

**Transnet Property**

**Tender number: TP/2024/11/0002/82201/RFP**

**Description of the Works: Provision of Preventative, Corrective and Emergency Maintenance on an as & when required basis for HVAC, Refrigeration and Controls Installations plus Minor new works in the Eastern Cape region (Gqeberha, East London and surrounding areas) for a period of thirty-six (36) months.**

## C1.2 Contract Data

### Part one - Data provided by the *Employer*

Clause	Statement	Data
<b>1</b>	<b>General</b>	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option:	
	dispute resolution Option	<b>A: Priced contract with price list</b> <b>W1: Dispute resolution procedure</b>
	and secondary Options	<b>X2 Changes in the law</b> <b>X17: Low service damages</b> <b>X18: Limitation of liability</b> <b>X19: Task Order</b> <b>Z: <i>Additional conditions of contract</i></b>
	of the NEC3 Term Service Contract (June 2005) (and amended June 2006 and April 2013)	
10.1	The <i>Employer</i> is (name):  Address	<b>Transnet SOC Ltd</b>  Registered address: <b>Transnet Corporate Centre</b> <b>138 Eloff Street</b> <b>Braamfontein</b> <b>Johannesburg</b> <b>2000</b>
	Having elected its Contractual Address for the purposes of this contract as:	<b>Transnet Property</b> <b>East London</b> <b>South Africa</b>
	Tel No.	<b>043 700 2237</b>
10.1	The <i>Service Manager</i> is (name):  Address	Darryl Bagley  <b>Transnet SOC Ltd North Union Street, Gqeberha,6000</b>

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Tel

e-mail

[Darryl.Bagley@transnet.net](mailto:Darryl.Bagley@transnet.net)

11.2(2)	The Affected Property is	<b>In respect of each Task Order, the identified portion of the South African Property Network</b>
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11.2(13)	The <i>service</i> is	Provision of Preventative, Corrective and Emergency Maintenance on an as & when required basis for HVAC, Refrigeration and Controls Installations plus Minor new works in the Eastern Cape region (Gqeberha, East London and surrounding areas) for a period of 36 months.
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The following matters will be included in the Risk Register

- (a) *Cancellation of track occupations at short notice.*
- (b) *The shortage of pilots to move machines between depots.*
- (c) *Work on railway track near live OHTE electrical equipment holds a danger of electrocution for workers.*
- (d) *Working on a railway line adjacent to lines on which rail traffic continue to run holds the risk of injury or death to workers.*
- (e) *Dry vegetation at or near most worksites is a fire hazard.*

11.2(15)	The Service Information is in	<b>The Scope of Services</b>
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12.2	The <i>law of the contract</i> is the law of	<b>the Republic of South Africa subject to the jurisdiction of the Courts of South Africa.</b>
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13.1	The <i>language of this contract</i> is	<b>English</b>
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13.3	The <i>period for reply</i> is	<b>2 weeks</b>
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<b>2</b>	<b>The Contractor's main responsibilities</b>	(If the optional statement for this section is not used, no data will be required for this section)
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21.1	The <i>Contractor</i> submits a first plan for acceptance within	<b>2 weeks of the Contract Date</b>
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<b>3</b>	<b>Time</b>	
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30.1	The <i>starting date</i> is.	<b>TBA</b>
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30.1	The <i>service period</i> is	<b>36 Months</b>
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<b>4</b>	<b>Testing and defects</b>	<b>No additional data is required for this section of the conditions of contract.</b>
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<b>5</b>	<b>Payment</b>	
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50.1	The <i>assessment interval</i> is	<b>25<sup>th</sup> (twenty fifth) day of each successive month.</b>
51.1	<b>The <i>currency of this contract</i> is the</b>	<b>South African Rand.</b>
51.2	The period within which payments are made is	<b>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.</b>
51.4	The <i>interest rate</i> is	<b>The prime lending rate of the Standard Bank South Africa.</b>

**6 Compensation events**

60.1(15)	A weather measurement is	determined by a suitable weather station most conveniently located in the Affected area
60.1(15)	The <i>weather data</i> is	the weather data issued with the Task Order or within <b>[5 days]</b> thereof, covering the area in which the Affected Property is situated, or if not so issued the national weather data available from the South African Weather Services

**7 Use of Equipment Plant and Materials** **No additional data is required for this section of the conditions of contract.**

**8 Risks and insurance**

80.1	These are additional <i>Employer's</i> risks	<b>None</b>
84.1	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>Service Provide</i> ) caused by activity in connection with this contract for any one event is:	<b>Whatever <i>Contractor</i> deems necessary as the <i>Employer</i> is not carrying this indemnity.</b>
84.1	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:	<b>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.</b>

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84.1	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:	<b>The total of the prices.</b>
84.1	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:	<b>The total of the prices.</b>
84.1	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:	<b>The total of the prices.</b>
<b>9</b>	<b>Termination</b>	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
<b>10</b>	<b>Data for main Option clause</b>	
<b>A</b>	<b>Priced contract with price list</b>	
20.5	The <i>Contractor</i> prepares forecasts of the final total of the Prices for the whole of the <i>service</i> at intervals no longer than	<b>Monthly</b>
<b>11</b>	<b>Data for Option W1</b>	
W1.1	The <i>Adjudicator</i> is (Name)	<b>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>.</b>
W1.2(3)	The <i>Adjudicator nominating body</i> is:  If no <i>Adjudicator nominating body</i> is entered, it is	<b>The Association of Arbitrators (Southern Africa)</b>
W1.4(2)	The <i>tribunal</i> is:	<b>Arbitration</b>
W1.4(5)	The <i>arbitration procedure</i> is  The place where arbitration is to be held is	<b>The Rules for the Conduct of Arbitrations of the Association of Arbitrators (Southern Africa)</b>  <b>Johannesburg, South Africa</b>

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The person or organisation who will choose an arbitrator

- if the Parties cannot agree a choice or
- if the arbitration procedure does not state who selects an arbitrator, is

**The Chairman of the Association of Arbitrators (Southern Africa)**

**12 Data for secondary Option clauses**

**X17 Low service damages**

X17.1 The *service level table* is in

Performance level	% achieved of performance against Tw for each task order	Low service damages for each task order
Rate of production X Availability	99-100% performance achieved	R0 (nil)
	95 - 98% performance achieved	2,5% of the Price for Services Provided in terms of the Task Order (Item 1.1 of Price List)
	90 – 94% performance achieved	5% of the Price for Services Provided in terms of the Task Order (Item 1.1 of Price List)
	88-89% performance achieved	7,5% of the Price for Services Provided in terms of the Task Order (Item 1.1 of Price List)
	86-87% performance achieved	10% of the Price for Services Provided in terms of the Task Order (Item 1.1 of Price List)
	84-85% performance achieved	12,5% of the Price for Services Provided to Date in terms of the Task Order (Item 1.1 of Price List)
	<84% performance achieved	15% of the Price for Services Provided in terms of the Task Order (Item 1.1 of Price List)

**X18 Limitation of liability**

X18.1 The *Contractor's* liability to the *Employer* for indirect or consequential loss is limited to In respect of each Task Order 10% of the total of the Prices for the Task Order or R1,000,000.00 (One million Rand), whichever is the higher amount.

X18.2 For any one event, the *Contractor's* liability to the *Employer* for loss of or damage to the *Employer's* property is limited to the deductible in terms of the *Employer's* arranged insurance.

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X18.3	The <i>Contractor's</i> liability for Defects due to his design of an item of Equipment is limited to	in respect of each Task Order, the total of the Prices for the Task Order other than for the additional excluded matters.
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	<p>in respect of each Task Order, the total of the Prices for the Task Order other than for the additional excluded matters.</p> <ul style="list-style-type: none"> <li>• The <i>Contractor's</i> total liability for the additional excluded matters is not limited.</li> <li>• The additional excluded matters are amounts for which the <i>Contractor</i> is liable under this contract for</li> <li>• Defects due to his design, plan and specification,</li> <li>• Defects due to manufacture and fabrication outside the Affected Property,</li> <li>• loss of or damage to property (other than the <i>Employer's</i> property, Plant and Materials),</li> <li>• death of or injury to a person and</li> <li>• infringement of an intellectual property right.</li> </ul>
X18.5	The <i>end of liability date</i> is	1 (One) month after the completion of the <i>services</i> at a specific Affected Property or the completion of a Task Order (whichever is applicable).

**X19 Task Order**

X19.5	The <i>Contractor</i> submits a Task Order programme to the <i>Service Manager</i> within	5 (five) days of receiving the Task Order.
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**Z Additional conditions of contract**

**Z1 Obligations in respect of Termination**

Z1.1	•
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Z1.2 Termination Table

Z1.3

**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"> <li>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.</li> <li>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.</li> <li>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.</li> </ol>
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**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 regarding any declared bid rigging including blacklisting.</p>
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**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>
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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) 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(18)	The <i>working areas</i> are the Site and	
24.1	The <i>Contractor's</i> key persons are:	
	1 Name:	
	Job:	
	Responsibilities:	
	Qualifications:	
	Experience:	
	2 Name:	
	Job	
	Responsibilities:	
	Qualifications:	
	Experience:	
	<b>CV's (and further key persons data including CVs) are appended to Tender Schedule entitled .</b>	
11.2(14)	The following matters will be included in the Risk Register	
<b>A</b>	<b>Priced contract with price list</b>	
11.2(12)	The <i>price list</i> is in	

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11.2(19)	The tendered total of the Prices is	(in figures) (in words), excluding VAT
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