



**Annexure B**

**REQUEST FOR PROPOSAL**

**GUIDELINES FOR COMPLETION OF THE  
SUPPLIER DEVELOPMENT BID DOCUMENT**

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### Note

For the purposes of this document, any reference to a/the “**Service Provider**” shall be construed to mean a reference to a Respondent (in terms of this RFP) and/or to a successful Respondent (to whom the business is to be awarded), as so indicated by the context hereinafter.

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## 1 What is Supplier Development?

The Supplier Development (**SD**) Programme is an initiative of the Department of Public Enterprises (**DPE**) supported by Transnet. The aim of SD is to increase the competitiveness, capability and capacity of the South African supply base where there are comparative advantages and potential for local or regional supply. This can be achieved through skills transfer, , as well as building new capability and capacity in the South African supply base. In addition, SD has its roots grounded firmly around the transformation of South Africa and the empowerment of previously disadvantaged individuals and enterprises.

## 2 Background and Guidance on the Supplier Development Objectives for South Africa

As a developing economy with inherent structural and social imbalances, South Africa is facing the significant economic challenge of increasing growth in a manner that includes all South Africans. The historical lack of investment in infrastructure in South Africa has negatively impacted on local industry, resulting in a loss of key skills and a decrease in manufacturing industry capabilities. To respond to this, Government policies have been designed to address these imbalances and to act as a catalyst of change for the benefit of South Africa.

One of these Government policies, the New Growth Path (**NGP**) aims to enhance growth, employment creation and equity by reducing the dependencies of South African industries on imports, and promoting the development of skills and capabilities that are in short supply within the country. It identifies strategies that will enable South Africa to grow in a more equitable and inclusive manner and promotes the development of new industry to attain South Africa's developmental agenda.

Transnet's SD effort is closely aligned to the NGP objectives and as a result we are able to fulfil our commitment to sustainability within South Africa whilst at the same time addressing other corporate objectives including increasing productivity and efficiency, volume growth, capital investment, financial stability, funding, human capital, SHEQ regulatory compliance and improving customer service.

The combined objectives of Transnet and Government will be realised through:

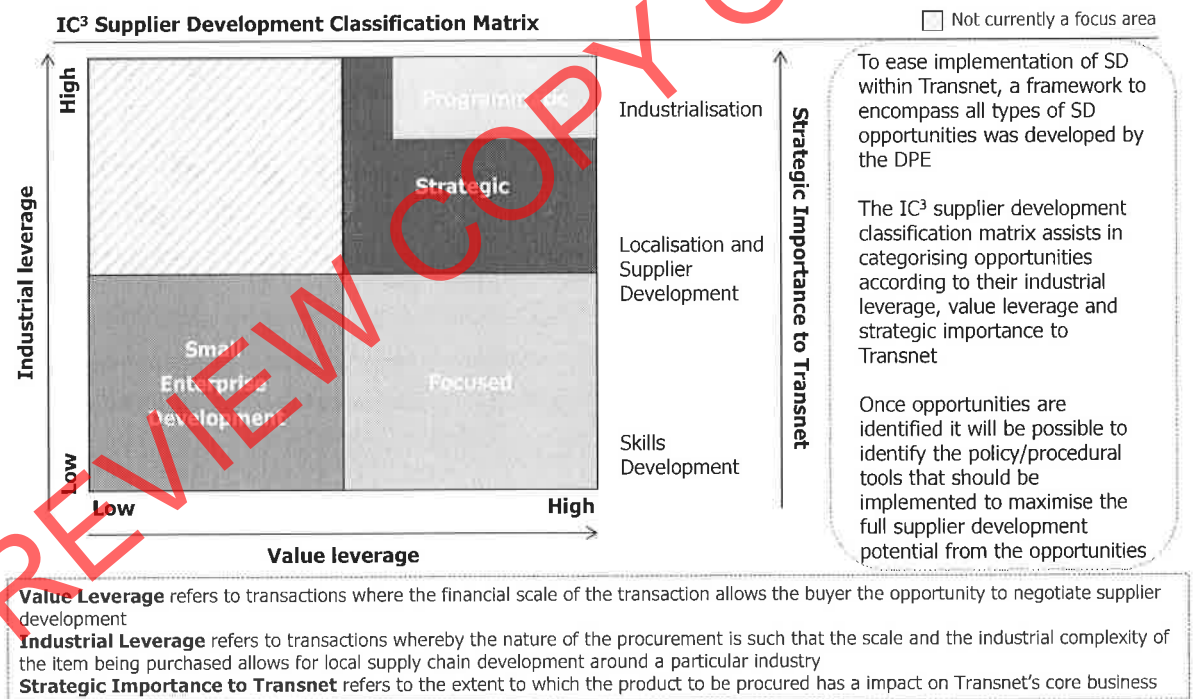
- aggressively implementing capital investment plans which will result in competitive local industries;
- improving operational efficiency;
- using procurement to influence the development of the local supplier industry; and
- ensuring it creates sufficient economic opportunities for the participation of previously disadvantaged groups.

This will lead to Transnet achieving its long-term objective of increasing both shareholder and societal value using its procurement expenditure to ensure local development through the sustainable growth of capability and capacity in South Africa's supply chain and the inclusion of the previously disadvantaged individuals in the economy in a manner that is beneficial to Transnet, South African industry and the people of South Africa. As a result this State Owned Company (**SOC**) is able to fulfil its responsibility as the biggest link in the South African freight logistics chain whilst complementing the objectives of Government.

### 3 Transnet’s Supplier Development Objectives and Framework

To aid its implementation of SD, Transnet has adapted an existing framework from the DPE. This framework allows for a basic set of principles to be applied to appropriately target SD initiatives. Supplier Development initiatives aim to assist local suppliers in developing their competitive advantage through increasing their capability and capacity potential. Hence the framework has been termed the Increased Competitiveness, Capability and Capacity (IC<sup>3</sup>) Supplier Development Classification Matrix.

This framework encapsulates the types of SD opportunities which Transnet currently considers effective and allows Transnet to move its SD structure away from a dynamic policy environment towards a framework that is designed around general Supplier Development objectives. This enables Transnet to adopt a standard structure but also allows the flexibility to reconsider emphasis on certain aspects as objectives change. The IC<sup>3</sup> Matrix (refer to Figure 1 below) categorises SD opportunities in a matrix based on their value, extent of industrial leverage and strategic importance to Transnet. Further categorisation of opportunities into the relevant quadrants is based on supplier-buyer power, industrial complexity, risk and the length of procurement period.



**Figure 1: The IC<sup>3</sup> Supplier Development Classification Matrix**

In order for Service Providers to successfully meet the needs of a particular initiative, a detailed understanding of each quadrant is required.

#### 3.1 Programmatic

Programmatic initiatives follow a longer than normal planning horizon and generally exceed the funding capacity of Transnet’s balance sheet. Collaboration between the SOC and Government is achieved through focused task teams whereby infrastructure development and industrialisation is achieved through joint support and in some cases public spending. Investment is focused in plant,

technology and skills in both intermediate and advanced capabilities to develop competitive advantage.

### 3.2 **Strategic**

Strategic initiatives follow a three to five year planning horizon, involving investment in at least plant, technology and/or skills in intermediate capabilities. This enforces the need for multinational corporations and Original Equipment Manufacturers (**OEMs**) to develop a certain percentage of their products locally. Strategic initiatives can therefore be used to achieve Transnet's objectives by increasing the competitiveness, capability and efficiency of local suppliers. Strategic initiatives can sometimes focus on advanced capabilities but will in most cases require Government support to develop local capability.

### 3.3 **Focused**

Focused initiatives include all high value transactions with limited industrial leverage and medium to low strategic importance. These initiatives address short to medium-term contracts that can be leveraged to encourage Supplier Development, with a focus on investment in technology or skills to enhance existing local capability. Emphasis will largely be placed on benefiting previously disadvantaged individuals. The overall result improves the socio-economic environment by creating competitive local suppliers and furthers objectives of empowerment, transformation and regional development.

### 3.4 **Small Enterprise Development**

Small Enterprise Development initiatives are typically of low value and have no industrial leverage as they are characterised by typically low complexity goods and high competition. These initiatives concentrate on increasing the capability of small local suppliers and are targeted toward historically disadvantaged individuals and communities, providing basic skills development and improving local employment and quality job creation. It includes a wide range of non-financial services that help entrepreneurs start new business and grow existing ones.

## **4 Response based on the IC<sup>3</sup> Matrix Quadrants**

Based on the supplier-buyer power, industrial complexity, risk and the length of procurement period, the Service Provider is expected to formulate a SD Bid Document to identify the opportunities that it will pursue. Ideally the SD Bid Document should address factors that are specific to the applicable quadrant of the IC<sup>3</sup> matrix.

Transnet has identified a number of opportunities which may aid a Service Provider in formulating its response based on each quadrant. Each of the opportunities identified by the Service Provider should have a direct or indirect effect on the value it creates for the country in order to maximise the socio-economic impact.

Based on the strategic objectives, emphasis on SD evaluation categories will differ by IC<sup>3</sup> quadrants

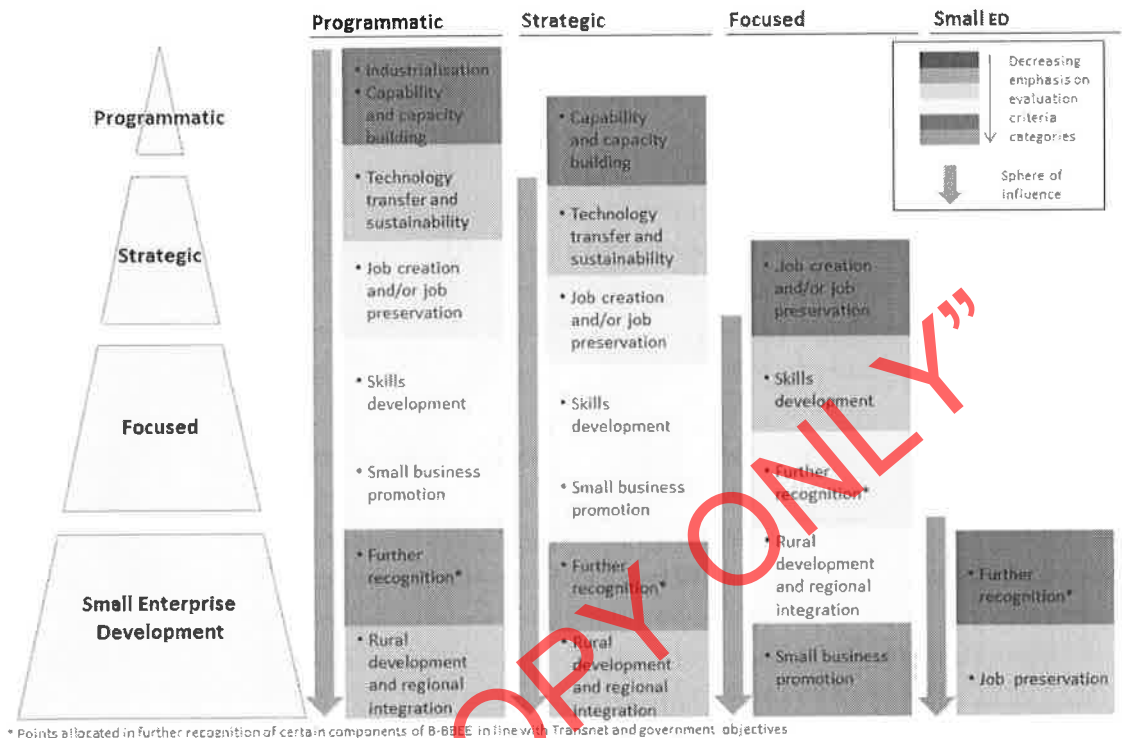


Figure 2: Transnet value capture through supplier influence

4.1 Programmatic

The strategic objective of “Programmatic transactions” is to assist Government to achieve its industrialisation objectives through the development of the local supplier base, in order to increase the cost efficiency of SOC procurement, support and maintenance programmes. In order to satisfy this objective a number of focus areas and key outcomes have been identified:

- a) Programmatic Focus Areas -
  - Industrialisation
  - Capability and capacity building in South Africa
  - Technology transfer
  - Skills development related to the manufacturing process and the industry
  - Development of new technology and innovation
  - Investment in plant
  - Development of local companies aligned to empowerment objectives
- b) Key Outcomes -
  - Industrialisation
  - Manufacturing capability and capacity building
  - Technology transfer
  - Skills development

#### 4.2 Strategic

The main objective of Strategic transactions is to leverage local downstream suppliers through large-scale SOC procurement in order to develop a competitive local supplier base. In response to these objectives the following are the specific focus areas and key outcomes applicable:

- a) Strategic Focus Areas -
  - Capability and capacity building in South Africa
  - Transfer of technology and innovation to local suppliers from foreign OEM's
  - Skills development related to the industry
  - Development of local companies aligned to empowerment objectives
- b) Key Outcomes -
  - Increased S.A. manufacturing capability and capacity
  - Increased technology transfer
  - Skills development
  - Job creation/preservation

#### 4.3 Focused

Focused initiatives assist local suppliers to improve their performance, enhance their existing production and skills capabilities with emphasis being placed on benefiting previously disadvantaged individuals and rural development. In order to satisfy these objectives a number of focus areas and key outcomes have been identified:

- a) Focused Focus Areas -
  - Developing a local supplier base that supports preferential procurement outcomes
  - Developing skills within the specific industry
  - Creating opportunity for job preservation
  - Reducing income inequality in specific regions
- b) Key Outcomes -
  - Empowerment
  - Skills development
  - Rural development
  - Job creation/preservation

#### 4.4 Small Business Development

Enterprise Development (**ED**) objectives are centred around assisting local suppliers to improve their skills by placing increased emphasis on benefiting previously disadvantaged individuals and rural development in line with the Broad-Based Black Economic Empowerment (B-BBEE) strategy. The following focus areas and key outcomes have been identified:

- a) Small Business Development Focus Areas -
  - Providing small businesses with opportunities and preferential trading terms, increased focus on Black woman-owned enterprises, focus on the youth, people with disabilities and region-specific initiatives

- Empowering previously disadvantaged individuals to create their own businesses resulting in quality job creation
- b) Key Outcomes -
- Empowerment
  - Rural development
  - Skills development
  - Job creation/preservation

Based on these focus areas and key outcomes, a Service Provider would need to actively focus on the quadrant-specific requirements in order to maximise the potential commercial benefit for Transnet, South Africa and themselves. In doing so value can be created across all lines of reporting resulting in continued relations.

## 5 Supplier Development Category Definitions and High Level Descriptions

### 5.1 Industrialisation

Industrialisation refers specifically to industrial development that will result in globally leading capabilities within South Africa.

Criteria	Description
➤ Value of investment in plant	➤ Quantification of the monetary value invested in machinery, equipment and/or buildings as a result of this RFP
➤ Percentage of the investment of plant purchased in South Africa	➤ Percentage value invested in machinery, equipment and/or buildings that are sourced from local companies
➤ Reduction in import leakage	➤ A percentage indication of the increase in locally supplied products and therefore the resultant decrease in imports as a result of the award of a contract
➤ Potential increase in export content	➤ The percentage increase in exports that will result from increased industrial capability locally in relation to the award of a contract

### 5.2 South African Capability and Capacity Building

South African capability and capacity building refers specifically to industrial development that focuses on value-added activities for the local industry through manufacturing or service-related functions.

Criteria	Description
➤ Value-added manufacturing activity/activities to be undertaken in South Africa	➤ Description of value-added activities to be performed during the contract period in South Africa
➤ Service-related functions to be undertaken in South Africa	➤ Description of service-related functions to be performed during the contract period in South Africa
➤ Number of local suppliers in the supply chain	➤ Number of South African suppliers that are to be utilised in the fulfilment of a contract



### 5.3 Technology transfer/sustainability

Technology improvements are intangible assets with significant economic value. The Service Provider will be measured on its plan to transfer knowledge and IP to contribute towards capability building of the local supply base, which ultimately leads to improved efficiency and capability. Plans to assist in this by a Service Provider must be assessed to enable the local supply base to potentially export its newly-acquired technological know-how, thereby decreasing capital leakage.

Criteria	Description
<p>Technology transfer including:</p> <ul style="list-style-type: none"> <li>➤ Methods of manufacturing</li> <li>➤ Introduction of new technologies</li> <li>➤ IP transfer (number and value)</li> </ul>	<ul style="list-style-type: none"> <li>➤ Introduction of a new/improved method of manufacturing</li> <li>➤ Provision of new technologies: <ul style="list-style-type: none"> <li>○ For processes</li> <li>○ ICT</li> </ul> </li> <li>➤ The provision of patents, trademarks and copyrights</li> </ul>
<ul style="list-style-type: none"> <li>➤ Number of local suppliers to be evaluated for integration into the OEM supply chain</li> </ul>	<ul style="list-style-type: none"> <li>➤ An indication of the number of South African suppliers that an OEM/Service Provider plans to evaluate for possible inclusion into its supply chain, should it meet the requirements</li> </ul>

### 5.4 Skills development

Skills development indicates the company's commitment to education and whether that fits in with targeted groups (artisans, technicians, etc.). Consideration needs to be directed towards the adequate quality and value of skills so developed in order to allow for better evaluation in line with Government's objectives.

Criteria	Description
<ul style="list-style-type: none"> <li>➤ Number of downstream supply chain individuals to be trained including: <ul style="list-style-type: none"> <li>• Number of artisans trained</li> <li>• Number of technicians trained</li> <li>• Number of black people trained</li> <li>• Total number of people trained</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>➤ Number of individuals that the Service Provider plans to train in the local industry over the contract period; training undertaken in the previous year will be taken into account</li> <li>➤</li> </ul>
<ul style="list-style-type: none"> <li>➤ Number of company employees to be trained</li> </ul>	<ul style="list-style-type: none"> <li>➤ Number of individuals within the company (in South Africa) that the Service Provider plans to train over the contract period; training undertaken in the previous year will not be taken into account as past employee training appears in the skills development pillar of the B-BBEE scorecard; criteria broken down as for industry training above</li> </ul>
<ul style="list-style-type: none"> <li>➤ Certified training (yes/ no)</li> </ul>	<ul style="list-style-type: none"> <li>➤ Compliance with local and/or international skills accreditation</li> </ul>

Criteria	Description
➤ Rand value spent on training	➤ Total planned monetary value spend (as a % of contract value) on skills development /training for the contract period within the industry; money spent in the previous year will be included in year 1 to make allowance for Service Providers who have just completed a training drive within the industry
➤ Number of bursaries/ scholarships (specify field of study)	➤ The number of higher education bursaries/scholarships provided in the previous year and planned for the length of the contract
➤ Number of apprentices (sector must be specified)	➤ The number of apprentices that the Service Provider plans to enlist during the course of the contract
➤ Investment in Schools in specific sectors e.g. engineering	➤ The monetary value that the Service Provider is prepared to invest in the development and running of schools to increase technical skills development

**5.5 Job creation/preservation**

Job creation and/or preservation allows assessment of Government’s objectives to increase labour absorption, focusing on unskilled workers and the youth.

Criteria	Description
➤ Number of jobs preserved	➤ Number of jobs which would be preserved through Award of Contract
➤ Number of jobs created including: <ul style="list-style-type: none"> <li>• New skilled jobs created</li> <li>• New unskilled jobs created</li> </ul>	➤ Number of jobs to be created during the period of the contract <ul style="list-style-type: none"> <li>• Jobs for people in a specialised field of work requiring a defined training path and / or requisite level of experience in order for them to perform that role. These people could be in possession of a certificate, diploma or degree from a higher education institution.</li> <li>• Jobs for people where the field of work does not require extensive formal training or from whom no minimum level of education is required</li> </ul>
➤ Number of jobs created for youth	➤ Jobs created for individuals aged 16 – 30 years
➤ Number of jobs created for Black youth	➤ Jobs created for Black individuals aged 16 – 30 years

## 5.6 Small business promotion

Small business promotion criteria give an indication of the Service Provider's commitment to developing small business in line with NGP and B-BBEE requirements.

Criteria	Description
<ul style="list-style-type: none"> <li>➤ Percentage procurement from:                             <ul style="list-style-type: none"> <li>• QSEs</li> <li>• EMEs</li> <li>• Start-ups</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>➤ Refers to the planned procurement from small business as a % of the total planned procurement spend</li> </ul>
<ul style="list-style-type: none"> <li>➤ Non-financial support provided to small business</li> </ul>	<ul style="list-style-type: none"> <li>➤ Service Providers will be credited for each non-financial ED support that they are planning to give to small business e.g. Professional support; employee time allocated to assisting small business</li> </ul>
<ul style="list-style-type: none"> <li>➤ Financial support provided to small business</li> </ul>	<ul style="list-style-type: none"> <li>➤ Service Providers will be credited for each financial ED support initiative that they are planning to undertake during the contract period e.g. Shorter payment terms; interest free loans</li> </ul>
<ul style="list-style-type: none"> <li>➤ Joint ED initiatives with Transnet</li> </ul>	<ul style="list-style-type: none"> <li>➤ The number of ED initiatives that the Service Provider will jointly run with Transnet:                             <ul style="list-style-type: none"> <li>• That are aligned to Transnet's objectives</li> <li>• That are non-financial in nature</li> </ul> </li> </ul>

## 5.7 Rural development/integration

Rural development / integration indicates the Service Provider's planned use of local labour and business which will contribute to Governments NGP objectives and result in supply chain efficiencies. Commitment to rural development will result in the alleviation of poverty and thereby contribute to development objectives. The development must be sustainable in order to have a long-term and meaningful impact.

Criteria	Description
<ul style="list-style-type: none"> <li>➤ Number of local employees</li> </ul>	<ul style="list-style-type: none"> <li>➤ Number of people employed from within the town/city of operation</li> </ul>
<ul style="list-style-type: none"> <li>➤ Value spent on local business</li> </ul>	<ul style="list-style-type: none"> <li>➤ Monetary value spent on businesses within the town/city of operation</li> </ul>
<ul style="list-style-type: none"> <li>➤ Proximity of business to operations</li> </ul>	<ul style="list-style-type: none"> <li>➤ The locality of the business in relation to operations, preference is given for regional (provincial) locality</li> </ul>
<ul style="list-style-type: none"> <li>➤ Number of rural businesses to be developed</li> </ul>	<ul style="list-style-type: none"> <li>➤ The number of rural businesses that the Service Provider plans to develop as a result of the contract</li> </ul>
<ul style="list-style-type: none"> <li>➤ Value of development to local community (sustainable)</li> </ul>	<ul style="list-style-type: none"> <li>➤ The monetary value spent on rural community development that will result in long-term social improvements</li> </ul>

## 6 Market Intelligence Assistance

Service Providers with limited knowledge of the local market, supply base and its capabilities may require assistance in identifying local suppliers and the development needs in order to develop its SD Bid

Document. The United Nations Industrial Development Organisation (UNIDO) supplies a benchmarking service in South Africa which will be able to assist Service Providers in identifying potential local suppliers with which to work. In addition, this service will provide insight as to the type of support that these local suppliers require in order to become more competitive. UNIDO's benchmarking tool gives insight into the performance levels being seen in Service Providers' businesses and the practices used to deliver the products or services being offered. The benchmarking tool focuses on:

- 6.1 Performance data relating to -
  - a) Financial performance
  - b) Customer data
  - c) Processes
  - d) Learning & growth
- 6.2 Company's current business situation -
  - a) Plans for the business and capabilities to manage their fulfilment
  - b) Ability to generate business
  - c) Employee relationships
  - d) Developing new markets
  - e) Developing products and services
  - f) Managing money

The UNIDO benchmarking tool provides a basic framework through which an understanding of the South African market can be established. Whilst the list of criteria may not be exhaustive, Service Providers are free to meet with UNIDO to further understand how they can work together to develop a deeper understanding of the market and the SD opportunities available.

## 7 Government Policy Documents

- NIPP [http://www.thedti.gov.za/industrial\\_development/nipp.jsp](http://www.thedti.gov.za/industrial_development/nipp.jsp)
- IPAP2 <http://www.thedti.gov.za/DownloadFileAction?id=561>
- CSDP <http://www.dpe.gov.za/res/transnetCSDP1.pdf>
- NGP <http://www.thepresidency.gov.za/pebble.asp?relid=2323>

## 8 Other Reference Websites

References	Website
Department of Public Enterprise (DPE)	<a href="http://www.dpe.gov.za">www.dpe.gov.za</a>
United Nations Industrial Development Organisation (UNIDO)	<a href="http://www.unido.org/spx">www.unido.org/spx</a>

## GLOSSARY OF WORDS

**Broad-Based Black Economic Empowerment (B-BBEE)**

A South African legal requirement that require all entities operating in the South African economy to contribute to empowerment and transformation

**Enterprise Development (ED)**

An element contained within the B-BBEE scorecard whereby a Measured Entity can receive recognition for any Qualifying Enterprise Development Contributions towards Exempted Micro-Enterprises or Qualifying Small Enterprises which are 50% black owned or 30% black woman owned. Enterprise Development Contributions consists of monetary and non-monetary, recoverable and non-recoverable contributions actually initiated in favour of a beneficiary entity by a measured entity with the specific objective of assisting or accelerating the development, sustainability and ultimate financial independence of the beneficiary. This is commonly accomplished through the expansion of a beneficiaries financial and/ or operation capacity.

**Industrial Policy Action Plan II (IPAPII)**

The implementation plan for the National Industrial Policy Framework (NIPF) which details key action plans (KAPs) and timeframes for the implementation of industrial policy actions in line with the NIPF.

**Integrated Supply Chain Management (iSCM)**

Refers to an integrated "one supply chain management" strategy within Transnet which has been developed with Centres of Excellence (COEs) with cross-functional teams comprising divisional and corporate task team members, to deliver value through improved efficiencies and compliance with the regulatory environment.

**New Growth Path (NGP)**

Developed by the Economic Development Department tabled in January 2010 frames a new approach to unlocking economic growth by knitting together the IPAP2 as well as policies and programmes in rural development, agriculture and, sciences & technology, education, skills development, labour, mining and beneficiation, tourism and social development with the aim to target limited capital and capacity at activities that maximise the creation of decent work opportunities. Key indicators include: Quality job creation, Youth employment, Labour intensive growth, and Equity.

**Original Equipment Manufacturer (OEM)**

Refers to a manufacturing company that owns the intellectual property rights and patents for the equipment it sells and services

**Socio-economic Development**

Refers to development which addresses social and economic aspects such as job creation, poverty reduction and increased national value add and which not only focuses on the business's financial bottom line.

**State Owned Company (SOC)**

Refers to Government-owned corporations. They are legal entities created, and owned, by Government to undertake commercial activities on behalf of an owner Government, and are usually considered to be an element or part of the state. They are established to operate on a commercial basis.

**Supplier Development (SD)**

Improving the socio-economic environment by creating competitive local suppliers via Enterprise Development, CSDP and other initiatives such as Preferential Procurement. This results in a supply base that can eventually be competitive to market its goods on the international market leading to increased exports.

**United Nations Industrial Development Organisation (UNIDO)**

A specialised agency of the United Nations. Its mandate is to promote and accelerate sustainable industrial development in developing countries and economies in transition, and work towards improving living conditions in the world's poorest countries by drawing on its combined global resources and expertise.

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**PART C1  
AGREEMENT AND CONTRACT DATA**

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## C1.1 FORM OF OFFER AND ACCEPTANCE (ECC3)

### OFFER

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

Replacement of high speed circuit breakers at 3kV traction substations (Krugersdorp and Kimberley depots)

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, 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 representative, when signing this part of the Form of Offer and Acceptance, shall be deemed to be duly authorised by a Resolution of the Board of Directors/Certificate of Partners, a certified copy to be included in the Returnable Documents.

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

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

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

Signature(s) \_\_\_\_\_  
 Name(s) \_\_\_\_\_  
 Capacity \_\_\_\_\_  
**For the tenderer:** \_\_\_\_\_  
(Insert name and address of organisation)

Name of witness \_\_\_\_\_ Date \_\_\_\_\_  
 Signature of witness \_\_\_\_\_ Date \_\_\_\_\_

Tenderer's CIDB registration number (if any):





**ACCEPTANCE**

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

The terms of the contract, are contained in:

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

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

Deviations from and amendments to the documents listed in the Tender Data and any addenda thereto as listed in the Returnable Schedules as well as any changes to the terms of the Offer agreed by the tenderer and the Employer during this process of offer and acceptance, are contained in the Schedule of Deviations attached to and forming part of this 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 immediately after, the date this agreement comes into effect. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this agreement.

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

Signature(s) \_\_\_\_\_  
Name(s) \_\_\_\_\_  
Capacity \_\_\_\_\_

**for the Employer** **Transnet Limited trading as Transnet Freight Rail, 49<sup>th</sup> floor, Carlton Centre, 150 Commissioner street, Johannesburg, 2000.**

\_\_\_\_\_  
*(Insert name and address of Employer)*

Name of witness \_\_\_\_\_  
Signature of witness \_\_\_\_\_ Date \_\_\_\_\_

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



**SCHEDULE OF DEVIATIONS**

Note:

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

No.	Subject	Details
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6		
7		

By the duly authorised representatives, 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.

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## C1.2 CONTRACT DATA PROVIDED BY *EMPLOYER* (ECC3)

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

### Part One – Data Provided by the *Employer*

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

#### Statements given in all contracts

##### 1. General

- (a) The conditions of contract are the core clauses and the clauses for main Option **B**, dispute resolution Option **W1** and secondary Options **X1, X3, X7, X13, X16, X18 and option Z** of the NEC3 Engineering and Construction Contract June 2005 (with amendments June 2006).
- (b) **The Contractor's Offer and the Employer's Acceptance are in the document called Form of Offer and Acceptance – Part 1 (C1.1).**
- (c) The *works* are the **Replacement of High Speed Circuit Breakers at 3kV traction substations Krugersdorp and Kimberley depots.**
- (d) The *Employer* is

Name **Transnet SOC Ltd trading as Transnet Freight Rail**

Address **49th Floor, Carlton Centre, 150 Commissioner Street, Johannesburg, 2000.**

- (e) The *Project Manager* is

Name **Malibongwe Mlonzi**

Address **Table 1/16, Inyanda House 3, 12a St Andrews Road Parktown**

- (f) The *Supervisor* is

Name **Cecil Nene**

Address **Table 1/15, Inyanda House 3, 12a St Andrews Road Parktown**

- (g) The *Adjudicator* **will be appointed when a dispute arises.**
- (h) The Works Information is in **the document called “Scope of Work” – Part 3 (C3).**
- (i) The Site Information is in **the document called “Site Information” – Part 4 (C4).**
- (j) The boundaries of the site **are the area within the perimeter fence of the substation.**
- (k) The *language of this contract* is **English.**
- (l) The *law of the contract* is the law of **the Republic of South Africa.**
- (m) The *period for reply to a communication* is **2 weeks. (Matters to be referred to Acquisition Council for approval will take longer).**
- (n) The *Adjudicator nominating body* is **the Association of Arbitrators (Southern Africa).**
- (o) The *tribunal* is **Arbitration.**
- (p) The following matters will be included in the Risk Register
- i. Delays in the delivery of Replacement Circuit Breakers.
  - ii. Cancellation of working permits.
  - iii. Lack of staff for supervision.
  - iv. Work near live electrical equipment (OHTE and other) holds a danger of electrocution for workers.
  - v. Theft of equipment before handover.
  - vi. Site Accessibility (road conditions, vegetation, etc).
- 3 Time (a) The *starting date* is **to be announced upon awarding of the contract**
- (b) The *Contractor* submits revised programmes at intervals no longer than **4 weeks.**
- 4 Testing and Defects (a) the *defects date* is **52 weeks** after completion of each site.
- (b) the defect correction period is **2 weeks** after notification thereof.
- 5 Payment (a) the *currency of this contract* is the **South African Rand (ZAR).**
- (b) The *assessment interval* is **on the 10<sup>th</sup> of each calendar month.**

- (c) Payments will be made once a month for completed installations.
- (d) The *interest rate* is **2 (two) percent** per annum above the **prime lending rate** of the **Standard Bank of South Africa Ltd.** as determined from time to time.

## 6 Compensation events

- (a) The place where weather is to be recorded is at the town closest to the substation where work is being carried out.
- (b) The *weather measurements* to be recorded for each calendar month are:
  - (i) the cumulative rainfall (mm)
  - (ii) the number of days with rainfall more than 10mm
  - (iii) the number of days temperature below zero
  - (iv) the number of days snow lying on the ground at 09h00
- (c) The *weather measurements* are supplied by the **SA Weather Service.**
- (d) The *weather data* are the records of *past weather measurements* for each calendar month which were recorded at the town closest to the substation where work is being carried out, and which are available from **SA Weather Service.**

## 8 Risks and insurance

- (a) The minimum limit of indemnity for insurance in respect of 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 for any one event is **whatever the Contractor deems desirable in addition to that provided by the Employer.**
- (b) The minimum limit of indemnity for insurance in respect of death of or bodily injury to employees of the *Contractor* arising out of and in the course of their employment in connection with this contract for any one event is that **which is prescribed by the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993 as amended.**

**Optional statements**

- (a) arbitration
- The arbitration procedure is the **Rules for the Conduct of Arbitrations issued by the Association of Arbitrators (Southern Africa). The Arbitrator is mutually agreed to by the parties and is appointed by the association of Arbitrators.**
  - The place where arbitration is to be held is **Johannesburg.**
  - The person or organisation who will choose an Arbitrator if the Parties cannot agree a choice is **The Chairman of the Association of Arbitrators (Southern Africa).**
- (b) The completion date for the whole of the *works* is a maximum of **12 Months from the date of awarding contract.**
- (c) The *Contractor* is to submit a first programme for acceptance within **4 weeks** of the Contract Start Date.
- (d) The period within which payments are made is **30 days within receipt of the necessary tax invoice.**
- (e) The *Employer* provides these insurances from the Insurance Table
1. Insurance against loss of or damage to the *works*, Plant and Materials is **as stated in the insurance policy for contract works and public liability (Principal Controlled Insurance), which is available on the following website:**  
<http://www.transnet.co.za/PolicyDocuments.aspx>  
Cover/indemnity is to the extent as stated in the insurance policy for contract works and public liability (Principal Controlled Insurance), which is available on the following website:  
<http://www.transnet.co.za/PolicyDocuments.aspx>
  2. Insurance against loss of or damage to Equipment (**Temporary Works only**) as stated in the insurance policy for contract works and public liability (Principal Controlled Insurance), which is available on the following website:  
<http://www.transnet.co.za/PolicyDocuments.aspx>

Cover/indemnity is to the extent as stated in the insurance policy for contract works and public liability (Principal Controlled Insurance), which is available on the following website:

<http://www.transnet.co.za/PolicyDocuments.aspx>

The deductibles are as stated in the insurance policy for contract works and public liability (Principal Controlled Insurance), which is available on the following website:

<http://www.transnet.co.za/PolicyDocuments.aspx>

3. Insurance against 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 as stated in the insurance policy for contract works and public liability (Principal Controlled Insurance), which is available on the following website:

<http://www.transnet.co.za/PolicyDocuments.aspx>

Cover/indemnity is to the extent as stated in the insurance policy for contract works and public liability (Principal Controlled Insurance), which is available on the following website:

<http://www.transnet.co.za/PolicyDocuments.aspx>

The deductibles are as stated in the insurance policy for contract works and public liability (Principal Controlled Insurance), which is available on the following website:

<http://www.transnet.co.za/PolicyDocuments.aspx>

(f) **If additional insurances are to be provided**

The *Employer* provides these additional insurances

1. **Contract Works SASRIA insurance subject to the terms exceptions and conditions of the SASRIA coupon policy.**

Cover/indemnity is to the extent provided by the SASRIA coupon policy

The deductibles are as indicated in the attached Insurance policy.\*

The *Contractor* provides these additional insurances

- 1 Where the Contract requires that design of any part of the *works* shall be provided by the *Contractor*, he shall satisfy the *Employer* that professional indemnity insurance cover in connection therewith has been effected.
- 2 Where the Contract involves manufacture, and/or fabrication of Plant and 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 and Materials, components or other goods for incorporation in the *works* are adequately insured during manufacture and/or fabrication.
- 3 Should the *Employer* have an insurable interest in such items during manufacture or fabrication, such interest shall be noted by endorsement to the *Contractor's* policies of insurance as well as those of any subcontractor.
4. The insurance coverage referred to in 1 and 2 above shall be obtained from an insurer 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 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*.

#### Option B

All Option B Clauses apply with the following amplification:-

- (a) The last sentence of Clause 63.13 of Option B to be deleted and the following substituted:-

“The *Employer* and the *Contractor* agree, rates and lump sums to be used to assess a compensation event instead of Defined Cost”
- (b) When agreed rates and lump sums are used, Compensation Events are assessed as follows:-
  - (i) Where in the opinion of the *Project Manager* work is of a similar character and executed under similar conditions to work priced in the Bill of Quantities, it is to be valued at such rates and prices (including General Items) contained therein as may be applicable; or
  - (ii) Where work is not of a similar character or is not executed under similar conditions, the rates and prices in the Bill of Quantities are



to be used as the basis for valuation as far as may be reasonable;  
or

- (iii) Where work cannot reasonably be valued in accordance with Clauses (c)(i) and (c)(ii) above, suitable rates or prices are agreed upon between the *Project Manager* and the *Contractor* after due consultation by the *Project Manager* with the *Employer* and the *Contractor*, or
- (iv) In respect of additional or substituted work, the *Project Manager* may, if in his opinion it is necessary or desirable, issue an instruction that the work be executed in some other appropriate manner.
- (v) If the parties cannot agree, the *Project Manager* notifies the *Contractor* accordingly and makes his own assessment.

### Option X1

#### 1.1 The following price adjustment for inflation will apply (if the contract is more than 12 months - otherwise not applicable):

1.1.1 A contract price adjustment factor to be determined in accordance with the formula as described below will be applied to allow for all increases or decreases in costs, from any cause whatsoever, which may occur after the closing date of the submission of tenders and before the date of completion. The factor shall be rounded off to six decimal places.

1.1.2 The contract price adjustment factor shall be -

$$(1 - x)(0.17 \frac{Lt}{Lo} + 0.04 \frac{Pt}{Po} + 0.60 \frac{Mt}{Mo} + 0.04 \frac{Dt}{Do} - 1)$$

where  $x = 0,15$  and

1.1.3  $Lo$ ,  $Po$ ,  $Mo$  and  $Do$  are respectively labour, machinery, material and diesel fuel indices ruling for the calendar month two (2) months prior to closing date of the tender;

1.1.4  $Lt$ ,  $Pt$ ,  $Mt$  and  $Dt$  are respectively labour, machinery, material and diesel fuel indices ruling for the calendar month two (2) months prior to the date of measurement.

1.1.5 The indices to be used shall be those for the Consumer Price Index and Production Price Index as obtained from the monthly Statistical News Release published by STATS South Africa.

- $Lo$  and  $Lt$  shall be the labour indices for Metropolitan and Urban Areas (P0141.1 Table A).
- $Po$  and  $Pt$  shall be the average of the price indices of Non-Electrical Machinery multiplied by an equalizing factor of 1.00866 and Transport Equipment in the ratio of 1:1 (P0142.1 Table 8 item 2.16 and 2.21 respectively).
- $Mo$  and  $Mt$  shall be the price indices of materials used in Mechanical Engineering (P0142.1 Table 11).

- Do and Dt shall be the price indices of "Diesel Oil – Average Coastal and Witwatersrand" (P0142.1 Table 12).

1.1.6 When the value of an index at the time of calculation is not known the latest available index shall be used and any correction necessary shall be made by addition or subtraction in subsequent monthly payment certificates.

1.1.7 The amounts to be added to or subtracted from the monthly payment certificates shall be calculated by multiplying the amount certified for payment for that month (but excluding amounts not subject to price adjustment) by the contract price adjustment factor for that month.

1.1.8 Adjustment to measurements of previous months' quantities will be included in calculation of the amount certified for payment and will therefore be subject to the price adjustment factor of the current measurement month.

1.1.9 Any additions to or deductions from the amount payable, brought about by the application of the contract price adjustment factor, shall be deemed to have made full allowance for all increases or decreases in cost from any cause whatsoever, including all overhead costs as well as any increases and decreases therein, and profit.

1.1.10 Value added tax shall be excluded from individual payment item rates and price adjustment indices as it will be added to the total of the month's measurement, after price adjustment has been made in terms hereof.

### Option X3:

- (a) The amount payable to the Contractor in respect of rate of exchange will be adjusted for increases and decreases in costs of imported materials, due to fluctuations in foreign currency exchange rates after the conclusion of the Contract. Tenderers shall indicate whether or not their tenders or part(s) thereof are subject to variation on account of exchange rate fluctuations.
- (b) Where no particulars are furnished, such tenders will be deemed to be not subject to variation on account of exchange rate fluctuations.
- (c) The rate of exchange to be used by Tenderers in the computation of their tender rates and/or prices and which is to be quoted in the appendix is the rate of exchange on the day 7 days prior to the date on which tenders close.
- (d) Forward cover to be arranged by the contractor within 2 weeks after notification of award.

### Option X7

'Delay damages' is a penalty in South African Law and the word penalty is to replace delay damages throughout the Contract.

- (a) Penalty for late Completion of the whole of the *works* is **R5,000.00** per day

### Option X13

- (a) The amount of the Guarantee (Performance Bond) is to be calculated as **5 % or 10%** of the tender price. (Excl. VAT).

The Contractor has the option of either providing the guarantee of 5% and having retention money of 10% deducted from each claim, or alternatively, providing a guarantee of 10% and having retention money of 5% deducted from each claim.

- (b) The Form of Guarantee (or Performance Bond) is in Clause C 1.3 of Part C1.

### Option X16

- (a) The retention free amount is **Nil**

The retention percentage is **5 or 10 %**, depending on the option exercised in option X13 above.

### Option X18

X18.1 The contractor's responsibility to the employer for the employer's loss is limited to 20% of the contract value.

X18.2 For any one event, the liability of the Contractor to the Employer for loss of or damage to the Employer's property is limited to R 2 million

### Option Z

The additional Conditions of Contract are:-

Z1.1

#### Clause 11.2 (34) – Day

Day is a calendar day and where a specific number of days is allowed in the Contract for the performance of any act or is stipulated for the extinction of any right or the duration of any event or circumstance, public holidays and the annual Christmas break from 16 December to 5 January (both days included) is excluded from the calculation of the number of days concerned.

Z1.2

#### Clause 28.1 – Intellectual property

Intellectual property rights (including patents, copyright, trade marks etc) rest with the party owning them and the *Contractor* indemnifies the *Employer* from any liability arising from infringement of such intellectual property rights. [See Clauses 80.1, 83.1 and 83.2]

Z1.3

#### Clause 28.2 – Assignment & cession

Neither the *Contractor* nor the *Employer* may, without the written consent of the other, assign the Contract or any part thereof or any obligation under the Contract or cede any right or benefit there under.

Z1.4

#### Clause 28.3 – Non-Waiver

No grant by the *Employer* or the *Contractor* to the other of any concession, waiver, condonation or allowance is, in respect of any specific event or circumstance other than that in respect of which the grant was made to constitute a waiver of the rights of the grantor in terms of the Contract or an *estoppel* of the grantor's right to enforce the provision of the Contract.

**Z1.5 Clause 28.4 – Limitation of the authority of the Project Manager**

- i. The Project Manager is authorised to agree to increases to the contract value to a maximum of R2 million, or 10% of the Total Contract Value, whichever is the lesser amount, without referring it to the management of the Employer.
- ii. If referral to management is necessary, a period of 6 weeks over and above any times allowed for in the contract is to be provided.

**Z1.6 Foreign Currency**

- iii. The Contractor shall take forward cover within 2 weeks of contract award.

The additional conditions of contract are:

1. Z1.7 Housing of Contractor's staff at substations will not be permitted.
2. Z1.8 The Contractor shall provide for any Electrical Power and Water that may be required during the execution of the works as the availability of these services on site is not guaranteed.
3. Z1.9 The Contractor must provide adequate storage, at his own expense to the satisfaction of the Supervisor.
4. Z1.10 The Contractor shall, on completion of the Works, clear the site of all leftover items of material to the satisfaction of the Supervisor.
5. Z1.11 The Contractor shall attend progress meetings when convened by the Supervisor (normally once a month). Such meetings will be for the purpose of discussing progress, planning, delays, materials, conditions and the co-ordination of site activities. The Project Manager or Supervisor or their deputies will chair the meetings and the proceedings shall be minuted and circulated by the Supervisor.
6. Z1.12 The Contractor shall attend ad hoc site meetings when convened by the Supervisor. Such meetings will be for the purpose of discussing specific issues or problems relating to specifications and adherence thereto, quality and contractual matters.
7. Z1.13 The Contractor shall supply and have available at all times, at the worksite or in his site office, A4 carbon copy books with detachable numbered sheets in triplicate, to be used as:
  - a. Z1.13.1 Site Instruction book for receiving and recording instructions issued. All instructions recorded shall be signed by the Supervisor and immediately acknowledged by the counter signature of the Contractor or his agent.
  - b. Z1.13.2 Daily diary/record book with a page per day for recording all events affecting the progress of the works such as drawings received on site, arrivals and dispatch of plant, material received or applied for, breakdowns, delays, work done during the day, etc. Entries shall be made by the Contractor or his appointed agent and signed by both parties daily. Those days on which no events take place must be ruled out and "NIL" entered. The site diary will be used as documentary proof to establish the validity of any claims in terms of the execution of the Contract.

- c. Z1.13.3 The third book will be used as the Risk Register required by the Contract for Engineering and Construction Work, NEC3.
8. Z1.14 Site diaries shall be forwarded/ handed to the Supervisor.
9. Z1.15 The Contractor and each member of his personnel who may be required to enter high voltage substations for the purpose of performing work in terms of this contract must:
  - a. Z1.15.1 Observe the safety regulations regarding the entry of maintenance personnel into all buildings, sub- and tie-stations, control rooms and equipment sites accommodating equipment to perform work by him, as stipulated in Transnet Freight Rail's Electrical Safety Instructions as well as the E7/1 Specification for Works On, Over, Under or Adjacent to Railway Lines and near High Voltage Equipment. Failure to comply with these requirements will render the Contractor liable for the payment of penalties and/or direct or indirect cost resulting from such negligence. The regulations and instructions having been made available to the Contractor, it will be the Contractor's responsibility to make sure that his personnel are in possession of these instructions.
  - b. Z1.15.2 Ensure that they have entered the relevant details onto the Substation Book prior to entering high voltage substations of the Client.
  - c. Z1.15.3 Ensure compliance with Specification E4E (Safety Appointments, Safety Plan, etc).
10. Z1.16 The Maintenance Managers (Electrical) at the Depots must be contacted to arrange for Work Permits or Supervision, names and contact details will be supplied to the contractors on award of contract.
11. Z1.17 The Client will perform all switching required, during the contract.
12. Z1.18 The Client reserves the right to cancel an authorised occupation or work permit at any time, even during the period of such occupation or work permit.
13. Z1.19 Special care shall be exercised when welding or flame cutting operations occur and the Contractor is required to provide suitable fire fighting equipment at close hand to these operations as prescribed by the Machinery and Occupational Health and Safety Act, 1993.
14. Z1.20 The Contractor shall provide the necessary number of suitable first aid kits, one set in the camp and one set at each working team. He shall maintain these outfits fully equipped at all times.
15. Z1.21 The Contractor shall comply with all applicable legislation, regulations issued in terms thereof and Transnet's safety rules which shall be entirely at the Contractor's cost, and which shall be deemed to have been allowed for in the tendered rates and prices.

16. Z1.22 The Contractor shall report all accidents in writing to the Supervisor. Any accident resulting in the death of or injury to any person on the Works shall be reported within 24 hours of its occurrence, and any other accident shall be reported within 48 hours of its occurrence.
17. Z1.23 The Contractor shall inform the Supervisor of the names and addresses and telephone numbers of his personnel to be called in emergencies. The Contractor will be responsible for seeing that one or more members of his personnel are available on call at all times to receive fault or failure reports.
18. Z1.24 Members of the Contractor's personnel shall, while on call, keep the duty personnel in the Infrastructure Control Office informed of their movements in order that they may be contacted without delay in case of an emergency.
19. Z1.25 The Contractor will be held responsible and accountable for any delays to the train service that he may cause during the contract period.
20. Z1.26 Due to direct Supervision being required from Transnet Freight Rail, no work will be undertaken outside normal working hours.
21. Z1.27 After completion of the installation, the whole of the works shall be inspected, and the Contractor shall rectify to the satisfaction of the Supervisor any deficiencies that may exist.
22. Z1.28 Transnet Freight Rail will perform the final inspections with the Contractor.
23. Z1.29 Acceptance by the Supervisor of satisfactory completion of the work in no way relieves the Contractor from his duty to ensure compliance to specifications.
24. Z1.30 The Client shall require a guarantee of all the work, equipment and material for a period of twelve calendar months after date of final acceptance of the work.
25. Z1.31 The Contractor shall make good any defects, due to inferior material, equipment or workmanship, which may arise during this period within 2 weeks after notification.
26. Z1.32 If urgent repairs have to be carried out by the Client's staff to maintain supply during the guarantee period the Contractor shall inspect such repairs to ensure that the guarantee period is not affected and should they be covered by the guarantee, reimburse the Client the cost of material and labour.
27. Z1.33 The client reserves the right to withdraw a handover certificate should the contractor fail to rectify defects to the satisfaction of the Supervisor.
28. Z1.34 The Contractor shall be responsible for providing security on site for his personnel, plant and material.
29. Z1.35 The Contractor shall comply with the requirements of Specification BBB2007 (Environmental Guidelines and Specifications for Electrical Construction Work) during the contract period.

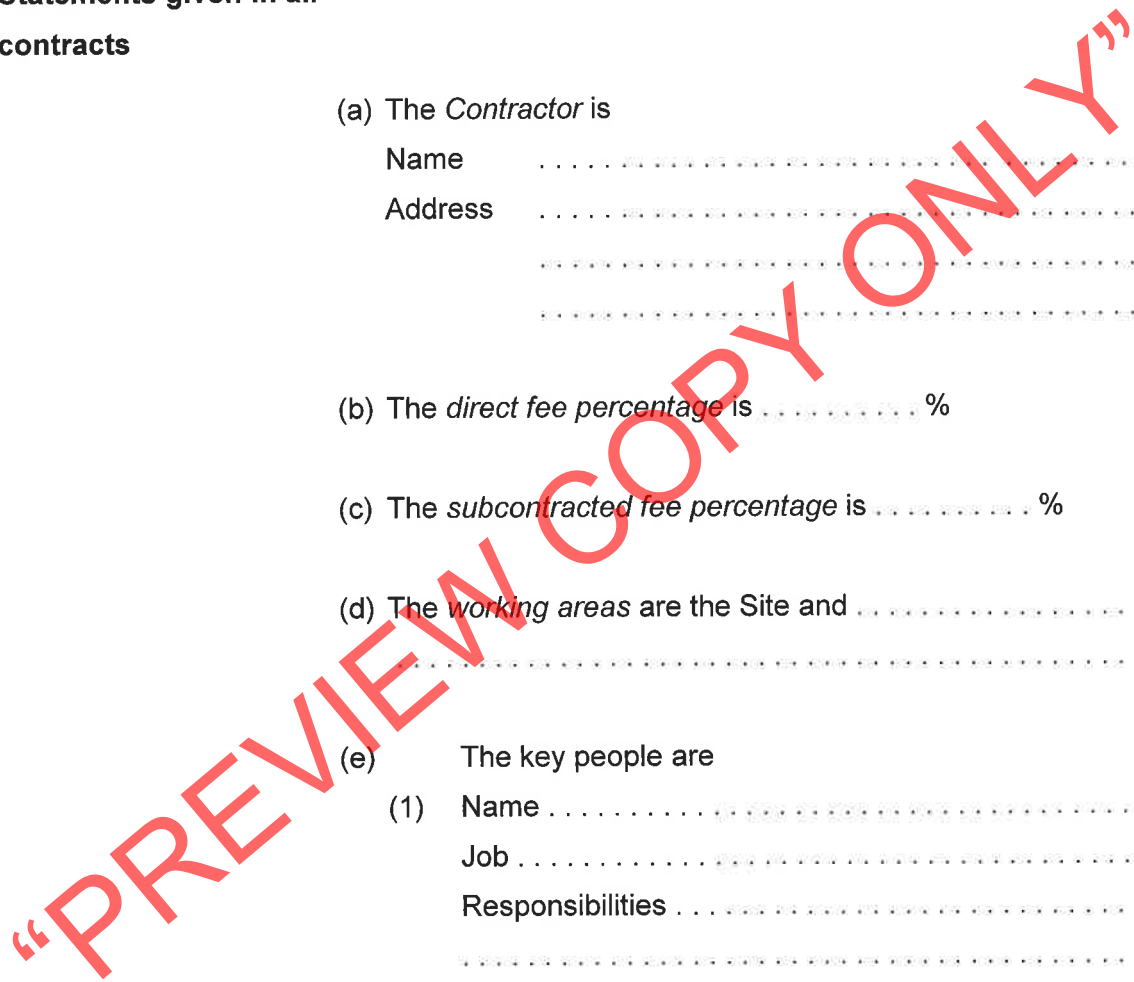
**C1.2 CONTRACT DATA PROVIDED BY CONTRACTOR (ECC3)**

**Part Two – Data Provided by the Contractor**

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

**Statements given in all contracts**

- (a) The Contractor is
  - Name .....
  - Address .....
  
- (b) The direct fee percentage is ..... %
  
- (c) The subcontracted fee percentage is ..... %
  
- (d) The working areas are the Site and .....
  
- (e) The key people are
  - (1) Name .....
  - Job .....
  - Responsibilities .....
  - Qualifications .....
  - Experience .....
  
  - (2) Name .....
  - Job .....
  - Responsibilities .....



Qualifications . . . . .

Experience . . . . .

(3) Name . . . . .

Job . . . . .

Responsibilities . . . . .

Qualifications . . . . .

Experience . . . . .

(4) Name . . . . .

Job . . . . .

Responsibilities . . . . .

Qualifications . . . . .

Experience . . . . .

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

. . . . .

. . . . .

. . . . .

. . . . .

**Optional statements** (a) If the *Contractor* is to provide Works Information for his design  
The Works Information for the *Contractor's* design is in

. . . . .

. . . . .

. . . . .

. . . . .





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

The programme identified in the Contract Data is

.....

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

The completion date for the works is

Depot	Completion Period (Months)
Krugersdorp	
Kimberley	
TOTAL DURATION	

\*The completion period may not exceed 12 Months even if one contract is awarded for the whole works.

**If Option A or B is used**

**Data for SSCC**

- (a) The percentage for people overheads is .....%.
- (b) The published list of Equipment is the last edition of the list published by  
.....
- (c) The percentage for adjustment for Equipment in the published list is .....% (state plus or minus).
- (d) The rates for other Equipment are
- | Equipment | size or capacity | rate  |
|-----------|------------------|-------|
| .....     | .....            | ..... |
| .....     | .....            | ..... |
| .....     | .....            | ..... |
| .....     | .....            | ..... |
| .....     | .....            | ..... |
- (e) The hourly rates for Defined Cost of design outside the Working Areas are
- | category of employee   | hourly rate |
|------------------------|-------------|
| <b>Senior Engineer</b> | .....       |
| <b>Junior Engineer</b> | .....       |
| <b>Draughtsperson</b>  | .....       |
| <b>Tracer</b>          | .....       |
- (f) The percentage of design overheads is .....%

- (g) The categories of design employees whose travelling expenses to and from the Working Areas are included in Defined Cost are **all of the categories listed above.**

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## C1.3 FORMS OF SECURITIES

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## C1.3 FORMS OF SECURITIES

### Pro-formas for Bonds & Guarantees

For use with the NEC3 Engineering & Construction Contract (June 2005) (ECC3)

The *conditions of contract* stated in the Contract Data Part 1 may include one or more of the following Secondary Options:

Option X13: Performance Bond

Each of these Secondary Options requires a bond or guarantee "in the form set out in the Works Information".

Pro forma documents for these bonds and guarantee are provided here for convenience but are to be treated as part of the Works Information.

The organisation providing the bond / guarantee does so by copying the pro forma document onto his letterhead without any change to the text or format and completing the required details. The completed document is then given to the *Employer* within the time stated in the contract.

This pro forma document is available for use by the Surety on the *Employer's* web page at [www.transnet.net](http://www.transnet.net)

#### **Drafting instructions:**

1. Select the required pro formas by deleting the ones not required, then complete all the details except that which the bond / guarantee provider is required to complete.
2. There are two pro formas suitable for use with Option X13, but only one of them can be used; the Reducing Value Guarantee is generally used only for building works.
3. Then delete these drafting instructions. Delete this whole Securities section if none of the above secondary Options have been selected by the *conditions of contract*.

## Pro forma Performance Bond (for use with Option X13)

(to be reproduced exactly as shown below on the letterhead of the Surety)

**Transnet Freight Rail**  
**A Division of Transnet SOC Ltd**  
**P O Box 8617**  
**Johannesburg**  
**2000**

Date:

Dear Sirs,

### Performance Bond for Contract No. SIE 12001/1 CIDB

With reference to the above numbered contract made or to be made between

**Transnet Freight Rail, A Division of Transnet SOC Ltd**

(the *Employer*) and

**{Insert registered name and address of the Contractor}**

(the *Contractor*), for

**Replacement of High Speed Circuit Breakers at 3kV traction substations (Krugersdorp and Kimberley depots).**

(the *works*).

I/We the undersigned

on behalf of the Surety

of physical address

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and duly authorised thereto do hereby bind ourselves as Surety and co-principal debtors in *solidum* for the due and faithful performance of all the terms and conditions of the Contract by the *Contractor* and for all losses, damages and expenses that may be suffered or incurred by the *Employer* as a result of non-performance of the Contract by the *Contractor*, subject to the following conditions:

1. The terms *Employer*, *Contractor*, *Project Manager*, *works* and Defects Certificate have the meaning as assigned to them by the *conditions of contract* stated in the Contract Data for the aforesaid Contract.
2. We renounce all benefits from the legal exceptions "Benefit of Execution and Division", "No value received" and all other exceptions which might or could be pleaded against the validity of this bond, with the meaning and effect of which exceptions we declare ourselves to be fully acquainted.
3. The *Employer* has the absolute right to arrange his affairs with the *Contractor* in any manner, which the *Employer* deems, fit and without being advised thereof the Surety shall not have the right to claim his release on account of any conduct alleged to be prejudicial to the Surety. Without derogating from the foregoing compromise, extension of the construction period, indulgence, release or variation of the *Contractor's* obligation shall not affect the validity of this performance bond.
4. This bond will lapse on the earlier of
  - the date that the Surety receives a notice from the *Project Manager* stating that the last Defects Certificate has been issued, that all amounts due from the *Contractor* as certified in terms of the contract have been received by the *Employer* and that the *Contractor* has fulfilled all his obligations under the Contract, or

- the date that the Surety issues a replacement Performance Bond for such lesser or higher amount as may be required by the *Project Manager*.
5. Always provided that this bond will not lapse in the event the Surety is notified by the *Project Manager*, (before the dates above), of the *Employer's* intention to institute claims and the particulars thereof, in which event this bond shall remain in force until all such claims are paid and settled.
  6. The amount of the bond shall be payable to the *Employer* upon the *Employer's* demand and no later than 7 days following the submission to the Surety of a certificate signed by the *Project Manager* stating the amount of the *Employer's* losses, damages and expenses incurred as a result of the non-performance aforesaid. The signed certificate shall be deemed to be conclusive proof of the extent of the *Employer's* loss, damage and expense.
  7. Our total liability hereunder shall not exceed the sum of:  
  
(say) \_\_\_\_\_  
  
R \_\_\_\_\_
  8. This Performance Bond is neither negotiable nor transferable and is governed by the laws of the Republic of South Africa, subject to the jurisdiction of the courts of the Republic of South Africa.

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 2008

Signature(s)	_____
Name(s) (printed)	_____
Position in Surety company	_____
Signature of Witness(s)	_____
Name(s) (printed)	_____

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# CONTRACT DATA

- Statements given in all contracts**
- The *contract between the Parties* is **To be advised**.....
  - The *period of retention* is ...**N/A**..... weeks.
  - The *law of the contract* is the law of **the Republic of South Africa**
  - The *language of this contract* is **English**.....
  - The amount of the advanced payment is **N/A**.....
  - The Adjudicator's *fee* is...**To be advised**.....per hour.
  - The *interest rate* is **2%** per annum above the prime lending rate of the **Standard Bank of South Africa Ltd.**
  - The *currency of this contract* is **ZAR**.....
  - The Adjudicator's appointment terminates on **(To be advised)**.....

- Optional statements**
- If the period for payment of invoices is not three weeks**
- The period for payment of invoices is **.four**.....weeks.
- If additional conditions of contract are required**
- The *additional conditions of contract* are  
**To be advised** .....
  - .....
  - .....
  - .....

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**PART C2: PRICING DATA**

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## Part C2

### PRICING DATA

#### INDEX

Section	Description
C2.1	Pricing Instructions
C2.2	Bill of Quantities

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## Part C2.1

### PRICING INSTRUCTIONS

1. The agreement is based on the NEC Engineering and Construction contract 3.
2. It will be assumed that prices included in the Bill of Quantities are based on Acts, Ordinances, Regulations, By-laws, International Standards and National Standards that were published 28 days before the closing date for tenders.
3. 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.
4. The Bills of Quantities is not intended for the ordering of materials. Any ordering of materials, based on the Bills of Quantities, is at the Contractor's risk – quantities should thus be confirmed for correctness before ordering.
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 if provided for in the contract.
6. The prices and rates in these Bills of Quantities 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.
7. Where the scope of work 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. The contractor shall provide for all work needed to complete the installation.
8. Where no quantity has been provided against an item in the Bills of Quantities, the Contractor shall use their discretion and provide the quantity. If the contractor does not agree with given units or quantities – the contractor to indicate in a separate note.
9. The quantities set out in these Bills of Quantities are approximate and may not necessarily represent the actual amount of work to be done.
10. The short descriptions of the items of payment given in these Bills of Quantities are only for purposes of identifying the items. More details regarding the extent of the work entailed under each item appear in the Scope of Work.
11. The Contractor shall provide with information related to imported content i.e equipment to be imported, value and applicable exchange rates – separately.
12. The total in the Bill of Quantities shall be exclusive of VAT, and shall be transferred to form C1.1 (Form of Offer and Acceptance).



(A1) KRUGERSDORP

Column No. Site (Breaker Type)	HSCB			Busbars			Truck			Cell			13 P's and G's Subtotal	14 Total (ZAR) (3+6+10+ 12+13)
	1 Qty	2 Install (ea)	3 Subtotal (ZAR) (1x2)	4 Supply and Install (each HSCB)	5 Modify (ea)	6 Subtotal (ZAR) (4+5) x 1	7 Modify and Paint (ea)	8 Rewiring of Circuits (ea)	9 Replacement of Lights and Switches (ea)	10 Subtotal (ZAR) (7+8+9) x 1	11 Cleaning and Painting (ea)	12 Subtotal (ZAR) (11x1)		
BANK	2													
CRESCENT	3													
FREDERIKSTAD	2													
GATSRAND TIE	1													
KLINGTON TIE	1													
KOEKEMOER	4													
NEW MACHAVIE	2													
OBERHOLZER TIE	3													
POTCHEFSTROOM	4													
WELVERDIEND	2													
HARDEKLIP	2													
BUCKINGHAM	2													
GROMDFONT	2													
VENTERSDORP	2													
PATSAGAE	2													
MAKOKSKRAAL	2													
GATIEP	2													
TATODI	2													
Total A1														

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(A1) KRUGERSDORP continued

Column No.	HSCB			Busbars			Truck			Cell			Total (ZAR) (3+6+10+12+13)	
	Qty	Install (ea)	Subtotal (ZAR) (1x2)	Supply and Install (each HSCB)	Modify (ea)	Subtotal (ZAR) (4+5) x 1	Modify and Paint (ea)	Rewiring of Circuits (ea)	Replacement of Lights and Switches (ea)	Subtotal (ZAR) (7+8+9) x 1	Cleaning and Painting (ea)	Subtotal (ZAR) (11x1)		P's and G's Subtotal
HALFPAD	2													
LICHTENBURG	1													
ORKNEY	2													
DEAN	2													
REGINA	2													
HARRISBURG	2													
LEEBOS	2													
LEEUDORINGSTAD	2													
EERSTELING	2													
MAKWASSIE	2													
SWARTGROND	2													
DRIE RUITERS	2													
ATAR	2													
SRIDERS A	2													
BLOENHOF	3													
WILDHOEN A	2													
MAIDI	2													
SHEPPARDS TREE	2													
MINNERAAL	2													
CHRISTIANA	2													
VAN DYKE	2													
HONESTY	2													
Total A2														

(A2)Kimberly

Column No.	HSCB			Busbars			Truck			Cell		13	14	
	1	2	3	4	5	6	7	8	9	10	11			12
Site (Breaker Type)	Qty	Install (ea)	Subtotal (ZAR) (1x2)	Supply and Install (each HSCB)	Modify (ea)	Subtotal (ZAR) (4+5) x 1	Modify and Paint (ea)	Rewiring of Circuits (ea)	Replacement of Lights and Switches (ea)	Subtotal (ZAR) (7+8+9) x 1	Cleaning and Painting (ea)	Subtotal (ZAR) (11x1)	P's and G's Subtotal	Total (ZAR) (3+6+10+12+13)
Clifton	3													
Lime Acres	2													
Arnsfontein	2													
PALINGPAN	2													
HOTAZEL	2													
BEESHOEK	2													
POSTMASBURG	5													
TREWIL	3													
BLINKKLIP	3													
ULCO R	5													
Gong - Gong	3													
W/elt	3													
Masafatane	6													
Syplikip	4													
Windserton Road	5													
Conitent	4													
Karee - Put	5													
Baesonfield	5													
Kamfersdam	5													
Fourteen Streams	2													
MAMATWANE	2													
Plereau	3													
Koopenfontein	2													
Kreukel	2													

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Description of item	Unit	Rate	Krugersdorp	
			Quantity	Total
* Feeder Protection Relay	ea		84	
Training (Basic)	ea			
Training (Advanced)	ea			
Negative Cable (Substation)	m		3700	
Negative Cable (Tt-station)	m		90	
<b>Total A4</b>				

Description of item	Unit	Rate	Kimberley	
			Quantity	Definition
Other				
<b>Total A5</b>				

Description of item	Unit	Rate	Kimberley	
			Quantity	Definition
* Feeder Protection Relay	ea		80	
Training (Basic)	ea			
Training (Advanced)	ea			
Negative Cable (Substation)	m		2400	
<b>Total A6</b>				

Description of item	Unit	Rate	Other	
			Quantity	Definition
<b>Total A7</b>				

Note:

If applicable quantity is not related to quantities in the Bill of Quantities, please specify/ define in the "Quantity Definition" column in the other section.  
 \*The cost of the Feeder Protection Relay indicated above includes all work and materials required for its full functionality.  
 Contractor to ensure that all items needed are provided for e.g. replacement front board on the truck, polycarbonate covers, labels, etc. as per specification and complete scope of work.

