



Transnet Supplier Declaration/Application

The Financial Director or Company Secretary

Transnet Vendor Management has received a request to load your company on to the Transnet vendor database. Please furnish us with the following to enable us to process this request:

1. Complete the "Supplier Declaration Form" (SDF) on page 2 of this letter
2. **Original** cancelled cheque **OR** letter from the bank verifying banking details (**with bank stamp**)
3. **Certified** copy of Identity document of Shareholders/Directors/Members (where applicable)
4. **Certified** copy of certificate of incorporation, CM29 / CM9 (name change)
5. **Certified** copy of share Certificates of Shareholders, CK1 / CK2 (if CC)
6. A letter with the company's letterhead confirming physical and postal addresses
7. **Original** or **certified** copy of SARS Tax Clearance certificate and Vat registration certificate
8. A signed letter from the Auditor / Accountant confirming most recent annual turnover and percentage black ownership in the company **AND/OR** BBBEE certificate and detailed scorecard from an accredited rating agency (SANAS member).

NB:

- **Failure to submit the above documentation will delay the vendor creation process.**
- Where applicable, the respective Transnet business unit processing your application may request further information from you. E.g. proof of an existence of a Service/Business contract between your business and the respective Transnet business unit etc.

IMPORTANT NOTES:

- a) **If your annual turnover is less than R5 million**, then in terms of the DTI codes, you are classified as an Exempted Micro Enterprise (EME). If your company is classified as an EME, please include in your submission, a signed letter from your Auditor / Accountant confirming your company's most recent annual turnover is less than R5 million and percentage of black ownership and black female ownership in the company **AND/OR** BBBEE certificate and detailed scorecard from an accredited rating agency (e.g. permanent SANAS Member), should you feel you will be able to attain a better BBBEE score.
- b) **If your annual turnover is between R5 million and R35million**, then in terms of the DTI codes, you are classified as a Qualifying Small Enterprise (QSE) and you claim a specific BBBEE level based on any 4 of the 7 elements of the BBBEE score-card, please include your BEE certificate in your submission as confirmation of your status.
NB: BBBEE certificate and detailed scorecard should be obtained from an accredited rating agency (e.g. permanent SANAS Member).
- c) **If your annual turnover is in excess of R35million**, then in terms of the DTI codes, you are classified as a Large Enterprise and you claim a specific BEE level based on all seven elements of the BBBEE generic score-card. Please include your BEE certificate in your submission as confirmation of your status.
NB: BBBEE certificate and detailed scorecard should be obtained from an accredited rating agency (permanent SANAS Member).
- d) **To avoid PAYE tax being automatically deducted from any Invoices received from you**, you must also contact the Transnet person who lodged this request on your behalf, so as to be correctly classified in terms of Tax legislation.
- e) Unfortunately, **No payments can be made to a vendor** until the vendor has been registered, and no vendor can be registered until the vendor application form, together with its supporting documentation, has been received and processed.
- f) Please return the completed Supplier Declaration Form (SDF) together with the required supporting documents mentioned above to the Transnet Official who is intending to procure your company's services/products in order that he/she should complete and Internal Transnet Departmental Questionnaire before referring the matter to the appropriate Transnet Vendor Master Office.

Regards,

Transnet Vendor/Supplier Management [please substitute this with your relevant Transnet department before sending this document out]



Supplier Declaration Form

Company Trading Name						
Company Registered Name						
Company Registration Number Or ID Number If A Sole Proprietor						
Form of entity	CC	Trust	Pty Ltd	Limited	Partnership	Sole Proprietor
VAT number (if registered)						
Company Telephone Number						
Company Fax Number						
Company E-Mail Address						
Company Website Address						
Bank Name				Bank Account Number		
Postal Address					Code	
Physical Address					Code	
Contact Person						
Designation						
Telephone						
Email						
Annual Turnover Range (Last Financial Year)		< R5 Million	R5-35 million		> R35 million	
Does Your Company Provide		Products	Services		Both	
Area Of Delivery		National	Provincial		Local	
Is Your Company A Public Or Private Entity		Public			Private	
Does Your Company Have A Tax Directive Or IRP30 Certificate		Yes			No	
Main Product Or Service Supplied (E.G.: Stationery/Consulting)						
BEE Ownership Details						
% Black Ownership		% Black women ownership		% Disabled person/s ownership		
Does your company have a BEE certificate		Yes		No		
What is your broad based BEE status (Level 1 to 9 / Unknown)						
How many personnel does the firm employ		Permanent		Part time		
Transnet Contact Person						
Contact number						
Transnet operating division						
Duly Authorised To Sign For And On Behalf Of Firm / Organisation						
Name				Designation		
Signature				Date		
Stamp And Signature Of Commissioner Of Oath						
Name				Date		
Signature				Telephone No.		

NB: Please return the completed Supplier Declaration Form (SDF) together with the required supporting documents mentioned above to the Transnet Official who is intending to procure your company's services/products.



2. VENDOR TYPE OF BUSINESS

(Please tick as applicable)

(* - Minimum requirements)

2.1	Indicate the business sector in which your company is involved/operating:		
Agriculture		Mining and Quarrying	
Manufacturing		Construction	
Electricity, Gas and Water		Finance and Business Services	
Retail, Motor Trade and Repair Services		Wholesale Trade, Commercial Agents and Allied Services	
Catering, accommodation and Other Trade		Transport, Storage and Communications	
Community, Social and Personal Services		Other (Specify)	
Principal Business Activity *			
Types of Services Provided			
Since when has the firm been in business?			

2.2	What is your company's annual turnover (excluding VAT)? *									
<R20k	>R20k <R0.3m	>R0.3m <R1m	>R1m <R5m	>R6m <R10m	>R11m <R15m	>R16m <R25m	>R26m <R30m	>R31m <R34m	>R35m	

2.3	Where are your operating/distribution centres situated *	

3. VENDOR OWNERSHIP DETAIL

(Please tick as applicable)

(* - Minimum requirements)

3.1	Did the firm previously operate under another name? *		
YES		NO	
3.2	If Yes state its previous name:*		
Registered Name			
Trading Name			



3.3	Who were its previous owners / partners / directors?*
SURNAME & INITIALS	ID NUMBERS

3.4	List Details of current partners, proprietors and shareholders by name, identity number, citizenship, status and ownership as relevant: *							
SURNAME & INITIALS	IDENTITY NUMBER	CITI-ZENSHIP	HDI	DIS - ABLED	GENDER	DATE OF OWNERSHIP	% OWNED	% VOTING

3.5	List details of current directors, officers, chairman, secretary etc. of the firm: *					
SURNAME & INITIALS	IDENTITY NUMBER	TITLE	DIS - ABLED	GENDER	% OF TIME DEVOTED TO THE FIRM	CONTACT NUMBER

3.6	List details of firms personnel who have an ownership interest in another firm: *				
SURNAME & INITIALS	IDENTITY NUMBER	NAME & ADDRESS OF OTHER FIRM	TITLE IN OTHER FIRM	% OWNED	TYPE OF BUSINESS OF OTHER FIRM

4. VENDOR DETAIL

(Please tick as applicable) (* - Minimum requirements)

4.1	How many personnel does the firm employ? *					
	BLACK	WHITE	COLOURED	INDIAN	OTHER	TOTAL
Permanent						
Part Time						



4.1.1 In terms of above kindly provide numbers on women and disabled personnel? *

	BLACK	WHITE	COLOURED	INDIAN	OTHER	TOTAL
Women						
Disabled						

4.2 Provide Details of Contact Person/s Responsible for Broad Based Black Economic Empowerment (BBBEE) in the Company *

SURNAME	INITIALS	DESIGNATION	TELEPHONE NO.

4.2.1 Is your company a value adding supplier (i.e. registered as a vendor under the VAT Act of 1991, where NPAT + total labour cost > 25% of total revenue)?

YES		NO	
-----	--	----	--

4.2.2 Is your company a recipient of Enterprise Development Contributions?*

YES		NO	
-----	--	----	--

4.2.3 May the above mentioned information be shared and included in Transnet Supplier Database for future reference? *

YES		NO	
-----	--	----	--

4.2.4 If you are successful in the tender/contract (where applicable) and this is awarded to your company / organisation, will this have a positive impact on your employment plans? *

YES		NO	
-----	--	----	--

4.2.5 If yes (above) kindly provide the following information:

	BLACK	WHITE	COLOURED	INDIAN	OTHER	TOTAL
Permanent						
Part Time						

4.2.6 In terms of above kindly provide numbers on woman and disabled personnel:

	BLACK	WHITE	COLOURED	INDIAN	OTHER	TOTAL
Women						
Disabled						

4.2.7 Are any of your members/shareholders/directors ex employees of Transnet?

YES		NO	
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4.2.8 Are any of your family members employees of Transnet?

YES		NO	
-----	--	----	--

4.2.9 If Yes to points 4.2.7 & 4.2.8, list details of employees/ex-employees

SURNAME & INITIALS	IDENTITY NUMBER	NAME & ADDRESS OF OTHER FIRM	TITLE IN OTHER FIRM	% OWNED	TYPE OF BUSINESS OF OTHER FIRM



Internal Transnet Departmental Questionnaire (for office use only)

Section 1: To be completed by the Transnet Requesting / Sourcing Department

TFR		TRE		TPT		TPL		TNPA		TRN	
Create		Amend		Block		Unblock		Once-Off / Emergency			
Extend		Delete		Undele							

Supplier's trading name

Supplier's registered name

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

If yes please submit a copy of the letter of award

a) 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 services and products	Yes	No
v. Mix of services and labour	Yes	No

b) If your answer is YES to questions II, III, IV or V in paragraph a) above, please indicate whether the relevant PAYE questionnaires have been forwarded to the appropriate Transnet Operational Divisions' decision making bodies / Strategic Supply Management team for a directive /decision on tax withholding from payments to this supplier.

☐ Yes ☐ No

c) If your reply to (b) is "NO", please furnish reasons :

d) Certification and Approval of proposed Vendor Creation/Unblocking/Other Changes by Transnet Official with Appropriate Delegated Authority :

I HEREBY CERTIFY THAT THE TRANSNET DETAILED PROCUREMENT PROCESS (DPP) / PROCUREMENT MECHANISM HAS IN ALL RESPECTS BEEN ADHERED TO AND I THEREFORE APPROVE THE PROPOSED VENDOR CREATION/APPROVAL/OTHER CHANGES TO BE EFFECTED ON THE VENDOR MASTER

Name	Grade	Date	Signature
		Y Y Y Y M M D D	

Tel No:

Fax

Section 2: To be completed by the BEE Department (this section is for Confirmation/Determining of BEE Status)

NARROW BASED (NB)				BROADBASED (BBBEE)										
BEE O/S	BWBE	DPBE	MR	CONTB. LEVEL	EME: <R5m	QSE: >R5m <R35m		LARGE: >R35m	VALIDITY DATE					
Name				Grade		Date				Signature				
						Y	Y	Y	Y	M	M	D	D	
						Y	Y	Y	Y	M	M	D	D	

Part C1: Agreements and Contract Data

“PREVIEW COPY ONLY”

NEC3 Engineering and Construction Short Contract (ECSC3)

A contract between Transnet Limited, Registration No.
1990/000900/06 trading as Transnet Freight Rail

and

for The supply and installation of OHTE, Pin
Insulators, Phase Wire, Surge Arrestors, R-
Switches (with Digi-tone) and Aerial Feeders for
Heidelberg Depot Engineer under the control of
the Chief Engineer – Central Region (Natcor).

Contents Compiled in accordance with CIDB Standard for Uniformity in
Construction Procurement (October 2005 amendments)

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C4.1 Site Information

PCI

**Documentation prepared
by**

R. A. Molokwane

C1 Agreements & Contract Data

C1.1 Form of Offer and Acceptance

Offer

The employer, Transnet Limited trading as Transnet Freight Rail, has solicited offers to enter into a contract for the procurement of:

The supply and installation of OHTE, Pin Insulators, Phase Wire, Surge Arrestors, R-Switches (with Digi-tone) and Aerial Feeders for Heidelberg Depot Engineer under the control of the Chief Engineer – Central Region (Natcor).

The Tenderer, identified in the signature below,

Has examined the draft contract as listed in the Acceptance page and agreed to provide this Offer

By the representative of the tenderer, deemed to be duly authorized, 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
Value Added Tax @ 14% is	R
The offered total of the Prices inclusive VAT is	R
(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 to the tenderer before the end of the period of validity stated in the tender data, 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: _____
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 1: Agreements and contract data, (which includes this agreement)
- Part 2: Pricing data
- Part 3: Scope of work.
- Part 4: Site information

and drawings and documents or parts thereof, which may be incorporated by reference into Parts 1 to 4 above.

Deviations from and amendments to the documents listed in the tender data and any addenda thereto as listed in the tender schedules as well as any changes to the terms of the offer agreed by the tenderer and the employer during this process of offer and acceptance, are contained in the schedule of deviations attached to and forming part of this agreement. No amendments to or deviations from said documents are valid unless contained in this schedule, which must be signed by the duly authorized representative(s) for both parties.

The tenderer shall within one week after 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 bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the conditions of contract identified in the contract data. Failure to fulfill 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 Transnet Limited, Registration No. 1990/000900/06 trading as Transnet
Employer: Freight Rail, Carlton Centre, 150 Commissioner Street, Johannesburg, 2000
Name & _____
Signature of _____
Witness _____ Date _____

Schedule of Deviations

Note:

1. *To be completed by the Employer prior to award of the 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 competitive Tendering.*
2. *The extent of deviations from the Tender documents issued by the Employer prior to Tender closing date is limited to those permitted in terms of the condition of the Tender.*
3. *A tenderer's covering letter must not be included in the final contract document. Should any matter in such a letter, which constitutes a deviation as aforesaid be the subject of agreement reached during the process of Offer and Acceptance, the outcome of such an 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

By the duly authorised representatives signing this agreement, the employer and the tenderer agree to accept the foregoing schedule of deviations as the only deviations from and amendments to the documents listed in the tender data and addenda thereto as listed in the tender schedules, as well as any confirmation, clarification or changes to the terms of the offer agreed by the tenderer and the employer during this process of offer and acceptance.

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

C1.2 CONTRACT DATA PROVIDED BY EMPLOYER (ECSC3)

The conditions of contract are the NEC3 Engineering and Construction Short 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

Statements given in all contracts

1 General:

- (a) The *conditions of contract* are the core clauses and the clauses for main Option **A**, dispute resolution Option **W1** and secondary Options **X5, X7, X16 & Z** of the NEC3 Engineering and Construction Short Contract June 2005 (with amendments June 2006).
- (b) The *Contractor's Offer and the Employer's Acceptance* is in the document called **Form of Offer and Acceptance – Part C1.1**
- (c) The works are the supply and installation of OHTE, pin insulators, phase wire, surge arrestors, r-switches (with digi-tone) and aerial feeders for Heidelberg Depot Engineer under the control of the Chief Engineer – Central Region (NATCOR).
- (d) The *Employer* is

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

The address of the Employer's finance office is to be advised.

- (e) The *Project Manager* is:

Name **Mr. Hamilton Nxumalo**
Address **120 Eel Road,**
Bayhead,
Durban

- (f) The *Supervisor* is

Name **Mr. Desmond Timothy**
Address **120 Eel Road,**
Bayhead,
Durban

- (g) The *Adjudicator* will be mutually agreed upon by both parties when a dispute arises.
- (h) The Works Information is in the document called "Scope of Work" – Part C3
- (i) The Site Information is in the document called "Site Information" – Part C4
- (j) The *boundaries of the site* are in the document called "Site Information" – Part C4.
- (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
- (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

3 Time:

- (a) The *starting date* is the contract date.
- (b) The *access dates* are Date of Site Access Certificate
- (c) The *Contractor* submits revised programmes at intervals no longer than 4 weeks. The programme shall include and show milestone dates covering major milestones as well as monthly progress milestones.

4 Testing and Defects:

- (a) The *defects date* is 52 weeks from handover of identified and agreed sections of works

4.1 Correction Period:

- (a) The correction period to rectify defects is 3 days

5 Payment:

- (a) The *currency of this contract* is the South African Rand (ZAR).
- (b) The *assessment interval* is on the 21th of each month.
- (c) The *interest rate* is 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
The weather station nearest to the substation sites.
- (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 **10 mm**
- (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 weather station nearest to the substation sites** and which are available from **SA Weather Service**.
- (e) Where no recorded data are available assumed values for the ten year weather data for each weather measurement for each calendar month are:

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) If the tribunal is arbitration
 - The *arbitration procedure* is **the Rules for the Conduct of Arbitrations of the Association of Arbitrators (Southern Africa)**
 - The place where arbitration is to be held is: **To be advised**
 - The person or organisation who will choose an Arbitrator if the Parties cannot agree a choice is **The Chairman of the Association of Arbitrators (Southern Africa)**.
- (b) **If the Employer has decided the completion date for the whole of the works**

The completion date for the whole of the *works* is the period stated in the Scope of Work, Part C3 Section 3.2 clause 3.2.6 after the starting date.
- (c) **If the Employer is not willing to take over the works before the Completion Date**
- (d) **If no programme is identified in part two of the Contract Data**

The *Contractor* is to submit a first programme for acceptance within 4 weeks of the Contract Date. **The programme shall include and show milestone dates covering major milestones as well as monthly progress milestones.**
- (e) **If the Employer has identified work which is to meet a stated condition by a key date.**

The *key dates* and *conditions* to be met are

condition to be met

key date

- | | |
|--|---|
| <p>1. (6.6kv): THE SUPPLY AND INSTALLATION OF OHTE, PIN INSULATORS, SURGE ARRESTORS, PHASE WIRE, AERIAL FEEDERS, EARTH WIRE, ARMOUR RODS AND EARTH CLAMP</p> <p>2. (3kv): THE SUPPLY AND INSTALLATION OF FEEDER WIRES AS WELL AS THE ERECTION OF MAST POLES AT VARIOUS SUBSTATIONS</p> | <p>6-months from date of award</p> <p>6-months from completion of 6.6kv works</p> |
|--|---|

- (f) **If the period in which payments are made is not three weeks and Y(UK) is not used**

The period within which payments are made is **30 days from month end statement, based on the Progress Certificate prepared and issued by the Project Manager.**

- (g) **If there are additional compensation events**

These are additional compensation event: **N/A**

- (h) **If there are additional Employer's risks**

These are additional Employer's risks

1. Access to site to ensure appropriate execution of the works.

- (i) **If the Employer is to provide any of the insurances stated in the Insurance Table**

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), attached to the tender documents**

Cover/indemnity is **to the extent as stated in the insurance policy for contract works and public liability (Principal Controlled Insurance).**

The deductibles are **as stated in the insurance policy for contract works and public liability (Principal Controlled Insurance).**

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).**

Cover/indemnity is **to the extent as stated in the insurance policy for contract works and public liability (Principal Controlled Insurance).**

The deductibles are **as stated in the insurance policy for contract works and public liability (Principal Controlled Insurance)**.

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)**.

Cover/indemnity is **to the extent as stated in the insurance policy for contract works and public liability (Principal Controlled Insurance)**.

The deductibles are **as stated in the insurance policy for contract works and public liability (Principal Controlled Insurance)**.

NB: All the above are available on the following website:

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

(j) **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*.

Main Option A:

Priced contract with activity schedule

All Option A Clauses apply with the following amplification:-

- (a) Clause 63.14 of the Core Clauses states:-
"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 Activity Schedule, 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 Activity Schedule 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 (b)(i) and (b)(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 X5 :

Sectional Completion

- (a) the completion date for each section of the *works* is
 1. **(6.6kv): THE SUPPLY AND INSTALLATION OF OSTE, PIN INSULATORS, SURGE ARRESTORS, PHASE WIRE, AERIAL FEEDERS, EARTH WIRE, ARMOUR RODS AND EARTH CLAMP** **6-months from date of award**
 2. **(3kv): THE SUPPLY AND INSTALLATION OF FEEDER WIRES AS WELL AS THE ERECTION OF MAST POLES AT VARIOUS SUBSTATIONS** **6-months from completion of 6.6kv works**

Option X7:

Delay damages

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

- (a) The penalty for each section of the *works* is
- | section description | amount per day |
|---|--|
| 1. (6.6kv): THE SUPPLY AND INSTALLATION OF OHTE, PIN INSULATORS, SURGE ARRESTORS, PHASE WIRE, AERIAL FEEDERS, EARTH WIRE, ARMOUR RODS AND EARTH CLAMP | 6-months from date of award R10,000.00 per day |
| 2. (3kv): THE SUPPLY AND INSTALLATION OF FEEDER WIRES AS WELL AS THE ERECTION OF MAST POLES AT VARIOUS SUBSTATIONS | 6-months from completion of 6.6kv works R10,000.00 per day |

- (b) Penalty for Completion of the whole of the *works* is **R10,000.00 per day.**

Option X16:

Retention

- (a) The retention free amount is nil.
The retention percentage is 10%.

Option Z:

Additional conditions of contract

All references made to Spoornet or South African Transport Services in the documentation shall mean Transnet Freight Rail.

- Z.1 The additional Conditions of Contract are:-

Z.1.1 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.

Z.1.2 Intellectual property

Intellectual property rights (including patents, copyright, trade marks etc) rests 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]

Z.1.3 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 thereunder.

Z.1.4 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.

Z.1.5 Limitation of the authority of the *Project Manager*

- (i) The *Project Manager* is authorised to agree increases to the contract value to a maximum of 10% or R300 000.00 whichever is the lesser amount of the original contract value at scheduled/non-scheduled rates, 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 in the Contract is to be provided.

Z.1.6 Option A – Clause 63.14

The Clause is to be deleted and the following substituted: "The *Employer* and *Contractor* agree rates and lump sums to be used to assess a compensation event instead of Defined Cost."

Z.1.7 Additional conditions of contract

Where the Contract involves loading, shipping and unloading of Plant and Materials the Contractor shall satisfy the Employer that insurance cover in connection therewith has been effected.

Where the Contract involves loading, transportation by land and unloading of Plant and Materials the Contractor shall satisfy the Employer that insurance cover in connection therewith has been effected.

No claims for payment of insurance cover effected by the Contractor will be paid by the Employer and the Contractor's provisions for insurance shall be included in his scheduled prices.

C1.2 CONTRACT DATA PROVIDED BY CONTRACTOR (ECSC3)

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

.

.

(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 whole of *works* is

.....

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 |
|------------------------|-------------|
| Senior Engineer | |
| Junior Engineer | |
| Draughtsperson | |
| Tracer | |
- (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.**

Part C1.3 Adjudicator's Contract

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Adjudicator's Contract

This contract should be used for the appointment of an Adjudicator to decide disputes under the NEC family of contracts. It may also be used for the appointment of an Adjudicator under other forms of contract

An NEC document

June 2005

OGC endorsement of NEC3

OGC advises public sector procurers that the form of contract used has to be selected according to the objectives of the project, aiming to satisfy the *Achieving Excellence in Construction* (AEC) principles.

This edition of the NEC (NEC3) complies fully with the AEC principles. OGC recommends the use of NEC3 by public sector construction procurers on their construction projects.



Office of Government Commerce

NEC is a division of Thomas Telford Ltd, which is a wholly owned subsidiary of the Institution of Civil Engineers (ICE), the owner and developer of the NEC.

The NEC is a family of standard contracts, each of which has these characteristics:

- Its use stimulates good management of the relationship between the two parties to the contract and, hence, of the work included in the contract.
- It can be used in a wide variety of commercial situations, for a wide variety of types of work and in any location.
- It is a clear and simple document – using language and a structure which are straightforward and easily understood.

NEC3 Adjudicator's Contract is one of the NEC family and is consistent with all other NEC3 documents. Also available are the Guidance Notes and Flow Charts.

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FORM OF AGREEMENT

This Agreement is made on the day of between

• (name of company/organisation)
of
..... (address) and

• (name of company/organisation)
of
..... (address)

(the Parties) and

• (name)
of
..... (address)

(the Adjudicator).

1. The Parties appoint the Adjudicator in accordance with the conditions of contract and Contract Data attached to this Agreement.
2. The Adjudicator accepts this appointment and undertakes to carry out the Adjudicator's duties as described in the conditions of contract.

Signed jointly on behalf of the Parties by

..... (signature)

Name

Position

on behalf of

and

..... (signature)

Name

Position

on behalf of

and signed by the Adjudicator

..... (signature)

CONDITIONS OF CONTRACT

1 General

	Actions	1.1	The Parties and the Adjudicator shall act as stated in this contract and in the <i>contract between the Parties</i> . The Adjudicator shall act impartially.
		1.2	The Adjudicator notifies the Parties as soon as he becomes aware of any matter which may present him with a conflict of interest.
Identified and defined terms		1.3	In these conditions of contract, the Adjudicator and the Parties are those identified in the Form of Agreement. Terms identified in the Contract Data are in italics and defined terms have capital initials.
		1.4	Expenses are the cost of <ul style="list-style-type: none"> • printing, reproduction and purchase of documents, drawings, maps, records and photographs, • telegrams, telex, faxes and telephone calls, • postage and delivery charges, • travelling, hotel and similar expenses, • room charges and • charges by others for help in an adjudication incurred by the Adjudicator for an adjudication.
Interpretation and the law		1.5	In this contract, except where the context shows otherwise, words in the singular also mean in the plural and the other way round and words in the masculine also mean in the feminine and neuter.
		1.6	This contract is governed by the <i>law of the contract</i> .
		1.7	If a conflict arises between this contract and the <i>contract between the Parties</i> then this contract prevails.
		1.8	If as a result of the <i>contract between the Parties</i> another party has become a party to a dispute which is to be decided by the Adjudicator, references to Parties in this contract are interpreted as including the other party.
Communications		1.9	Each communication which this contract requires is in a form which can be read, copied and recorded. Writing is in the <i>language of this contract</i> .
		1.10	A communication has effect when it is received at the last address notified by the recipient for receiving communications or, if none is notified, at the address of the recipient stated in the Form of Agreement.

2 Adjudication

- 2.1 The Adjudicator does not decide any dispute that is the same or substantially the same as one that he or his predecessor has previously decided.
- 2.2 The Adjudicator decides a dispute referred to him under the *contract between the Parties*. He makes his decision and notifies the Parties of it in accordance with the *contract between the Parties*.
- 2.3 After notifying the Parties of his intention, the Adjudicator may obtain from others help that he considers necessary in reaching his decision. Before making his decision, the Adjudicator provides the Parties with a copy of any information or advice from others and invites their comments on it.
- 2.4 The Parties co-operate with the Adjudicator and comply with any request or direction he makes in relation to the dispute.
- 2.5 The Parties and the Adjudicator keep the Adjudicator's decision and information provided for an adjudication as confidential to those who have a proper interest in them.
- 2.6 After a decision has been made, the Adjudicator keeps documents provided to him by the Parties for the *period of retention*.

3 Payment

- | | | |
|---------------------------|-----|--|
| Advanced payment | 3.1 | Each time a dispute is referred to the Adjudicator, the Party referring the dispute makes an advanced payment to him of the amount stated in the Contract Data. The advanced payment is made within one week of the date when the dispute is referred. |
| Assessing the amount due | 3.2 | The Adjudicator assesses the amount due and submits an invoice to each Party for that Party's share of the amount due. Unless otherwise agreed, the Parties pay the Adjudicator the amount due in equal shares. |
| | 3.3 | The Adjudicator submits invoices after each decision on a dispute has been notified to the Parties and after termination. |
| | 3.4 | <p>The amount due is</p> <ul style="list-style-type: none"> • the Adjudicator's fee multiplied by the total of the time spent on an adjudication and the time spent travelling, plus • the Expenses, less • the amount of the advanced payment and other previous payments. <p>Any tax which the law requires the Parties to pay to the Adjudicator is included in the invoice.</p> |
| Payment of the amount due | 3.5 | The Parties pay the amount due within three weeks of receiving the Adjudicator's invoice or, if a different period is stated in the Contract Data, within the period stated. |
| | 3.6 | Payments are in the <i>currency of this contract</i> unless otherwise stated in this contract. |

- 3.7 If a payment is late, interest is paid on the late payment. Interest is assessed from the date by which the late payment should have been made until the date when the late payment is made. Interest is calculated on a daily basis at the *interest rate* and is compounded annually.
- 3.8 If one of the Parties fails to pay, the other Party pays the Adjudicator the amount due with interest. The defaulting Party repays to the other Party the amount paid to the Adjudicator together with interest.

4 Termination

- 4.1 The Parties may, by agreement, terminate the appointment of the Adjudicator for any reason. They notify the Adjudicator of the termination.
- 4.2 The Adjudicator may, by notifying the Parties, terminate his appointment if
- he considers that he cannot act because of a conflict of interest,
 - he is unable to decide a dispute,
 - an advance payment has not been made or
 - he has not been paid an amount due within five weeks of the date by which payment should have been made.
- 4.3 Unless he has terminated his appointment or his appointment has been terminated by the Parties, the Adjudicator's appointment terminates on the date stated in the Contract Data.

CONTRACT DATA

Statements given in all contracts

- The *contract between the Parties* is
- The *period of retention* is weeks.
- The *law of the contract* is the law of
- The *language of this contract* is
- The amount of the advanced payment is
- The Adjudicator's fee is per hour.
- The *interest rate* is % per annum above
- The *currency of this contract* is
- The Adjudicator's appointment terminates on

Optional statements

If the period for payment of invoices is not three weeks

- The period for payment of invoices is weeks.

If *additional conditions of contract* are required

- The *additional conditions of contract* are

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

form of

conditions of

contract

neC 3 Adjudicator's Contract

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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.**
 - 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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