of this contract.
- 14.2 You must notify the superintendent immediately of any safety concerns within the scope of this contract, which may cause injury to the public or damage to property

#### **15 Directions, Notices and Disputes**

- 15.1 You must comply with any direction either orally or in writing given or served upon you by the superintendent. Any direction given orally shall, as soon as practicable after it is given, be confirmed in writing.
- 15.2 You must observe any safety rules, regulations and procedures, which may be issued, verbally or in writing, by the superintendent, from time to time, during the performance of this contract.

#### **16 Your Establishment**

To accomplish the requirements of this contract, you must provide and maintain the following:

- a. An approved office, workshop, equipment and capabilities sufficient to carry out, as necessary work as requested under this contract;
- b. Sufficient personnel necessary to take, record or pass on any message that may be received and provide day to day information. Office will be open in line with Council opening times as a minimum;
- c. Access to e-mail facilities;
- d. An established communication system to maintain communication between your representative and the superintendent; and

- e. An approved area and/or facility for storage of goods and equipment in relation to the contract.

## **17 Screening**

- 17.1 You will submit to the superintendent at least seven 7 days prior to commencement of the service, a list of names and addresses of all persons who will be performing the services associated with the contract and/or who will require access to the work area.
- 17.2 At least seven 7 days before any additional person/s is/are to perform any service and/or requires access to the area or commences duty, you must submit to the superintendent the name and address of such person/s.
- 17.3 The superintendent may at any time during the currency of the contract and without being bound to give any reason, by notice in writing direct that certain person/s shall not be used for the purposes of the contract and you must comply with that direction immediately.
- 17.4 The Council shall not be liable to you or to any person claiming through you for any claim for damage or otherwise arising out of the withholding or any/or withdrawal of approval.
- 17.5 No persons (including children) other than those engaged and/or employed within the terms of this contract shall be permitted access to the work area.
- 17.6 No animals belonging to persons engaged and/or employed within the terms of this contract shall be permitted in the work area.

## **18 Contractor Accreditation and Industry Standards**

- 18.1 You shall maintain the currency of your accreditation during the life of the contract.
- 18.2 You shall comply with all industry standards in relation to:
  - a. Training/ Licences
  - b. Engagement and supervision of sub-contractors
  - c. Compliance measures
  - d. Penalties; and
  - e. Termination arrangements

## 19 Confidentiality

- 19.1 Information collected under this contract remains the property of the Council. You or your employees, agents, directors, partners, shareholders or consultants shall not disclose to any person any information or documentation relating to the Council, of the affairs of others which may have come to you or to their knowledge as a result of the contract or performance under this contract. All necessary precautions shall be taken to prevent unauthorised access to such information regarding the nature of progress of the supply of goods and/or performance of services or give any publicity concerning the supply of goods and/or performance of services except with the written consent of the superintendent.
- 19.2 You must not furnish any information or issue any document or other written or printed material concerning the supply of goods and/or performance of services for publication in the media without the prior written approval of the superintendent. You must refer any enquiries from the media concerning the supply of goods and/or performance of services to the superintendent.

## 20 Supplier's Warranties and Obligations

You warrant that:

- (a) you have the right and shall transfer title to the goods to the Council
- (b) the goods are of merchantable quality and fit for their purpose the goods supplied have been manufactured or assembled at the place disclosed by you
- (c) the goods shall be new and shall comply in all respects with the requirements of this contract
- (d) the goods supplied are free from defects and conform to any legally applicable standards
- (e) the <goods **and/or** services> conform to the Specifications;

## 21 Delivery and Acceptance

- 21.1 You are required to deliver the goods to the place (or places) nominated by the Council and shall obtain a receipt of their delivery.



- 21.2 Delivery of goods must occur by the agreed date once an order is placed by the Council to you.
- 21.3 Property and risk in the goods passes on delivery.
- 21.4 Delivery and receipt of the goods shall not be an acceptance of the goods.
- 21.5 Receipt of delivery, acceptance or payment shall not prejudice the right of the Council to maintain an action for breach of condition or warranty should the goods prove to be of inferior quality or in any respect contrary to the requirements of the Contract.

## **22 Warranty Period**

- 22.1 Without limiting any other warranty implied by statute or generally at law:
- a. shall provide a full replacement product warranty for a minimum period of 10 years (standard Crimsafe Warranty) from the date of the purchase invoice on a return-to-base basis;
  - b. if a defect (fair wear and tear excepted) appears in the goods within the Warranty Period you shall promptly remedy such defect by either repairing or replacing the defective goods without cost to Council; and
  - c. you shall obtain for Council the benefit of any manufacturer's warranty and provide certificates.

## **23 Default and Termination**

- 23.1 If you fail to supply the goods and/or provide the services specified in a particular purchase order in accordance with the requirements of this contract Council may serve a notice of default on you.
- 23.2 A notice of default served by the Council shall specify the default and nominate a period of time (which shall not be less than 14 days) to rectify the default.
- 23.3 If you fail to rectify the default within the time specified in the default notice the Council may, by further notice in writing to you, cancel that purchase order in whole or in part. In that event the Council shall not be liable to pay the whole or part of the purchase order which has been cancelled, and neither shall the Council be liable for any costs you may have incurred in attempting to fulfil the purchase order.

## **24 Termination on Insolvency**

- 24.1 If you are a natural person and enter into a Part X arrangement or become bankrupt, this contract is automatically terminated.
- 24.2 If you are a corporation and you enter into external administration pursuant to the *Corporations Act*, this contract is automatically terminated.

## **25 General Provisions**

- 25.1 This contract may only be amended in writing, signed by appropriately authorised representatives of the parties.
- 25.2 The laws of the Northern Territory apply to the interpretation of this contract and the parties submit to the jurisdiction of the courts of the Northern Territory.
- 25.3 Any uncertainty regarding the interpretation of this contract will not be determined unfavourably to the Council merely for the reason that the Council prepared this contract.
- 25.4 Any clause in this contract which appears to be intended to operate after the expiration or termination of this contract does not merge upon that expiration or termination, but continues to operate.

## **26 Interpretation**

The Reference Schedule forms part of this contract. A term or phrase listed in the left hand column of the Reference Schedule has the meaning attributed to it in the right hand column of the Reference Schedule.