



## NEC3 Engineering and Construction Contract (ECC)

entered into by and between

### **Transnet SOC Ltd**

Registration Number 1990/000900/06

(hereinafter referred to as the "*Employer*")

and

### **Pending**

Registration Number:

(hereinafter referred to as the "*Contractor*")

<b>Contract Number</b>	<b>KBY/53917</b>
<b>Start Date</b>	<b>To be Advised</b>
<b>Completion Date</b>	<b>To be Advised</b>

TRANSNET FREIGHT RAIL

ENQUIRY NUMBER: KBY/53917

DESCRIPTION OF THE WORKS: PROVISION OF MAINTENANCE SERVICES ON VARIOUS ROADS, FENCING AND SURFACES IN THE KIMBERLEY REGION ON AN AS & WHEN REQUIRED BASIS WITHIN A PERIOD OF 12 MONTHS

## CONTRACT DOCUMENTS

### Form of Offer and Acceptance

#### Contract Data

Part One – Data provided by the *Employer*

Part Two – Data provided by the *Contractor*

Conditions of Contract (3<sup>rd</sup> edition – available separately)

#### Pricing Data

#### Works Information

#### Site Information

#### Appendices



TRANSNET FREIGHT RAIL

ENQUIRY NUMBER: WRAC/KBC/21104 (KBY/53917)

DESCRIPTION OF THE WORKS: PROVISION OF MAINTENANCE SERVICES ON VARIOUS ROADS, FENCING AND SURFACES IN THE KIMBERLEY REGION ON AN AS & WHEN REQUIRED BASIS WITHIN A PERIOD OF 12 MONTHS.

## T1.1 Tender Notice and Invitation to Tender

Transnet SOC Ltd invites tenders for Transnet Freight Rail, Real Estate Management, Kimberley

Provision of maintenance services on various roads, fencing and surfaces in the Kimberley region on an as & when required basis within a period of 12 months.

Tenderers should have a CIDB contractor grading designation of 1CE/1GB or higher.

The physical address for collection of tender documents is Transnet Freight Rail, Supply Chain Services, Real Estate Management Building, Room 1, Austen Street, Beaconsfield, Kimberley. A non-refundable admin fee of R250,00 (inclusive of Vat) is applicable per tender. (Only when RFQ document are collected or send per mail from this office) Payment is to be made to Transnet Freight Rail, Standard Bank Account number 203158598, Branch code 004805. The deposit slip must reflect RFQ: KBY/53917 and the contractor's company name. Proof of payment presented prior to the collection of the tender.

**OR**

If Bidders intend to download the RFQ document from Transnet Freight Rail Portal at

<http://www.transnetfreightrail-tfr.net/Supplier/Pages/Tenders.aspx> this downloaded tender document is FREE OF CHARGE. After the document has been downloaded, bidders are required to send their contact details to the following address: [Leonie.Visagie@transnet.net](mailto:Leonie.Visagie@transnet.net) by 10 March 2017 before 15h00. This is to ensure that any required communication (e.g. addenda to the RFQ) in relation to this RFQ reaches those intending to respond.

For enquiries regarding collection of documents, contact Miss Leonie Visagie on (053) 838 3119.

A **compulsory clarification** meeting with representatives of the Employer will take place at Real Estate Management Building Boardroom, Beaconsfield, Kimberley on 13 March 2017 starting at 10H00 hrs. All bidders attending the site meeting must have their printed RFQ document with them before the meeting starts. **Bidders who do not have their printed documents will be excluded from the meeting, as well as their bids disqualified.**

The closing date and time of tenders is 10H00 hrs on 28 March 2017. In the tender box and late tenders will not be accepted.

Tenders may only be submitted on the tender documentation that is issued.

Requirements for sealing, addressing, delivery, opening and assessment of tenders are stated in the Tender Data.

**Transnet urges Clients, Suppliers and Service Providers to report any acts of fraud and/or instances of corruption to Transnet's TIP-OFF ANONYMOUS on 0800 003 056 or [Transnet@tip-offs.com](mailto:Transnet@tip-offs.com).**



TRANSNET FREIGHT RAIL

ENQUIRY NUMBER: WRAC/KBC/21104 (KBY/53917)

DESCRIPTION OF THE WORKS: PROVISION OF MAINTENANCE SERVICES ON VARIOUS ROADS, FENCING AND SURFACES IN THE KIMBERLEY REGION ON AN AS & WHEN REQUIRED BASIS WITHIN A PERIOD OF 12 MONTHS.

**ACKNOWLEDGMENT OF RECEIPT OF DOCUMENTS**

**AND INTENTION TO TENDER**

(To be returned within 3 days after receipt)

FAX TO: Transnet Freight Rail

Fax No. (053) 838 3007

Tender KBY/53917

No.:

Attention: Leonie Visagie

Closing 28 March 2017

Date:

For: Provision of maintenance services on various roads, fencing and surfaces in the Kimberley region on an as & when required basis within a period of 12 months.

**On the Transnet Freight Rail**

<b>We:</b>	<b>Do wish to tender</b> for the work and shall return our tender by the due date above	<b>Check</b> <b>Yes</b> <input type="checkbox"/>
	<b>Do not wish to tender</b> on this occasion and herewith return all your documents received	<b>No</b> <input type="checkbox"/>

REASON FOR NOT TENDERING:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

COMPANY'S NAME, ADDRESS, CONTACT, PHONE AND TELEFAX NUMBERS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SIGNATURE : \_\_\_\_\_

TITLE: \_\_\_\_\_

## Contents

**KBY/53917 DESCRIPTION OF THE WORKS: Provision of maintenance services on various roads, fencing and surfaces in the Kimberley Region on an as and when required basis within a period of 24 months**

### The Tender

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- T1.3 CIDB Standard Conditions of Tender

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### The Contract

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- C1.2 Contract Data (Parts 1 & 2)

#### Part C2: Pricing Data

- C2.1 Pricing Instruction
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- C3 Works Information

#### Part C4: Site Information

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## T1.2 Tender Data (Alternative Method 2)

The conditions of tender are the Standard Conditions of Tender as contained in Annex F of the CIDB Standard for Uniformity in Construction Procurement (January 2009) as published in Government Gazette No 31823, Board Notice 12 of 2009 of 30 January 2009, subsequently amended (May 2010), Board Notice 86 of 2010. (See [www.cidb.org.za](http://www.cidb.org.za))

The Standard Conditions of Tender make several references to Tender Data for details that apply specifically to this tender. This Tender Data shall have precedence in the interpretation of any ambiguity or inconsistency between it and the Standard Conditions of Tender.

Each item of data given below is cross-referenced in the left hand column to the clause in the Standard Conditions of Tender to which it mainly applies.

Clause	Data
F.1.1	The <i>Employer</i> is <b>Transnet SOC Ltd</b> (Reg No. 1990/000900/30)
F.1.2	The tender documents issued by the <i>Employer</i> comprise: <b>Part T: The Tender</b> <b>Part T1: Tendering procedures</b> T1.1 Tender Notice and Invitation to Tender T1.2 Tender Data <b>Part T2 : Returnable documents</b> T2.1 List of Returnable Documents T2.2 Returnable Schedules <b>Part C: The Contract</b> <b>Part C1: Agreements and contract data</b> C1.1 Form of Offer and Acceptance C1.2 Contract Data (Part 1 & 2) <b>Part C2: Pricing data</b> C2.1 Pricing Instructions C2.2 Price List <b>Part C3: Scope of work</b> C3.1 Service Information <b>Part C4: Site information</b> C4.1 Site Information
F.1.4	The Employer's agent is: Name: Christopher Williams Address: Real Estate Management Building, Austen Street, Beaconsfield, Kimberley Tel No. 053 083-3477 Fax No. 011 774 9787 E – mail Christopher.Williams@transnet.net

F.2.1 Only those tenderers who satisfy the following eligibility criteria are eligible to submit tenders:

1. Tender offers will only be considered if:
  - a) An authorised representative of the tendering entity attends the compulsory clarification meeting in terms F.2.7 below *(if applicable)*
2. Only those tenderers who are registered with the CIDB, or are capable of being so prior to the evaluation of submissions, in a contractor grading designation equal to or higher than a contractor grading designation determined in accordance with the sum tendered or a value determined in accordance with Regulation 25 (1B) or 25(7A) of the Construction Industry Development Regulations, for a 1CE/1GB or higher class of construction work, are eligible to have their tenders evaluated.








Joint ventures are eligible to submit tenders provided that:

1. every member of the joint venture is registered with the CIDB;
2. the lead partner has a contractor grading designation in the 1CE/1GB or higher class of construction work; and
3. the combined *Contractor* grading designation calculated in accordance with the Construction Industry Development Regulations is equal to or higher than a *Contractor grading* designation determined in accordance with the sum tendered for a 1CE/1GB or higher class of construction work or a value determined in accordance with Regulation 25(1B) or 25(7A) of the Construction Industry Development Regulations

3. Pre-Qualifying Quality (Functionality) Criteria

Only those tenderers who attain the minimum number of evaluation points for Quality (functionality) will be eligible for further evaluation, failure to meet the minimum threshold will result in the tender being disqualified and removed from further consideration

3.1 Steps in Evaluation Methodology

Prequalification		Stage 1	Stage 2			
Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
Administrative Responsiveness  Returnable Documents & Schedules	Substantive Responsiveness  Pre-qualification	Technical  60% Technical Compliance	Weighted Scoring 100 points  Weighted Score	Post tender negotiation requesting Bidders to provide Best and Final Offer. 	Final Evaluation 90/10 	Select preferred Bidder & negotiate final  Conclude Contract incorporating these commitments 

The pre-qualifying Quality (functionality) criteria and maximum score in respect of each of the criteria are as follows:

Pre-qualifying Quality criteria	Sub-Criteria	Weight	Maximum number of points
<b>Previous experience</b>		<b>60</b>	<b>60</b>
Four (4) or more similar projects	60		
Less than four (4) similar projects	20		
<b>Experience of key staff</b>		<b>20</b>	<b>20</b>
Project Manager (10)	10		
Supervisor (10)	10		
<b>Plant &amp; Equipment</b>		<b>20</b>	<b>20</b>
Availability of bakkie (10)	10		
Availability of Compactor (10)	10		
<b>Maximum possible score for pre-qualifying Quality</b>			<b>100</b>

Pre-qualifying Quality shall be scored by not less than three evaluators and averaged in accordance with the following schedules: *(List applicable evaluation schedules and include such schedules in the returnable schedules)*

- T2.2-4 Availability of Equipment
- T2.2-25 Previous Experience
- T2.2-7 Management and CV's of Key Persons

The minimum number of evaluation points for quality is : 60

The persons named in the Schedule of Key Persons of tenderers who satisfy the minimum quality criteria may be invited to an interview. Tenderers who attain a score of less than 50% of the points allocated to the interview will be declared ineligible to tender.

Each evaluation criteria will be assessed in terms of Five indicators – no response, poor, satisfactory, good and very good. Scores of 0, 40, 70, 90 or 100 will be allocated to no response, poor, satisfactory, good and very good, respectively. The scores of each of the evaluators will be averaged, weighted and then totalled to obtain the final score for quality, unless scored collectively. (See CIDB Inform Practice Note #9)

**Note: Any tender not complying with all three of the above mentioned stipulations, numbered 1 to 3, will be regarded as non-responsive and will therefore not be considered for further evaluation**



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F.2.7 The arrangements for a compulsory clarification meeting are as stated in the Tender Notice and Invitation to Tender.

Tenderers must sign the attendance list in the name of the tendering entity. Addenda will be issued to and tenders will be received only from those tendering entities appearing on the attendance list.

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F.2.12 No alternative tender offers will be considered.

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F.2.13.3 Parts of each tender offer communicated on paper shall be as an original.

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F.2.13.5 The Employer's details and address for delivery of tender offers and identification details that are to be shown on each tender offer package are:

Location of tender box: Office No 2

Physical address: Transnet SOC Limited  
Secretariat of the Acquisition Council, Admin support Office  
Office No 2  
Real Estate Management Building  
Austen Street, Beaconsfield  
Kimberley  
8300

F.2.15.1 Identification details: The tender documents must be submitted in a sealed envelope labelled with:

- Name of Tenderer
- Contact person and details
- The Tender number: KBY/53917
- The Tender Description: Provision of maintenance services on various roads, fencing and surfaces in the Kimberley Region on an as and when required basis within a period of 12 months.

Documents must be marked for the attention of:  
Christopher Williams

Prior arrangement on the submittal of large tender documents should be made with the Procurement Manager.

**NO LATE TENDERS WILL BE ACCEPTED**

tender offer, the tenderer's commercial position (including notarized joint venture agreements), preferencing arrangements, or samples of materials, considered necessary by the *Employer* for the purpose of a full and fair risk assessment. Should the tenderer not provide the material, or a satisfactory reason as to why it cannot be provided, by the time for submission stated in the *Employer's* request, the *Employer* may regard the tender offer as non-responsive.

F.2.20 If requested, submit for the *Employer's* acceptance before formation of the contract, all securities, bonds, guarantees, policies and certificates of insurance required in terms of the conditions of contract identified in the Contract Data. (The format is included in Part T2.2 of this procurement document).

F.2.22 Return all retained tender documents within 28 days after the expiry of the validity period

F.2.23 The tenderer is required to submit with his tender:

1. a valid **original** Tax Clearance Certificate issued by the South African Revenue Services;
2. A valid certified SANAS accredited or IRBA approved B-BBEE verification certificate or Bidders who qualify as EME's in terms of the Revised Codes of Good Practice issued on 11 October 2013 in terms of Government Gazette No. 36928 are only required to obtain a sworn affidavit on an annual basis confirming that the entity has an Annual Total Revenue of R10 million or less and the entity's Level of Black ownership, and
3. A completed Supplier Declaration Form (Stamped and signed by the commissioner of oaths)
4. Letter of Good Standing
5. Proof of CSD Registration

Note: Refer to Section T2.1 for List of Returnable Documents

F.3.4 The time and location for opening of the tender offers are:  
Time 10:15 on Tuesday, 28 March 2017

Location: Ground Floor, Boardroom, Real Estate Management, Austen Street, Beaconsfield, Kimberley

F.3.11.3 The procedure for the evaluation of responsive tenders is Method 2.

F.3.11.7 The financial offer will be scored using Formula 2 (option 1) in Table F.1 where the value of  $W_1$  is:

80 where the financial value inclusive of VAT of one or more responsive tender offers have a value that equals or is less than R 1,000 000

Up to 100 minus  $W_1$  tender evaluation points will be awarded to tenderers who complete the preferencing schedule and who are found to be eligible for the preference claimed.

Should the BBBEE rating not be provided, Transnet reserves the right to award no points and/or declare the tender void. Transnet also reserves the right to carry out an independent audit of the tenderers scorecard components at any stage from the date of close of the tenders until completion of the contract. Tenderers with no accreditation will score zero points for preferencing.

**Note:**

In the event that, in the application of the 80/20 preference point system as stipulated, all tenders received exceed the estimated Rand value of R1 000 000, the tender invitation must

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until completion of the contract. Tenderers with no accreditation will score zero points for preferencing.

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**Note:**

In the event that, in the application of the 80/20 preference point system as stipulated, all tenders received exceed the estimated Rand value of R1 000 000, the tender invitation must be cancelled

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F.3.13 Tender offers will only be accepted if:

- a) the tenderer submits **an original valid** Tax Clearance Certificate issued by the South African Revenue Services or has made arrangements to meet outstanding tax obligations;
- b) the tenderer submits a letter of intent from an insurer undertaking to provide the Performance Bond to the format included in Part T2.2 of this procurement document
- c) the tenderer is registered with the Construction Industry Development Board in an appropriate contractor grading designation;
- d) the tenderer or any of its directors/shareholders is not listed on the Register of Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the public sector;
- e) the tenderer does not appear on Transnet list for restricted tenderers.
- f) the tenderer has completed the Compulsory Enterprise Questionnaire and there are no conflicts of interest which may impact on the tenderer's ability to perform the contract in the best interests of the Employer or potentially compromise the tender process and persons in the employ of the state are permitted to submit tenders or participate in the contract;
- g) the tenderer is registered and in good standing with the compensation fund or with a licensed compensation insurer;
- h) the Employer is reasonably satisfied that the tenderer has in terms of the Construction Regulations, 2003, issued in terms of the Occupational Health and Safety Act, 1993, the necessary competencies and resources to carry out the work safely.

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F.3.17 The number of paper copies of the signed contract to be provided by the Employer is 1 (one).

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## T1.3 CIDB Standard Conditions of Tender

January 2009 Edition



As published in Annexure F of the CIDB Standard for Uniformity in Construction Procurement in Board Notice 12 of 2009 in Government Gazette No 31823 of 30 January 2009

### F.1 General

#### F.1.1 Actions

**F.1.1.1** The employer and each tenderer submitting a tender offer shall comply with these conditions of tender. In their dealings with each other, they shall discharge their duties and obligations as set out in F.2 and F.3, timeously and with integrity, and behave equitably, honestly and transparently, comply with all legal obligations and not engage in anticompetitive.

**F.1.1.2** The employer and the tenderer and all their agents and employees involved in the tender process shall avoid conflicts of interest and where a conflict of interest is perceived or known, declare any such conflict of interest, indicating the nature of such conflict. Tenderers shall declare any potential conflict of interest in their tender submissions. Employees, agents and advisors of the employer shall declare any conflict of interest to whoever is responsible for overseeing the procurement process at the start of any deliberations relating to the procurement process or as soon as they become aware of such conflict, and abstain from any decisions where such conflict exists or recuse themselves from the procurement process, as appropriate.

- Note:
- 1) A conflict of interest may arise due to a conflict of roles which might provide an incentive for improper acts in some circumstances. A conflict of interest can create an appearance of impropriety that can undermine confidence in the ability of that person to act properly in his or her position even if no improper acts result.
  - 2) Conflicts of interest in respect of those engaged in the procurement process include direct, indirect or family interests in the tender or outcome of the procurement process and any personal bias, inclination, obligation, allegiance or loyalty which would in any way affect any decisions taken.

**F.1.1.3** The employer shall not seek and a tenderer shall not submit a tender without having a firm intention and the capacity to proceed with the contract.

#### F.1.2 Tender Documents

The documents issued by the employer for the purpose of a tender offer are listed in the tender data.

#### F.1.3 Interpretation

**F.1.3.1** The tender data and additional requirements contained in the tender schedules that are included in the returnable documents are deemed to be part of these conditions of tender.

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**F.1.3.2** These conditions of tender, the tender data and tender schedules which are only required for tender evaluation purposes, shall not form part of any contract arising from the invitation to tender.

**F.1.3.3** For the purposes of these conditions of tender, the following definitions apply:

a) **conflict of interest** means any situation in which:

- i) someone in a position of trust has competing professional or personal interests which make it difficult to fulfill his or her duties impartially;
- ii) an individual or organisation is in a position to exploit a professional or official capacity in some way for their personal or corporate benefit; or
- iii) incompatibility or contradictory interests exist between an employee and the organisation which employs that employee.

b) **comparative offer** means the tenderer's financial offer after all tendered parameters that will affect the value of the financial offer have been taken into consideration in order to enable comparisons to be made between offers on a comparative basis

c) **corrupt practice** means the offering, giving, receiving or soliciting of anything of value to influence the action of the employer or his staff or agents in the tender process; and

d) **fraudulent practice** means the misrepresentation of the facts in order to influence the tender process or the award of a contract arising from a tender offer to the detriment of the employer, including collusive practices intended to establish prices at artificial levels

e) **organisation** means a company, firm, enterprise, association or other legal entity, whether incorporated or not, or a public body

f) **quality (functionality)** means the totality of features and characteristics of a product or service that bear on its ability to satisfy stated or implied needs

#### **F.1.4 Communication and employer's agent**

Each communication between the employer and a tenderer shall be to or from the employer's agent only, and in a form that can be readily read, copied and recorded. Communications shall be in the English language. The employer shall not take any responsibility for non-receipt of communications from or by a tenderer. The name and contact details of the employer's agent are stated in the tender data.

#### **F.1.5 The employer's right to accept or reject any tender offer**

**F.1.5.1** The employer may accept or reject any variation, deviation, tender offer, or alternative tender offer, and may cancel the tender process and reject all tender offers at any time before the formation of a contract. The employer shall not accept or incur any liability to a tenderer for such cancellation and rejection, but will give written reasons for such action upon written request to do so.

**F.1.5.2** The employer may not subsequent to the cancellation or abandonment of a tender process or the rejection of all responsive tender offers re-issue a tender covering substantially the same scope of work within a period of six months unless only one tender was received and such tender was returned unopened to the tenderer.

#### **F.1.6 Procurement procedures**

##### **F.1.6.1 General**

Unless otherwise stated in the tender data, a contract will, subject to F.3.13, be concluded with the tenderer who in terms of F.3.11 is the highest ranked or the tenderer scoring the highest number of tender evaluation points, as relevant, based on the tender submissions that are received at the closing time for tenders.

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**F.1.6.2 Competitive negotiation procedure**

**F.1.6.2.1** Where the tender data require that the competitive negotiation procedure is to be followed, tenderers shall submit tender offers in response to the proposed contract in the first round of submissions. Notwithstanding the requirements of F.3.4, the employer shall announce only the names of the tenderers who make a submission. The requirements of F.3.8 relating to the material deviations or qualifications which affect the competitive position of tenderers shall not apply.

**F.1.6.2.2** All responsive tenderers, or not less than three responsive tenderers that are highest ranked in terms of the evaluation method and evaluation criteria stated in the tender data, shall be invited in each round to enter into competitive negotiations, based on the principle of equal treatment and keeping confidential the proposed solutions and associated information. Notwithstanding the provisions of F.2.17, the employer may request that tenders be clarified, specified and fine-tuned in order to improve a tenderer's competitive position provided that such clarification, specification, fine-tuning or additional information does not alter any fundamental aspects of the offers or impose substantial new requirements which restrict or distort competition or have a discriminatory effect.

**F.1.6.2.3** At the conclusion of each round of negotiations, tenderers shall be invited by the employer to make a fresh tender offer, based on the same evaluation criteria, with or without adjusted weightings. Tenderers shall be advised when they are to submit their best and final offer.

**F.1.6.2.4** The contract shall be awarded in accordance with the provisions of F.3.11 and F.3.13 after tenderers have been requested to submit their best and final offer.

**F.1.6.3 Proposal procedure using the two stage-system**

**F.1.6.3.1 Option 1**

Tenderers shall in the first stage submit technical proposals and, if required, cost parameters around which a contract may be negotiated. The employer shall evaluate each responsive submission in terms of the method of evaluation stated in the tender data, and in the second stage negotiate a contract with the tenderer scoring the highest number of evaluation points and award the contract in terms of these conditions of tender.

**F.1.6.3.2 Option 2**

**F.1.6.3.2.1** Tenderers shall submit in the first stage only technical proposals. The employer shall invite all responsive tenderers to submit tender offers in the second stage, following the issuing of procurement documents.

**F.1.6.3.2.2** The employer shall evaluate tenders received during the second stage in terms of the method of evaluation stated in the tender data, and award the contract in terms of these conditions of tender.

**F.2 Tenderer's obligations**

**F.2.1 Eligibility**

**F.2.1.1** Submit a tender offer only if the tenderer satisfies the criteria stated in the tender data and the tenderer or any of his principals, is not under any restriction to do business with employer.

**F.2.1.2** Notify the employer of any proposed material change in the capabilities or formation of the tendering entity (or both) or any other criteria which formed part of the qualifying requirements used by the employer as the basis in a prior process to invite the tenderer to submit a tender offer and obtain the employer's written approval to do so prior to the closing time for tenders.

**F.2.2 Cost of tendering**

Accept that, unless otherwise stated in the tender data, the employer will not compensate the tenderer for any costs incurred in the preparation and submission of a tender offer, including the costs of any testing necessary to demonstrate that aspects of the offer complies with requirements.

**F.2.3 Check documents**

Check the tender documents on receipt for completeness and notify the employer of any discrepancy or omission.

**F.2.4 Confidentiality and copyright of documents**

Treat as confidential all matters arising in connection with the tender. Use and copy the documents issued by the employer only for the purpose of preparing and submitting a tender offer in response to the invitation.

**F.2.5 Reference documents**

Obtain, as necessary for submitting a tender offer, copies of the latest versions of standards, specifications, conditions of contract and other publications, which are not attached but which are incorporated into the tender documents by reference.

**F.2.6 Acknowledge addenda**

Acknowledge receipt of addenda to the tender documents, which the employer may issue, and if necessary apply for an extension to the closing time stated in the tender data, in order to take the addenda into account.

**F.2.7 Clarification meeting**

Attend, where required, a clarification meeting at which tenderers may familiarise themselves with aspects of the proposed work, services or supply and raise questions. Details of the meeting(s) are stated in the tender data.

**F.2.8 Seek clarification**

Request clarification of the tender documents, if necessary, by notifying the employer at least five working days before the closing time stated in the tender data.

**F.2.9 Insurance**

Be aware that the extent of insurance to be provided by the employer (if any) might not be for the full cover required in terms of the conditions of contract identified in the contract data. The tenderer is advised to seek qualified advice regarding insurance.

**F.2.10 Pricing the tender offer**

**F.2.10.1** Include in the rates, prices, and the tendered total of the prices (if any) all duties, taxes (except Value Added Tax (VAT), and other levies payable by the successful tenderer, such duties, taxes and levies being those applicable 14 days before the closing time stated in the tender data.

**F.2.10.2** Show VAT payable by the employer separately as an addition to the tendered total of the prices.

**F.2.10.3** Provide rates and prices that are fixed for the duration of the contract and not subject to adjustment except as provided for in the conditions of contract identified in the contract data.

**F.2.10.4** State the rates and prices in Rand unless instructed otherwise in the tender data. The conditions of contract identified in the contract data may provide for part payment in other currencies.

**F.2.11 Alterations to documents**

Do not make any alterations or additions to the tender documents, except to comply with Instructions issued by the employer, or necessary to correct errors made by the tenderer. All signatories to the tender offer shall Initial all such alterations. Erasures and the use of masking fluid are prohibited.

**F.2.12 Alternative tender offers**

**F.2.12.1** Unless otherwise stated in the tender data, submit alternative tender offers only if a main tender offer, strictly in accordance with all the requirements of the tender documents, is also submitted as well as a schedule that compares the requirements of the tender documents with the alternative requirements that are proposed.

**F.2.12.2** Accept that an alternative tender offer may be based only on the criteria stated in the tender data or criteria otherwise acceptable to the employer.

**F.2.13 Submitting a tender offer**

**F.2.13.1** Submit one tender offer only, either as a single tendering entity or as a member in a joint venture to provide the whole of the works, services or supply identified in the contract data and described in the scope of works, unless stated otherwise in the tender data.

**F.2.13.2** Return all returnable documents to the employer after completing them in their entirety, either electronically (if they were issued in electronic format) or by writing legibly in non-erasable ink.

**F.2.13.3** Submit the parts of the tender offer communicated on paper as an original plus the number of copies stated in the tender data, with an English translation of any documentation in a language other than English, and the parts communicated electronically in the same format as they were issued by the employer.

**F.2.13.4** Sign the original and all copies of the tender offer where required in terms of the tender data. The employer will hold all authorized signatories liable on behalf of the tenderer. Signatories for tenderers proposing to contract as joint ventures shall state which of the signatories is the lead partner whom the employer shall hold liable for the purpose of the tender offer.

**F.2.13.5** Seal the original and each copy of the tender offer as separate packages marking the packages as "ORIGINAL" and "COPY". Each package shall state on the outside the employer's address and identification details stated in the tender data, as well as the tenderer's name and contact address.

**F.2.13.6** Where a two-envelope system is required in terms of the tender data, place and seal the returnable documents listed in the tender data in an envelope marked "financial proposal" and place the remaining returnable documents in an envelope marked "technical proposal". Each envelope shall state on the outside the employer's address and identification details stated in the tender data, as well as the tenderer's name and contact address.

**F.2.13.7** Seal the original tender offer and copy packages together in an outer package that states on the outside only the employer's address and identification details as stated in the tender data.

**F.2.13.8** Accept that the employer will not assume any responsibility for the misplacement or premature opening of the tender offer if the outer package is not sealed and marked as stated.

**F.2.13.9** Accept that tender offers submitted by facsimile or e-mail will be rejected by the employer, unless stated otherwise in the tender data.



**F.2.14 Information and data to be completed in all respects**

Accept that tender offers, which do not provide all the data or information requested completely and in the form required, may be regarded by the employer as non-responsive.

**F.2.15 Closing time**

**F.2.15.1** Ensure that the employer receives the tender offer at the address specified in the tender data not later than the closing time stated in the tender data. Accept that proof of posting shall not be accepted as proof of delivery.

**F.2.15.2** Accept that, if the employer extends the closing time stated in the tender data for any reason, the requirements of these conditions of tender apply equally to the extended deadline.

**F.2.16 Tender offer validity**

**F.2.16.1** Hold the tender offer(s) valid for acceptance by the employer at any time during the validity period stated in the tender data after the closing time stated in the tender data.

**F.2.16.2** If requested by the employer, consider extending the validity period stated in the tender data for an agreed additional period with or without any conditions attached to such extension.

**F.2.16.3** Accept that a tender submission that has been submitted to the employer may only be withdrawn or substituted by giving the employer's agent written notice before the closing time for tenders that a tender is to be withdrawn or substituted.

**F.2.16.4** Where a tender submission is to be substituted, submit a substitute tender in accordance with the requirements of F.2.13 with the packages clearly marked as "SUBSTITUTE".

**F.2.17 Clarification of tender offer after submission**

Provide clarification of a tender offer in response to a request to do so from the employer during the evaluation of tender offers. This may include providing a breakdown of rates or prices and correction of arithmetical errors by the adjustment of certain rates or item prices (or both). No change in the competitive position of tenderers or substance of the tender offer is sought, offered, or permitted.

**Note:** Sub-clause F.2.17 does not preclude the negotiation of the final terms of the contract with a preferred tenderer following a competitive selection process, should the Employer elect to do so.

**F.2.18 Provide other material**

**F.2.18.1** Provide, on request by the employer, any other material that has a bearing on the tender offer, the tenderer's commercial position (including notarized joint venture agreements), preferencing arrangements, or samples of materials, considered necessary by the employer for the purpose of a full and fair risk assessment. Should the tenderer not provide the material, or a satisfactory reason as to why it cannot be provided, by the time for submission stated in the employer's request, the employer may regard the tender offer as non-responsive.

**F.2.18.2** Dispose of samples of materials provided for evaluation by the employer, where required.

**F.2.19 Inspections, tests and analysis**

Provide access during working hours to premises for inspections, tests and analysis as provided for in the tender data.

**F.2.20 Submit securities, bonds, policies, etc.**

If requested, submit for the employer's acceptance before formation of the contract, all securities, bonds, guarantees, policies and certificates of insurance required in terms of the conditions of contract identified in the contract data.

**F.2.21 Check final draft**

Check the final draft of the contract provided by the employer within the time available for the employer to issue the contract.

**F.2.22 Return of other tender documents**

If so instructed by the employer, return all retained tender documents within 28 days after the expiry of the validity period stated in the tender data.

**F.2.23 Certificates**

Include in the tender submission or provide the employer with any certificates as stated in the tender data.

**F.3 The employer's undertakings**

**F.3.1 Respond to requests from the tenderer**

**F.3.1.1** Unless otherwise stated in the tender Data, respond to a request for clarification received up to five working days before the tender closing time stated in the Tender Data and notify all tenderers who drew procurement documents.

**F.3.1.2** Consider any request to make a material change in the capabilities or formation of the tendering entity (or both) or any other criteria which formed part of the qualifying requirements used to prequalify a tenderer to submit a tender offer in terms of a previous procurement process and deny any such request if as a consequence:

- a) an individual firm, or a joint venture as a whole, or any individual member of the joint venture fails to meet any of the collective or individual qualifying requirements;
- b) the new partners to a joint venture were not prequalified in the first instance, either as individual firms or as another joint venture; or
- c) in the opinion of the Employer, acceptance of the material change would compromise the outcome of the prequalification process.

**F.3.2 Issue Addenda**

If necessary, issue addenda that may amend or amplify the tender documents to each tenderer during the period from the date that tender documents are available until three days before the tender closing time stated in the Tender Data. If, as a result a tenderer applies for an extension to the closing time stated in the Tender Data, the Employer may grant such extension and, shall then notify all tenderers who drew documents.

**F.3.3 Return late tender offers**

Return tender offers received after the closing time stated in the Tender Data, unopened,(unless it is necessary to open a tender submission to obtain a forwarding address), to the tenderer concerned.

**F.3.4 Opening of tender submissions**

**F.3.4.1** Unless the two-envelope system is to be followed, open valid tender submissions in the presence of tenderers' agents who choose to attend at the time and place stated in the tender data. Tender submissions for which acceptable reasons for withdrawal have been submitted will not be opened.

**F.3.4.2** Announce at the meeting held immediately after the opening of tender submissions, at a venue indicated in the tender data, the name of each tenderer whose tender offer is opened and, where applicable, the total of his prices, preferences claimed and time for completion for the main tender offer only.

**F.3.4.3** Make available the record outlined in F.3.4.2 to all interested persons upon request.

**F.3.5 Two-envelope system**

**F.3.5.1** Where stated in the tender data that a two-envelope system is to be followed, open only the technical proposal of valid tenders in the presence of tenderers' agents who choose to attend at the time and place stated in the tender data and announce the name of each tenderer whose technical proposal is opened.

**F.3.5.2** Evaluate the quality of the technical proposals offered by tenderers, then advise tenderers who remain in contention for the award of the contract of the time and place when the financial proposals will be opened. Open only the financial proposals of tenderers, who score in the quality evaluation more than the minimum number of points for quality stated in the tender data, and announce the score obtained for the technical proposals and the total price and any preferences claimed. Return unopened financial proposals to tenderers whose technical proposals failed to achieve the minimum number of points for quality.

**F.3.6 Non-disclosure**

Not disclose to tenderers, or to any other person not officially concerned with such processes, information relating to the evaluation and comparison of tender offers, the final evaluation price and recommendations for the award of a contract, until after the award of the contract to the successful tenderer.

**F.3.7 Grounds for rejection and disqualification**

Determine whether there has been any effort by a tenderer to influence the processing of tender offers and instantly disqualify a tenderer (and his tender offer) if it is established that he engaged in corrupt or fraudulent practices.

**F.3.8 Test for responsiveness**

**F.3.8.1** Determine, after opening and before detailed evaluation, whether each tender offer properly received:

- a) complies with the requirements of these Conditions of Tender,
- b) has been properly and fully completed and signed, and
- c) is responsive to the other requirements of the tender documents.

**F.3.8.2** A responsive tender is one that conforms to all the terms, conditions, and specifications of the tender documents without material deviation or qualification. A material deviation or qualification is one which, in the Employer's opinion, would:

- a) detrimentally affect the scope, quality, or performance of the works, services or supply identified in the Scope of Work,
- b) significantly change the Employer's or the tenderer's risks and responsibilities under the contract, or
- c) affect the competitive position of other tenderers presenting responsive tenders, if it were to be rectified.

**F.3.8.3** Reject a non-responsive tender offer, and not allow it to be subsequently made responsive by correction or withdrawal of the non-conforming deviation or reservation.

### **F.3.9 Arithmetical errors, omissions and discrepancies**

**F.3.9.1** Check responsive tenders for discrepancies between amounts in words and amounts in figures. Where there is a discrepancy between the amounts in figures and the amount in words, the amount in words shall govern.

**F.3.9.2** Check the highest ranked tender or tenderer with the highest number of tender evaluation points after the evaluation of tender offers in accordance with F.3.11 for:

- a) the gross misplacement of the decimal point in any unit rate;
- b) omissions made in completing the pricing schedule or bills of quantities; or
- c) arithmetic errors in:
  - i) line item totals resulting from the product of a unit rate and a quantity in bills of quantities or schedules of prices; or
  - ii) the summation of the prices.

**F.3.9.3** Notify the tenderer of all errors or omissions that are identified in the tender offer and either confirm the tender offer as tendered or accept the corrected total of prices.

**F.3.9.4** Where the tenderer elects to confirm the tender offer as tendered, correct the errors as follows:

- a) If bills of quantities or pricing schedules apply and there is an error in the line item total resulting from the product of the unit rate and the quantity, the line item total shall govern and the rate shall be corrected. Where there is an obviously gross misplacement of the decimal point in the unit rate, the line item total as quoted shall govern, and the unit rate shall be corrected.
- b) Where there is an error in the total of the prices either as a result of other corrections required by this checking process or in the tenderer's addition of prices, the total of the prices shall govern and the tenderer will be asked to revise selected item prices (and their rates if bills of quantities apply) to achieve the tendered total of the prices.

### **F.3.10 Clarification of a tender offer**

Obtain clarification from a tenderer on any matter that could give rise to ambiguity in a contract arising from the tender offer.

### **F.3.11 Evaluation of tender offers**

#### **F.3.11.1 General**

Appoint an evaluation panel of not less than three persons. Reduce each responsive tender offer to a comparative offer and evaluate them using the tender evaluation methods and associated evaluation criteria and weightings that are specified in the tender data.

#### **F.3.11.2 Method 1: Financial offer**

In the case of a financial offer:

- a) Rank tender offers from the most favourable to the least favourable comparative offer.
- b) Recommend the highest ranked tenderer for the award of the contract, unless there are compelling and justifiable reasons not to do so.
- c) Re-rank all tenderers should there be compelling and justifiable reasons not to recommend the highest ranked tenderer and recommend the highest ranked tenderer, unless there are compelling and justifiable reasons not to do so and the process set out in this subclause is repeated.

**F.3.11.3 Methods 2: Financial offer and preference**

In the case of a financial offer and preferences:

- a) Score each tender in respect of the financial offer made and preferences claimed, if any, in accordance with the provisions of F.3.11.7 and F.3.11.8.
- b) Calculate the total number of tender evaluation points (*TEV*) in accordance with the following formula:  
$$TEV = NFO + NP$$
where: *NFO* is the number of tender evaluation points awarded for the financial offer made in accordance with F.3.11.7;  
*NP* is the number of tender evaluation points awarded for preferences claimed in accordance with F.3.11.8.
- c) Rank tender offers from the highest number of tender evaluation points to the lowest.
- d) Recommend the tenderer with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.
- e) Rescore and re-rank all tenderers should there be compelling and justifiable reasons not to recommend the tenderer with the highest number of tender evaluation points, and recommend the tenderer with the highest number of tender evaluation points, unless there are compelling and justifiable reasons not to do so and the process set out in this subclause is repeated

**F.3.11.4 Method 3: Financial offer and quality**

In the case of a financial offer and quality:

- a) Score each tender in respect of the financial offer made and the quality offered in accordance with the provisions of F.3.11.7 and F.3.11.9, rejecting all tender offers that fail to score the minimum number of points for quality stated in the tender data, if any.
- b) Calculate the total number of tender evaluation points (*TEV*) in accordance with the following formula:  
$$TEV = NFO + NQ$$
where: *NFO* is the number of tender evaluation points awarded for the financial offer made in accordance with F.3.11.7;  
*NQ* is the number of tender evaluation points awarded for quality offered in accordance with F.3.11.9.
- c) Rank tender offers from the highest number of tender evaluation points to the lowest.
- d) Recommend tenderer with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.
- e) Rescore and re-rank all tenderers should there be compelling and justifiable reasons not to recommend the tenderer with the highest number of tender evaluation points and recommend the tenderer with the highest number of tender evaluation points, unless there are compelling and justifiable reasons not to do so and the process set out in this subclause is repeated.

**F.3.11.5 Method 4: Financial offer, quality and preferences**

In the case of a financial offer, quality and preferences:

- a) Score each tender in respect of the financial offer made, preference claimed, if any, and the quality offered in accordance with the provisions of F.3.11.7 to

F.3.11.9, rejecting all tender offers that fail to score the minimum number of points for quality stated in the tender data, if any.

- b) Calculate the total number of tender evaluation points (*TEV*) in accordance with the following formula, unless otherwise stated in the Tender Data:

$$TEV = NFO + NP + NQ$$

where: *NFO* is the number of tender evaluation points awarded for the financial offer made in accordance with F.3.11.7;

*NP* is the number of tender evaluation points awarded for preferences claimed in accordance with F.3.11.8.

*NQ* is the number of tender evaluation points awarded for quality offered in accordance with F.3.11.9.

- c) Rank tender offers from the highest number of tender evaluation points to the lowest.
- d) Recommend the tenderer with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.
- e) Rescore and re-rank all tenderers should there be compelling and justifiable reasons not to recommend the tenderer with the highest number of tender evaluation points and recommend the tenderer with the highest number of tender evaluation points, unless there are compelling and justifiable reasons not to do so and the process set out in this subclause is repeated.

**F.3.11.6 Decimal places**

Score financial offers, preferences and quality, as relevant, to two decimal places.

**F.3.11.7 Scoring Financial Offers**

Score the financial offers of remaining responsive tender offers using the following formula:

$$NFO = W1 \times A$$

where: *NFO* is the number of tender evaluation points awarded for the financial offer.

*W1* is the maximum possible number of tender evaluation points awarded for the financial offer as stated in the Tender Data.

*A* is a number calculated using the formula and option described in Table F.1 as stated in the Tender Data.

**Table F.1: Formulae for calculating the value of *A***

Formula	Comparison aimed at achieving	Option 1 <sup>a</sup>	Option 2 <sup>a</sup>
1	Highest price or discount	$A = (1 + \frac{P - Pm}{Pm})$	$A = P / Pm$
2	Lowest price or percentage commission / fee	$A = (1 + \frac{P - Pm}{Pm})$	$A = Pm / P$

<sup>a</sup> *Pm* is the comparative offer of the most favourable comparative offer.

*P* is the comparative offer of the tender offer under consideration.

**F.3.11.8 Scoring preferences**

Confirm that tenderers are eligible for the preferences claimed in accordance with the provisions of the tender data and reject all claims for preferences where tenderers are not eligible for such preferences. Calculate the total number of tender evaluation points for preferences claimed in accordance with the provisions of the tender data.

**F.3.11.9 Scoring quality**

Score each of the criteria and subcriteria for quality in accordance with the provisions of the Tender Data.

Calculate the total number of tender evaluation points for quality using the following formula:

$$NQ = W2 \times SO / MS$$

where:  $SO$  is the score for quality allocated to the submission under consideration;  
 $MS$  is the maximum possible score for quality in respect of a submission; and  
 $W2$  is the maximum possible number of tender evaluation points awarded for the quality as stated in the tender data

**F.3.12 Insurance provided by the employer**

If requested by the proposed successful tenderer, submit for the tenderer's information the policies and / or certificates of insurance which the conditions of contract identified in the contract data, require the employer to provide.

**F.3.13 Acceptance of tender offer**

Accept the tender offer, if in the opinion of the employer, it does not present any unacceptable commercial risk and only if the tenderer:

- a) is not under restrictions, or has principals who are under restrictions, preventing participating in the employer's procurement,
- b) can, as necessary and in relation to the proposed contract, demonstrate that he or she possesses the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and the personnel, to perform the contract,
- c) has the legal capacity to enter into the contract,
- d) is not insolvent, in receivership, bankrupt or being wound up, has his affairs administered by a court or a judicial officer, has suspended his business activities, or is subject to legal proceedings in respect of any of the foregoing,
- e) complies with the legal requirements, if any, stated in the tender data, and
- f) is able, in the opinion of the employer, to perform the contract free of conflicts of interest.

**F.3.14 Prepare contract documents**

**F.3.14.1** If necessary, revise documents that shall form part of the contract and that were issued by the employer as part of the tender documents to take account of:

- a) addenda issued during the tender period,
- b) inclusion of some of the returnable documents, and
- c) other revisions agreed between the employer and the successful tenderer.

**F.3.14.2** Complete the schedule of deviations attached to the form of offer and acceptance, if any.

**F.3.15 Complete adjudicator's contract**

Unless alternative arrangements have been agreed or otherwise provided for in the contract, arrange for both parties to complete formalities for appointing the selected adjudicator at the same time as the main contract is signed.

**F.3.16 Notice to unsuccessful tenderers**

**F.3.16.1** Notify the successful tenderer of the employer's acceptance of his tender offer by completing and returning one copy of the form of offer and acceptance before the expiry of the validity period stated in the tender data, or agreed additional period.

**F.3.16.2** After the successful tenderer has been notified of the employer's acceptance of the tender, notify other tenderers that their tender offers have not been accepted.

**F.3.17 Provide copies of the contracts**

Provide to the successful tenderer the number of copies stated in the Tender Data of the signed copy of the contract as soon as possible after completion and signing of the form of offer and acceptance.

**F.3.18 Provide written reasons for actions taken**

Provide upon request written reasons to tenderers for any action that is taken in applying these conditions of tender, but withhold information which is not in the public interest to be divulged, which is considered to prejudice the legitimate commercial interests of tenderers or might prejudice fair competition between tenderers.



## T2.1 List of Returnable Documents

### 1. These schedules are required for eligibility purposes:

T2.2-15 **Eligibility Criteria Schedule:** Certification of attendance at a tender clarification meeting

### 2. These schedules will be utilised for the evaluation of Functionality Criteria

T2.2-2 Programme  
T2.2.7 Management and CV's of Key Persons  
T2.2-25 Previous Experience

### 3. Returnable Schedules

T2.2-3 Risk Elements  
T2.2-4 Availability of equipment and other resources  
T2.2-7 Management and CV's of key persons  
T2.2-8 Schedule of proposed Subcontractors/consultants  
T2.2-9 Insurance provided by the Contractor  
T2.2-14 Authority to submit tender  
T2.2-15 Certificate of attendance at tender clarification meeting  
T2.2-16 Record of addenda to tender documents  
T2.2-17 Compulsory Enterprise Questionnaire  
T2.2-22 Health and Safety Plan  
T2.2-24 Capacity and ability to meet delivery schedule  
T2.2-25 Previous experience  
T2.2-31 Supplier Code of Conduct  
T2.2-34 Supplier Declaration Form  
T2.2-36 RFQ Declaration Form  
T2.2.43 Breach of Law  
T2.2-50 B-BBEE Preference Points claim Form  
T2.2-51 Certificate of Acquaintance with Tender Documents

4. C1.1: Offer portion of Form of Offer & Acceptance
5. C1.2: Contract Data Part 2: Data by Contractor
6. C2.2: Price List
7. C3.1: Works Information
8. C4.1: Site Information





## T2.2-7: Management & CV's of Key Persons – ECC<sup>1</sup>

Please describe the management arrangements for the *works*.

Submit the following documents as a minimum with your tender document:

1. An organisation chart showing on site and off-site management (including the key people you have identified in the Contract Data Part two and identify the required legal appointments.)
2. CV's for people proposed for all identified posts including Safety Officer and Quality Assurance Representative.
3. Details of the location (and functions) of offices from which the *works* will be managed.
4. Details of the experience of the staff who will be working on the *works* with respect to:
  - Working with the NEC3 Engineering and Construction Contract Option chosen for this contract. If staff experience of these matters is limited, an indication of relevant training that they have attended would be helpful.
5. An explanation of how you propose to allocate adequate resources to enable you to comply with the requirements and prohibitions imposed on you by or under the statutory provisions relating to health and safety.

**Attached submissions to this schedule:**

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

Signed \_\_\_\_\_ Date \_\_\_\_\_

Name \_\_\_\_\_ Position \_\_\_\_\_

Tenderer \_\_\_\_\_

\_\_\_\_\_

<sup>1</sup>NEC3 Engineering & Construction Contract (with amendments June 2006 and April 2013)

### T2.2-8: Schedule of Proposed Subcontractors

We notify you that it is our intention to employ the following subcontractors / sub consultants for work in this contract.

If we are awarded a contract we agree that this notification does not change the requirement for us to submit the names of proposed Subcontractors in accordance with requirements in the contract for such appointments. If there are no such requirements in the contract, then your written acceptance of this list shall be binding between us.

	<b>Name and address of proposed Subcontractor/ Consultant</b>	<b>Nature and extent of work</b>	<b>Previous experience with Subcontractor/ Consultant.</b>	<b>B-BBEEE Level Certificates to be attached</b>	<b>Value of subcontracted Work (excl. 14% Vat)</b>	<b>% Ownership Black Ownership</b>
1.						
2.						
3.						
4.						
5.						
6.						

Signed

Date

Name

Position

Tenderer

**T2.2-9: Insurance provided by the Contractor**

Clause 84.1 in NEC3 Engineering & Construction Contract (June 2005)(amended June 2006 and April 2013) requires that the Contractor provides the insurance stated in the insurance table except any insurance which the Employer is to provide as stated in the Contract Data.

Please provide the following details for insurance which the Contractor is still to provide. Notwithstanding this information all costs related to insurance are deemed included in the tenderer's rates and prices.

Insurance against (See clause 84.2 of the ECC)	Name of Insurance Company	Cover	Premium
Loss of or damage to the works, Plant and Materials			
Loss of or damage to Equipment			
Liability for loss of or damage to property (except the works, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the Contractor) caused by activity in connection with this contract.			
Liability for 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			
(Other)			

Signed \_\_\_\_\_ Date \_\_\_\_\_

Name \_\_\_\_\_ Position \_\_\_\_\_

Tenderer \_\_\_\_\_

## T2.2-14: Authority to submit a Tender

Indicate the status of the tenderer by ticking the appropriate box hereunder. The tenderer must complete the certificate set out below for his category of organisation or alternatively attach a certified copy of a company / organisation document which provides the same information for the relevant category as requested here.

A - COMPANY	B - PARTNERSHIP	C - JOINT VENTURE	D - SOLE PROPRIETOR

### A. Certificate for Company

I, \_\_\_\_\_, chairperson of the board of directors of \_\_\_\_\_  
 \_\_\_\_\_, hereby confirm that by resolution of the board taken on \_\_\_\_  
 \_\_\_\_\_ (date), Mr/Ms \_\_\_\_\_, acting in the capacity of \_\_\_\_\_  
 \_\_\_\_\_, was authorised to sign all documents in connection with this tender offer and any  
 contract resulting from it on behalf of the company.

Signed

Date

Name

Position

Chairman of the Board of Directors



**B. Certificate for Partnership**

We, the undersigned, being the **key partners** in the business trading as \_\_\_\_\_  
 \_\_\_\_\_ hereby authorise Mr/Ms \_\_\_\_\_, acting in the capacity of \_\_\_\_\_  
 \_\_\_\_\_, to sign all documents in connection with the tender offer for Contract \_\_\_\_\_  
 \_\_\_\_\_ and any contract resulting from it on our behalf.

Name	Address	Signature	Date

NOTE: This certificate is to be completed and signed by the full number of Partners necessary to commit the Partnership. Attach additional pages if more space is required.

**C. Certificate for Joint Venture**

We, the undersigned, are submitting this tender offer in Joint Venture and hereby authorise Mr/Ms \_\_\_\_\_, an authorised signatory of the company \_\_\_\_\_, acting in the capacity of lead partner, to sign all documents in connection with the tender offer for Contract \_\_\_\_\_ and any contract resulting from it on our behalf.

This authorisation is evidenced by the attached power of attorney signed by legally authorised signatories of all the partners to the Joint Venture.

Furthermore we attach to this Schedule a copy of the joint venture agreement which incorporates a statement that all partners are liable jointly and severally for the execution of the contract and that the lead partner is authorised to incur liabilities, receive instructions and payments and be responsible for the entire execution of the contract for and on behalf of any and all the partners.

Name of firm	Address	Authorising signature, name (in caps) and capacity

**D. Certificate for Sole Proprietor**

I, \_\_\_\_\_, hereby confirm that I am the sole owner of the business trading as  
\_\_\_\_\_.

Signed

Date

Name

Position

Sole Proprietor

## T2.2-15: Certificate of Attendance at Tender Clarification Meeting

This is to certify that

(Tenderer)

of

(address)

was represented by the person(s) named below at the compulsory tender clarification meeting

Held at:	Real Estate Management Boardroom, Beaconsfield, Kimberley	
On (date)	13 March 2017	Starting time: 10H00

As the tenderer we undertake that by said persons attending the clarification meeting we have made it our business to familiarise ourselves with all aspects of the works / service / supply specified in the tender documents in order for us to take account of everything necessary to provide a responsive tender offer and to compile our rates and prices included in the tender offer.

We further understand that in addition to any queries raised on behalf of us at the meeting we may still approach the *Employer / Purchaser's* Representative to request clarification of the tender documents until no later than five working days before the tender closing time stated in the Tender Data.

**Particulars of person(s) attending the meeting:**

Name	_____	Signature	_____
Capacity	_____		
Name	_____	Signature	_____
Capacity	_____		

**Attendance of the above persons at the meeting was confirmed by the procuring organisation's representative as follows:**

Name	_____	Signature	_____
Capacity	_____	Date & time	_____

## T2.2-16: Record of Addenda to Tender Documents

We confirm that the following communications received from the Employer before the submission of this tender offer, amending the tender documents, have been taken into account in this tender offer:

	Date	Title or Details
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		

Attach additional pages if more space is required.

Signed \_\_\_\_\_ Date \_\_\_\_\_  
 Name \_\_\_\_\_ Position \_\_\_\_\_  
 Tenderer \_\_\_\_\_

## T2.2-17 : Compulsory Enterprise Questionnaire

The following particulars must be furnished. In the case of a joint venture, separate enterprise questionnaires in respect of each partner must be completed and submitted.

**Section 1: Name of enterprise:** . . . . .

**Section 2: VAT registration number, if any:** . . . . .

**Section 3: CIDB registration number, if any:** . . . . .

**Section 4: Particulars of sole proprietors and partners in partnerships**

Name	Identity number	Personal income tax number

\* Complete only if sole proprietor or partnership and attach separate page if more than 3 partners

### Section 5: Particulars of companies and close corporations

Company registration number . . . . .

Close corporation number . . . . .

Tax reference number . . . . .

**Section 6: Record in the service of the state**

Indicate by marking the relevant boxes with a cross, if any sole proprietor, partner in a partnership or director, manager, principal shareholder or stakeholder in a company or close corporation is currently or has been within the last 12 months in the service of any of the following:

- |  |   |
|--|---|
| <input type="checkbox"/> a member of any municipal council                                     | <input type="checkbox"/> an employee of any provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act 1 of 1999) |
| <input type="checkbox"/> a member of any provincial legislature                                |   |
| <input type="checkbox"/> a member of the National Assembly or the National Council of Province |   |
| <input type="checkbox"/> a member of the board of directors of any municipal entity            | <input type="checkbox"/> a member of an accounting authority of any national or provincial public entity  |
| <input type="checkbox"/> an official of any municipality or municipal entity                   | <input type="checkbox"/> an employee of Parliament or a provincial legislature  |

If any of the above boxes are marked, disclose the following:

Name of sole proprietor, partner, director, manager, principal shareholder or stakeholder	Name of institution, public office, board or organ of state and position held	Status of service (tick appropriate column)	
		Current	Within last 12 months

\*insert separate page if necessary



**Section 7: Record of spouses, children and parents in the service of the state**

Indicate by marking the relevant boxes with a cross, if any spouse, child or parent of a sole proprietor, partner in a partnership or director, manager, principal shareholder or stakeholder in a company or close corporation is currently or has been within the last 12 months been in the service of any of the following:

- |  |   |
|--|---|
| <input type="checkbox"/> a member of any municipal council                                     | <input type="checkbox"/> an employee of any provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act 1 of 1999) |
| <input type="checkbox"/> a member of any provincial legislature                                | <input type="checkbox"/> a member of an accounting authority of any national or provincial public entity  |
| <input type="checkbox"/> a member of the National Assembly or the National Council of Province | <input type="checkbox"/> an employee of Parliament or a provincial legislature  |
| <input type="checkbox"/> a member of the board of directors of any municipal entity            |   |
| <input type="checkbox"/> an official of any municipality or municipal entity                   |   |

Name of spouse, child or parent	Name of institution, public office, board or organ of state and position held	Status of service (tick appropriate column)	
		Current	Within last 12 months

\*insert separate page if necessary

The undersigned, who warrants that he / she is duly authorised to do so on behalf of the enterprise:

- i) authorizes the Employer to obtain a tax clearance certificate from the South African Revenue Services that my / our tax matters are in order;
- ii) confirms that the neither the name of the enterprise or the name of any partner, manager, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears on the Register of Tender Defaulters established in terms of the Prevention and Combating of Corrupt Activities Act of 2004;
- iii) confirms that no partner, member, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears, has within the last five years been convicted of fraud or corruption;
- iv) confirms that I / we are not associated, linked or involved with any other tendering entities submitting tender offers and have no other relationship with any of the tenderers or those responsible for compiling the scope of work that could cause or be interpreted as a conflict of interest; and
- v) confirms that the contents of this questionnaire are within my personal knowledge and are to the best of my belief both true and correct.

Signed	_____	Date	_____
Name	_____	Position	_____
Enterprise name	_____		

## **T2.2-22: Health and Safety Plan**

Submit the following documents as a minimum with your tender:

1. Valid letter of good standing with insurance body.
2. Roles and responsibilities of legal appointees.
3. Safety Officer's role and responsibility.
4. Safety, Health & Environmental Policies.
5. Overview of Tenderer's SHE system for project.
6. Overview of RA process and examples.
7. List of job categories for project and competencies required per category and plan to address and meet outstanding competencies.
8. Six months synopsis of SHE incidents, description, type and action taken.
9. Overview of selection process of subcontractors.
10. SHE challenges envisaged for the project and how they will be addressed and overcome.
11. Signed statement acknowledging receiving and budget provision for SHE pack requirements.
12. Complete and return with tender documentation the Contractor Safety Questionnaire (Attachment No 8) included in the Health and Safety Specification TCP-HAS-STD-0001 Rev 00 found in attached CD under Specifications folder.
13. Construction Safety File (Index)
14. Construction Safety Work Method Statement



## T2.2-24: Capacity and Ability to meet Delivery Schedule

### Note to tenderers:

The Tenderer is required to demonstrate to the *Employer* that he has sufficient current and future capacity to carry out the work as detailed in the Works Information and that he has the capacity and plans in place to meet the required delivery schedule as required. To this end, the following must be provided by the Tenderer:

A schedule detailing the following:

- Maximum quantity of work concurrently performed by the Tenderer in the recent past in order to illustrate his potential capacity to design, fabricate and/or construct work of a similar nature
- Current and future work on his order book, showing quantity and type of equipment
- Quantity of work for which the Tenderer has tenders in the market or is currently tendering on
- The work as covered in this Works Information, planned and scheduled as per the Tenderer's capacities and methods but meeting the required delivery schedule.

### Index of documentation attached to this schedule:

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

Signed \_\_\_\_\_ Date \_\_\_\_\_

Name \_\_\_\_\_ Position \_\_\_\_\_

Tenderer \_\_\_\_\_

## T2.2-25: Previous Experience

**Note to tenderers:**

Tenderers are required to demonstrate their experience in the delivery of similar works, and to this end shall supply a sufficiently detailed reference list with contact details of existing customers and also indicate their previous experience of, their design, installation and commissioning capability.

Employer, contact person and telephone number	Description of contract	Value of work Inclusive of VAT (Rand)	Date Completed

Signed \_\_\_\_\_ Date \_\_\_\_\_

Name \_\_\_\_\_ Position \_\_\_\_\_

Tenderer \_\_\_\_\_

## T2.2-31: Supplier Code of Conduct

Transnet Limited aims to achieve the best value for money when buying or selling goods and obtaining services. This however must be done in an open and fair manner that supports and drives a competitive economy. Underpinning our process are several acts and policies that any supplier dealing with Transnet must understand and support. These are:

- The Transnet Procurement Policy – A guide for Tenderers.
- Section 217 of the Constitution - the five pillars of Public PSCM (Procurement and Supply Chain Management): fair, equitable, transparent, competitive and cost effective;
- The Public Finance Management Act (PFMA);
- The Broad Based Black Economic Empowerment Act (BBBEE)
- The Prevention and Combating of Corrupt Activities Act (PRECCA); and
- The Construction Industry Development Board Act (CIDB Act).

This code of conduct has been included in this contract to formally appraise Transnet Suppliers of Transnet's expectations regarding behaviour and conduct of its Suppliers.

### ***Prohibition of Bribes, Kickbacks, Unlawful Payments, and Other Corrupt Practices***

Transnet is in the process of transforming itself into a self-sustaining State Owned Enterprise, actively competing in the logistics industry. Our aim is to become a world class, profitable, logistics organisation. As such, our transformation is focused on adopting a performance culture and to adopt behaviours that will enable this transformation.

#### ***1. Transnet Limited will not participate in corrupt practices. Therefore, it expects its suppliers to act in a similar manner.***

- Transnet and its employees will follow the laws of this country and keep accurate business records that reflect actual transactions with, and payments to, our suppliers.
- Employees must not accept or request money or anything of value, directly or indirectly, from suppliers.
- Employees may not receive anything that is calculated to:
  - Illegally influence their judgement or conduct or to ensure the desired outcome of a sourcing activity;
  - Win or retain business or to influence any act or decision of any person involved in sourcing decisions; or
  - Gain an improper advantage.

- There may be times when a supplier is confronted with fraudulent or corrupt behaviour of Transnet employees. We expect our Suppliers to use our "Tip-offs Anonymous" Hot line to report these acts. (0800 003 056).
2. ***Transnet Limited is firmly committed to the ideas of free and competitive enterprise.***
- Suppliers are expected to comply with all applicable laws and regulations regarding fair competition and antitrust practices.
  - Transnet does not engage with non-value adding agents or representatives solely for the purpose of increasing BBBEE spend (fronting).
3. ***Transnet's relationship with suppliers requires us to clearly define requirements, to exchange information and share mutual benefits.***
- Generally, suppliers have their own business standards and regulations. Although Transnet cannot control the actions of our suppliers, we will not tolerate any illegal activities. These include, but are not limited to:
    - Misrepresentation of their product (origin of manufacture, specifications, intellectual property rights, etc);
    - Collusion;
    - Failure to disclose accurate information required during the sourcing activity (ownership, financial situation, BBBEE status, etc.);
    - Corrupt activities listed above; and
    - Harassment, intimidation or other aggressive actions towards Transnet employees.
  - Suppliers must be evaluated and approved before any materials, components, products or services are purchased from them. Rigorous due diligence is conducted and the supplier is expected to participate in an honest and straight forward manner.
  - Suppliers must record and report facts accurately, honestly and objectively. Financial records must be accurate in all material respects.



**Conflicts of Interest**

A conflict of interest arises when personal interests or activities influence (or appear to influence) the ability to act in the best interests of Transnet Limited.

- Doing business with family members.
- Having a financial interest in another company in our industry

Where possible, contracts will be negotiated to include the above in the terms of such contracts. To the extent such terms are not included in contractual obligations and any of the above code is breached, then Transnet reserves its right to review doing business with these suppliers.

I, \_\_\_\_\_ of \_\_\_\_\_  
*(insert name of Director or as per Authority Resolution from Board of Directors)* *(insert name of Company)*

hereby acknowledge having read, understood and agree to the terms and conditions set out in the "Transnet Supplier Code of Conduct."

Signed this on day \_\_\_\_\_ at \_\_\_\_\_

\_\_\_\_\_  
Signature



## SUPPLIER DECLARATION FORM

---

Transnet Vendor Management has received a request to load / change your company details on to the Transnet vendor database. Please return the completed Supplier Declaration Form (SDF) together with the required supporting documents as per Appendix V to the Transnet Official who is intending to procure your company's services / products, to enable us to process this request. Please only submit the documentation relevant to your request.

**NB:** Effective 1 April 2016 all organisations, institutions and individuals who wish to provide goods and/or services to Organs of the State must be registered on the National Treasury Central Supplier Database (CSD). This needs to be done via their portal at <https://secure.csd.gov.za/> **before applying to Transnet.**

### **General Terms and Conditions:**

**Failure to submit the relevant documentation will delay the vendor creation / change process.**

Where applicable, the respective Transnet Operating Division processing your application may request further information from you.

The Service Provider warrants that the details of its bank account ("the nominated account") provided herein, are correct and acknowledges that payments due to the Supplier will be made into the nominated account. If details of the nominated account should change, the Service Provider must notify Transnet in writing of such change, failing which any payments made by Transnet into the nominated account will constitute a full discharge of the indebtedness of Transnet to the Supplier in respect of the payment so made. Transnet will incur no liability for any payments made to the incorrect account or any costs associated therewith. In such event, the Service Provider indemnifies and holds Transnet harmless in respect of any payments made to an incorrect bank account and will, on demand, pay Transnet any costs associated herewith.

Transnet expects its suppliers to timeously renew their Tax Clearance and B-BBEE certificates (where applicable, as EMEs and QSEs are only expected to supply an affidavit as per Appendix III and IV), as well as all affidavits, annually. Failure to do so may result in the supplier's account being temporarily suspended.



**SUPPLIER DECLARATION FORM**

**NB:** Effective 1 April 2016 all organisations, institutions and individuals who wish to provide goods and/or services to Organs of the State must be registered on the National Treasury Central Supplier Database (CSD). This needs to be done via their portal at <https://secure.csd.gov.za/> before applying to Transnet.

CSD Number (MAAA xxxxxxx):

Company Trading Name						
Company Registered Name						
Company Registration No. Or ID No If a Sole Proprietor						
Company Income Tax Number						
Form of Entity	CC	Trust	Pty Ltd	Limited	Partnership	Sole Proprietor
	Non-profit	Personal Liability Co	State Owned Co	National Govt	Provincial Govt	Local Govt
	Educational Institution	Specialised Profession	Financial Institution	Foreign International	Foreign Branch Office	

Did your company previously operate under another name? Yes  No

If YES state the previous details below:

Trading Name						
Registered Name						
Company Registration No Or ID No If a Sole Proprietor						
Form of Entity	CC	Trust	Pty Ltd	Limited	Partnership	Sole Proprietor
	Non-profit	Personal Liability Co	State Owned Co	National Govt	Provincial Govt	Local Govt
	Educational Institution	Specialised Profession	Financial Institution	Foreign International	Foreign Branch Office	

Your Current Company's VAT Registration Status

VAT Registration Number	
If Exempted from VAT registration, state reason and submit proof from SARS in confirming the exemption status	

If your business entity is not VAT Registered, please submit a current original sworn affidavit (see example in Appendix I). Your Non VAT Registration must be confirmed annually.

Company Banking Details	Bank Name
Universal Branch Code	Bank Account Number

Company Physical Address	Code
Company Postal Address	Code
Company Telephone number	
Company Fax Number	
Company E-Mail Address	
Company Website Address	

Company Contact Person Name
Designation
Telephone
Email

Document Name: Supplier Declaration Form

Revision: Version 7.3

Date: 4 April 2016



delivering freight reliably

Is your company a Labour Broker?		Yes	No
Main Product / Service Supplied e.g. Stationery / Consulting / Labour etc.			
How many personnel does the business employ?		Full Time	Part Time
Please Note: Should your business employ more than 2 full time employees who are not connected persons as defined in the Income Tax Act, please submit a sworn affidavit, as per Appendix II.			

Most recent Financial Year's Annual Turnover	<R10Million	>R10Million <R50Million	>R50Million
--	-------------	----------------------------	-------------

Does your company have a valid BBBEE certificate?		Yes	No
What is your broad based BEE status (Level 1 to 9)			
Majority Race of Ownership			
% Black Ownership	% Black Women ownership	% Black Disabled person(s) ownership	% Black Youth ownership
Please Note: Please provide proof of BBBEE status as per Appendix V. If you qualify as an EME or QSE then provide an affidavit following the examples provided in Appendix III and IV respectively. If you have indicated Black Disabled person(s) ownership, then provide a <b>certified</b> letter signed by a physician, on the physician's letterhead, confirming the disability.			

**By signing below, I hereby verify that I am duly authorised to sign for and on behalf of firm / organisation and that all information contained herein and attached herewith are true and correct**

Name	Designation
Signature	Date

**Stamp And Signature Of Commissioner Of Oaths**

Name	Date
Signature	Telephone No

**Internal Transnet Departmental Questionnaire (For Office Use Only)**

Company Trading Name	
Company Registered Name	

Operating Division											
TFR	TFR RME	TE	TPT	TPL	TNPA	TRN PROP	TRN TCC	TRN FOUN	TRN TCP		
Create		Amend			Block		Unblock				
Extend		Delete			Undelete		Once-Off / Emergency				

Please indicate whether the Supplier has a contract with sourcing Transnet OD  Yes  No

If yes, please submit a copy of the adjudication document / signed-off comparative schedule

Transnet B-BBEE Department Contact Person		Signature	
Contact number		Email	

**THE FOLLOWING IS TO BE COMPLETED BY THE TRANSNET REQUESTING/SOURCING DEPARTMENT. THE FULL SET OF VENDOR RELATED DOCUMENTS MUST THEN BE FORWARDED TO THE APPROPRIATE VENDOR APPROVAL OFFICIAL FOR APPROVAL**

What is being procured from the supplier?				
i. Products Only	Yes		No	
ii. Services Only	Yes		No	
iii. Labour Only	Yes		No	
iv. Mix of Products and Services	Yes		No	
v. Mix of Services and Labour	Yes		No	

If your answer is **YES** to any of the questions ii to v above and the applicant supplier has not submitted a sworn affidavit as per Appendix II, the matter should be further investigated in terms of the Tax Withholding Procedures. Where necessary you may approach your Operating Division's Procurement Department for guidance in this regard. Details of the appropriate Transnet decision-making body such as a Cross Functional Sourcing Team, should be indicated below. **A copy of the signed-off document by the mentioned decision-making body should also be attached.**

Type	Deduct. Tax		If Tax should be deducted (Indicate % to be deducted)	Department Responsible for Payment (PROCUREMENT OR *PAYROLL) <small>* IF PAYROLL SHOULD EFFECT PAYMENT, THE DOCUMENTS SHOULD BE FORWARDED TO THEIR OFFICE</small>
	Yes	No		
Service Provider	Yes	No		
Labour broker without IRP30 exemption certificate	Yes	No		
Labour broker with IRP30 exemption certificate	Yes	No		
Personal Service Provider	Yes	No		
Independent Contractor	Yes	No		
None of the above apply, state reason				
If PAYE is to be deducted, please indicate whether the applicant supplier has indicated in writing that it is prepared to comply with Transnet's PAYE conditions. (Please attached a copy of the written communication)				
If the reply is "NO", the vendor application will be regarded as cancelled and another service provider should be sourced.				

Document Name: Supplier Declaration Form

Revision: Version 7.3

Date: 4 April 2016



**CERTIFICATION AND APPROVAL OF PROPOSED VENDOR CREATION/VENDOR DETAILS UPDATE BY TRANSNET OFFICIAL WITH APPROPRIATE DELEGATED AUTHORITY.**

I hereby certify that the Transnet Procurement Procedure Manual (PPM) / Procurement Mechanisms have in ALL RESPECTS been adhered to and therefore approve the proposed vendor creation/vendor details update.

Vendor Approval Official's Details												
Name					Designation							
Tel No					Fax No							
e-Mail												
Signature			Date		Y	Y	Y	Y	M	M	D	D

## T2.2-36: TENDER DECLARATION FORM

NAME OF COMPANY: \_\_\_\_\_

We \_\_\_\_\_ do hereby certify that:

1. Transnet has supplied and we have received appropriate tender offers to any/all questions (as applicable) which were submitted by ourselves for tender clarification purposes;
2. we have received all information we deemed necessary for the completion of this Tender;
3. at no stage have we received additional information relating to the subject matter of this tender from Transnet sources, other than information formally received from the designated Transnet contact(s) as nominated in the tender documents;
4. we are satisfied, insofar as our company is concerned, that the processes and procedures adopted by Transnet in issuing this TENDER and the requirements requested from tenderers in responding to this TENDER have been conducted in a fair and transparent manner; and
5. furthermore, we acknowledge that a direct relationship exists between a family member and/or an owner / member / director / partner / shareholder (unlisted companies) of our company and an employee or board member of the Transnet Group as indicated below: *[Respondent to indicate if this section is not applicable]*

FULL NAME OF OWNER/MEMBER/DIRECTOR/  
PARTNER/SHAREHOLDER:

ADDRESS:

---

---

---

Indicate nature of relationship with Transnet:

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*[Failure to furnish complete and accurate information in this regard may lead to the disqualification of your response and may preclude a Respondent from doing future business with Transnet]*

We declare, to the extent that we are aware or become aware of any relationship between ourselves and Transnet (other than any existing and appropriate business relationship with Transnet) which could unfairly

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advantage our company in the forthcoming adjudication process, we shall notify Transnet immediately in writing of such circumstances.

6. We accept that any dispute pertaining to this tender will be resolved through the Ombudsman process and will be subject to the Terms of Reference of the Ombudsman. The Ombudsman process must first be exhausted before judicial review of a decision is sought. (Refer "Important Notice to Tenderers" overleaf).
7. We further accept that Transnet reserves the right to reverse a tender award or decision based on the recommendations of the Ombudsman without having to follow a formal court process to have such award or decision set aside.

SIGNED at \_\_\_\_\_ on this \_\_\_\_ day of \_\_\_\_\_ 20\_\_

For and on behalf of ..... duly authorised thereto	AS WITNESS:
Name:	Name:
Position:	Position:
Signature:	Signature:
Date:	
Place:	



## T2.2-43: REQUEST FOR PROPOSAL – BREACH OF LAW

NAME OF COMPANY: \_\_\_\_\_

I / We \_\_\_\_\_ do hereby certify that ***I/we have/have not been*** found guilty during the preceding 5 (five) years of a serious breach of law, including but not limited to a breach of the Competition Act, 89 of 1998, by a court of law, tribunal or other administrative body. The type of breach that the Respondent is required to disclose excludes relatively minor offences or misdemeanours, e.g. traffic offences.

*Where found guilty of such a serious breach, please disclose:*

NATURE OF BREACH:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

DATE OF BREACH: \_\_\_\_\_

Furthermore, I/we acknowledge that Transnet SOC Ltd reserves the right to exclude any Respondent from the bidding process, should that person or company have been found guilty of a serious breach of law, tribunal or regulatory obligation.

SIGNED at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF WITNESS

\_\_\_\_\_  
SIGNATURE OF RESPONDENT

## T2.2-50: B-BBEE PREFERENCE POINTS CLAIM FORM (SBD 6.1)

This preference form contains general information and serves as a claim for preference points for Broad-Based Black Economic Empowerment [B-BBEE] Status Level of Contribution.

### 1. INTRODUCTION

- 1.1 A total of 20 preference points shall be awarded for B-BBEE Status Level of Contribution.
- 1.2 Failure on the part of a Tenderer to fill in and/or to sign this form and submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System [SANAS] or a Registered Auditor approved by the Independent Regulatory Board of Auditors [IRBA] or an Accounting Officer as contemplated in the Close Corporation Act [CCA] together with the Tender will be interpreted to mean that preference points for B-BBEE Status Level of Contribution are not claimed.
- 1.3 Transnet 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 Transnet.

### 2. GENERAL DEFINITIONS

- 2.1 "all applicable taxes" include value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- 2.2 "B-BBEE" means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- 2.3 "B-BBEE status of contributor" means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- 2.4 "Tender" means a written offer in a prescribed or stipulated form in response to an invitation by Transnet for the provision of goods, works or services;
- 2.5 "Broad-Based Black Economic Empowerment Act" means the Broad-Based Black Economic Empowerment Act, 2003 [Act No. 53 of 2003];
- 2.6 "comparative price" means the price after the factors of a non-firm price and all unconditional discounts that can utilised have been taken into consideration;
- 2.7 "consortium or joint venture" means an association of persons for the purpose of combining their expertise, property, capital, efforts, skills and knowledge in an activity for the execution of a contract;
- 2.8 "contract" means the agreement that results from the acceptance of a Tender by Transnet;
- 2.9 "EME" means any enterprise with an annual total revenue of R5 [five] million or less as per the

2007 version of the B-BBEE Codes of Good Practice and means any enterprise with an annual total revenue of R10 [ten] million or less as per the Revised Codes of Good Practice issued on 11 October 2013 in terms of Government Gazette No. 36928;

- 2.10 **"firm price"** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs and excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- 2.11 **"functionality"** means the measurement according to predetermined norms, as set out in the Tender documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a Tenderer;
- 2.12 **"non-firm prices"** means all prices other than "firm" prices;
- 2.13 **"person"** includes reference to a juristic person;
- 2.14 **"QSE"** means any enterprise with an annual total revenue between R5 [five] million and R35 [thirty five] million as per the 2007 version of the B-BBEE Codes of Good Practice and means any enterprise with an annual total revenue of between R10 [ten] million and R50 [fifty] million as per the Revised Codes of Good Practice issued on 11 October 2013 in terms of Government Gazette No. 36928
- 2.15 **"rand value"** means the total estimated value of a contract in South African currency, calculated at the time of Tender invitations, and includes all applicable taxes and excise duties;
- 2.16 **"subcontract"** means the primary contractor's assigning or leasing or making out work to, or employing another person to support such primary contractor in the execution of part of a project in terms of the contract;
- 2.17 **"total revenue"** bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Empowerment Act and promulgated in the Government Gazette on 9 February 2007;
- 2.18 **"trust"** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
- 2.19 **"trustee"** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

### 3. ADJUDICATION USING A POINT SYSTEM

- 3.1 The Tenderer obtaining the highest number of total points for the evaluation criteria as enumerated in Section 2 of the RFP will be awarded the contract, unless objective criteria justifies the award to another Tenderer.
- 3.2 Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts.
- 3.3 Points scored will be rounded off to 2 [two] decimal places.
- 3.4 In the event of equal points scored, the Tender will be awarded to the Tenderer scoring the highest

number of preference points for B-BBEE.

- 3.5 However, when functionality is part of the evaluation process and two or more Tenders have scored equal points including equal preference points for B-BBEE, the successful Tender will be the one scoring the highest score for functionality.
- 3.6 Should two or more Tenders be equal in all respect, the award shall be decided by the drawing of lots.

**4. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTION**

4.1 In terms of the Preferential Procurement Regulations, 2011, preference points shall be awarded to a Tenderer for attaining the B-BBEE status level of contribution in accordance with the table below:

*[delete either column "Maximum 10" or "Maximum 20"]*

B-BBEE Status Level of Contributor	Number of Points [Maximum 10]	Number of Points [Maximum 20]
1	10	20
2	9	18
3	8	16
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

- 4.2 Tenderers who qualify as EMEs in terms of the 2007 version of the Codes of Good Practice must submit a certificate issued by an Accounting Officer as contemplated in the CCA or a Verification Agency accredited by SANAS or a Registered Auditor. Registered auditors do not need to meet the prerequisite for IRBA's approval for the purpose of conducting verification and issuing EME's with B-BBEE Status Level Certificates.
- 4.3 Tenderers who qualify as EMEs in terms of the Revised Codes of Good Practice issued on 11 October 2013 in terms of Government Gazette No. 36928 are only required to obtain a sworn affidavit on an annual basis confirming that the entity has an Annual Total Revenue of R10 million or less and the entity's Level of Black ownership.
- 4.4 In terms of the 2007 version of the Codes of Good Practice, Tenderers other than EMEs must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.

- 4.5 The Department of Trade and Industry recently revised the Codes of Good Practice on 11 October 2013 [Government Gazette No. 36928]. The Revised Codes will replace the Black Economic Empowerment Codes of Good Practice issued on 9 February 2007. The Revised Codes provide for a transitional period ending 30 April 2015. During the transitional period, companies may elect to be measured in terms of the Revised Codes or the 2007 version of the Codes. Companies which are governed by Sector-specific Codes will be measured in terms of those Sector Codes.
- 4.6 As such, Transnet will accept B-BBEE certificates issued based on the Revised Codes. Transnet will also continue to accept B-BBEE certificates issued in terms of the 2007 version of the Codes provided it was issued before 1 May 2015. Thereafter, Transnet will only accept B-BBEE certificates issued based on the Revised Codes.
- 4.7 In terms of the Revised Codes of Good Practice, Tenderers who qualify as QSEs must comply with all the elements of B-BBEE for the purposes of measurement. QSEs that are at least 51% or 100% Black owned are only required to obtain a sworn affidavit on an annual basis confirming that the entity has an Annual Total Revenue of R50 million or less and the entity's Level of Black ownership. Large enterprises must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.
- 4.8 A trust, consortium or joint venture will qualify for points for its B-BBEE status level as a legal entity, provided that the entity submits its B-BBEE status level certificate.
- 4.9 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate Tender.
- 4.10 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialised scorecard contained in the B-BBEE Codes of Good Practice.
- 4.11 A person will not be awarded points for B-BBEE status level if it is indicated in the Tender documents that such a Tenderer intends subcontracting more than 25% [twenty-five per cent] of the value of the contract to any other enterprise that does not qualify for at least the same number of points that such a Tenderer qualifies for, unless the intended subcontractor is an EME that has the capability and ability to execute the subcontract.
- 4.12 A person awarded a contract may not subcontract more than 25% [twenty-five per cent] of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is subcontracted to an EME that has the capability and ability to execute the subcontract.
- 4.13 Tenderers are to note that in terms of paragraph 2.6 of Statement 000 of the Revised Codes of Good Practice issued on 11 October 2013 in terms of Government Gazette No. 36928, any representation made by an entity about its B-BBEE compliance must be supported by suitable evidence or documentation. As such, Transnet reserves the right to request such evidence or documentation from Tenderers in order to verify any B-BBEE recognition claimed.

## **5. B-BBEE STATUS AND SUBCONTRACTING**

### **5.1 Tenderers who claim points in respect of B-BBEE Status Level of Contribution must**

**complete the following:**

B-BBEE Status Level of Contributor \_\_\_\_\_ = \_\_\_\_\_ [maximum of 10 / 20 points]

Note: Points claimed in respect of this paragraph 5.1 must be in accordance with the table reflected in paragraph 4.1 above and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or a sworn affidavit in the case of an EME or QSE.

**5.2 Subcontracting:**

Will any portion of the contract be subcontracted? YES/NO [delete which is not applicable]

If YES, indicate:

- (i) What percentage of the contract will be subcontracted? .....%
- (ii) The name of the subcontractor .....
- (iii) The B-BBEE status level of the subcontractor .....
- (iv) Is the subcontractor an EME? YES/NO

**5.3 Declaration with regard to Company/Firm**

- (i) Name of Company/Firm.....
- (ii) VAT registration number.....
- (iii) Company registration number.....
- (iv) Type of Company / Firm [TICK APPLICABLE BOX]
  - Partnership/Joint Venture/Consortium
  - One person business/sole propriety
  - Close Corporations
  - Company (Pty) Ltd
- (v) Describe Principal Business Activities  
.....  
.....
- (vi) Company Classification [TICK APPLICABLE BOX]
  - Manufacturer
  - Supplier
  - Professional Service Provider
  - Other Service Providers e.g. Transporter, etc.
- (vii) Total number of years the company/firm has been in business.....

**TENDER DECLARATION**

I/we, the undersigned, who warrants that he/she is duly authorised to do so on behalf of the company/firm, certify that points claimed, based on the B-BBEE status level of contribution indicated in paragraph 4 above, qualifies the company/firm for the preference(s) shown and I / we acknowledge that:

- (i) The information furnished is true and correct.
- (ii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 6 above, the contractor may be required to furnish documentary proof to the

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satisfaction of Transnet that the claims are correct.

- (iii) If the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, Transnet may, in addition to any other remedy it may have:
- (a) disqualify the person from the Tendering process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
  - (d) restrict the Tenderer or contractor, its shareholders and directors, and/or associated entities, or only the shareholders and directors who acted in a fraudulent manner, from obtaining business from Transnet for a period not exceeding 10 years, after the *audi alteram partem* [hear the other side] rule has been applied; and/or
  - (e) forward the matter for criminal prosecution.

**WITNESSES:**

1. ....

2. ....

SIGNATURE OF TENDERER

DATE:.....

COMPANY NAME: .....

ADDRESS:.....

## T2.2-51: Certificate of Acquaintance with Tender Documents

NAME OF TENDERING ENTITY:

---

1. I/we do hereby certify that I/we acquainted myself/ourselves with all the documentation comprising this TENDER and all conditions contained therein, as laid down by Transnet SOC Ltd for the carrying out of the proposed supply/service/works for which I/we submitted my/our Tender.
2. I/we furthermore agree that Transnet SOC Ltd shall recognise no claim from me/us for relief based on an allegation that I/we overlooked any TENDER/contract condition or failed to take it into account for the purpose of calculating my/our offered prices or otherwise.
3. I/we understand that the accompanying Tender will be disqualified if this Certificate is found not to be true and complete in every respect.
4. For the purposes of this Certificate and the accompanying Tender, I/we understand that the word "competitor" shall include any individual or organisation, other than the Tenderder, whether or not affiliated with the Tenderder, who:
  - a) has been requested to submit a Tender in response to this Tender invitation;
  - b) could potentially submit a Tender in response to this Tender invitation, based on their qualifications, abilities or experience; and
  - c) provides the same Services as the Tenderder and/or is in the same line of business as the Tenderder
5. The Tenderder has arrived at the accompanying Tender independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium will not be construed as collusive Tenderding.
6. In particular, without limiting the generality of paragraph 5 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
  - a) prices;
  - b) geographical area where Services will be rendered [market allocation]
  - c) methods, factors or formulas used to calculate prices;
  - d) the intention or decision to submit or not to submit, a Tender;
  - e) the submission of a Tender which does not meet the specifications and conditions of the TENDER; or
  - f) Tenderding with the intention not winning the Tender.



7. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the Services to which this TENDER relates.
8. The terms of the accompanying Tender have not been, and will not be, disclosed by the Tenderder, directly or indirectly, to any competitor, prior to the date and time of the official Tender opening or of the awarding of the contract.
9. I/We am/are aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to Tenders and contracts, Tenders 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. In addition, Tenderders that submit suspicious Tenders may be restricted from conducting business with the public sector for a period not exceeding 10 [ten] years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

SIGNED at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

\_\_\_\_\_  
SIGNATURE OF WITNESS

# C1.1 Form of Offer & Acceptance

## Offer

The Employer, identified in the Acceptance signature block, has solicited offers to enter into a contract for Provision of Maintenance Services on various Roads, Fencing and Surfaces in the Kimberley Region on an as & when required basis within a period of 12 months.

The tenderer, identified in the Offer signature block, has 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.

By the representative of the tenderer, deemed to be duly authorised, signing this part 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 offered total of the Prices exclusive of VAT is	R (N/A – Cost Reimbursable)
(in words)	

This Offer may be accepted by the Employer by signing the Acceptance part 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 & signature of witness

Date

Tenderer's CIDB registration number:

### Acceptance

By signing this part 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

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 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 Form of Offer and Acceptance. 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 just 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 SOC Ltd

\_\_\_\_\_

(Insert name and address of organisation)

Name & signature of witness \_\_\_\_\_ Date \_\_\_\_\_

### 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.

No.	Subject	Details
1		
2		
3		
4		
5		
6		
7		

By the duly authorised representatives signing this Schedule of Deviations below, 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 Form shall have any meaning or effect in the contract between the parties arising from this Agreement.

	<b>For the tenderer:</b>	<b>For the Employer</b>
Signature	_____	_____
Name	_____	_____
Capacity	_____	_____
On behalf of	<i>(Insert name and address of organisation)</i>	<i>(Insert name and address of organisation)</i> Transnet SOC Ltd
Name & signature of witness	_____	_____
Date	_____	_____

## C1.2 Contract Data

### Part one - Data provided by the Employer

Please read the relevant clauses in the conditions of contract before you enter data. The number of the principal clause is shown for each statement however other clauses may also use the same data.

Rows containing the statement and data for options in the core clauses and for the main & secondary option clauses, according to the options chosen, are identified by shading in the left-hand column.

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

Clause	Statement	Data
1	<b>General</b>	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option	
	dispute resolution Option	<b>A: Priced contract with activity schedule</b>
	and secondary Options	<b>W1: Dispute resolution procedure</b>
		<b>X7: Delay damages</b>
		<b>X16: Retention</b>
		<b>Z: Additional conditions of contract</b>
	of the NEC3 Engineering and Construction Contract June 2005 (with amendments June 2006) <sup>1</sup>	

<sup>1</sup> Available from Engineering Contract Strategies Tel 011 803 3008, Fax 011 803 3009

TRANSNET FREIGHT RAIL

ENQUIRY NUMBER: KBY/53917

DESCRIPTION OF THE WORKS: PROVISION OF MAINTENANCE SERVICES ON VARIOUS ROADS, FENCING AND SURFACES IN THE KIMBERLEY REGION ON AN AS & WHEN REQUIRED BASIS WITHIN A PERIOD OF 12 MONTHS

10.1	The <i>Employer</i> is:	<b>Transnet SOC Ltd</b> <b>(Registration No. 1990/00090/06)</b>
	Address	Registered address: <b>Carlton Centre</b> <b>150 Commissioner Street</b> <b>Johannesburg</b> <b>2001</b>
	Having elected its Contractual Address for the purposes of this contract as:	<b>Transnet Freight Rail</b> <b>Supply Chain Services</b> <b>Kimberley</b>
	Tel No.	<b>(053) 838 3477</b>
	Fax No.	<b>(011) 774 9787</b>

10.1	The <i>Project Manager</i> is: (Name)	<b>Alan Lotriet</b>
	Address	<b>Transnet Freight Rail</b>
	Tel	<b>053 838-3106</b>
	Fax	
	e-mail	<b>Alan.Lotriet@transnet.net</b>

10.1	The <i>Supervisor</i> is: (Name)	<b>Norman Papenfus</b>
	Address	<b>Transnet Freight Rail</b>
	Tel No.	<b>051 408 3224</b>
	Fax No.	
	e-mail	<b>Norman.Papenfus@transnet.net</b>

11.2(13)	The <i>works</i> are	Provision of maintenance services on various roads, fencing and surfaces in the Kimberley region on an as and when required basis within a period of 12 months
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11.2(15)	The <i>boundaries of the site</i> are	Kimberley
----------	---------------------------------------	-----------

11.2(19)	The Works Information is in	<b>Part C3</b>
----------	-----------------------------	----------------

12.2	The <i>law of the contract</i> is the law of	<b>the Republic of South Africa subject to the jurisdiction of the Courts of South Africa.</b>
------	--	--

13.1	The <i>language of this contract</i> is	<b>English</b>
------	---	----------------

13.3	The <i>period for reply</i> is	<b>2 weeks</b>
------	--------------------------------	----------------

**3 Time**

<b>11.2(3)</b>	The <i>completion date</i> for the whole of the works is	<b>To be advised</b>
----------------	--	----------------------

31.2 The *starting date* is. **To be advised**

**4 Testing and Defects**

42.2 The *defects date* is **52 (fifty two) weeks after Completion of the whole of the works.**

**5 Payment**

50.1 The *assessment interval* is monthly on the **10<sup>th</sup> (tenth) day of each successive month.**

51.1 The *currency of this contract* is the **South African Rand.**

**51.2** The period within which payments are made is **Payment will be effected on or before the last day of the month following the month during which a valid Tax Invoice and Statement were received.**

51.4 The *interest rate* is **The prime lending rate of the Standard Bank of South Africa.**

**7 Title** **No additional data is required for this section of the *conditions of contract*.**

**8 Risks and insurance**

**80.1** These are additional *Employer's risks* **1. None**

84.2 The minimum limit of indemnity for insurance in respect of loss of or damage to property (except the *works*, Plant, Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the *Contractor*) caused by activity in connection with this contract for any one event is **Whatever the *Contractor* requires in addition to the amount of insurance taken out by the *Employer* for the same risk.**

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 **Whatever the *Contractor* deems desirable in addition to which is prescribed by the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993 as amended.**

**84.2** The insurance against loss of or damage to the *works*, Plant and Materials as stated in the insurance policy for contract works and public liability selected from:  
 Blanket Principal Controlled Insurance (BPCI),  
 Principal Controlled Insurance (PCI),  
 Principal Controlled Contractors Liability Insurance,  
 Principal Controlled Insurance One-off; and  
 Project Specific Insurance

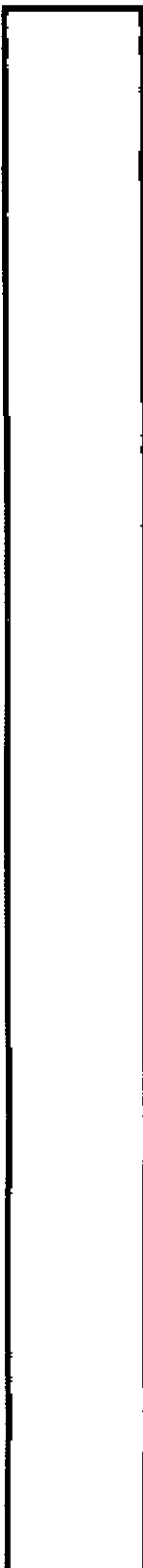
R

Select one	
BPCI	
PCI	X
PCI Liab only	
PCI One Off	
PSI	

**84.1** The *Employer* provides these insurances from the Insurance Table

	<p>1 Insurance against:</p> <p>Cover / indemnity:</p> <p>The deductibles are:</p> <p>2 Insurance against:</p> <p>Cover / indemnity</p> <p>The deductibles are</p>	<p>Loss of or damage to the <i>works</i>, Plant and Materials is as stated in the selected Insurance policy for Contract Works/ Public Liability.</p> <p>to the extent as stated in the selected insurance policy for Contract Works / Public Liability</p> <p>as stated in the selected insurance policy for Contract Works / Public Liability (Principal Controlled Insurance)</p> <p>Loss of or damage to property (except the <i>works</i>, plant, materials &amp; equipment) and liability for bodily injury to or death of a person (not an employee of the <i>Contractor</i>) arising out of or in connection with the performance of the Contract as stated in the selected insurance policy for Contract Works / Public Liability</p> <p>Is to the extent as stated in the selected insurance policy for Contract Works / Public Liability</p> <p>as stated in the selected insurance policy for Contract Works / Public Liability</p>
84.1	<p>3 Insurance against:</p> <p>Cover / indemnity</p> <p>Cover / indemnity:</p> <p>The deductibles are:</p>	<p>Loss of or damage to Equipment (Temporary Works only) as stated in the selected insurance policy for contract Works and Public Liability</p> <p>Is to the extent as stated in the selected insurance policy for Contract Works / Public Liability</p> <p>Cover / indemnity is to the extent provided by the SASRIA coupon</p> <p>The deductibles are in respect of each and every theft claim 0,1% of contract value subject to a minimum of R2,500 and a maximum of R25,000</p>
84.1	<p>The <i>Contractor</i> provides these additional insurances.</p>	<p>1 Where the contract requires that the design of any part of the <i>works</i> shall be provided by the <i>Contractor</i> he shall satisfy the Employer that professional indemnity insurance cover in connection therewith has been affected</p>





- 2 Where the contract involves manufacture, and/or fabrication of Plant & Materials, components or other goods to be incorporated into the works at premises other than the site, the Contractor shall satisfy the Employer that such plant & materials, components or other goods for incorporation in the works are adequately insured during manufacture and/or fabrication and transportation to the site.
- 3 Should the Employer have an insurable interest in such items during manufacture of fabrication, such interest shall not be noted by endorsement to the Contractor's policies of insurance as well as those of any subcontractor
- 4 Motor Vehicle Liability Insurance comprising (as a minimum) "Balance of Third Party" Risks including Passenger and Unauthorised Passenger Liability indemnity with a minimum indemnity limit of
- 5 Marine Craft Hull insurance in respect of all marine craft or vessels utilised in performance of the Works for a sum sufficient to provide for their replacement
- 6 Protection and Indemnity Insurance in respect of all marine craft or vessels utilised in performance of the Works extended for Specialist Operations with a minimum indemnity limit of R ( to be determined by risk assessment of the potential risk exposure)
- 7 The insurance coverage referred to in 1, 2, 3, 4, 5 and 6 above shall be obtained from an insurer(s) in terms of an insurance policy approved by the Employer. The Contractor shall arrange with the insurer to submit to the Project Manager the original and the duplicate original of the policy or policies of insurance and the receipts for payment of current premiums, together with a certificate from the insurer or insurance broker concerned, confirming that the policy or policies provide the full coverage as required. The original policy will be returned to the Contractor

**9 Termination**

There is no Contract Data required for this section of the conditions of contract.

**10 Data for main Option clause**

<b>A</b>	<b>Priced contract with activity schedule</b>	<b>No additional data is required for this Option</b>	
<b>11 Data for Option W1</b>			
W1.1	The <i>Adjudicator</i> is	Both parties will agree as and when a dispute arises. If the parties cannot reach an agreement on the <i>Adjudicator</i> , the chairman of the Association of Arbitrators will appoint an <i>Adjudicator</i> .	
W1.2(3)	The <i>Adjudicator nominating body</i> is:  If no <i>Adjudicator nominating body</i> is entered, it is:	The Chairman of the Association of Arbitrators (Southern Africa)  the Association of Arbitrators (Southern Africa)	
W1.4(2)	The <i>tribunal</i> is:	Arbitration	
<b>W14(5)</b>	The <i>arbitration procedure</i> is	The Rules for the Conduct of Arbitrations of the Association of Arbitrators (Southern Africa)	
<b>W14(5)</b>	The place where arbitration is to be held is	Bloemfontein	
<b>W14(5)</b>	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 (Southern Africa)	
<b>X7</b>	<b>Delay damages (but not if Option X5 is also used)</b>		
<b>X7.1</b>	Delay damages for Completion of the whole of the <i>works</i> are	R 200.00	per day
<b>X16</b>	<b>Retention (not used with Option F)</b>		
<b>X16.1</b>	The <i>retention free amount</i> is	N/A	
<b>X16.1</b>	The <i>retention percentage</i> is	10%	

# C1.2 Contract Data

## Part two - Data provided by the Contractor

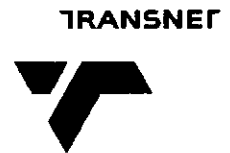
The tendering contractor is advised to read both the NEC3 Engineering and Construction Contract - June 2005 (with amendments June 2006) and the relevant parts of its Guidance Notes (ECC3-GN)<sup>2</sup> in order to understand the implications of this Data which the tenderer is required to complete. An example of the completed Data is provided on pages 152 to 154 of the ECC3 Guidance Notes.

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

Clause	Statement	Data
10.1	The Contractor is (Name): Address Tel No. Fax No.	
11.2(8)	The direct fee percentage is _____% The subcontracted fee percentage is _____%	
11.2(18)	The working areas are the Site	
24.1	The Contractor's key persons are: 1 Name: Job: Responsibilities: Qualifications: Experience: 2 Name: Job: Responsibilities: Qualifications: Experience:	_____ _____ _____ _____ _____ _____ _____ _____ _____ _____
		CV's (and further key persons data including CVs) are in T2.2-7
11.2(3)	The completion date for the whole of the works is	To be advised
11.2(14)	The following matters will be included in the Risk Register	T2.2-3

<sup>2</sup> Available from Engineering Contract Strategies Tel 011 803 3008, Fax 011 803 3009

<b>11:2(19)</b>	The Works Information for the <i>Contractor's</i> design is in:	C3
<b>31:1</b>	The programme identified in the Contract Data is	To be supplied within 7 (seven) days
<b>A</b>	<b>Priced contract with activity schedule</b>	
<b>11:2(20)</b>	The <i>activity schedule</i> is in	C3
<b>11:2(30)</b>	The tendered total of the Prices is	<b>(in words), excluding VAT</b>
	<b>Data for Schedules of Cost Components</b>	<i>Note "SCC" means Schedule of Cost Components starting on page 56 of ECC3, and "SSCC" means Shorter Schedule of Cost Components starting on page 59 of ECC3.</i>
<b>A</b>	<b>Priced contract with activity schedule</b>	<b>Data for the Shorter Schedule of Cost Components</b>



## C2 Pricing Data

### C2.1 Pricing Instructions

Entries in the first four columns in the Price List are made either by the *Employer* or the tenderer.

If the *Contractor* is to be paid an amount for the item which is not adjusted if the quantity of work in the item changes, the tenderer enters the amount in the Price column only; the Unit, Quantity and Rate columns being left blank.

If the *Contractor* is to be paid an amount for the item of work which is the rate for the work multiplied by the quantity completed, the tenderer enters the rate which is then multiplied by the expected quantity to produce the Price, which is also entered.

All Prices are to be shown excluding VAT unless instructed otherwise by the *Employer* in Tender Data or in an instruction the *Employer* has given before the tenderer enters his Prices.

If there is insufficient space in the Price List which follows, state in which document the Price List is contained.

### C2.1: Pricing Instructions

1. The Tenderer is deemed to have satisfied himself before tendering as to the correctness and sufficiency of his tender for the works and of the rates and prices stated in the priced Price List in the works information. The rates and prices (except in so far as otherwise provided in the Tender) collectively cover full payment for the discharge of all his obligations under the Contract and all matters and things necessary for the proper completion of the works.
2. Any additional costs foreseen by the Tenderer for items not included in the Price List shall be included in the List to be submitted, under the item "P's & G's". These items must be specified.
3. It will be assumed that prices included in the Price List are based on Acts, Ordinances, Regulations, Bylaws, International Standards and National Standards that were published 28 days before the closing date for tenders.
4. Reference to any particular trademark, name, patent, design, type, specific origin or producer is purely to establish a standard for requirements. Products or articles of an equivalent standard may be substituted but will be subject to approval by the Employer.
5. The amount of the Preliminaries to be included in each monthly payment certificate shall be assessed as an amount prorated to the value of the work duly executed in the same ratio as the preliminaries bears to the total of prices excluding any contingency sum, the amount of the Preliminaries and any amount in respect of contract price adjustment provided for in the contract.

6. The following abbreviations are used in the Price List: Ea = Each
7. The prices and rates in this Price List are fully inclusive prices for the work described under the items. Such prices and rates cover all costs and expenses that may be required in and for the execution of the work described in accordance with the provisions of the scope of work and shall cover liabilities and obligations set forth or implied in the Contract data, as well as profit.
8. Where the Works Information requires detailed drawings and designs or other information to be provided, all costs associated therewith are deemed to have been provided for and included in the unit rates and sum amount tendered for such items.
9. Where no quantity has been provided against an item in the Price List, the Contractor shall use their discretion and provide the quantity.
10. The short descriptions of the items of payment given in this Price List are only for purposes of identifying the items. More details regarding the extent of the work entailed under each item appear in the Works information.
11. For each item in the Price List, including Preliminaries, the Contractor shall provide in the appropriate column the portion of the tendered sum (inclusive of labour and material).
12. The total in the Price List shall be exclusive of VAT, and shall be transferred to Contractor's Offer.
13. Additional work not covered in the Price List shall be listed and quoted for by the tenderers in a separate sheet.
14. Payment Certificates – On or after the assessment date, the Supervisor and the Contractor will together assess the quantities of the progress on each item in the Price List and complete the Progress Assessment Detail Form, where after the Progress Assessment Certificate will be issued.
15. The Contractor shall then submit a VAT invoice and attach the Progress Certificate mentioned in clause 14 of this section for payment by the Employer.
16. Contractor shall provide the Employer with the necessary details and documentation as required in order to enable the Employer to make electronic payments.

## **C2.2 Price List**

### **PROVISION OF MAINTENANCE SERVICES ON VARIOUS ROADS, FENCING AND SURFACES IN THE KIMBERLEY REGION ON AN AS & WHEN REQUIRED BASIS WITHIN A PERIOD OF 12 MONTHS.**

#### **SERVICE FEES AND COSTS**

**NB!**

1. No labour rates will be paid for time spent travelling: Only rates per kilometre, as tendered and accepted.
2. Labour rates will only be paid for actual time worked.
3. No labour or travelling rates will be paid for the kilometres travelled / time spend / phone calls for the quotations or collection of material, plant and equipment only handling fees will be paid as tendered and accepted in contract.

**MATERIAL:**

Handling cost of material \_\_\_\_\_ %

**HIRE PLANT AND EQUIPMENT**

Handling cost for plant and equipment

Equal or less than one thousand rand \_\_\_\_\_ %

Greater than one thousand rand, but

Equal or less than five thousand rand \_\_\_\_\_ %

Greater than five thousand rand \_\_\_\_\_ %

**NORMAL WORKING HOURS: (07:00 – 17:00)**

**LABOUR**

Foreman (Various) rate per hour	R	
Fence Worker rate per hour	R	
Road Worker rate per hour	R	
Labourer (General Worker) rate per hour	R	

**NORMAL WORKING HOURS: (overtime week days) (17:01 – 06:59)**

**LABOUR**

Foreman (Various) rate per hour	R	
Fence Worker rate per hour	R	

Road Worker rate per hour	R	
Labourer (General Worker) rate per hour	R	

**PUBLIC HOLIDAYS: (24:00)  
 LABOUR**

Foreman (Various) rate per hour	R	
Fence Worker rate per hour	R	
Road Worker rate per hour	R	
Labourer (General Worker) rate per hour	R	

**SATURDAY TIME: (24:00)  
 LABOUR**

Foreman (Various) rate per hour	R	
Fence Worker rate per hour	R	
Road Worker rate per hour	R	
Labourer (General Worker) rate per hour	R	

**SUNDAY TIME: (24:00)  
 LABOUR**

Foreman (Various) rate per hour	R	
Fence Worker rate per hour	R	
Road Worker rate per hour	R	
Labourer (General Worker) rate per hour	R	

**TRAVELING:**

Travelling per km plus return	R	
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**SUB TOTAL (rate per hour):**

**VAT 14 %:**

**TOTAL (rate per hour):**




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Amount in words: \_\_\_\_\_

\_\_\_\_\_

## C3: Scope of Service

### C3.1 Services Information

#### 1. Scope of work:

- 1.1 This contract comprises the performance of general emergency repair work and minor "Day to Day" maintenance work (in civil work to all types of roads and fences) to Transnet assets in Kimberley and within a **150km** radius of the Station.
- 1.2 The contract will be valid for a period of 12 months.
- 1.3 The Contractor shall perform the work in accordance with this specification on an "as and when required" basis.
- 1.4 The prices shall be inclusive of traveling within 12Km radius from the station. However, if the work is outside this 12km then the contractor shall be compensated for this as per the Schedule of Rates and Prices under item 3.

**Note:** This rate is from the 12km radius to the requested work site and the price is inclusive of the return trip (only one way shall be paid for).

#### 1.5 **Definitions:**

- 1.5.1 **Emergency Work** – means unforeseen maintenance work that needs to be repaired urgently and Emergency Work **MUST** commence within two hours of notification.
- 1.5.2 **Day to Day work** – means maintenance work, which unlike emergency work, is not classified as urgent and Day to Day work **MUST** commence within twenty-four hours of notification.

#### 2. **Site Location:**

The sites are situated in the Kimberley Area.

#### 3. **Contract documents:**

A formal contract incorporating:-

- 3.1 Contract and General conditions of contract, and
- 3.2 Specification;

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- 3.3 RFP Documents, and
- 3.4 Letter of confirmation of his RFP.

**The bidders are required to acquaint themselves with the contents of the aforesaid documents and complete the following forms:**

- **Notice to bidders**
- **Schedule of Rates and Prices**
- **Site inspection certificate**
- **Statement of work successfully completed**
- **Vendor Declaration Form**

**4. Specification:**

This specification comprises parts with headings as indicated:-

Master Agreement – US7	
PART A – General & Special conditions	
PART B – Particular Specification	

The bidders are required to check the number of pages and should any be found to be missing or in duplicate or the figures or writing to be indistinct or should there be any doubt or obscurity as to the meaning of any particular word or phrase or descriptions or should bidders consider that any item is incorrectly or inadequately described they must inform the Senior Buyer, Supply Chain Services at once in writing under reference and have the matter rectified or explained as the case may be as no liability whatsoever will be admitted by Transnet in respect of errors in a tender due to the foregoing.

No alterations, erasures or additions of any kind shall be made by the bidder in, from or to any part of this specification unless expressly required to be made by written notice and should any

unauthorised alterations, erasures or additions be made they will not be recognised by Transnet.

5. Conditions:

5.1 The Contractor shall provide sufficient communication facilities including a fax machine in order that he may be reached at any time and place during the duration of the contract. The Contractor must be available on a twenty-four hour basis and be able to respond to any emergency request within two hours after he is notified thereof:

5.2 The Contractor shall also provide:

- Contractors will supply proof of residence (office) in the area of contract.
- Proof of Registration and type of vehicles. (List attached)
- Plant in his possession to do necessary contract work. (List attached)
- Tools in his possession to do the necessary contract work. (List attached)

5.2.1 Satisfactory proof of his or his staff's qualifications for the task required before Transnet will permit him/her to commence this task duty. Acceptable proof of qualifications shall be:

- Working on different types of road surfaces
- Repairs to different types of fences
- All work to be done as per the SANS 0400, if applicable
- Or any competency as needed and recognized by the Department of Manpower.

5.2.2 Proof that he is able to perform all kinds of general repair work:

If the workmanship is not of standard albeit that the incumbent who undertakes the work is qualified as per clause 5.2.1, Transnet reserves the right to ask that this incumbent be removed from doing work for Transnet.

The successful bidder shall give a list of his/her employees who shall perform the various tasks to Transnet. If any employees leave the service or changes are made the new employee staff list must be updated.

**5.2.3 Insurance cover and taxes/levies:**

The Contractor is to ensure that he provides adequate insurance cover all as per that attached indemnity form, as Transnet shall not be liable for any claims that may arise due to the contractors neglect.

The Contractor shall pay any and all applicable taxes payable by the qualified artisans, workmen's compensation, duties of fees assessed or levied by the Central Government, Provincial or Local Authority or a regional service council as a result of the services provided by the Contractor in terms of this Agreement.

**5.2.4 NB: THE CONTRACTORS DEPOT AND STAFF MUST BE STATIONED IN KIMBERLEY.**

**5.2.5 Proof of resident address to be submitted. (Municipality Account)**

**6. Health and Safety:**

The Contractor shall perform all duties in accordance with the occupational health and Safety Act 1993. The Form E4E is included and must be complied with

**7. Records to be kept:**

The Contractor shall keep daily records, time sheets and such other records or documents as may be necessary to enable the parties to determine exactly how many hours per day (including overtime) the Contractor has been in Transnet's service.

**8. Sub-Contractor;**

The Contractor shall not assign his obligations under the contract, nor sublet the contract work or any part thereof without the consent of the Manager. Breach of this condition will entitle Transnet to cancel the contract forthwith.

**9. Price structure and payment:**

Payment shall be made (within 30 days of receipt of month-end invoice) when completed, all as per clause 5 above, and in accordance with the Schedule of Rates and Prices. If the period in the project is longer than one month, a progress payment may be made. This will be a part payment for the work completed on the date of measurement.

The rates shall remain firm for a 12 month period and no further review of basic rates shall be entertained during the contract period.

The invoiced amount payable to the Contractor shall be the sum of the charges as set out in the Schedule of Rates and Prices. Which shall be determined in accordance with the record, time sheets and such other documents kept by the parties, and which shall be invoiced on completion of the task.

**10. Impossibility of performance:**

Should any of the obligations of any party to this Agreement become objectively impossible of performance, such party shall be exempted from its obligations under this Agreement, if:

- The circumstances that rendered performance impossible was enforceable at the time of contracting and the party concerned displayed reasonable care and diligence in attempting to avoid the consequences thereof, or
- The circumstances that rendered performance impossible was foreseeable at the time of contracting but was beyond the control of the party concerned, provided that such party could not reasonably have expected to have taken it into account in undertaking his contractual obligations and displayed reasonable care and diligence in attempting to avoid the consequences thereof;
- Such exemption shall, however, operate only for the period during which the relevant circumstance prevails. Notice of such circumstances shall be conveyed to the other party in writing without delay.

**11. Breach:**

In the event of the Contractor failing to do the work or task as requested this will be a breach of the Agreement, and persisting or repeating such conduct, after having received written notice by the party to remedy such breach within seven (7) days after receiving the notice, the aggrieved party may forthwith cancel this Agreement by written notice to the other party. Furthermore all cost incurred by Transnet owing to this breach could be recovered by Transnet.

**12. General:**

The parties choose as domicile citandi ex executandi and also to which any notice arising from the Agreement can be forwarded, the address as stated in the Agreement.

**13. Advertising rights:**

The Contractor acknowledges that he is acquainted with the provisions of section 14(2) of the Merchandise Marks Act of 1941, in terms of which he is prohibited from advertising the fact that he is a Contractor to Transnet unless the written authority of Transnet thereto has first been obtained. Transnet reserves all advertising rights on Transnet's property.

The Contractor shall not trade on Transnet's property.

**14. Compliance with statutes:**

**The Contractor shall comply with the provisions of the Workman's Compensation Act, 1941, as amended; the Occupational Health and Safety Act, 1993, (Act85 of 1993)**

Provincial Ordinances and local Authority By-Laws, and all relevant Regulations framed there under.

Compliance with all applicable legislation shall be entirely at the Contractor's cost.

**15. Supervision:**

The Manager will delegate a responsible Project Manager to take control of the supervision and management of the agreement. The Contractor shall only respond to instructions given by the

appointed Project Manager in writing, any instruction that is not given via the delegated manager will be null and void.

**16. Damages to property:**

The successful bidder shall take adequate precautions against damage to existing assets during the course of the agreement. An indemnity form shall be filled in by the successful bidder.

**17. Validity period of tender:**

This RFP shall remain valid for a period of 90 days after the closing date of the RFP.

**18. Inspection of work:**

During the progress of the agreement, all materials used and all work being undertaken by the Contractor shall be subjected to periodic inspections.

Should at any stage in the progress of the said works, an inspection visit or test reveal any defects due to improper materials or workmanship or any other fault or neglect on the part of the Contractor, such defective materials or workmanship shall immediately be replaced or remedied by the Contractor at his own expense and to the entire satisfaction of the authorized representative.

**19. Period of appointment:**

The Contractor appointment in terms of this Agreement shall commence from the notification date and continue thereafter for a period of 12 months.

**20. Penalties for delay:**

The Contractor shall be required to complete each part of the work as given in the site instruction book within a period as agreed to be Transnet's representative.

Notwithstanding that above emergency work shall be reacted upon immediately and the situation made safe and if a burst pipe the water shutdown to prevent waste. Furthermore that repair work shall be then repaired as soon as practically possible.



**21. Water supply:**

Water may be made available for the purpose of construction of the works only. The water shall be used conservatively and if not, this privilege shall be removed and the water shall be metered, and the cost of the metered water shall be borne by the Contractor as well as all charges as entertained by Transnet. The Contractor must supply all connections, hoses, etc., as necessary. The constant supply of water is not guaranteed.

**22. Electricity supply:**

Electricity may be made available to the Contractor. The Contractor must adhere to the safety standards as per the General Safety Regulations, Electrical Machine Regulations, Electrical Installation Regulations of the **Health and Safety Act**, (Act 85 of 1993) and SABS 0142. The Contractor must supply all connections, extension leads, etc., as necessary. The constant supply of electricity is not guaranteed.

**23. Access to site:**

The areas are restricted and the contractor must ensure he complies with the regulations of Transnet in every way. Contractor and/or any sub-contractors shall be required to apply for permission to enter the restricted area in writing. A list of workmen shall be given to the manager to arrange for the necessary permits. 48 Hours minimum notice is necessary for the processing of these permits. This includes changes to staff during the contract period.

**24. Materials found on site:**

The Contractor shall not use on the works any materials found on the site without the prior written consent of the manager. No material that is lying on the site (other than that from this agreement) or on Transnet's property, may be removed (even if deemed as scrap) by the contractor.

**25. Clearing of site:**

The Contractor shall provide for cleaning up and sorting all rubbish and debris of whatever kind throughout the duration of the agreement. Upon completion the Contractor shall clear away and

remove all rubbish, unused material, plant and debris and leave the site and the whole of the works clean and tidy to the satisfaction of the Project Manager.

**26. Working outside normal working hours:**

Notwithstanding the Agreement the normal working hours are between 07:30 and 16:00, Mondays to Fridays. If it is required to work outside the stated normal working hours the Contractor must obtain written permission at least 24 hours before such work needs to be undertaken. Transnet will not unreasonably withhold permission; however the Contractor may have to pay for Transnet's supervisory personnel.

**27. Safety precautions and Insurance:**

**27.1 Damage to Transnet's Assets and Liability;**

The Contractor shall provide the insurance for the following;

- Contract Work (this insurance excludes the old (scrap) material removed posts, Gate Wire and Tar);
- Public liability

**27.2 Act 85**

The Contractor shall comply with the Occupational Health & Safety Act, 1993 (Act 85 of 1993).

**27.3 Environment**

The Contractor shall, at all times, comply with the statutes that prohibit pollution of any kind.

These statutes are enacted in the following legislation.

- The National Environmental Management Act, 107/1998
- The Environmental Conservation Act, 73/1989; and
- The national Water Act, 36/1998.

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The Contractor shall appoint a responsible person to ensure that no incident shall occur on site that could cause pollution. Where the Contractor was negligent and caused any form of pollution the damage shall be rectified at the Contractors cost.

**27.4 Additional documents and numbers to be supplied**

Compensation for Occupational Injuries and Diseases Act, 1993

Registration number: \_\_\_\_\_

VAT Registration Number: \_\_\_\_\_

CIDB \_\_\_\_\_

A Certified copy of the Compensation form, VAT, relevant form as well as the ID document must be submitted with tender documents.

**28. Tax Clearance Certificates:**

Bidders would be disqualified if a valid tax clearance certificate or written proof from the South African Revenue Service that the supplier has made arrangements to meet outstanding tax obligations are not submitted with the RFP document.

## **PARTICULAR SPECIFICATION PART B**

### **1. General**

#### **1.1 Standard Specification**

In so far as they can be applied and where they are not inconsistent with the terms of this specification, the following specifications shall be regarded as being embodied in this specification.

##### **1.1.1 Transnet's Specifications (Enclosed)**

Specification for work on, over, under or adjacent to railway lines and near high voltage equipment E7/1

##### **1.1.2 SANS Specifications (To be obtained by the tenderer)**

- CIVIL STANDARDS SANS 1200
- NATIONAL BUILDING REGULATIONS SANS 0400

Guidelines for the provision of Engineering services in Residential Townships – by Department of Community Development.

- SANS 1200 A or SABS 1200 AA, as applicable;
- SANS 1200 D or SABS 1200 DA, as applicable;
- SANS 1200 DM; (Road sub base)
- SANS 1200 G or SABS 1200 GA, as applicable;
- SANS 1200 M; (Roads)
- SANS 1200 ME;
- SANS 1200 C (site cleaning) Concrete (Small works)
- SANS 1200 GA – 1982 Roads
- SANS 1200 M – 1981 Sub-base
- SANS 1200 ME – 1981 Base
- SANS 120MH – 1981 Asphalt base and surfacing
- SANS 1058 – Concrete paving blocks

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- SANS 1200MJ – Construction of segmented paving
- SANS 1200MK – Kerbs and channels
- SANS 927 – Kerb and channels

## **1.2 To be supplied by the Contractor**

### **1.2.1 Costs to be included in Labour Rates**

The Contractor shall provide all labour, transport, consumable stores, plant, equipment, tools, services, and ingredients of every description required for the carrying out and the proper completion of the Works as required and the costs thereof shall be INCLUDED in the rates.

**NOTE:-** Typical Plant and equipment to be supplied include;

An item such as a small portable generator to provide power for a "Light" or "electric hand tools", or small water pump required to empty a small excavation (60 minutes of pumping) is not consider as "Hired Plant" but such items are included in items to be supplied by the contractor as specified above.

### **1.2.2 Material (Will be paid for)**

The Contractor shall purchase and provide all material required for the proper completion of the works.

These cost shall be paid for as per the amounts reflected on the Invoice of the supplier plus the percentage "Mark up for handling Charge" as per the Schedule of rates.

The suppliers Invoice will submitted when making a claim.

### **1.2.3 Hire of Plant and Equipment (Will be paid for)**

The Contractor shall hire and provide all large items of Plant or Equipment, over and above the normal tools of the trade, required for the proper completion of the works.

These costs shall be paid for as per the amounts reflected on the Invoice of the supplier plus the percentage "Mark up for handling Charge" as per the Schedule of rates.

The suppliers Invoice will submitted when making a claim.

Examples of "Hired plant":-

The hire of and excavator.

Large Compressor with Jack Hammers or Concrete Mixer.

**1.3 Instructions to the contractor**

All instructions to the Contractor shall be confirmed in writing and only requests that are received in writing, (Fax or written in the recognized SI book) will be accepted for payment.

Where work is of an emergency nature, the Project Manager may give a verbal instruction that must be confirmed in writing as soon as possible.

No work must be performed without a reference number.

Quotation will be submitted for every job/work to be done.

*The Contractor shall then record, in writing the event/incident in detail Using Annexure 1 (Claim / Quote form) detailing the work performed.*

*Example, say a burst pipe:-*

- Date and time received the request
- Reaction Time:- Date and time that the work was started
- Date and time that the work was completed
- State labour used to perform the work
- State all the material used to repair the fence / road (Invoice Required)
- State all the Plant that had to be hired (Invoice Required)

**PLEASE NOTE:**

- For “Day to Day work” a quote may be requested, before the work commences in which case the Contractor will fully complete the Annexure 1 and submit to the Project Manager for approval.
- The project Manager, if required, may request that a detailed material quotation from a supplier be submitted.
- Should there be any disagreement between the Project Manager and the Contractor, the items will be negotiable and agreed upon.

**1.4 Site meetings:**

The Contractor shall be called upon to attend meetings on the site to ensure that the works is undertaking correctly and complies with the specification.

**1.5 Recording of the works:**

The Contractor shall keep and maintain accurate records in the site diary of all work so that the extent of the work relative to tests carried out on the material can readily be determined.

**1.6 Setting out of the works:**

The setting out of the work shall be the sole responsibility of the Contractor and shall be done in accordance with the “Guidelines for the provision of Engineering Services in Residential Townships” by The Department of Community Development.

**1.7 Keep site tidy:**

The Contractor shall keep the site tidy at all times and remove all old material and such as rubble, off-cuts, demolished material, surplus material and carry away and dump or store onto or at an approved site.

A permit must be obtained from the Municipalities to transport material on their roads, when required.

## **SECTION 2**

### **2.1 Earthworks**

#### **2.1.1 Disposal of soil**

All excavated material, and other surplus material or backfill shall be carted and disposed of by the contractor to an approved dump site.

#### **2.1.2 Excavation generally**

The excavation to the base of the lowest layer of imported material shall be done to the cross slopes, net width, etc. all as indicated in the Site Instruction Book or Drawing (where given). Trench excavation to be in accordance with SABS 1200 – risk of collapse, dealing with ground water, seepage and keeping the excavation free from water, backfilling, working space.

#### **2.1.3 Pipes, services, cables and fittings**

The Contractor shall verify the location of underground services on site. The Contractor shall take special precautions not to damage any water pipes, cables, sewer mains, services or fittings. If any of the aforementioned is damaged, it shall be for the Contractor's account.

#### **2.1.4 Compaction of the insitu**

The Contractor shall water and compact the upper 150mm of the insitu material, and as described in claused 2.2.1, 2.2.2 and 2.2.3 before placement of any material in the next layer. (See Clause 10 of PART "A"). The insitu material shall have at least 93 % Mod AASHTO density.



### SECTION 03

#### 3.1 Adhere to the time

Adhere to the time allowed per task/request given by representative, based on times as laid down in Transnet's bonus work manuals / schedules or on manufacturer's standard times, without neglecting the standard of workmanship.

Be subject to the control, authority and supervision of Transnet.

#### 3.2 Quality

Guarantee the quality of his workmanship for a period of three (3) months.

In the event of Transnet in its sole discretion, being dissatisfied for whatever reason with any or all of the work performed by the Contractor, Transnet shall forthwith notify the Contractor thereof. The Contractor shall then forthwith redo the complete work at his own expense to the satisfaction of Transnet.

Guarantee the quality of his workmanship for a period of three (3) months.

#### 3.3 Travelling

See clause 1.4 of the Part A as no traveling time is allowed for within the radius of 12 km from the station. Therefore, the price is inclusive of travelling in this zone.

If work is outside this zoning that the contractor shall be compensated for this via a rate as per the schedule of quantities. This shall be from the 12 km radius to the requested work. This price is inclusive of return trip. NOTE: rate is only for one way the return trip is not allowed for and must be included in the rate.

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**WRITTEN INSTRUCTION FORM**

**FOR THE AS AND WHEN MAINTENANCE AND EMERGENCY OF CIVIL WORK TO VARIOUS ROAD SURFACES & FENCES, KIMBERLEY REGION**

**FAULTS**

REFERENCE	PLACE	DESCRIPTION	ASSET NO.

\_\_\_\_\_  
MAINTENANCE SUPERVISOR  
PROPERTY TECHNICAL SERVICES

\_\_\_\_\_  
Respondent's Signature

\_\_\_\_\_  
Date and Company Stamp

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TRANSNET



Annexure 1

WR/  
**CLAIM FORM / QUOTE FROM PART B**

REQUEST: \_\_\_\_\_

CONTRACTOR, TRADING AS: \_\_\_\_\_

TELEPHONE \_\_\_\_\_ FAX \_\_\_\_\_ CELL \_\_\_\_\_

REPORTED DATE \_\_\_\_\_ TIME \_\_\_\_\_ DATE COMPLETED \_\_\_\_\_ TIME \_\_\_\_\_

Via Fax or Site  
Instruction Book

DATE STARTED: \_\_\_\_\_ TIME \_\_\_\_\_ DATE COMPLETED \_\_\_\_\_ TIME \_\_\_\_\_

**IF WATER PIPE OR SEWER OR STORM WATER**

Depth of pipe \_\_\_\_\_ Size of pipe \_\_\_\_\_ Type of Pipe \_\_\_\_\_

Position of fault i.e. distance from building/structure/mast post/fence post, etc.

X \_\_\_\_\_ Meter from \_\_\_\_\_ Y \_\_\_\_\_ Meter from \_\_\_\_\_

**COSTS:**

	R	C
Materials		
Plant/equipment		
Labour		
Travel		

For use by Transnet Freight Rail's Representative:

Approved \_\_\_\_\_ Adjustments if any \_\_\_\_\_

GL \_\_\_\_\_ CoCe \_\_\_\_\_ Asset \_\_\_\_\_

Purchase Order Number \_\_\_\_\_

Respondent's Signature

Date and Company Stamp







**APPLICATION AND INDEMNITY**

I/We \_\_\_\_\_ in my/our capacity as \_\_\_\_\_ and being duly authorized to represent \_\_\_\_\_ hereby apply to TRANSNET on my/our behalf for permission to enter into TRANSNET'S properties in the Northern Cape (hereinafter referred to as the "permission")

I/We hereby agree to accept liability and agree to pay all charges that may be raised by TRANSNET in respect of labour, material, use of plant, vehicles or craft, etc. in connection with or arising from the \_\_\_\_\_ permission to work.

I/We hereby indemnify TRANSNET against liability for any damage caused to my/our property or that of \_\_\_\_\_ my/our client and also indemnify TRANSNET against:

- i. Any damage to its property;
- ii. Liability in respect of any damage to the property of third parties;
- iii. Liability in respect of death of or injury to any employee of TRANSNET or the death of or injury to any third party;
- iv. Any legal costs or expenses reasonably incurred in connection with Claims or actions arising out of any of the foregoing;

Whenever the damage, injury or death contemplated above is due to or arises out of the permission to work, or the use of any article or thing in connection with the performance of the work; provided that the party giving this indemnity shall incur no liability hereunder for any damage, injury or death which is due to wilful misconduct or gross negligence on the part of TRANSNET or any of its employees.

SIGNED at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 2016

\_\_\_\_\_  
(CONTRACTOR)

AS WITNESSES:

1. \_\_\_\_\_

2. \_\_\_\_\_

**VEHICLE AND TOOL FORM**

**FOR THE AS AND WHEN MAINTENANCE AND EMERGENCY OF CIVIL WORK TO VARIOUS ROADS AND FENCES, KIMBERLEY REGION**

**List of vehicles, Plant and tools the contractor has:**

**Vehicles: (Toyota LDV 1600 REG: DFR 125 NC)**

- 1) .....
- 2) .....
- 3) .....
- 4) .....
- 5) .....

**Plant: (Flat plate compactor)**

- 1) .....
- 2) .....
- 3) .....
- 4) .....
- 5) .....

**Hand tools: (Hammer)**

- 1) .....
- 2) .....
- 3) .....
- 4) .....
- 5) .....

\_\_\_\_\_  
Respondent's Signature

\_\_\_\_\_  
Date and Company Stamp

TRANSNET FREIGHT RAIL

ENQUIRY NUMBER: KBY/53917

DESCRIPTION OF THE WORKS: PROVISION OF MAINTENANCE SERVICES ON VARIOUS ROADS, FENCING AND SURFACES IN THE KIMBERLEY REGION ON AN AS & WHEN REQUIRED BASIS WITHIN A PERIOD OF 12 MONTHS

E7/1 (July 1998)

SPECIFICATION FOR WORKS ON, OVER, UNDER OR ADJACENT TO RAILWAY LINES AND NEAR HIGH VOLTAGE EQUIPMENT

(This Specification shall be used in Transnet Contracts)

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TRANSNET FREIGHT RAIL  
ENQUIRY NUMBER: KBY/53917

DESCRIPTION OF THE WORKS: PROVISION OF MAINTENANCE SERVICES ON VARIOUS ROADS, FENCING AND SURFACES IN THE KIMBERLEY REGION ON AN AS & WHEN REQUIRED BASIS WITHIN A PERIOD OF 12 MONTHS

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## **ANNEXES**

1. Horizontal clearances 1 065 mm gauge
2. Vertical clearances 1 065 mm gauge
3. Clearances 610 mm gauge
4. Platform clearances

### **1 DEFINITIONS**

The following definitions shall apply:

**Authorised Person.** A person whether an employee of Transnet or not, who has been specially authorised to undertake specific duties in terms of Transnet's publication SAFETY INSTRUCTIONS: HIGH-VOLTAGE ELECTRICAL EQUIPMENT, and who holds a certificate or letter of authority to that effect.

**Barrier.** Any device designed to restrict access to "live" high-voltage electrical equipment.

**Bond.** A short conductor installed to provide electrical continuity.

**Contractor.** Any person or organisation appointed by Transnet to carry out work on its behalf.

**Dead.** Isolated and earthed.

**Electrical Officer (Contracts).** The person appointed in writing by the responsible Electrical Engineer in Transnet as the person who shall be consulted by the Contractor in all electrical matters to ensure that adequate safety precautions are taken by the Contractor.

**Executive Officer.** The person appointed by Transnet from time to time as the Executive Officer to act according to the rights and powers held by and obligations placed upon him in terms of the Contract.

**High-Voltage.** A voltage normally exceeding 1 000 volts.

**Live.** A conductor is said to be "live" when it is at a potential different from that of the earth or any other conductor of the system of which it forms a part.

**Near.** To be in such a position that a person's body or the tools he is using or any equipment he is handling may come within 3 metres of live exposed high-voltage electrical equipment.

**Occupation.** An authorisation granted by Transnet for work to be carried out under specified conditions on, over under or adjacent to railway lines.

**Occupation Between Trains.** An occupation during an interval between successive trains.

TRANSNET FREIGHT RAIL

ENQUIRY NUMBER: KBY/53917

DESCRIPTION OF THE WORKS: PROVISION OF MAINTENANCE SERVICES ON VARIOUS ROADS, FENCING AND SURFACES IN THE KIMBERLEY REGION ON AN AS & WHEN REQUIRED BASIS WITHIN A PERIOD OF 12 MONTHS

Project Manager. The person or juristic person appointed by Transnet from time to time as the Project Manager, to administer the Contract according to the powers and rights held by and obligations placed upon him in terms of the Contract.

Responsible Representative. The responsible person in charge, appointed by a contractor, who has undergone specific training (and holds a certificate) to supervise staff under his control to work on, over, under or adjacent to railway lines and in the vicinity of high-voltage electrical equipment.

Technical Officer. The person or juristic person appointed by Transnet from time to time as the Technical Officer, to administer the Contractor's performance and execution of the Works according to the powers and rights held by and obligations placed upon the Technical Officer in terms of the Contract.

Total Occupation. An occupation for a period when trains are not to traverse the section of line covered by the occupation.

Work on. Work undertaken on or so close to the equipment that the specified working clearances to the live equipment cannot be maintained.

Work Permit. A combined written application and authority to proceed with work on or near dead electrical equipment.

## **PART A - GENERAL SPECIFICATION**

### **2. AUTHORITY OF OFFICERS OF TRANSNET**

2.1 The Contractor shall co-operate with the officers of Transnet and shall comply with all instructions issued and restrictions imposed with respect to the Works which bear on the existence and operation of Transnet's railway lines and high-voltage equipment.

2.2 Without limiting the generality of the provisions of 2.1, any duly authorised representative of Transnet, having identified himself, may stop the work if, in his opinion, the safe passage of trains or the safety of Transnet assets or any person is affected. **CONSIDERATIONS OF SAFETY SHALL TAKE PRECEDENCE OVER ALL OTHER CONSIDERATIONS.**

### **3. CONTRACTOR'S REPRESENTATIVES**

3.1 The Contractor shall nominate Responsible Representatives of whom at least one shall be available at any hour for call-out in cases of emergency. The Contractor shall provide the Technical Officer with the names, addresses and telephone numbers of the representatives.

3.2 The Contractor guarantees that he has satisfied himself that the Responsible Representative is fully conversant with this specification and that he shall comply with all his obligations in respect thereof.

### **4. OCCUPATIONS AND WORK PERMITS**

4.1 Work to be done during total occupation or during an occupation between trains or under a work permit shall be done in a manner decided by the Technical Officer and at times to suit Transnet requirements.

4.2 The Contractor shall organise the Works in a manner, which will minimise the number and duration of occupations and work permits required.

4.3 Transnet will not be liable for any financial or other loss suffered by the Contractor arising from his failure to complete any work scheduled during the period of an occupation or work permit.

4.4 The Contractor shall submit to the Technical Officer, in writing, requests for occupations or work permits together with details of the work to be undertaken, at least 14 days before they are required. Transnet does not undertake to grant an occupation or work permit for any particular date, time or duration.

4.5 Transnet reserves the right to cancel any occupation or work permit at any time before or during the period of occupation or work permit. If, due to cancellation or change in date or time, the Contractor is not permitted to start work under conditions of total occupation or work permit at the time arranged, all costs caused by the cancellation shall be born by the Contractor except as provided for in clauses 4.6 to 4.8.

- 4.6 When the Contractor is notified less than 2 hours before the scheduled starting time that the occupation or work permit is cancelled, he may claim reimbursement of his direct financial losses caused by the loss of working time up to the time his labour and plant are employed on other work, but not exceeding the period of the cancelled occupation or work permit.
- 4.7 When the Contractor is notified less than 2 hours before the schedule starting time, or during an occupation or work permit, that the duration of the occupation or work permit is reduced, he may claim reimbursement of his direct financial losses caused by the loss of working time due to the reduced duration of the occupation or work permit.
- 4.8 Reimbursement the Contractor for any loss of working time in terms of 4.6 and 4.7, shall be subject to his claims being submitted within 14 days of the event with full details of labour and plant involved, and provided that the Technical Officer certifies that no other work on which the labour and plant could be employed was immediately available.
- 4.9 Before starting any work for which an occupation has been arranged, the Contractor shall obtain from the Technical Officer written confirmation of the date, time and duration of the occupation.
- 4.10 Before starting any work for which a work permit has been arranged, the Responsible Representative shall read and sign portion C of form No. T.1276 signifying that he is aware of the limits within which work may be undertaken. After the work for which the permit was granted has been completed, or when the work permit is due to be terminated, or if the permit is cancelled after the start, the same person who signed portion C shall sign portion D of the T.1276 form, thereby acknowledging that he is aware that the electrical equipment is to be made "live". The Contractor shall advise all his workmen accordingly.

## **5. SPEED RESTRICTIONS AND PROTECTION**

- 5.1 When speed restrictions are imposed by Transnet because of the Contractor's activities, the Contractor shall organise and carry out his work so as to permit the removal of the restrictions as soon as possible.
- 5.2 When the Technical Officer considers protection to be necessary the Contractor shall, unless otherwise agreed, provide all protection including flagmen, other personnel and all equipment for the protection of Transnet's and the Contractor's personnel and assets, the public and including trains. Transnet will provide training free of charge of the Contractor's flagmen and other personnel performing protection duties. The Contractor shall consult with the Technical Officer, whenever he considers that protection will be necessary, taking into account the minimum permissible clearances set out in appendixes 1 to 4.
- 5.3 The Contractor shall appoint a Responsible Representative to receive and transmit any instruction, which may be given by Transnet personnel providing protection.

## 6. ROADS ON TRANSNET PROPERTY

The provision of clause 25 of the E.5, General Conditions of Contract, or clause 23 of the E.5 (MW), General Conditions of Contract for Maintenance Works, shall apply to the use of existing roads on Transnet's property.

## 7. CLEARANCES

7.1 No temporary works shall encroach on the appropriate minimum clearances set out in Annexure 1 BE97-01 Sheets 1,2, 3 and 5 of 5.

## 8. STACKING OF MATERIAL

8.1 The Contractor shall not stack any material closer than 3 m from the centre line of any railway line without prior approval of the Technical Officer.

## 9. EXCAVATION, SHORING, DEWATERING AND DRAINAGE

9.1 Unless otherwise approved by the Technical Officer any excavation adjacent to a railway line shall not encroach on the hatched area shown in Figure 1.

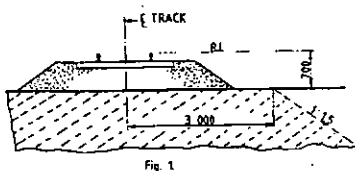


Fig. 1

9.2 The Contractor shall provide at his own cost any shoring, dewatering or drainage of any excavation unless otherwise stipulated elsewhere in the Contract.

9.3 Where required by the Technical Officer, drawings of shoring for any excavation under or adjacent to a railway line shall be submitted and permission to proceed obtained, before the excavation is commenced.

9.4 The Contractor shall prevent ingress of water to the excavation but where water does enter, he shall dispose of it as directed by the Technical Officer.

9.5 The Contractor shall not block, obstruct or damage any existing drains either above or below ground level unless he has made adequate prior arrangements to deal with drainage.

## 10. FALSEWORK FOR STRUCTURES

10.1 Drawings of falsework for the construction of any structure over, under or adjacent to any railway line shall be submitted to the Technical Officer and his permission to proceed obtained before the falsework is erected. Each drawing shall be given a title and a distinguishing number and shall be

signed by a registered professional engineer certifying that he has checked the design of the falsework and that the drawings are correct and in accordance with the design.

- 10.2 After the falsework has been erected and before any load is applied, the Contractor shall submit to the Technical Officer a certificate signed by a registered professional engineer certifying that he has checked the falsework and that it has been erected in accordance with the drawings. Titles and numbers of the drawings shall be stated in the certificate. Notwithstanding permission given by the Technical Officer to proceed, the Contractor shall be entirely responsible for the safety and adequacy of the falsework.

### 11. PILING

- 11.1 The Technical Officer will specify the conditions under which piles may be installed on Transnet property.

### 12. UNDERGROUND SERVICES

- 12.1 No pegs or stakes shall be driven or any excavation made before the Contractor has established that there are no underground services, which may be damaged thereby.
- 12.2 Any damage shall be reported immediately to the Technical Officer, or to the official in charge at the nearest station, or to the traffic controller in the case of centralised traffic control.

### 13. BLASTING

- 13.1 The provisions of clause 23 of the E.5, General Conditions of Contract or clause 21 of the E.5 (MW), General Conditions of Contract for Maintenance Work, shall apply to all blasting operations undertaken in terms of the Contract.
- 13.2 The Contractor shall provide proof that he has complied with the provisions of clauses 10.17.1 to 10.17.4 of the Explosives Regulations (Act 26 of 1956 as amended).
- 13.3 Blasting within 500m of a railway line will only be permitted during intervals between trains. A person appointed by the Technical Officer, assisted by flagmen with the necessary protective equipment, will be in communication with the controlling railway station.  
Only this person will be authorised to give the Contractor permission to blast, and the Contractor shall obey his instructions implicitly regarding the time during which blasting may take place.
- 13.4 The flagmen described in 13.3, where provided by Transnet, are for the protection of trains and Transnet property only, and their presence does not relieve the Contractor in any manner of his responsibilities in terms of Explosives Act or Regulations, or any obligation in terms of this Contract.
- 13.5 The person described in 13.3 will record in a book provided and retained by Transnet the dates and times -

- (i) when each request is made by him to the controlling station for permission to blast;
- (ii) when blasting may take place;
- (iii) when blasting actually takes place; and
- (iv) when he advises the controlling station that the line is safe for the passage of trains.

13.6 Before each blast the Contractor shall record in the same book, the details of the blast to be carried out. The person appointed by the Technical Officer and the person who will do the blasting shall both sign the book whenever an entry described in 13.5 is made.

13.7 The terms of clause 27 hereof shall be strictly adhered to.

#### **14. RAIL TROLLEYS**

14.1 The use of rail trolleys or trestle trolleys on a railway line for working on high voltage equipment will be permitted only if approved by the Technical Officer and under the conditions stipulated by him.

14.2 All costs in connection with such trolley working requested by the Contractor shall, unless otherwise agreed, be borne by the Contractor, excluding the costs of any train protection services normally provided free of charge by Transnet.

#### **15. SIGNAL TRACK CIRCUITS**

15.1 Where signal track circuits are installed, the Contractor shall ensure that no material capable of conducting an electrical current makes contact between rails of a railway line/lines.

15.2 No signal connections on track-circuited tracks shall be severed without the Technical Officer's knowledge and consent.

#### **16. PENALTY FOR DELAYS TO TRAINS**

16.1 If any trains are delayed by the Contractor and the Technical Officer is satisfied that the delay was avoidable, a penalty will be imposed on the Contractor of R5 000 per hour or part thereof for the period of delay, irrespective of the number of trains delayed.

**PART B - ADDITIONAL SPECIFICATION FOR WORK NEAR HIGH-VOLTAGE ELECTRICAL EQUIPMENT**

**17. GENERAL**

- 17.1 This specification is based on the contents of Transnet's publication SAFETY INSTRUCTIONS, HIGH-VOLTAGE ELECTRICAL EQUIPMENT, as amended, a copy of which will be made available on loan to the Contractor for the duration of the contract. These instructions apply to all work near live high-voltage equipment maintained and/or operated by Transnet, and the onus rests on the Contractor to ensure that he obtains a copy.
- 17.2 The Contractor's attention is drawn in particular to the contents of Part I, Sections 1 and 2 of the Safety Instructions : High-Voltage Electrical Equipment.
- 17.3 The Safety Instructions : High-Voltage Electrical Equipment cover the minimum safety precautions which must be taken to ensure safe working on or near high-voltage electrical equipment, and must be observed at all times. Should additional safety measures be considered necessary because of peculiar local conditions, these may be ordered by and at the discretion of the Electrical Officer (Contracts).
- 17.4 This specification must be read in conjunction with and not in lieu of the Safety Instructions : High-Voltage Electrical Equipment.
- 17.5 The Contractor shall obtain the approval of the Electrical Officer (Contracts) before any work is done which causes or could cause any portion of a person's body or the tools he is using or any equipment he is handling, to come within 3 metres of any live high-voltage equipment.
- 17.6 The Contractor shall regard all high-voltage equipment as live unless a work permit is in force.
- 17.7 Safety precautions taken or barriers erected shall comply with the requirements of the Electrical Officer (Contracts), and shall be approved by him before the work to be protected is undertaken by the Contractor. The Contractor shall, unless otherwise agreed, bear the cost of the provision of the barriers and other safety precautions required, including the attendance of Transnet staff where this is necessary.
- 17.8 No barrier shall be removed unless authorised by the Electrical Officer (Contracts).

**18. WORK ON BUILDINGS OR FIXED STRUCTURES**

Before any work is carried out or measurements are taken on any part of a building, fixed structure or earthworks of any kind above ground level situated within 3 metres of live high-voltage equipment, the Electrical Officer (Contracts) shall be consulted to ascertain the conditions under which the work may be carried out.

- 18.2 No barrier erected to comply with the requirements of the Electrical Officer (Contracts) shall be used as temporary staging or shuttering for any part of the Works.
- 18.3 The shuttering for bridge piers, abutments, retaining walls or parapets adjacent to or over any track may be permitted to serve as a barrier, provided that it extends at least 2,5 metres above any working level in the case of piers, abutments and retaining walls and 1,5 metres above any working level in the case of parapets.



**19. WORK DONE ON OR OUTSIDE OF ROLLING STOCK, INCLUDING LOADING OR UNLOADING**

19.1 No person shall stand, climb or work whilst on any platform, surface or foothold higher than the normal unrestricted places of access, namely -

- (i) the floor level of trucks;
- (ii) external walkways on diesel, steam and electric locomotives, steam heat vans, etc. and
- (iii) walkways between coaches and locomotives.

When in these positions, no person may raise his hands or any equipment or material he is handling above his head.

19.2 In cases where the Contractor operates his own rail mounted equipment, he shall arrange for the walkways on this plant to be inspected by the Electrical Officer (Contracts) and approved, before commencement of work.

19.3 The handling of long lengths of material such as metal pipes, reinforcing bars, etc should be avoided, but if essential they shall be handled as nearly as possible in a horizontal position below head height.

19.4 The Responsible Representative shall warn all persons under his control of the danger of being near live high-voltage equipment, and shall ensure that the warning is fully understood.

19.5 Where the conditions in 19.1 to 19.3 cannot be observed the Electrical Officer (Contracts), shall be notified. He will arrange for suitable Safety measures to be taken. The Electrical Officer (Contracts), may in his discretion and in appropriate circumstances, arrange for a suitable employee of the Contractor to be specially trained by Transnet and at its costs, as an Authorised Person to work closer than 3 metres from live overhead conductors and under such conditions as may be imposed by the Senior responsible Electrical Engineer in Transnet.

**20. USE OF EQUIPMENT**

20.1 Measuring Tapes and Devices

20.1.1 Measuring tapes may be used near live high-voltage equipment provided that no part of any tape or a person's body comes within 3 metres of the live equipment.

20.1.2 In windy conditions the distance shall be increased to ensure that if the tape should fall it will not be blown nearer than 3 metres from the live high-voltage equipment.

20.1.3 Special measuring devices longer than 2 metres such as survey staves and rods may be used if these are of non-conducting material and approved by the responsible Electrical Engineer in Transnet, but these devices must not be used within 3 metres of live high-voltage equipment in rainy or wet conditions.

20.1.4 The assistance of the Electrical Officer (Contracts) shall be requested when measurements within the limits defined in 20.1.1 to 20.1.3 are required.

20.1.5 The restrictions described in 20.1.1 to 20.1.3 do not apply on a bridge deck between permanent parapets nor in other situations where a barrier effectively prevents contact with the live high-voltage equipment.

## 20.2 Portable Ladders

20.2.1 Any type of portable ladder longer than 2 metres may only be used near live high-voltage equipment under the direct supervision of the Responsible Representative. He shall ensure that the ladder is always used in such a manner that the distance from the base of the ladder to any live high-voltage equipment is greater than the fully extended length of the ladder plus 3 metres. Where these conditions cannot be observed, the Electrical Officer (Contracts) shall be advised, and he will arrange for suitable safety measures to be taken.

## 21. CARRYING AND HANDLING MATERIAL AND EQUIPMENT

21.1 Pipes, scaffolding, iron sheets, reinforcing bars and other material, which exceeds 2 metres in length, shall be carried completely below head height near live high-voltage equipment. For maximum safety two or more persons so as to maintain it as nearly as possible in a horizontal position should carry such material. The utmost care must be taken to ensure that no part of the material comes within 3 metres of any live high-voltage equipment.

21.2 Long lengths of wire or cable shall never be run out in conditions where a part of a wire or cable can come within 3 metres of any live high-voltage equipment unless the Electrical Officer (Contracts) has been advised and has approved appropriate safety precautions.

21.3 The presence of overhead power lines shall always be taken account of especially when communications lines or cables or aerial cables, stay wires, etc. are being erected above ground level.

## 22. PRECAUTIONS TO BE TAKEN WHEN ERECTING OR REMOVING POLES, ANTENNAE, TREES ETC.

22.1 A pole may be handled for the purpose of erection or removal near high-voltage equipment under the following conditions:

(i) If the distance between the point at which the pole is to be erected or removed and the nearest live high-voltage equipment is more than the length of the pole plus 3 metres, the work shall be supervised by the Responsible Representative.

(ii) If the distance described in (i) is less than the length of the pole plus 3 metres, the Electrical Officer (Contracts) shall be consulted to arrange for an Authorised Person to supervise the work and to ensure that the pole is earthed where possible. The pole shall be kept in contact with the point of erection, and adequate precautions shall be taken to prevent contact with live high-voltage equipment.

22.2 The cost of supervision by an Authorised Person and the provision of earthing shall, unless otherwise agreed, be borne by the Contractor.

22.3 The provisions of clauses 22.1 and 22.2 shall also apply to the erection or removal of columns, antennae, trees, posts, etc.

### **23. USE OF WATER**

- 23.1 No water shall be used in the form of a jet if it can make contact with any live high-voltage equipment or with any person working on such equipment.

### **24. USE OF CONSTRUCTION PLANT**

- 24.1 "Construction plant" entails all types of plant including cranes, piling frames, boring machines, excavators, draglines, dewatering equipment and road vehicles with or without lifting equipment.
- 24.2 When work is being undertaken in such a position that it is possible for construction plant or its load to come within 3 metres of live high-voltage equipment, the Electrical Officer (Contracts) shall be consulted. He will arrange for an Authorised Person to supervise the work and to ensure that the plant is adequately earthed. The Electrical Officer (Contracts) will decide whether further safety measures are necessary.
- 24.3 The cost of any supervision by an Authorised Person and the provision of earthing shall, unless otherwise agreed, be borne by the Contractor.
- 24.4 When loads are handled by cranes, non-metallic rope hand lines shall be used, affixed to such loads so as to prevent their swinging and coming within 3 metres of live high-voltage equipment.
- 24.5 Clauses 24.1 to 24.4 shall apply mutatis mutandis to the use of maintenance machines of any nature.

### **25. WORK PERFORMED UNDER DEAD CONDITIONS UNDER COVER OF A WORK PERMIT**

- 25.1 If the Responsible Representative finds that the work cannot be done in safety with the high-voltage electrical equipment live, he shall consult the Electrical Officer (Contracts) who will decide on the action to be taken.
- 25.2 If a work permit is issued the Responsible Representative shall -
- (i) before commencement of work ensure that the limits within which work may be carried out have been explained to him by the Authorised Person who issued the permit to him, and that he fully understands these limits.
  - (ii) sign portion C of the permit before commencement of work;
  - (iii) explain to all persons under his control the limits within which work may be carried out, and ensure that they fully understand these limits;
  - (iv) care for the safety of all persons under his control whilst work is in progress; and
  - (v) withdraw all personnel under his control from the equipment on completion of the work before he signs portion D of the work permit.

### **26. TRACTION RETURN CIRCUITS IN RAILS**

- 26.1 DANGEROUS CONDITIONS CAN BE CREATED BY REMOVING OR SEVERING ANY BOND.
- 26.2 Broken rails with an air gap between the ends, and joints, at which fishplates are removed under "broken bond" conditions, are potentially lethal. The rails on either side of an air gap between rail ends on electrified lines shall not be touched simultaneously until rendered safe by Transnet personnel.
- 26.3 The Contractor shall not break any permanent bonds between rails or between rails and any structure. He shall give the Technical Officer at least 7 days written notice when removal of such bonds is necessary.
- 26.4 No work on the track which involves interference with the traction return rail circuit either by cutting or removing the rails, or by removal of bonds shall be done unless the Electrical Officer (Contracts) is consulted. He will take such precautions as may be necessary to ensure continuity of the return circuit before permitting the work to be commenced.

**27. BLASTING**

- 27.1 The Contractor shall obtain the permission of the Electrical Officer (Contracts) before blasting, and shall give at least 14 days notice of his intention to blast.
- 27.2 No blasting shall be done in the vicinity of electrified lines unless a member of Transnet's electrical personnel is present.
- 27.3 The terms of clause 13 hereof shall be strictly adhered to.

**28. HIGH-VOLTAGE ELECTRICAL EQUIPMENT NOT MAINTAINED AND/OR OPERATED BY TRANSNET**

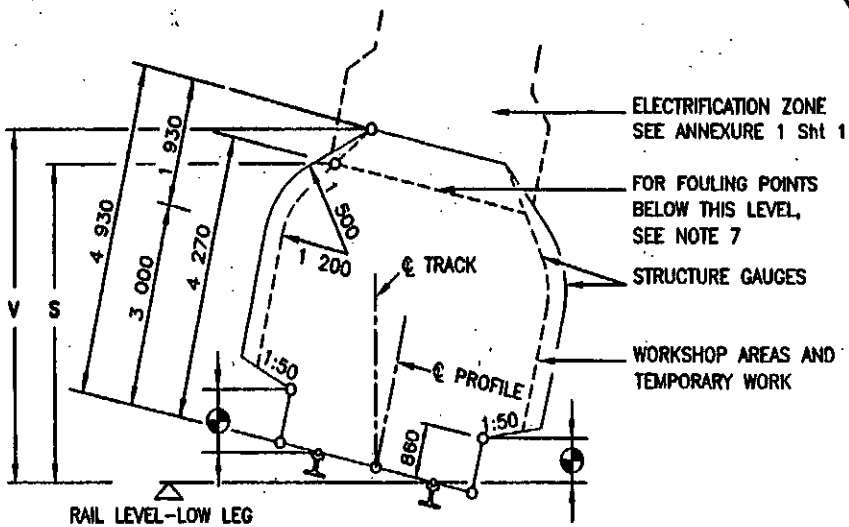
Where the work is undertaken on or near high-voltage electrical equipment which is not maintained and/or operated by Transnet, the Occupational Health and Safety Act No. 85 of 1993, and Regulations and Instructions, or the Mines Health and Safety Act (Act 29 of 1996), shall apply.

Such equipment includes: -

- (i) Eskom and municipal equipment;
- (ii) the Contractor's own power supplies; and
- (iii) electrical equipment being installed but not yet taken over from the Contractor.

ANNEXURE 1  
 SHEET 2 of 5  
 AMENDMENT

VERTICAL CLEARANCES :  
 1 065mm TRACK GAUGE



LOCATION	RADIUS (mm)	NOT ELECTRIFIED S (mm)	ELECTRIFIED (PRESENT OR FUTURE)	
			3kV & 25kV V (mm)	50kV V (mm)
ALL AREAS OTHER THAN THOSE INDICATED BY * BELOW	100	4 470	5 050	5 400
	300	4 410	5 020	5 370
	600	4 370	5 000	5 350
	1 000	4 350	4 990	5 340
	1 500	4 310	4 960	5 310
	2 000	4 290	4 940	5 290
	>3 000	4 270	4 930	5 280
	* OVER OR NEAR POINTS AND CROSSING IF REQUIRED BY ELECTRICAL IRRESPECTIVE OF RADIUS			5 650

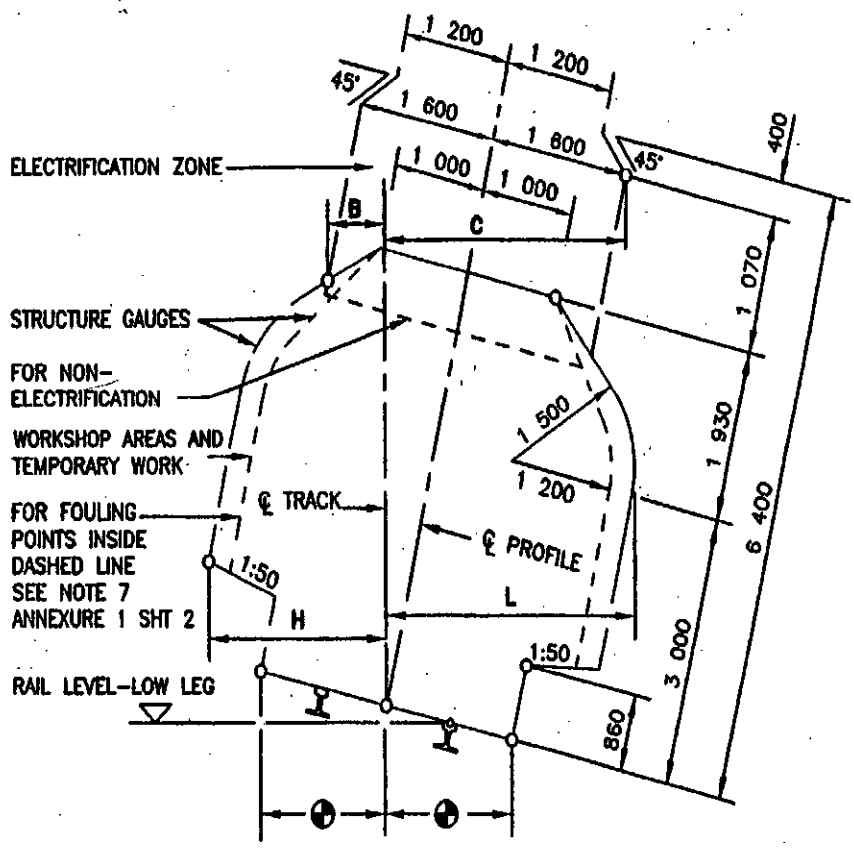
REMARKS:

- V IS THE REQUIRED VERTICAL CLEARANCE EXCEPT WHERE REDUCED CLEARANCE S APPLIES.
- S IS THE MINIMUM VERTICAL CLEARANCE FOR STRUCTURES AND TEMPORARY WORK OVER NON-ELECTRIFIED LINES.
- INTERMEDIATE VALUES MAY BE INTERPOLATED BY THE ENGINEER IN CHARGE.
- FOR APPLICATION AT CURVES
  - APPLY INCREASED CLEARANCES FOR CURVES TO POINTS 3m BEYOND THE ENDS OF THE CIRCULAR CURVE.
  - REDUCE CLEARANCES AT A UNIFORM RATE OVER THE REMAINDER OF THE TRANSITION CURVE.
  - FOR NON-TRANSITIONED CURVES REDUCE AT A UNIFORM RATE OVER A LENGTH OF 15m ALONG STRAIGHTS.
- NEW STRUCTURES: SEE BRIDGE CODE.
- TUNNELS: SEE DRAWING BE 82-35.
- FOULING POINTS: SEE CLAUSE 8.1.
- CLEARANCES ARE BASED ON 15m BOGIE CENTRES AND 21,2m VEHICLE BODY LENGTH.
- SEE ANNEXURE 1 SHEET 3 FOR PLATFORM CLEARANCES.

BE 97-01 SHT 2 of 5 DATE : JUNE 2000.

ANNEXURE 1  
 SHEET 1 of 5  
 AMENDMENT

HORIZONTAL CLEARANCES :  
 1 065mm TRACK GAUGE



RADIUS (m)	WITH CANT		NO CANT	WITH CANT	
	H (mm)	L (mm)	H & L	B (mm)	C (mm)
90	2 730	3 090	2 780	1 130	2 100
100	2 700	3 030	2 750	1 140	2 050
120	2 650	2 970	2 700	1 160	2 010
140	2 620	2 920	2 660	1 175	1 990
170	2 590	2 870	2 630	1 190	1 970
200	2 570	2 820	2 600	1 205	1 950
250	2 550	2 790	2 580	1 230	1 920
300	2 540	2 760	2 560	1 250	1 900
350	2 530	2 730	2 540	1 270	1 890
400	2 520	2 710	2 530	1 290	1 875
500	2 510	2 680	2 520	1 320	1 850
600	2 500	2 660	2 510	1 340	1 830
800	2 490	2 620	2 500	1 365	1 790
1 000	2 480	2 600	2 490	1 380	1 780
1 200	2 480	2 580	2 490	1 200	1 730
1 500	2 480	2 550	2 480	1 415	1 700
2 000	2 480	2 500	2 480	1 440	1 660
3 000	2 470	2 470	2 470	1 500	1 600
>5 000	2 460	2 460	2 460	1 600	1 600

REMARKS:

1. H AND B IS THE REQUIRED HORIZONTAL CLEARANCE ON THE OUTSIDE OF THE CURVE BASED ON MINIMUM CANT.
2. L AND C IS THE REQUIRED HORIZONTAL CLEARANCE ON THE INSIDE OF THE CURVE BASED ON MAXIMUM CANT.
3. INTERMEDIATE VALUES MAY BE INTERPOLATED BY THE ENGINEER IN CHARGE.
4. FOR WORKSHOP AREAS AND TEMPORARY WORK, CLEARANCES H AND L MAY BE REDUCED BY 300mm.
5. Ⓢ SEE ANNEXURE 1 SHEET 3 FOR PLATFORM CLEARANCES.
6. ALSO REFER TO REMARKS 4 TO 8 OF ANNEXURE 1 SHEET 2.

BE 97-01 Sht 1 of 5 DATE : JUNE 2000

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ANNEXURE 1  
 SHEET 3 of 5  
 AMENDMENT

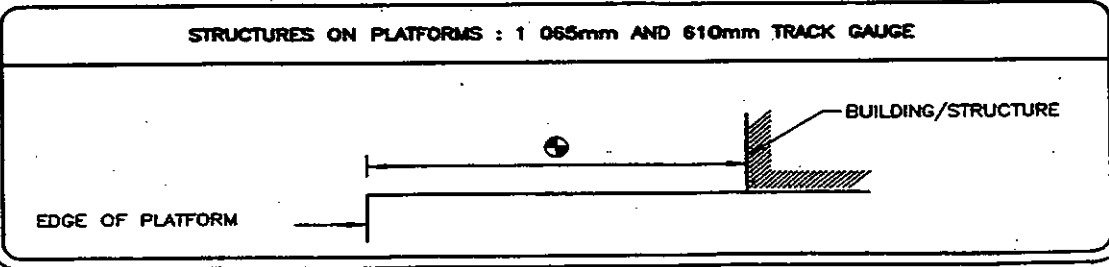
CLEARANCES : PLATFORMS

**PLATFORMS : TRACK GAUGE 1 065mm**

PASSENGERS					GOODS
					<p style="text-align: center;">(NO CANT)</p>
RADIUS (m)	A (mm)	B (mm)	C (mm)	D (mm)	E (mm)
90	1 890	1 820	890	810	1 840
100	1 650	1 790	890	810	1 810
120	1 610	1 740	890	810	1 780
140	1 580	1 700	890	810	1 720
170	1 550	1 660	890	810	1 690
200	1 530	1 630	890	820	1 670
250	1 520	1 600	890	820	1 640
300	1 520	1 580	890	830	1 620
350	1 520	1 560	880	830	1 600
400	1 520	1 550	880	840	1 590
500	1 520	1 540	880	850	1 580
600	1 520	1 530	870	850	1 570
800	1 520	1 520	860	860	1 560
1 200	1 520	1 520	860	860	1 550
2 000	1 520	1 520	860	860	1 540
3 000	1 520	1 520	860	860	1 530
STRAIGHT	1 520	1 520	860	860	1 520

**REMARKS:**

1. NO CANT TO BE APPLIED EXCEPT WHEN THE GOODS PLATFORM IS ON A RUNNING LINE.
2. INTERMEDIATE VALUES MAY BE INTERPOLATED BY THE ENGINEER IN CHARGE.
3.  $\ominus$  8m TO MAIN STATION-BUILDINGS AND 3m TO ALL OTHER STRUCTURES.
4. TOLERANCES : SEE CLAUSE 8.0.10.

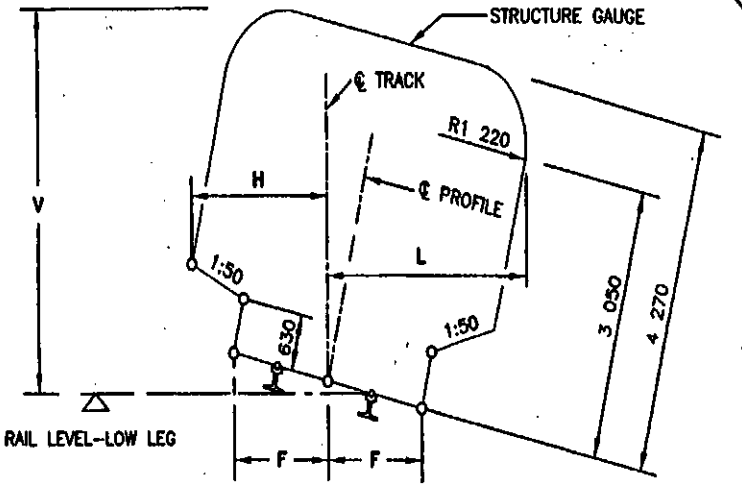


BE 97-01 Sht 3 of 5 DATE : JUNE 2000

ANNEXURE 1  
 SHEET 5 of 5  
 AMENDMENT

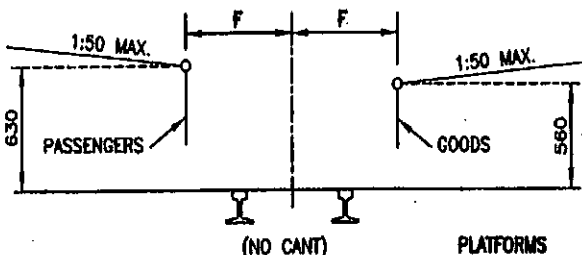
CLEARANCES : 610mm TRACK GAUGE

RADIUS (m)	WITH CANT		NO CANT	V (mm)
	H (mm)	L (mm)	H & L (mm)	
50	2 370	2 490	2 400	4 320
70	2 310	2 420	2 330	4 310
100	2 260	2 370	2 280	4 310
140	2 220	2 340	2 250	4 310
200	2 200	2 300	2 220	4 300
300	2 190	2 270	2 200	4 300
500	2 180	2 230	2 190	4 290
700	2 170	2 200	2 180	4 270
1 000	2 170	2 170	2 170	4 270
>2 000	2 180	2 180	2 180	4 270



CLEARANCES

RADIUS (m)	F (mm)
50	1 550
60	1 510
80	1 460
100	1 430
120	1 410
140	1 390
170	1 380
200	1 370
250	1 360
300	1 350
600	1 330
1 000	1 320
>2 000	1 320
STRAIGHT	1 310

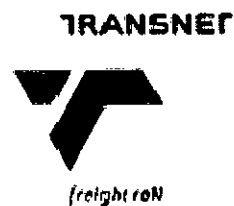


**REMARKS:**

- H IS THE MINIMUM HORIZONTAL CLEARANCE ON THE OUTSIDE OF THE CURVE BASED ON MINIMUM CANT.
- L IS THE MINIMUM HORIZONTAL CLEARANCE ON THE INSIDE OF THE CURVE BASED ON MAXIMUM CANT.
- V IS THE MINIMUM VERTICAL CLEARANCE.
- FOR APPLICATION AT CURVES:
  - 4.1 APPLY INCREASED CLEARANCES FOR CURVES TO POINTS 2m BEYOND THE ENDS OF THE CIRCULAR CURVE.
  - 4.2 REDUCE CLEARANCES AT A UNIFORM RATE OVER THE REMAINDER OF THE TRANSITION CURVE.
  - 4.3 FOR NON-TRANSITIONED CURVES REDUCE AT A UNIFORM RATE OVER A LENGTH OF 18m ALONG STRAIGHTS.
- INTERMEDIATE VALUES MAY BE INTERPOLATED BY THE ENGINEER IN CHARGE.
- ALSO REFER TO REMARKS 5, 6 AND 7 OF ANNEXURE 1 SHEET 2.
- CLEARANCES ARE BASED ON 9 700mm BOGIE CENTRES AND 13 700mm VEHICLE BODY LENGTH.
- SEE ANNEXURE 1 SHEET 3 FOR STRUCTURES ON PLATFORMS.

BE 97-01 Sht 5 of 5 DATE : JUNE 2000





OCCUPATIONAL HEALTH AND SAFETY ACT 85 OF 1993 (AS AMENDED)

**AGREEMENT WITH MANDATORY**

In terms of Section 37(1) & (2)

**WRITTEN AGREEMENT ENTERED INTO AND BETWEEN**

**Transnet Freight Rail**

(Hereinafter referred to as the Employer)

**AND**

-----

(Hereinafter referred to as Mandatory (Principal Contractor))

**Compensation Fund Number** :

**Project Name** :

**NOTE: AGREEMENT WITH THE MANDATORY TO BE COMPLETED IN BLACK INK AND EACH PAGE AND CHANGE TO BE INITIATED.**

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**PREAMBLE**

**WHEREAS** section 37(1) & (2) of the Occupational Health and Safety Act No 85 of 1993 ("the Act") requires that parties have an agreement in writing to ensure compliance by a mandatory in line with the provisions of the Act.

**AND WHEREAS** Transnet Freight Rail ("TFR") requires the services of the Contractors to execute certain projects within its workshops.

**AND WHEREAS** TFR can be better served by Contractors who have the infrastructure, specialist employees and expertise to execute such projects at the highest level of efficiency on short notice.

**NOW THEREFORE the parties agree as follows;**

## 1. DEFINITIONS

For the purpose of this agreement, unless the context indicates otherwise, the following definitions are set out for the terms indicated:

- 1.1 "Act" means the Occupational Health and Safety Act No 85 of 1993;
- 1.2 "Agreement" means this Mandatory agreement;
- 1.3 "Contractor " means the Mandatory;
- 1.4 "COID Act" means the Compensation for Occupational Injuries and Diseases Act No 130 of 1993.
- 1.5 "Effective Date" means the date of signature of this Agreement by the last party signing hereto;
- 1.6 "Employer" refers to TFR;
- 1.7 "Main Contract" means the main contract whereby the supplier has to provide services to TFR.
- 1.8 "Mandatory" means an agent, Contractor or sub-contractor for work, but without derogating from the status in his own right as an employer or user;
- 1.9 "Parties" means TFR and the Contractor, and "Party" shall mean either one of them, as the context indicates;
- 1.10 "Regulations" means regulations promulgated in terms of the relevant legislation.
- 1.11 "Section" means the relevant section of the Occupational Health and Safety Act No 85 of 1993
- 1.12 "Services" means the services to be provided by the Contractor to TFR.
- 1.13 "TFR" means Transnet Freight Rail, a division of Transnet SOC Limited (Registration No. **1990/000900/06**), a public company incorporated in accordance with the company laws of the Republic of South Africa;

## 2. INTERPRETATION

- 2.1 Clause headings in this Agreement are included for ease of reference only and do not form part of this Agreement for the purposes of interpretation or for any other purpose. No provision shall be construed against or interpreted to the disadvantage of either Party hereto by reason of such Party having or being deemed to have structured or drafted such provision.
- 2.2 Any term, word or phrase used in this Agreement, other than those defined under the clause heading "Definitions" shall be given its plain English meaning, and those terms, words,

acronyms, and phrases used in this Agreement will be interpreted in accordance with the generally accepted meanings accorded thereto.

- 2.3 A reference to the singular incorporates a reference to the plural and vice versa.
- 2.4 A reference to natural persons incorporates a reference to legal persons and vice versa.
- 2.5 A reference to a particular gender incorporates a reference to the other gender.

### **3. REPORTING**

- 3.1 The Mandatary and/or his designated person appointed in terms of Section 16(2) of the Occupational Health and Safety Act 85 of 1993 ("the OHS Act") shall report to the Risk Manager and/or a Project Manager and/or a representative designated by the Employer prior to commencing the work at the premises of the Employer.

### **4. WARRANTY OF COMPLIANCE**

- 4.1 In terms of this Agreement the Mandatary warrants that he agrees to any of the arrangements and procedures as prescribed by the Employer and as provided for in terms of Section 37(2) of the OHS Act for the purposes of compliance with the OHS Act.
- 4.2 The Mandatary further warrants that he and/or his employees undertake to maintain such compliance with the OHS Act. Without derogating from the generality of the above, nor from the provisions of the said Agreement, the Mandatary shall ensure that the clauses as hereunder described are at all times adhered to by himself and his employees.
- 4.3 The Mandatary hereby undertakes to ensure that the health and safety of any other person on the premises is not endangered by the conduct of his activities and that of his employees.

### **5. APPOINTMENTS AND TRAINING**

- 5.1 The Mandatary shall appoint competent persons as per Section 16(2) of the OHS Act. Any such appointed person shall be trained on any occupational health and safety matter and the OHS Act provisions pertinent to the work is to be performed under his responsibility. Copies of any appointments made by the Mandatary shall immediately be provided to the Employer.
- 5.2 The Mandatary shall further ensure that all his employees are trained on the health and safety aspects relating to the work to be done on the premises of the Employer and that they understand the hazards associated with such work being carried out on the premises. Without derogating from the foregoing, the Mandatary shall, in particular, ensure that all his users or operators of any materials, machinery or equipment are properly trained in the use of such materials, machinery or equipment.
- 5.3 Notwithstanding the provisions of the above, the Mandatary shall ensure that he, his appointed responsible persons and his employees are at all times familiar with the provisions of the OHS Act, and that they comply with the provisions of the Act.

### **6. SUPERVISION, DISCIPLINE AND REPORTING**

- 6.1 The Mandatary shall ensure that all work performed on the Employer's a premise is done under strict supervision and that no unsafe or unhealthy work practices are permitted. Discipline regarding health and safety matters shall be strictly enforced against any of his employees regarding non-compliance by such employee with any health and safety matters.

- 6.2 The Mandatary shall further ensure that his employees report to him all unsafe or unhealthy work situations immediately after they become aware of such conditions and that he in turn immediately reports these to the Employer and/or his representative.

## **7. ACCESS TO THE OHS ACT**

- 7.1 The Mandatary shall ensure that he has an updated copy of the OHS Act on site at all times and that this is accessible to his appointed responsible persons and employees, save that the parties may make arrangements for the Mandatary and his appointed responsible persons and employees to have access to the Employer's updated copy/copies of the Act.

## **8. COOPERATION**

- 8.1 The Mandatary and/or his responsible persons and employees shall provide full co-operation and information if and when the Employer or his representative inquires into any occupational health and safety issues concerning the Mandatary. It is hereby recorded that the Employer and his representative shall at all times be entitled to make such inquiry.
- 8.2 Without derogating from the generality of the above, the Mandatary and his responsible persons shall make available to the Employer and his representative, on request, all and/or any checklists and inspection registers required to be kept by him in respect of any of his materials, machinery or equipment.

## **9. WORK PROCEDURES**

- 9.1 The Mandatary shall, after having established the dangers associated with the work performed, develop and implement mitigation measures to minimize or eliminate such dangers for the purpose of ensuring a healthy and safe working environment. The Mandatary shall then ensure that his responsible persons and employees are familiar with such mitigation measures.
- 9.2 The Mandatary shall implement any other safe work practices as prescribed by the Employer and shall ensure that his responsible persons and employees are made conversant with such other safe work practices as prescribed by the Employer and that his responsible persons and employees adhere to such safe work practices.
- 9.3 The Mandatary shall ensure that work for which any permit is required by the Employer is not performed by his employees prior to the Employer obtaining such permit from the Mandatary.

## **10. HEALTH AND SAFETY MEETINGS**

- 10.1 If required in terms of the OHS Act, the Mandatary shall establish his own health and safety committee(s) and ensure that his employees, being the committee members, provide health and safety representatives to attend the Employer's health and safety committee meetings.

## **11. COMPENSATION REGISTRATION**

- 11.1 The Mandatary shall ensure that he has a valid proof of registration with the Compensation Commissioner, as required in terms of **COID Act**, and that all payments owing to the Commissioner are discharged. The Mandatary shall further ensure that the cover remain in force while any such employee is present on the premises.

## **12. MEDICAL EXAMINATIONS**

- 12.1 The Mandatary shall ensure that all his employees undergo routine medical examinations and that they are medically fit for the purposes of the work they are to perform.

**13. INCIDENT REPORTING AND INVESTIGATION**

- 13.1 All incidents referred to in Section 24 of the OHS Act shall be reported by the Mandatary to the Department of Labour and to the Employer. The Employer shall further be provided with copies of any written documentation relating to any incident.
- 13.2 The Employer retains an interest in the reporting of any incident as described above as well as in any formal investigation and/or inquiry conducted in terms of section 32 of the OHS-Act into such incident.

**14. SUBCONTRACTORS**

- 14.1 The Mandatary shall notify the Employer of any subcontractor he may wish to perform work on his behalf on the Employer's premises. It is hereby recorded that all the terms and provisions contained in this clause shall be equally binding upon the subcontractor prior to the subcontractor commencing with the work. Without derogating from the generality of this paragraph:
- 14.1.1 The Mandatary shall ensure that training as discussed under appointments and training, is provided prior to the subcontractor commencing work on the Employer's premises.
- 14.1.2 The Mandatary shall ensure that work performed by the subcontractor is done under his strict supervision, discipline and reporting.
- 14.1.3 The Mandatary shall inform the Employer of any health and safety hazards and/or issue that the subcontractor may have brought to his attention.
- 14.1.4 The Mandatary shall inform the Employer of any difficulty encountered regarding compliance by the subcontractor with any health and safety instruction, procedure and/or legal provision applicable to the work the subcontractor performs on the Employer's premises.

**15. SECURITY AND ACCESS**

- 15.1 The Mandatary and his employees shall enter and leave the premises only through the main gate(s) and/or checkpoint(s) designated by the Employer. The Mandatary shall ensure that employees observe the security rules of the Employer at all times and shall not permit any person who is not directly associated with the work from entering the premises.
- 15.2 The Mandatary and his employees shall not enter any area of the premises that is not directly associated with their work.
- 15.3 The Mandatary shall ensure that all materials, machinery or equipment brought by him onto the premises are recorded at the main gate(s) and/or checkpoint(s). Failure to do this may result in a refusal by the Employer to allow the materials, machinery or equipment to be removed from the Employer's premises.

**16. FIRE PRECAUTIONS AND FACILITIES**

- 16.1 The Mandatary shall ensure that an adequate supply of fire-protection and first-aid facilities are provided for the work to be performed on the Employer's premises, save that the Parties may mutually make arrangements for the provision of such facilities.
- 16.2 The Mandatary shall further ensure that all his employees are familiar with fire precautions at the premises, which includes fire-alarm signals and emergency exits, and that such precautions are adhered to.

**17. ABLUTION FACILITIES**

17.1 The Mandatary shall ensure that an adequate supply of ablution facilities are provided for his employees performing work on the Employer's premises, save that the parties may mutually make arrangements for the provision of such facilities.

**18. HYGIENE AND CLEANLINESS**

18.1 The Mandatary shall ensure that the work site and surround area is at all times maintained to the reasonably practicable level of hygiene and cleanliness. In this regard, no loose materials shall be left lying about unnecessarily and the work site shall be cleared of waste material regularly and on completion of the work.

**19. NO NUISANCE**

19.1 The Mandatary shall ensure that neither he nor his employees undertake any activity that may cause environmental impairment or constitute any form of nuisance to the Employer and/or his surroundings.

19.2 The Mandatary shall ensure that no hindrance, hazard, annoyance or inconvenience is inflicted on the Employer, another Mandatary or any tenants. Where such situations are unavoidable, the Mandatary shall give prior notice to the Employer.

**20. INTOXICATION NOT ALLOWED**

20.1 No intoxicating substance of any form shall be allowed on site. Any person suspected of being intoxicated shall not be allowed on the site. Any person required to take medication shall notify the relevant responsible person thereof, as well as the potential side effects of the medication.

**21. PERSONAL PROTECTIVE EQUIPMENT**

21.1 The Mandatary shall ensure that his responsible persons and employees are provided with adequate personal protective equipment (PPE) for the work they may perform and in accordance with the requirements of General Safety Regulation 2 (1) of the OHS Act. The Mandatary shall further ensure that his responsible persons and employees wear the PPE issued to them at all material times.

**22. PLANT, MACHINERY AND EQUIPMENT**

22.1 The Mandatary shall ensure that all the plant, machinery, equipment and/or vehicles he may wish to utilize on the Employer's premises is/are at all times of sound order and fit for the purpose for which it/they is/are attended to, and that it/they complies/comply with the requirements of Section 10 of the OHS Act.

22.2 In accordance with the provisions of Section 10(4) of the OHS Act, the Mandatary hereby assumes the liability for taking the necessary steps to ensure that any article or substance that it erects or installs at the premises, or manufactures, sells or supplies to or for the Employer, complies with all the prescribed requirements and will be safe and without risks in terms of health and safety when properly used.

**23. NO USAGE OF THE EMPLOYER'S EQUIPMENT**

23.1 The Mandatary hereby acknowledges that his employees are not permitted to use any materials, machinery or equipment of the Employer unless the prior written consent of the Employer has been obtained, in which case the Mandatary shall ensure that only those persons authorized to make use of such materials, machinery or equipment, have access thereto.

**24. TRANSPORT**

- 24.1 The Mandatary shall ensure that all road vehicles used on the premises are in a roadworthy condition and are licensed and insured. The Mandatary shall ensure that all drivers shall have relevant and valid driving licenses and the Mandatary shall ensure that no vehicle/s shall carry passengers unless it is specifically designed to do and that all drivers shall adhere to the speed limits and road signs on the premises at all times.
- 24.2 In the event that any hazardous substances are to be transported on the premises, the Mandatary shall ensure that the requirements of the Hazardous Substances Act 15 of 1973 are complied with fully all times.

**25. CLARIFICATION**

- 25.1 In the event that the Mandatary requires clarification of any of the terms or provisions of this Agreement, he should take the necessary steps to contact the Risk Manager of the Employer to obtain such clarification.

**26. DURATION OF AGREEMENT**

- 26.1 This Agreement shall remain in force for the duration of the work to be performed by the Mandatary and/or while any of the Mandatary's employees are present on the Employer's premises.

**27. NON COMPLIANCE WITH THE AGREEMENT**

- 27.1 If the Mandatary fails to comply with any provisions of this Agreement, the Employer shall be entitled to give the mandatory 7 (seven) days written notice to remedy such non compliance and if the Mandatary fails to comply with such notice, then the Employer shall forthwith be entitled but not obliged, without prejudice to any other rights or remedies which the mandatory may have in law,
- 271.1 to suspend the main Agreement; or
- 271.2 To claim immediate performance and/or payment of such obligations.
- 27.2 Should mandatory continue to breach the contract on three occasions, then the Employer is authorised to suspend the main contract without complying with the condition stated in the clause above.

**28. HEADINGS**

The headings as contained in this Agreement are for reference purposes only and shall not be construed as having any interpretative value in them or as giving any indication as to the meaning of the contents of the paragraphs contained in this Agreement.



**Thus done and signed**

at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 201\_\_

\_\_\_\_\_  
**For and on behalf of the Employer**

**Witnesses:**

1. \_\_\_\_\_

2. \_\_\_\_\_

at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 201\_\_

\_\_\_\_\_  
**for and on behalf of the Mandatary**

**Witnesses:**

3. \_\_\_\_\_

4. \_\_\_\_\_

## **PART 4: SITE INFORMATION**

### **1. Description of the Site and its surroundings**

#### **1.1. General description**

The work is to be carried out at Transnet Freight Rail, Kimberley.

#### **1.2. Access Limitations**

None

#### **1.3. Ground conditions in areas affected by work in this contract**

None

#### **1.4. Hidden and other services within site**

No hidden services