

C1.1 FORM OF OFFER AND ACCEPTANCE (TSC)

OFFER

The Employer, identified in the Acceptance signature block, has solicited offers to enter into a contract for the procurement of:

For the service, repair and testing of telecontrol materials on an “as and when required” contract for a period of two years.

The tenderer, identified in the Offer signature block, has

<i>either</i>	examined the documents listed in the Tender Data and addenda thereto as listed in the Returnable Schedules, and by submitting this Offer has accepted the Conditions of Tender.
<i>or</i>	Examined the draft contract as listed in the Acceptance section and agreed to provide this Offer.

By the representative of the tenderer, signing this part as well as the Schedule of Deviations of this Form of Offer and Acceptance, the tenderer offers to perform all of the obligations and liabilities of the *Contractor* under the contract including compliance with all its terms and conditions according to their true intent and meaning for an amount to be determined in accordance with the *conditions of contract* identified in the Contract Data. The representative, when signing this part of the Form of Offer and Acceptance, shall be deemed to be duly authorised by a Resolution of the Board of Directors/Certificate of Partners, a certified copy to be included in the Returnable Documents.

The offered total of the Prices exclusive of VAT is	R
Value Added Tax @ 14% is	R
The offered total of the Prices inclusive of VAT is	R
(in words)	

If Option E or F (Cost reimbursable or management contract) applies, replace table with following sentence: “The offered prices are the Actual Cost plus the fee contained in the Contract Data”.

This Offer may be accepted by the Employer by signing the Acceptance part as well as the Schedule of Deviations of this Form of Offer and Acceptance and returning one copy of this document including the Schedule of Deviations (if any) to the tenderer before the end of the period of validity stated in the Tender Data, or other period as agreed, whereupon the tenderer becomes the party named as the *Contractor* in the *conditions of contract* identified in the Contract Data.

Signature(s)

Name(s)

Capacity

For the tenderer:

(Insert name and address of organisation)

Name of witness

Signature of witness

Date

Tenderer's CIDB registration number (if any):

ACCEPTANCE

By signing this part as well as the Schedule of Deviations of this Form of Offer and Acceptance, the Employer identified below accepts the tenderer's Offer. In consideration thereof, the Employer shall pay the Contractor the amount due in accordance with the *conditions of contract* identified in the Contract Data. Acceptance of the tenderer's Offer shall form an agreement between the Employer and the tenderer upon the terms and conditions contained in this agreement and in the contract that is the subject of this agreement.

The terms of the contract, are contained in:

Part C1	Agreements and Contract Data, (which includes this Form of Offer and Acceptance)
Part C2	Pricing Data
Part C3	Scope of Work: Works Information
Part C4	Site Information

and drawings and documents (or parts thereof), which may be incorporated by reference into the above listed Parts.

Deviations from and amendments to the documents listed in the Tender Data and any addenda thereto as listed in the Returnable Schedules as well as any changes to the terms of the Offer agreed by the tenderer and the Employer during this process of offer and acceptance, are contained in the Schedule of Deviations attached to and forming part of this Agreement. No amendments to or deviations from said documents are valid unless contained in this Schedule.

The tenderer shall within two weeks of receiving a completed copy of this agreement, including the Schedule of Deviations (if any), contact the Employer's agent (whose details are given in the Contract Data) to arrange the delivery of any securities, bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the *conditions of contract* identified in the Contract Data at, or immediately after, the date this agreement comes into effect. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this agreement.

Notwithstanding anything contained herein, this agreement comes into effect on the date when the tenderer receives one fully completed original copy of this document, including the Schedule of Deviations (if any). Unless the tenderer (now Contractor) within five working days of the date of such receipt notifies the Employer in writing of any reason why he cannot accept the contents of this agreement, this agreement shall constitute a binding contract between the Parties.

Signature(s)

Name(s)

Capacity

for the
Employer

**Transnet Limited trading as Transnet Freight Rail, 49th floor, Carlton Centre, 150
Commissioner Street, Johannesburg, 2000**

(Insert name and address of Employer)

Name of
witness

Signature of
witness

Date

Note: If a tenderer wishes to submit alternative tenders, use another copy of this Form of Offer and Acceptance.

SCHEDULE OF DEVIATIONS

Note:

1. To be completed by the Employer prior to award of contract. This part of the Offer & Acceptance would not be required if the contract has been developed by negotiation between the Parties and is not the result of a process of competitive tendering.
2. The extent of deviations from the tender documents issued by the Employer prior to the tender closing date is limited to those permitted in terms of the Conditions of Tender.
3. A tenderer's covering letter must not be included in the final contract document. Should any matter in such letter, which constitutes a deviation as aforesaid be the subject of agreement reached during the process of Offer and Acceptance, the outcome of such agreement shall be recorded here and the final draft of the contract documents shall be revised to incorporate the effect of it.
4. Any other matter arising from the process of offer and acceptance either as a confirmation, clarification or change to the tender documents and which it is agreed by the parties become an obligation of the contract, shall also be recorded here.

No.	Subject	Details
1		
2		
3		
4		
5		
6		

By the duly authorised representatives signing this Agreement, the Employer and the tenderer agree to and accept this Schedule of Deviations as the only deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Tender Schedules, as well as any confirmation, clarification or changes to the terms of the Offer agreed by the tenderer and the Employer during this process of Offer and Acceptance.

It is expressly agreed that no other matter whether in writing, oral communication or implied during the period between the issue of the tender documents and the receipt by the tenderer of a completed signed copy of this Agreement shall have any meaning or effect in the contract between the parties arising from this Agreement.

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C1.2 CONTRACT DATA PROVIDED BY *EMPLOYER* (TSC)

The conditions of contract are the NEC3 Term Service Contract (June 2005), copies of which may be obtained from the South African Institution of Civil Engineering (tel. 011-805 5947) or Engineering Contract Strategies (tel. 011 803-3008).

Part one – Data provided by the Employer

Completion of the data in full, according to the Options chosen, is essential to create a complete contract.

- 1 General** • The *conditions of contract* are the core clauses and the clauses for

Main Option **A**
Dispute resolution Option **W1**
Secondary Option **X1**

Of the NEC3 Term Service Contract (June 2005).

The *service* is: **Service, Repair and Testing of Telecontrol Materials on an “as and when required” contract for a period of two years.**

- The *Employer* is

Name **Transnet Limited Trading as Transnet Freight Rail**
Address **49th Floor Carlton Centre
150 Commissioner Street
Johannesburg
2000**

- The *Service Manager* is

Name **Ms P Dhlamini**
Address **Room 208, 138 Eloff Street, Braamfontein**
Tel **011 773 8660**

The *Adjudicator* will be appointed when a dispute arises.

- **The Affected Property: N/A.**
- The *Service Information* is in **Scope of Work**
- The *language of this contract* is **English**
- The *law of the contract* is the law of **The Republic of South Africa**
- The *period for reply* is **Three (3) weeks.**
- The *Adjudicator nominating body* is **The Association of Arbitrators(SA)**
- The *tribunal* is **Arbitration**
- The following matters will be included in the Risk Register

- None

- Risks will be added when identified as a result of the early warning procedure.

3 Time • *The starting date is* **to be advised.**

The service period is **Two (2) years.**

5 Payment • *The assessment interval is* **Four (4) weeks.**

• *The currency of this contract is the* **South African Rand (ZAR)**

The *interest rate is* • 2 % per annum above the Prime lending rate of the Standard Bank of South Africa Ltd, as determined from time to time.

8 Risks and insurance • The minimum limit of indemnity for insurance in respect of loss of or damage to property (except the *works*, Plant and Materials and (not an employee of the *Contractor*) caused by activity in Materials) and liability for bodily injury to or death of a person connection with this contract for any one event is **whatever the Contractor deems desirable in addition to that provided by the Employer.**

• The minimum limit of indemnity for insurance in respect of death of or bodily injury to employees of the *Contractor* arising out of and in the course of their employment in connection with this contract for any one event is that **which is prescribed by the compensation for occupational injuries and diseases Act No.130 of 1993 as amended.**

Optional statements **If the *tribunal* is arbitration**

• *The arbitration procedure* is the Rules for the conduct of Arbitrators of the Association of Arbitrators(Southern Africa)

• The place where the arbitration is to be held is to be advised.

• The person or organisation who will choose an arbitrator

• if the Parties cannot agree, a choice or

• if the *arbitration procedure* does not state who selects an arbitrator is

The Chairman of the Association of Arbitrators(South Africa)

If no plan is identified in part two of the Contract Data

• The *Contractor* submits a first plan for acceptance within three(3) weeks of the stating date.

• The period within which payments are made is 30 days of receipt of invoice.

If Y(UK)2 is used and the final date for payment is not 14 days after the

date when payment is due

- The period for payment is
N/A

If there are additional compensation events

- These are additional compensation events
Allow for increases/decreases of the estimated quantities of more than
10%

If there are additional *Employer's* risks

- These are additional *Employer's* risks
- None

If the *Employer* is to provide Plant and Materials

- The insurance against loss of or damage to Plant and Materials is to
include cover for Plant and Materials provided by the *Employer* for an
amount of
N/A.....

**The *Employer* is to provide any of the insurances stated in the
Insurance Table**

- The *Employer* provides these insurances from the Insurance Table
N/A

additional insurances are to be provided

- The *Employer* provides these additional insurances
N/A
- The *Contractor* provides these additional insurances
N/A

Option A is used

- The *Contractor* prepares forecasts of the final total of the Prices for the
whole of the *service* at intervals no longer than 52 weeks.

Option Z is used

The *additional condition of contract* is:

Should the contractor fail to deliver repaired items within the
specified turnaround time, the contractor shall pay to Transnet
Freight Rail as a penalty, for each day or portion thereof beyond the
stipulated period or such extended period as may be allowed the
sum of 2% per day of the repair rate with a maximum of 50% of the
repair rate of the particular piece of materials.

C1.2 CONTRACT DATA

Part Two – Data Provided by the Contractor

Completion of the data in full, according to the Options chosen, is essential to create a complete contract.

Statements given in all contracts

(a) The Contractor is

Name
Address
.....
.....

(b) The *direct fee percentage* is %

(c) The *subcontracted fee percentage* is %

(d) The *working areas* are the Site and
.....

(e) The key people are

(1) Name
Job
Responsibilities
.....
Qualifications
Experience
.....
.....

(2) Name
Job
Responsibilities
.....

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Qualifications
Experience

(3) Name
Job
Responsibilities

Qualifications
Experience

(4) Name
Job
Responsibilities

Qualifications
Experience

(f) The following matters will be included in the Risk Register

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

Optional statements

(a) If the Contractor is to provide Works Information for his design

The Works Information for the Contractor's design is in

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

(b) If a programme is to be identified by the Contract Data.

The programme identified in the Contract Data is

.....

(c) If the Contractor is to decide the completion date for the whole of the works



