


Transnet Pipelines
Tender Number: TPL/2024/07/0006/72298/RFP

Description of the Service: THE PROVISION OF METER PROVER CALIBRATION SERVICES ON AN “AS AND WHEN” BASIS FOR A PERIOD OF FIVE (5) YEARS WITHIN THE PETROCHEMICAL INDUSTRY

C1.1 Form of Offer & Acceptance

Offer

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

THE PROVISION OF METER PROVER CALIBRATION SERVICES ON AN “AS AND WHEN” BASIS FOR A PERIOD OF FIVE (5) YEARS WITHIN THE PETROCHEMICAL INDUSTRY

The tenderer, identified in the Offer signature block, has examined the documents listed in the Tender Data and addenda thereto as listed in the Returnable Schedules, and by submitting this Offer has accepted the Conditions of Tender.

By the representative of the tenderer, deemed to be duly authorised, signing this part of this Form of Offer and Acceptance the tenderer offers to perform all of the obligations and liabilities of the *Contractor* under the contract including compliance with all its terms and conditions according to their true intent and meaning for an amount to be determined in accordance with the *conditions of contract* identified in the Contract Data.

The offered total of the Prices exclusive of VAT is	Rate based
Value Added Tax @ 15% is	Rate based
The offered total of the Prices inclusive of VAT is	Rate based
Rate based	

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

Signature(s)

Name(s)

Capacity

**For the
tenderer:**

(Insert name and address of organisation)

Name &
signature of
witness

Date

Tenderer's CIDB registration number (if applicable):

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Acceptance

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

The terms of the contract, are contained in:

Part C1	Agreements and Contract Data, (which includes this Form of Offer and Acceptance)
Part C2	Pricing Data
Part C3	Service Information

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

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

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

Notwithstanding anything contained herein, this agreement comes into effect on the date of award.

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**

(Insert name and address of organisation)

Name &
signature of
witness

Date

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Note:

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

No.	Subject	Details
1		
2		
3		
4		
5		
6		
7		

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

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

For the tenderer:**For the Employer**

Signature

Name

Capacity

On behalf
of*(Insert name and address of organisation)**(Insert name and address of organisation)*Name &
signature
of witness

Date



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C1.2 Contract Data

Part one - Data provided by the *Employer*

Clause	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option:	
		A: Priced contract with price list
	dispute resolution Option	W1: Dispute resolution procedure
	and secondary Options	
		X1: Price adjustment for inflation
		X2 Changes in the law
		X17: Low service damages
		X18: Limitation of liability
		X19: Task Order
		Z: <i>Additional conditions of contract</i>
		Z2: Right Reserved by the Employer to Conduct Screening through SSA
		Z3: Additional Clause Relating to Collusion in the Industry
		Z4: Protection of Personal Information Act
		Z5: Intellectual property
		Z6: Assignment and Waiver
		Z7: Additional clauses relating to Joint Venture
	of the NEC3 Term Service Contract (June 2005) (and amended June 2006 and April 2013)	

10.1 The *Employer* is: **Transnet SOC Ltd**



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	Address	Registered address: Transnet Corporate Centre 138 Eloff Street Braamfontein Johannesburg 2000
	Having elected its Contractual Address for the purposes of this contract as:	Transnet Pipelines 202 Anton Lembede Durban 4001
10.1	The <i>Service Manager</i> is (name):	TBC
	Address	202 Anton Lembede Durban 4001
	Tel	TBC
	e-mail	TBC
11.2(2)	The Affected Property is	Various TPL Depots
11.2(13)	The <i>service</i> is	Provision of Prover Calibration on an "As and When" Basis for a period Of Five (5) Years within the Transnet Pipelines Network.
11.2(14)	The following matters will be included in the Risk Register	Working on Operational Depots
11.2(15)	The Service Information is in	C3.1 Employer's Service Information
12.2	The <i>law of the contract</i> is the law of	the Republic of South Africa subject to the jurisdiction of the Courts of South Africa.
13.1	The <i>language of this contract</i> is	English
13.3	The <i>period for reply</i> is	2 weeks
2	The Contractor's main responsibilities	(If the optional statement for this section is not used, no data will be required for this section)
21.1	The <i>Contractor</i> submits a first plan for acceptance within	2 weeks of the Contract Date
3	Time	
30.1	The <i>starting date</i> is.	TBC
30.1	The <i>service period</i> is	5 years
4	Testing and defects	No additional data is required for this section of the <i>conditions of contract</i>.



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5	Payment	
50.1	The <i>assessment interval</i> is	18th (eighteenth) day of each successive month.
51.1	The <i>currency of this contract</i> is the	South African Rand.
51.2	The period within which payments are made is	Payment will be effected on or before the last day of the month following the month during which a valid Tax Invoice and Statement were received.
51.4	The <i>interest rate</i> is	The prime lending rate of the Rand Merchant Bank South Africa.
6	Compensation events	
60.1(13)	The weather measurements to be recorded for each calendar month are,	cumulative rainfall (mm) The number of days with rainfall more than 10 mm The number of days with minimum air temperature less than 0 degrees Celsius the number of days with snow lying at 08:00 hours South African Time And these measurements: 10mm
	The place where weather is to be recorded (on the Site) is:	Site as defined in Clause 11.2(15) above
	The weather data are the records of past weather measurements for each calendar month which were recorded at:	The closest weather station to the site under Execution
	and which are available from:	South African Weather Service 012 367 6023 or info3@weathersa.co.za.
7	Use of Equipment Plant and Materials	No additional data is required for this section of the <i>conditions of contract</i>.
8	Risks and insurance	
80.1	These are additional Employer's risks	None



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83.1	The minimum limit of indemnity for insurance in respect of loss and damage to property (except goods, plant and materials and equipment) and liability for bodily injury or death of a person (not an employee of the <i>Contractor</i>) caused by activity in connection with this contract for any one event is:	Whatever <i>Contractor</i> deems necessary as the <i>Employer</i> is not carrying this indemnity.
83.1	The minimum limit of indemnity for insurance in respect of death of or bodily injury to employees of the <i>Contractor</i> arising out of and in the course of their employment in connection with this contract for any one event is:	As prescribed by the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993 and the <i>Contractor's</i> common law liability for people falling outside the scope of the Act.
83.1	Motor Vehicle Liability Insurance comprising (as a minimum) "Balance of Third Party" Risks including Passenger and Unauthorised Passenger Liability indemnity with a minimum indemnity limit R 5 000 000	The Total of the Prices.
83.1	The <i>Contractor</i> liability to the <i>Employer</i> for indirect or consequential loss including loss of profit, revenue and goodwill, is limited to:	The Total of the Prices.
83.1	For any one event, the <i>Contractor</i> liability to the <i>Employer</i> for loss of or damage to the <i>Employers</i> property is limited to:	The Total of the Prices.
83.1	The <i>Contractor</i> total liability to the <i>Employer</i> for all matters arising under or in connection with this contract, other than the excluded matters, is limited to:	The Total of the Prices.
9	Termination	There is no Contract Data required for this section of the <i>conditions of contract</i>.
10	Data for main Option clause	
A	Priced contract with price list	
20.5	The <i>Contractor</i> prepares forecasts of the total Defined Cost for the whole of the <i>service</i> at intervals no longer than	4 weeks.
11	Data for Option W1	
W1.1	The <i>Adjudicator</i> is (Name)	Both parties will agree as and when a dispute arises. If the parties cannot reach an agreement on the <i>Adjudicator</i>, the chairman of the Association of Arbitrators will appoint an <i>Adjudicator</i>.
W1.2(3)	The <i>Adjudicator nominating body</i> is:	



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	If no <i>Adjudicator nominating body</i> is entered, it is	The Association of Arbitrators (Southern Africa)
W1.4(2)	The <i>tribunal</i> is:	Arbitration
W1.4(5)	The <i>arbitration procedure</i> is	The Rules for the Conduct of Arbitrations of the Association of Arbitrators (Southern Africa)
	The place where arbitration is to be held is	Durban, South Africa
	The person or organisation who will choose an arbitrator	
	- if the Parties cannot agree a choice or	The Chairman of the Association of Arbitrators (Southern Africa)
	- if the arbitration procedure does not state who selects an arbitrator, is	
12	Data for secondary Option clauses	
X1	Price adjustment for inflation	
X1.1	The <i>base date</i> for indices is	As at the start date of the contract
	The proportions used to calculate the Price Adjustment Factor are:	Index prepared by
		The Consumer Price Index (CPI) for "All Items" in Table 1 (Consumer price indices for the total country) of the Statistical Release P0141 "Consumer Price Index - Additional Tables" published by Statistics South Africa.
X2	Changes in the law	No additional data is required for this Option
X17	Low service damages	



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X17.1 The *service level table* is in

Low Service Damage Description	Value of Low Service Damages	Limit of Low Service Damage
Service delays not finishing as per agreed upon project plan submitted and approved by the <i>Service Manager</i>	1% per total value of the Purchase Order(s) per day	Limited to 10% of the total value of the Purchase Order(s) of the activity item.
No Submission of Quality control documents as per agreed upon Contract Document Submittal Schedule in this service agreement.	1% per total value of the Purchase Order(s) per day	Limited to 10% of the total value of the Purchase Order(s) of the activity item.
NCR raised on item defects are not corrected within agreed timeline.	1% per total value of the Purchase Order(s) per day	Limited to 10% of the total value of the Purchase Order(s) of the activity item.
Using Personnel/Subcontractor which are not Qualified/ experienced as per the contract conditions	1% per total value of the Purchase Order(s) per day	Limited to 10% of the total value of the Purchase Order(s) of the activity item.
<i>Contractor</i> not adhering to Safety rules.	<i>Contractor</i> to be removed on Site with Penalties	<i>Contractor</i> to accelerate the scope on their own cost for the time lost.
<i>Contractor</i> not having a minimum of 2 Responsible Person	1% per total value of the Purchase Order(s) per day	Limited to 10% of the total value of the Purchase Order(s) of the activity item.

X18 Limitation of liability

X18.1	The <i>Contractor's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to	Total of the Prices.
X18.2	For any one event, the <i>Contractor's</i> liability to the <i>Employer</i> for loss of or damage to the <i>Employer's</i> property is limited to	The deductible of the relevant insurance policy
X18.3	The <i>Contractor's</i> liability for Defects due to his design of an item of Equipment is limited to	The cost of correcting the defect.
X18.4	The <i>Contractor's</i> total liability to the <i>Employer</i> , for all matters arising under or in connection with this contract, other than the excluded matters, is limited to	Total of the Prices.
X18.5	The <i>end of liability date</i> is	2 years after the end of the <i>service period</i>.

X19 Task Order



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X19.5	The <i>Contractor</i> submits a Task Order programme to the <i>Service Manager</i> within	2 weeks of receiving the Task Order
Z	<i>Additional conditions of contract</i>	
Z1	Obligations in respect of Termination	
Z1.1	<p>The following will be included under core clause 91.1:</p> <p>In the second main bullet, after the word 'partnership' add 'joint venture whether incorporated or otherwise (including any constituent of the joint venture)'; and</p> <p>Under the second main bullet, insert the following additional bullets after the last sub-bullet:</p> <ul style="list-style-type: none"> • commenced business rescue proceedings (R22) • repudiated this Contract (R23) 	
Z1.2	Termination Table	<p>The following will be included under core clause 90.2 Termination Table as follows:</p> <p>Amend "A reason other than R1 – R21" to "A reason other than R1 – R23"</p>
Z1.3		Amend "R1 – R15 or R18" to "R1 – R15, R18, R22 or R23."
Z2	Right Reserved by Transnet to Conduct Vetting through SSA	


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Z2.1	<p>Transnet reserves the right to conduct vetting through State Security Agency (SSA) for security clearances of any Contractor who has access to National Key Points for the following without limitations:</p> <ol style="list-style-type: none"> 1. Confidential – this clearance is based on any information which may be used by malicious, opposing or hostile elements to harm the objectives and functions of an organ of state. 2. Secret – clearance is based on any information which may be used by malicious, opposing or hostile elements to disrupt the objectives and functions of an organ of state. 3. Top Secret – this clearance is based on information which may be used by malicious, opposing or hostile elements to neutralise the objectives and functions of an organ of state.
Z3 Additional clause relating to Collusion in the Construction Industry	
Z3.1	<p>The contract award is made without prejudice to any rights Transnet may have to take appropriate action later with regard to any declared bid rigging including blacklisting.</p>
Z4 Protection of Personal Information Act	
Z4.1	<p>The <i>Employer</i> and the <i>Contractor</i> are required to process information obtained for the duration of the Agreement in a manner that is aligned to the Protection of Personal Information Act</p>
Z.5 Intellectual property	
Z5.1	<p>Intellectual property rights (including patents, copyright, trademarks etc.) rest with the party owning them</p>


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Z5.2	The Employer indemnifies the Contractor against any claim or action (including costs) caused by or arising from the failure as the Employer to obtain such consent and the contractor indemnifies the Employer against any claim or action (including costs) caused by or arising from the failure of the Contractor to obtain such consent.
Z6	Assignment and Waiver
Z6.1	No rights, duties or liabilities under this contract may be ceded, assigned, transferred, conveyed or otherwise disposed of by either Party (Employer or Contractor) without the prior written consent of the other Party (Employer or Contractor), which consent shall not be unreasonably withheld.
Z6.2	No grant by the Contractor or the Employer to the other of any concession, waiver, condonation or allowance is, in respect of any specific event or circumstance other than 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 provisions of the Contract.
Z7	Additional clauses relating to Joint Venture
	<p>27.5 In the instance that the Contractor is a joint venture, the Contractor shall provide the Employer with a certified copy of its signed joint venture agreement, and in the instance that the joint venture is an 'Incorporated Joint Venture,' the Memorandum of Incorporation, within 4 (four) weeks of the Contract Date.</p> <p>The Joint Venture agreement shall contain but not be limited to the following:</p> <ul style="list-style-type: none"> • A brief description of the Contract and the Deliverables; • The name, physical address, communications addresses and domicilium citandi et executandi of each of the constituents and of the Joint Venture; • The constituent's interests;

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- A schedule of the insurance policies, sureties, indemnities and guarantees which must be taken out by the Joint Venture and by the individual constituents;
 - Details of an internal dispute resolution procedure;
 - Written confirmation by all of the constituents:
 - i. of their joint and several liabilities to the Employer to Provide the Works;
 - ii. identification of the lead partner in the joint venture confirming the authority of the lead partner to bind the joint venture through the Contractor's representative;
-

- iii. Identification of the roles and responsibilities of the constituents to provide the Works.
 - Financial requirements for the Joint Venture:
 - iv. the working capital requirements for the Joint Venture and the extent to which and manner whereby this will be provided and/or guaranteed by the constituents from time to time;
- The names of the auditors and others, if any, who will provide auditing and accounting services to the Joint Venture.
-


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C1.2 Contract Data

Part two - Data provided by the *Contractor*

The tendering contractor is advised to read both the NEC3 Term Service Contract (June 2005) and the relevant parts of its Guidance Notes (TSC3-GN) in order to understand the implications of this Data which the tenderer is required to complete.

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

Clause	Statement	Data
10.1	The <i>Contractor</i> is (Name): Address Tel No. Fax No.	
11.2(8)	The <i>direct fee percentage</i> is The <i>subcontracted fee percentage</i> is%%
11.2(14)	The following matters will be included in the Risk Register
11.2(15)	The Service Information for the <i>Contractor's</i> plan is in:
21.1	The plan identified in the Contract Data is contained in:
24.1	The key persons are:	
	1 Name:
	Job:
	Responsibilities:
	Qualifications:
	Experience:
	2 Name:
	Job:
	Responsibilities:
	Qualifications:
	Experience:
	

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CV's (and further key person's data including CVs) are in

A Priced contract with price list

11.2(12) The *price list* is in11.2(19) The tendered total of the Prices is **R.....**
