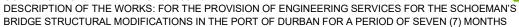




# C1.2 Contract Data

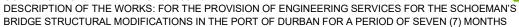
## Part one - Data provided by the Employer

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 activity schedule
	dispute resolution Option	W1:	Dispute resolution procedure
	and secondary Options		
		<b>X2</b> :	Changes in the law
		<b>X7</b> :	Delay damages
		X10:	Employer's Agent
		X11:	Termination by the <i>Employer</i>
		Z:	Additional conditions of contract
	of the NEC3 Professional Services Contract (June 2005) (amended June 2006 and April 2013)		
10.1	The <i>Employer</i> is (Name):	Transnet SOC Ltd (Registration No. 1990/000900/30) trading the its operating division Transnet National Port Authority	
	Address	30 We Parkto	ered address: Ilington Road, own, nesburg
	Having elected its Contractual Address for the purposes of this contract as:	Ocean	net National Ports Authority Terminal Building, Quayside Road f Durban
11.2(9)	The services are	Provision of Engineering Services for the Schoeman's Bridge Structural Modifications in the Port of Durban for a period of Seven (7) Months	
11.2(10)	The following matters will be included in the Risk Register	•	Performing a condition assessment in an operational area. Containment of the COVID-19 spread



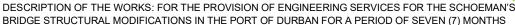


12.2	The <i>law of the contract</i> is the law of	the Republic of South Africa subject to the jurisdiction of the Courts of South Africa.	
13.1	The language of this contract is	English	
13.3	The period for reply is	2 (two) weeks	
13.6	The period for retention is	Not applicable to this co	ontract
2	The Parties' main responsibilities		
25.2	The <i>Employer</i> provides access to the following persons, places and things	access to	access date
		1 Schoeman's bridge	Upon SHE file approval and receipt of TNPA access permits
3	Time		
31.2	The starting date is	01 February 2022	
11.2(3)	The <i>completion date</i> for the whole of the <i>services</i> is	31 August 2022	
11.2(6)	The <i>key date</i> s and the <i>condition</i> s to be met are:	Condition to be met	key date
		1 2 3	
31.1	The <i>Consultant</i> is to submit a first programme for acceptance within	2 (two) weeks of the Cor	ntract Date.
32.2	The <i>Consultant</i> submits revised programmes at intervals no longer than	4 (four) weeks.	
4	Quality		
40.2	The quality policy statement and quality plan are provided within	2 (two) weeks of the Cor	ntract Date.
41.1	The <i>defects date</i> is	26 weeks after Completi services.	on of the whole of the
5	Payment		
50.1	The assessment interval is on the	18 <sup>th</sup> day of each success	sive month.
51.1	The period within which payments are made is	Payment will be effected day of the month following which a valid Tax Invoic received.	ing the month during
51.2	The currency of this contract is the	South African Rand (ZA	R).
51.5	The interest rate is	The prime lending rate of South Africa.	of the Standard Bank of





6	Compensation events	No additional data rethe conditions of co	equired for this section of ntract.
7	Rights to material	No additional data re the conditions of co	equired for this section of ntract.
8	Indemnity, insurance and liability		
81.1	The amounts of insurance and the periods for which the <i>Consultant</i> maintains insurance are		
	Event	Cover	Period following Completion of the whole of the services or earlier termination
	failure by the <i>Consultant</i> to use the skill and care normally used by professionals providing services similar to the <i>services</i>	Professional Indemnity insurance for not less than R10 000 000.00 (Ten Million Rand) in respect of each claim, without limit to the number of claims	52 Weeks
	death of or bodily injury to a person (not an employee of the <i>Consultant</i> ) or loss of or damage to property resulting from an action or failure to take action by the <i>Consultant</i>	General Third Party Liability Insurance for all amounts falling within the excess of the policy, currently R50 000.00 (Fifty Thousand Rand) each and every claim, and/or for all amounts in excess of the policy limits as detailed in the policy document or whatever the Consultant deems desirable in respect of each claim, without limit to the number of claims	0 Weeks





death of or bodily injury to employees of the *Consultant* arising out of and in the course of their employment in connection with this contract

The minimum limit of indemnity for insurance in respect of death of or bodily injury to employees of the Consultant arising out of and in connection with this contract for any one event is that which is prescribed by the Compensation for Occupation Injuries and Diseases Act No. 130 of 1993 as amended.

u week

Motor Vehicle Liability Insurance

Comprising (as a minimum)
"Balance of Third Party" Risks including
Passenger Liability Indemnity for an amount of not less than R
10 000 000.00

81.1 The *Employer* provides the following insurances

Professional Indemnity insurance in respect of failure of the *Consultant* to use the skill and care normally used by Professionals providing services similar to the *services* 

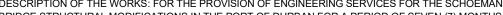
General Third Party Liability cover in respect of death of or bodily injury to a person (not an employee of the *Consultant*) or loss of or damage to property resulting from an action or failure to take action by the *Consultant* 

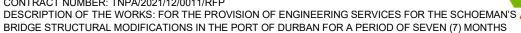
82.1 The Consultant's total liability to the Employer for all matters arising under or in connection with this contract, other than the excluded matters, is limited to For all matters covered under the Employer's Professional Indemnity (PI) and General Third Party Liability policies, the *Consultant's* liability will be limited to the excesses applicable under the Employer's Professional Indemnity and General Third Party Liability policies as detailed in the policy wordings. The current excesses amounts to R5 000 000.00 (Five Million Rand) Pl and R50 000.00 (Fifty Thousand Rand) General Third Party Liability, respectively, each and every claim. For all matters not covered under the Employer's Professional Indemnity and General Third Party Liability policies the *Consultant's* liability will be limited to the final total of the Prices.

9 Termination

No additional data required for this section of the conditions of contract.

CPM 2020 REV 01 PAGE 4 Part C1

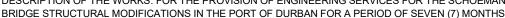




10	Data for main Option clause	
Α	Priced contract with activity schedule	
21.3	The <i>Consultant</i> prepares forecasts of the total of the <i>expenses</i> at intervals of no longer than	Four (4) weeks.
11	Data for Option W1	
W1.1	The <i>Adjudicator</i> is	Both parties will agree to an <i>Adjudicator</i> 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 (Southern Africa) will appoint an <i>Adjudicator</i> .
W1.2(3)	The Adjudicator nominating body is:	the Association of Arbitrators (Southern Africa)
W1.4(2)	The <i>tribunal</i> is:	Arbitration
W1.4(5)	The arbitration procedure is	The latest addition of the South African Rules for the Conduct of Arbitrations of the Association of Arbitrators (Southern Africa)
	The place where arbitration is to be held is	Durban, Kwa-Zulu Natal Province, South Africa
	<ul> <li>The person or organisation who will choose an arbitrator</li> <li>if the Parties cannot agree a choice or</li> <li>if the arbitration procedure does not state who selects an arbitrator, is</li> </ul>	The Chairman of the Association of Arbitrators (Southern Africa)
12	Data for secondary Option clauses	
X2	Changes in the law	
X2.1	The law of the project is	The Republic of South Africa subject to the jurisdictions of the Courts of South Africa
X7	Delay damages	
X7.1	Delay damages for late Completion of the whole of the services are	R3 000.00 per working day
X10	The Employer's Agent	
X10.1	The <i>Employer's Agent</i> is	
	Name:	Ndumiso Zikhali
	Address	Room 217C Ocean Terminal Building, Quayside Road, Port of Durban
	The authority of the <i>Employer's Agent</i> is	Fully empowered to act on behalf of the Employer for the services covered by the contract.
z	Additional conditions of contract	
	The additional conditions of contract are	

**CPM 2020 REV 01** PAGE 5 Part C1

TRANSNET





#### **Z**1 Obligations in respect of Joint **Venture Agreements**

Z1.1

Insert the additional core clause 21.5

21.5.1 In the instance that the Consultant is a joint venture, the Consultant 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 starting date.

The Joint Venture agreement shall contain but not be limited to the following:

- 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 constituents' interests:
- 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 liability to the *Employer* to Provide the services:
  - ii. proof of separate bank account/s in the name of the ioint venture:
  - iii. identification of the leader in the joint venture confirming the authority of the leader to bind the joint venture through the Consultant's representative;
  - iv. Identification of the roles and responsibilities of the constituents to provide the services.
- Financial requirements for the Joint Venture:
  - i. 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;
  - ii. the names of the auditors and others, if any, who will provide auditing and accounting services to the Joint . Venture

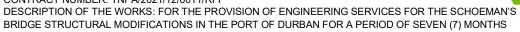
Z1.2

Insert additional core clause 21.6

21.6. The *Consultant* shall not alter its composition or legal status of the Joint Venture without the prior approval of the Employer.

**Z**2 Additional obligations in respect of **Termination** 

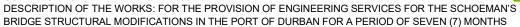
**CPM 2020 REV 01** PAGE 6 Part C1





Z2.1		The following will be included under core clause 90.1: In the second main bullet, after the word 'partnership' add 'joint venture whether incorporate or otherwise (including any constituent of the joint venture)' and	
			the second main bullet, insert the following additional after the last sub-bullet:
		•	commenced business rescue proceedings repudiated this Contract
Z2.2		Clause 90.5 is added as an additional clause Where all or part of the Services are suspended for a period of six months or more either party may terminate the Contract by notifying the other.	
<b>Z</b> 3	Right Reserved by the <i>Employer</i> to Conduct Vetting through SSA		
Z3.1		The <i>Er</i>	Inployer reserves the right to conduct vetting through State Security Agency (SSA) for security clearances of any Consultant who has access to National Key Points for the following without limitations:
		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.
Z4	Additional Clause Relating to the Employer's rights to take appropriate action		

CPM 2020 REV 01 PAGE 7 Part C1





Z4.1	The contract award is made without prejudice to any rights the <i>Employer</i> may have to take appropriate action	
	later with regard to:	Any declared, exposed or confirmed tender rigging.
Z4.1.1		The Consultant further undertakes: not to give or cause any offer, payment, consideration, or benefit of any kind, which constitutes or could be construed as an illegal or corrupt practice, either directly or indirectly, as an inducement or reward for the award or in execution of this contract.
Z 4.1.2		To comply with all laws, regulations or policies relating to the prevention and combating of bribery, corruption and money laundering to which it or the <i>Employer</i> is subject, including but not limited to the Prevention and Combating of Corrupt Activities Act, 12 of 2004.
Z4.1.3		The Consultant's breach of this clause constitutes grounds for terminating the Consultant's obligation to Provide the Services or taking any other action as appropriate against the Consultant (including civil or criminal action). However, lawful inducements and rewards shall not constitute grounds for termination.
Z4.1.4		If the <i>Consultant</i> is found guilty by a competent court, administrative or regulatory body of participating in illegal or corrupt practices, including but not limited to the making of offers (directly or indirectly), payments, gifts, gratuity, commission or benefits of any kind, which are in any way whatsoever in connection with the contract with the <i>Employer</i> , the <i>Employer</i> shall be entitled to terminate the contract forthwith and take any other action as appropriate against the <i>Consultant</i> (including civil or criminal action).
Z4.2	The contract award is made without prejudice to any rights the <i>Employer</i> may have to take appropriate action later with regard to:	Politically Exposed Persons including any allegations with regards to State Capture.
Z4.3	The contract award is made without prejudice to any rights the <i>Employer</i> may have to take appropriate action later with regard to:	Blacklisting by any State Entity on the National Treasury database.
<b>Z</b> 5	Protection of Personal Information Act	
Z5.1		The <i>Employer</i> and the <i>Consultant</i> are required to process information obtained for the duration of the Contract in a manner that is aligned to the Protection of Personal Information Act.

**CPM 2020 REV 01** PAGE 8 Part C1



#### **Z6 Time** Z6.1 Clause 33.2. is added as an additional clause. The Employer may at any time suspend part or all of the services. As a consequence, if the Consultant is required to demobilise and then remobilise its staff and equipment, the Consultant will be reimbursed at cost. The Consultant will be required to reduce and mitigate all its costs during the period of suspension and will be entitled to compensation only to the extent that it can demonstrate it has incurred costs which were not capable of being mitigated. **Z7 Compensation Events** Z7.1 Clause 61.4: The first bullet point is amended to read as follows: arises from the fault, error, negligence or default of the Consultant. **Z8** Limitation of liability Z8.1 Add to core clause 82.1 and X18 For the avoidance of doubt the parties expressly agree that the total liability of the *Consultant* to the *Employer* applies jointly and severally across all organisations comprising of the Consultant. **Z9** Additional clauses relating cession of rights The *Consultant* shall not cede any rights under this contract Z9.1 without the approval of the *Employer*. Z9.2 The *Employer* may on written notice to the *Consultant* cede and assign its rights and obligations under this contract to any of its subsidiaries or any of its present divisions or operations which may be converted into separate legal entities as a result of the restructuring of the *Employer*. **Z10** Additional clauses relating to interpretation of the law Z10.1 Add to core clause 12.3 Any extension, concession, waiver or relaxation of any action by the Parties, the Employers' Agent or Adjudicator does not constitute a waiver of rights and does not give rise to an Estoppel or Lien, unless the Parties agree otherwise and confirm such an agreement in writing. Employer's Step in rights **Z11** Z11.1 If the Consultant defaults by failing to comply with his obligations and fails to remedy such default within 2 weeks of the notification of the default by the Employer's Agent, the Employer, without prejudice to his other rights, powers and remedies

CPM 2020 REV 01 PAGE 9 Part C1

DESCRIPTION OF THE WORKS: FOR THE PROVISION OF ENGINEERING SERVICES FOR THE SCHOEMAN'S

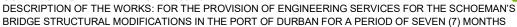


BRIDGE STRUCTURAL MODIFICATIONS IN THE PORT OF DURBAN FOR A PERIOD OF SEVEN (7) MONTHS

under the contract, may remedy the default either himself or procure a third party (including any subconsultant or supplier of the Consultant) to do so on his behalf. The reasonable costs of such remedial works shall be borne by the Consultant.

Z11.2

The Consultant co-operates with the Employer and facilitates and permits the use of all required information, materials and other matter (including but not limited to documents and all other drawings, CAD materials, data, software, models, plans, designs, programs, diagrams, evaluations, materials, specifications, schedules, reports, calculations, manuals or other documents or recorded information (electronic or otherwise) which have been or are at any time prepared by or on behalf of the Consultant under the contract or otherwise for and/or in connection with any subsequent works) and generally does all things required by the Employers' Agent to achieve this end.





## C1.2 Contract Data

### Part two - Data provided by the Consultant

The tendering consultant is advised to read both the NEC3 Professional Services Contract (April 2013) and the relevant parts of its Guidance Notes (PSC3-GN) in order to understand the implications of this Data which the tenderer is required to complete. An example of the completed Data is provided on pages 151 to 159 of the PSC3 Guidance Notes.

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

Clause	Statement	Data
10.1	The Consultant is (Name):	
	Address	
	Tel No.	
	Fax No.	
22.1	The Consultant's key persons are:	
	1 Name:	
	Job:	
	Responsibilities:	
	Qualifications:	
	Experience:	
	2 Name:	
	Job	
	Responsibilities:	
	Qualifications:	
	Experience:	
Info.		CV's (and further <i>key persons</i> data including CVs) are appended to Tender Schedule entitled
11.2(3)	The <i>completion date</i> for the whole of the <i>services</i> is	
11.2(10)	The following matters will be included in the Risk Register	
11.2(13)	The staff rates are:	name/designation rate

**CPM 2020 REV 01** PAGE 11 Part C1



DESCRIPTION OF THE WORKS: FOR THE PROVISION OF ENGINEERING SERVICES FOR THE SCHOEMAN'S BRIDGE STRUCTURAL MODIFICATIONS IN THE PORT OF DURBAN FOR A PERIOD OF SEVEN (7) MONTHS

25.2	The <i>Employer</i> provides access to the following persons, places and things	access to	access date
		1	
		2	
		3	
31.1	The programme identified in the Contract Data is		
50.3	The expenses stated by the Consultant are	item	amount

Α	Priced contract with activity schedule	
11.2(14)	The activity schedule is in	
11.2(18)	The tendered total of the Prices is	(in figures)
		(in words), excluding VAT