



NEC3 Supply Contract

entered into by and between

Transnet SOC Ltd

Registration Number 1990/000900/30

(hereinafter referred to as the "*Purchaser*")

and

.....

Registration Number

(hereinafter referred to as the "*Supplier*")

Contract Number

Start Date

Completion Date

CONTRACT DOCUMENTS

Form of Offer and Acceptance

Contract Data

Part One – Data provided by the *Purchaser*

Part Two – Data provided by the *Supplier*

Conditions of Contract

Pricing Data

Goods Information

Appendices



Transnet: Transnet Port Terminals

Contract Number: iCLM RB 693/TPT

Description of Services: THE SUPPLY AND DELIVERY OF CRITICAL SPARES (TRANSFORMERS WORK PACKAGE) FOR TRANSNET SOC LTD (REG.NO.1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS, (HEREINAFTER REFERRED TO AS "TPT") AT THE PORT OF RICHARDS BAY, AS A ONCE OFF SUPPLY

C1.2 SC Contract Data

Part one - Data provided by the *Purchaser*

Clause	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for Options	
		X2 Changes in the law X7: Delay Damages X13: Performance bond X18: Limitation of liability Z: <i>Additional conditions of contract</i>
	of the NEC3 Supply Contract (December 2009 and amended April 2013)	Z1 Intellectual Property Z2 Assignment and Waiver
10.1	The <i>Purchaser</i> is (name): Address	Transnet SOC Ltd (Reg no. 1990/000900/30) Transnet Corporate Centre Waterfall Business Estate 9 Country Estate Drive Midrand 1662
10.1	The <i>Supply Manager</i> is (name): Address Tel	[Kediboni Khume] [127 MHA Building, New Arch road Transnet Port Terminal, Port of Richardsbay 3900] [035 905 3579]
11.2(13)	The <i>goods</i> are	[Critical Spares Transformers]
11.2(13)	The <i>services</i> are	[The Supply and Delivery of Critical Spares Transformers Work Package]
11.2(14)	The following matters will be included in the Risk Register	<ul style="list-style-type: none"> • Long Lead Time • Business continuity (operational Requirement)



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		<ul style="list-style-type: none"> • Tender pricing exceeding the budget • Incorrect specifications • Poor quality
11.2(15)	The Goods Information is in	Part 3: Scope of Supply and all documents and drawings to which it makes reference.
12.2	The <i>law of the contract</i> is the law of	the Republic of South Africa
13.1	The <i>language of this contract</i> is	English
13.3	The <i>period for reply</i> is	[1] week
2	The <i>Supplier's</i> main responsibilities	Data required by this section of the core clauses is provided by the <i>Supplier</i> in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data.
21.1	The Contractor submits a first plan for acceptance within	2 weeks of the contract Date
3	Time	
30.1	The <i>starting date</i> is.	[Once off Supply]
		3 [•] [•]
4	Testing and defects	
42	The <i>defects date</i> is	[52] weeks after Delivery.
43.2	The <i>defect correction period</i> is	[2] weeks
	except that the <i>defect correction period</i> for	weekends
	and the <i>defect correction period</i> for	[2] weeks
42.2	The <i>defects access period</i> is	[7] days
	except that the <i>defect access period</i> for	[2] Days of weekend
	and the <i>defect access period</i> for	[5] days
5	Payment	
50.1	The <i>assessment interval</i> is monthly	On the 25th 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 affected 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 Standard Bank of South Africa.
6	Compensation events	No additional data is required for this section of the <i>conditions of contract</i>.



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7	Title	No additional data is required for this section of the <i>conditions of contract</i>.
8	Risks, liabilities, indemnities and insurance	
84.1	The <i>Supplier</i> provides these additional insurances	
84.2	The minimum limit of indemnity for insurance in respect of loss of or damage to property (except the <i>goods</i> , plant and materials and equipment) and liability for bodily injury to or death of a person (not an employee of the <i>Supplier</i>) caused by activity in connection with this contract for any one event is:	whatever the <i>Supplier</i> deems necessary in addition to that provided by the <i>Purchaser</i>.
84.2	The minimum limit of indemnity for insurance in respect of death of or bodily injury to employees of the <i>Supplier</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 with a limit of Indemnity of not less than R [•] ([•] Rands)..
88.1	The <i>Supplier's</i> liability to the <i>Purchaser</i> for indirect or consequential loss, including loss of profit, revenue and goodwill is limited to	R0.0 (zero Rand)
88.2	For any one event, the <i>Supplier's</i> liability to the <i>Purchaser</i> for loss of or damage to the <i>Purchaser's</i> property is limited to	Total of the Prices
88.3	The <i>Supplier's</i> liability for Defects due to his design which are not notified before the last <i>defects date</i> is limited to:	The cost of correcting the defect (The Total of the Prices)
88.4	The <i>Supplier's</i> total liability to the <i>Purchaser</i> , for all matters arising under or in connection with this contract, other than the excluded matters, is limited to	Total of the Prices
88.5	The <i>end of liability date</i> is	1 year after Delivery of the whole of the <i>goods</i> and <i>services</i>.
9	Termination and dispute resolution	There is no Contract Data required for this section of the conditions of contract
94.1	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 Adjudicator, the chairman of the Association of Arbitrators will appoint an Adjudicator.



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94.2(3)	The <i>Adjudicator nominating body</i> is:	the Chairman of The Association of Arbitrators (Southern Africa)
94.4(2)	The <i>tribunal</i> is:	Arbitration
94.4(5)	The <i>arbitration procedure</i> is	the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa).
94.4(5)	The place where arbitration is to be held is	[Durban, KwaZulu Natal] South Africa
	The person or organisation who will choose an arbitrator	
	- if the Parties cannot agree a choice or	the Chairman for the time being or his
	- if the arbitration procedure does not state who selects an arbitrator, is	nominee of the Association of Arbitrators (Southern Africa).
10	Data for Option clauses	
X2	Changes in Law	No additional data is required for this option
X4	Parent company guarantee	No additional data is required for this option
X13	Performance bond	
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	Nil.
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	1 year after the end of the <i>service period</i>.
Z	The <i>additional conditions of contract</i> are	
Z2	Local Production and Content Obligations	



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- Z2.1 In terms of Local Production and Content (SBD 6.2), Annexure A and Annexure C of the Returnable Schedule T2.2.13 Eligibility Criteria Schedule: Declaration Certificate of Local Production and Content, the *Supplier* has undertaken to fulfil its obligations of the Local Production and Content for the following designated sectors: 1.....; 2.....; and 3.....
- Z2.2 The *Supplier* is required to note that the *Purchaser*, the Department of Trade and Industry [DTI] and/or the body appointed by the DTI as the verification authority for local content may conduct compliance audits with regard to the Local Production and Content requirements as prescribed in Regulation 8 of the Preferential Procurement Regulations, 2017 issued in terms of the Preferential Procurement Policy Framework Act no. 5 of 2000.
- Z2.3 The *Supplier* is required to continuously update Declarations C, D and E of the Local Production and Content Declaration commitments with the actual local content values for the duration of the contract. The *Supplier* shall report to the *Purchaser* on a monthly basis during the term of the Contract, the amounts spend on Local Production and Content for the designated sectors for the duration of the contract.
- Z2.4 The *Supplier* must refer to Schedule A attached to the Returnable Schedule T2.2.13 Eligibility Criteria Schedule: Declaration Certificate of Local Production and Content concerning non-compliance penalties applicable to Local Production and Content.
- Z2.5 Breach of Local Production and Content commitments provides the *Purchaser* cause to terminate the contract.

Z4 Additional clauses relating to Joint Venture



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Z4.1

Insert the additional core clause 27.5

27.5. In the instance that the *Supplier* is a joint venture, the *Supplier* shall provide the *Purchaser* 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.

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 constituent's 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:

of their joint and several liabilities to the *Purchaser* to Provide the *Goods*;

identification of the lead partner in the joint venture confirming the authority of the lead partner to bind the joint venture through the Supplier's representative;

Identification of the roles and responsibilities of the constituents to provide the *Goods*.

Financial requirements for the Joint Venture:

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.

Z4.2

Insert additional core clause 27.6

27.6. The *Supplier* shall not alter its composition or legal status of the Joint Venture without the prior approval of the *Purchaser*.



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Z5	Additional obligations in respect of Termination	
Z5.1		<p>The following will be included under core clause 91.1: In the second main bullet, after the word 'partnership' add 'joint venture whether incorporate or otherwise (including any constituent of the joint venture)' and</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)
Z5.2	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>
Z5.3		Amend "R1 – R15 or R18" to "R1 – R15, R18, R22 or R23."
Z6	Right Reserved by the <i>Purchaser</i> to Conduct Vetting through SSA	
Z6.1		<p>The <i>Purchaser</i> reserves the right to conduct vetting through State Security Agency (SSA) for security clearances of any <i>Supplier</i> who has access to National Key Points for the following without limitations:</p> <p>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.</p> <p>Secret – this 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.</p> <p>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.</p>
Z7	Additional Clause Relating to Collusion and/or Tender Rigging	



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Z7.1	The contract award is made without prejudice to any rights the <i>Purchaser</i> may have to take appropriate action later with regard to any collusion and/or tender rigging including blacklisting.
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Z8	Protection of Personal Information Act
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Z8.1	The <i>Purchaser</i> and the <i>Supplier</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.
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C1.2 Contract Data

Part two - Data provided by the *Supplier*

Notes to a tendering supplier:

1. Please read both the NEC3 Supply Contract (December 2009 with amendments dated April 2013) and the relevant parts of its Guidance Notes (SC3-GN) in order to understand the implications of this Data which the tenderer is required to complete.
2. The number of the clause which requires the data is shown in the left-hand column for each statement however other clauses may also use the same data
3. Data is required relevant to the option selected. Complete by hand and in ink.

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

Clause	Statement	Data												
10.1	The <i>Supplier</i> is (Name): Address Tel No. Fax No.													
11.2(8)	The Goods Information for the <i>Supplier's</i> design is in:													
11.2(11)	The tendered total of the Prices is	R, (in words)												
11.2(12)	The <i>price schedule</i> is in:													
11.2(14)	The following matters will be included in the Risk Register													
25.2	The restrictions to access for the <i>Supply Manager</i> and Others to work being done for this contract are													
30.1	The <i>delivery date</i> of the <i>goods</i> and <i>services</i> is:	<table border="1"> <thead> <tr> <th></th> <th><i>goods and services</i></th> <th><i>delivery date</i></th> </tr> </thead> <tbody> <tr> <td>1</td> <td></td> <td></td> </tr> <tr> <td>2</td> <td></td> <td></td> </tr> <tr> <td>3</td> <td></td> <td></td> </tr> </tbody> </table>		<i>goods and services</i>	<i>delivery date</i>	1			2			3		
	<i>goods and services</i>	<i>delivery date</i>												
1														
2														
3														
31.1	The programme identified in the Contract Data is contained in:													
63.2	The <i>percentage for overheads and profit</i> added to the Defined Cost is	%												