

AIRPORTS COMPANY SOUTH AFRICA (SOC)

SCM REFERENCE NR: ORTIA8094/2025/RFP

**Refurbishment of Media Room at Terminal B Area at OR Tambo
International Airport****NEC 3: TERM SERVICE CONTRACT (TSC)****Between AIRPORTS COMPANY SOUTH AFRICA SOC LIMITED****Applicable at**

(Registration Number: 1993/004149/30)

and

(Registration Number: _____)

**For the Refurbishment of Media Room at Terminal B Area at OR Tambo
International Airport**

Contents:	No of pages
Part C1 Agreements & Contract Data	2 - 23
Part C2 Pricing Data	24 - 36
Part C3 Employer's Service Information	37 - 41
Part C4 Site Information	42

VOLUME 2**NAME OF BIDDER:**

PART C1: AGREEMENT AND CONTRACT DATA

C1.1 Form of Offer and Acceptance

OFFER

The Employer, identified in the Acceptance signature block, has solicited offers to enter into a contract for the procurement for the **Refurbishment of Media Room at Terminal B area of OR Tambo International Airport for a Period of 6 Months**

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 contractor, deemed to be duly authorised, signing this part of this Form of Offer and Acceptance the contractor offers to perform all of the obligations and incur liabilities of the NEC TSC 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 INCLUSIVE OF VAT IS:

The offered total of the Prices exclusive of VAT is	R
Value Added Tax @ 15% is	R
The offered total of the Prices inclusive of VAT is	R
In words	

for the Contractor

Signature Date
 Name Capacity

(Name and
 address of
 organisation)

.....
 Name and
 signature
 of witness

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.

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 or the Pricing Data. Acceptance of the contractor'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
Part C4	Site 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 contractor 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. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this agreement.

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.

for the Employer

Signature Date

Name Capacity

Western Precinct Aviation Park, OR Tambo International Airport, 1 Jones Road, Kempton Park, 1632

Name and
signature
of witness Date

Schedule of Deviations

1 Subject .....	.....
Details .....	.....
.....	
.....	
.....	
2 Subject .....	.....
Details .....	.....
.....	
.....	
.....	
3 Subject .....	.....
Details .....	.....
.....	
.....	
.....	
4 Subject .....	.....
Details .....	.....
.....	
.....	
.....	
5 Subject .....	.....
Details .....	.....
.....	
.....	
.....	

By the duly authorised representatives signing this agreement, the Employer and the tenderer agree to and 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 returnable 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.

Signature(s)

Name(s) _____

Capacity _____

**For the
employer:**

(Insert name and address of organisation)

Name &
signature of
witness

Date

Signature(s)

Name(s) _____

Capacity _____

**For the
tenderer:**

(Insert name and address of organisation)

Name &
signature of
witness

Date

C1.3 TSC3 Contract Data

Part one - Data provided by the *Employer*

Annexture A: SAFETY FILE REQUIREMENTS

See attached Annexture A document.

Annexure B: Pro forma Security Bonds and Guarantee

[Insert applicable security bonds and guarantees]

Annexure C: ACSA Panel of Adjudicators

One of the following adjudicators shall be selected by the referring party as and when a dispute arises. This panel is valid for a period of three years, commencing on 1 May 2020.

Potential Adjudicator	Email Address	Chamber
Adv. Mkhululi Duncan Stubbs	duncan.stubbs@gmail.com	Thulamela Chambers
Adv. Arzhar Bham SC	bhamae@law.co.za	Victoria Mxenge
Adv. Mohhamed Chohan SC	chohann@counsel.co.za	Group One
Adv. Benny Makola	benny.makola@gmail.com	Group 621
Adv. Vincent Maleka SC	ivmaleka@mweb.co.za	Thulamela Chambers
Adv. Chris Loxton SC	loxton@counsel.co.za	Group One

Annexure D: ACSA Insurance Clauses

See attached Annexure D document.

Annexture E: Environmental Management System (EMS)

See attached Annexture E document.

Clause	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option:	
	dispute resolution Option	B: Priced contract with Bill of Quantities
	and secondary Options	W1: Dispute resolution procedure
		X1: Price adjustment for inflation
		X2: Changes in the law
		X7: Delay Damages
		X12: Partnering
		X13: Performance Bond
		X15: Limitations of Contractor's liability for design to reasonable skill and care
		X17: Low-performance damages
		X18: Limitation of liability
		X20: Key Performance Indicators
		Z: Additional conditions of contract
	of the NEC3 Term Service Contract (April 2013) ¹	
10.1	The <i>Employer</i> is (name):	Airports Company South Africa SOC Limited a juristic person incorporated in terms of the company laws of the Republic of South Africa
	Address	Western Precinct Aviation Park, OR Tambo International Airport, 1 Jones Road, Kempton Park, 1632
	Tel No.	011 921 6642
	Fax No.	N/A
10.1	The <i>Service Manager</i> is (name):	Yvonne Mangoenyane
	Address	Western Precinct Aviation Park, OR Tambo International Airport, 1 Jones Road, Kempton Park, 1632
	Tel	011 921 6882
	Fax	N/A

e-mail

Yvonne.mangoenyane@airports.co.za

11.2(2) *The Affected Property is* **OR Tambo International Airport (All Building Owned by ACSA)**

11.2(13) *The service is* **Refurbishment of Media Room at Terminal B Ground floor Area of OR Tambo International Airport for a Period of 6 Months**

11.2(14) *The following matters will be included in the Risk Register*

Risk Register		
#	Risk Name	Mitigation
1.	Material not arriving on time	Place orders in advance
2.	Electrical Cable damages	Caution when demolishing old infrastructure
3.	Passenger Flow disruption during the day when moving out rubble	Move rubble at night when passenger traffic is less.
4.	Working at heights	Use relevant PPE i.e. Safety Harness

11.2(15) *The Service Information is in* **Part C3: Employer's Service Information and all documents and drawings and other specifications to which it makes reference**

12.2 *The law of the contract is the law of* **the Republic of South Africa**

13.1 *The language of this contract is* **English**

13.3 *The period for reply is* **2 weeks**

Detailed in Part C3 (Service Information)

2 The Contractor's main responsibilities

21.1 *The Contractor submits a first plan for acceptance within* **2 weeks of the Contract Date**

3 Time

30.1 *The starting date is* **Upon contract signing by ACSA**

30.1 *The service period is* **6 months from the starting date**

4 Testing and defects

42.2 *The defect date is* **52 weeks after completion of the whole of works.**

43.2 *The defect correction period is*

47 *The contractor submits the quality plan for acceptance within* **4 weeks**

2 weeks of the contract date.

5 Payment

50.1	The <i>assessment interval</i> is	between the 30 days of each successive month. Four weeks after receipt of valid tax invoice
51.1	The <i>currency of this contract</i> is the	South African Rand (ZAR)
51.2	The period within which payments are made is	30 days
51.3	The interest rate is	The Prime lending rate of Nedbank, as determined from time to time

6 Compensation events

No data is required for this section of the condition of contract

7 Use of Equipment Plant and Materials

No data is required for this section of the conditions of the contract

8 Risks and insurance

80.1 These are additional Employer's risks

N/A

81.1 The contractor's risk

Add:

Definition of Force Majeure -

The following additional conditions must be satisfied:

(1) The Contractor has engaged with the persons responsible for the riot, commotion, disorder, strike or lockout; has met with the persons or leaders; and has recorded the persons or leaders' details, their grievances, the organisations involved, all threats made; and has requested the persons or leaders to cease all unlawful conduct; and

(2) The Contractor has obtained proof of the riot, commotion, disorder, strike or lockout, and of any unlawful conduct; and

(3) The Contractor has reported all threats and unlawful conduct to the South African Police Service; and

(4) The Contractor has brought an urgent application to the court on an ex parte basis that correctly identify the respondents and define the unlawful conduct to be interdicted; and

(5) The Contractor has ensured that the court order is enforced.

84.1	The <i>Employer</i> provides these insurances from the Insurance Table	See Annexure D to this Contract Data provided by the Employer.
84.1	The <i>Employer</i> provides these insurances from the Insurance Table	See Annexure D to this Contract Data provided by the Employer.
84.1	The <i>Employer</i> provides these insurances from the Insurance Table	The terms and other matters applicable to these insurances provided by the Employer (and to insurances generally) are detailed in the insurance schedule attached as section C1.4 to the contract ("the insurance Schedule)
84.2	The minimum limit of indemnity for insurance in respect of loss of or damage to property (except the <i>works</i> , Plant, Materials and Equipment) and liability for bodily injury to 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 the <i>Contractor</i> deems necessary in addition to that provided by the <i>Employer</i>.
84.2	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 with a limit of Indemnity of not less than (Refer to attached Annexure D on Insurance).

9	Termination	No data required for this section of the conditions of the contract
10	Data for main Option clause	
B	Priced contract with bill of quantities	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.

11 Data for Option W1

W1.1	The <i>Adjudicator</i> is:	The person selected from the panel of adjudicators listed in Annexure C of this Contract Data, by the party intending to refer a dispute to him.
W1.2(3)	The <i>Adjudicator nominating body</i> is:	The Chairman of the Johannesburg Society of Advocates, or his successor or his nominee.
W1.4(2)	The <i>tribunal</i> is:	Arbitration
W1.4(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) or its successor body
	The place where arbitration is to be held is	In the city where the Site is located, within South Africa
	The person or organisation who will choose an arbitrator:	the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.

12 Data for secondary Option clauses

X1	Price adjustment for inflation	
X1.1	The <i>base date</i> for indices is	It will be limited to a maximum of CPI as at the anniversary date of the contract
X2	Changes in the law	There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.
X7		

X7.1	Delay damages (But not if option X5 is also used)	Amount per day is 0.05% of the contract value, up to the maximum of 10% of the contract value
	Delay damages for Completion of the whole of the <i>works</i> are	
X13	Performance Bond	
X13.1	The amount of the performance bond is	10% of Contract value excluding VAT.
X15	Limitation of the <i>Contractor's</i> liability for his design to reasonable skill & care	There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.
X17	Low-performance damages	
X17.1	The amounts for low-performance damages are:	Amount per day is 0,05% of the contract value, up to the maximum of 10% of the contract value.
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	Refer attached Annexure D on Insurance
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	Total of the losses incurred and/or repairs to the damages caused.
X18.3	The <i>Contractor's</i> liability for Defects due to his design of an item of Equipment is limited to	• Total of the losses incurred and/or repairs to the damages caused. • •
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	The total of the Prices other than for the additional excluded matters. The <i>Contractor's</i> total liability for the additional excluded matters is not limited. The additional excluded matters are amounts for which the <i>Contractor</i> is liable under this contract for • Defects due to his design which arise before the Defects Certificate is issued, • Defects due to manufacture and fabrication outside the Site, • loss of or damage to property (other than the <i>works</i>, Plant and Materials), • death of or injury to a person; • damage to third party property; and infringement of an intellectual property right.
18.5	The <i>end of liability date</i> is	The date in which the liability in question prescribe in accordance with prescription Act No.68 of 1969 (as amended or in terms of any replacement legislation) for any other matter.
Z	The <i>additional conditions of contract</i> are	Z1 to Z24 below.

AMENDMENTS TO THE CORE CLAUSES

Z1 Interpretation and the law

Z1.1 Add to core clause 12.3: Any extension, concession, waiver or relaxation of any action stated in this contract by the Parties, the *Project Manager*, the *Supervisor*, or the *Adjudicator* does not constitute a waiver of rights and does not give rise to an estoppel unless the Parties agree otherwise and confirm such agreement in writing.

Z1.2 Add the following as a new core clause 12.5:

Z1.2.1 In this contract:

Z1.2.1.1 references to any Party to the Contract include its successors or permitted assigns;

Z1.2.1.2 references to the Contractor include the obligations of its personnel;

Z1.2.1.3 the references to the provisions of any law include such provisions as amended, re-enacted or consolidated from time to time in so far as such amendment, re-enactment or consolidation applies or is capable of applying to any works under this Contract;

Z1.2.1.4 references to this Contract and any deed, Contract or instrument are deemed to include references to this Contract or such other deed, agreement or instrument as amended, novated, supplemented, varied or replaced from time to time;

Z1.2.1.5 references to a "person" include a natural person, company or any other artificial person or other corporate entity, a charity, trust, partnership, joint venture, syndicate, or any other association of persons;

Z1.2.1.6 references to "month" means a calendar month;

Z1.2.1.7 headings are for convenience only and are not taken into consideration in the interpretation of the Contract;

Z1.2.1.8 where any number of days is prescribed, those days are reckoned exclusively of the first and inclusively of the last day unless the last day falls on a day that is not a working day, in which event the last day is the next succeeding working day;

Z1.2.1.9 any provision in Contract that is or may become illegal, invalid or unenforceable in any jurisdiction is ineffective to the extent of such prohibition or unenforceability in such jurisdiction and is treated as severed from the balance of Contract in such jurisdiction, without invalidating the remaining provisions of Contract in such jurisdiction or affecting it in any other jurisdiction;

Z1.2.1.10 references to any amount means that amount exclusive of VAT, unless the amount expressly includes VAT;

Z1.2.1.11 the rule of construction that if general words or terms are used in association with specific words or terms that are a species of a particular genus or class, the meaning of the general words or terms shall be restricted to that same class shall not apply, and whenever the word "including" is used followed by specific examples, such examples shall not be interpreted so as to limit the meaning of any word or term to the same genus or class as the examples given;

Z1.2.1.12 the rule of construction that the Contract is interpreted against or to the disadvantage of the party responsible for the drafting or preparation of Contract does not apply;

Z1.2.1.13 words and abbreviations that have well known technical or trade meanings are used in the Contract in accordance with such recognized meanings;

- Z1.2.1.14** references to a "*subsidiary*" or a "*holding company*" is references to a direct or indirect subsidiary or holding company as defined in the law of the jurisdiction of the place of incorporation of the company that has a subsidiary or holding company and "*affiliate*" is any company that is under common control with such subsidiary or holding company;
- Z1.2.1.15** time is of the essence in the performance of the parties' respective obligations.
- Z2 The Project Manager and Supervisor: add the following at the end of core clause 14.2:**
- Z2.1** The Project Manager and the Supervisor may take an action which they have delegated.
- Z3 Early Warning: add the following at the end of core clause 16.2:**
- Z3.1** The Contractor ensures that a subcontractor attends risk reduction meeting if its attendance would assist in deciding the actions to be taken.
- Z4 Providing the Works: Delete core clause 20.1 and replace with the following:**
- Z4.1** The *Contractor* provides the works in accordance with the Works Information and warrants that the results of the Works, when complete, shall be fit for their intended purpose as stated in the Works Information, and if no such purposes is stated, the ordinary purpose of the Works.
- Z5 Subcontracting:**
- Z5.1** The following clause is added as a new core clause 26.4: "Within 5 days of request by the *Project Manager*, the Contractor provides proof to the *Project Manager* that the Contractor's payment obligations towards its Subcontractors have been discharged. Failure by the Contractor to provide such proof to the satisfaction of the *Project Manager* entitles the *Employer* to instruct the *Project Manager* to certify payment directly to any such Subcontractor and the *Contractor* shall have no recourse to recover such amounts from the *Employer*. Such direct payment does not create privity of contract between the Employer and such Subcontractor. The *Employer* may recover such direct payment from the *Contractor*."
- Z6 Other responsibilities: add the following at the end of core clause 27:**
- Z6.1** The *Contractor* has satisfied himself, prior to the Contract Date, as to the completeness, sufficiency and accuracy of all information and drawings provided to him as at the Contract Date.
- Z6.2** The *Contractor* is responsible for the correct setting out of the *Works* in accordance with the original points, lines and levels stated in the *Works* Information or notified by the *Project Manager*, *Supervisor* or the *Employer*. Any errors in the positioning of the *Works* are rectified by the *Contractor* at the *Contractor's* own costs.
- Z7 Acceleration: add the following new provisions at the end of core clause 36:**
- Z7.1** The Project Manager's reply is either:
- Z7.1.1** A notification that the quotation is accepted, in which case, the *Project Manager* changes the Prices, Completion Date and Key Dates and accepts the revised programme; or
- Z7.1.2** A notification that the quotation is not accepted and that the Prices, Completion Date and Key Dates are not changed.
- Z8 Extending the defects date: add the following as a new core clause 46:**
- Z8.1** If the *Employer* cannot use the *works* due to a Defect, which arises after Completion and before the *defects date*, the *defects date* is delayed by a period equal to that during which the *Employer*, due to a Defect, is unable to use the *works*.

- Z8.2** If part of the *works* is replaced due to a Defect arising after Completion and before the *defects date*, the *defects date* for the part of the *works* which is replaced is delayed by a period equal to that between Completion and the date by when the part has been replaced.
- Z8.3** The *Project Manager* notifies the *Contractor* of the change to a *defect date* when the delay occurs. The period between Completion and an extended *defects date* does not exceed twice the period between Completion and the *defects date* stated in the Contract Data.
- Z9** **Quality Management System: add the following as a new core clause 47:**
- Z9.1** The *Contractor* implements and maintains a quality management system with the requirements stated in the Works Information.
- Z9.2** Within the period stated in the Contract Data, the *Contractor* provides the *Project Manager* with a quality plan for acceptance. A reason for not accepting the quality plan is that it does not allow for the *Contractor* to Provide the Works.
- Z9.3** If any changes are made to the quality plan, the *Contractor* provides the *Project Manager* with the change's quality plan for acceptance.
- Z9.4** The *Project Manager* may instruct the *Contractor* to correct a failure to comply with the quality plan. This instruction is not a compensation event.
- Z10** **Assessing the amount due:**
- Z10.1** **Delete the second bullet point of core clause 50.1 and replace with the following:** "within thirteen weeks of termination of this Contract"
- Z11** **Final assessment: add the following as a new core clause 53:**
- Z11.1** The *Project Manager* makes a final assessment and certifies final payment in accordance with the Contract. The final payment is made within four weeks of the assessment.
- Z11.2** An assessment of the final amount due is conclusive evidence of the final amount due under or in connection with the Contract, unless a Party raises a dispute in relation to the assessment of the final amount due.
- Z11.3** The assessment of the final amount due is changed to include any agreement the Parties reached and/or a decision of the Adjudicator which has not been referred to the tribunal within four weeks of that decision. The changed assessment becomes conclusive evidence of the final amount due under or in connection with the Contract.
- Z12** **Notifying compensation events:**
- Z12.1** **Delete the last sentence in core clause 61.3 and replace with the following:** "If the *Contractor* does not notify a compensation event within four weeks of becoming aware of the event, he is not entitled to a change in the Prices, the Completion date or a Key Date and the *Employer* is absolved from all liability in relation to such event."
- Z13** **Assessing compensation events:**
- Z13.1** **The following is added at the end of core clause 63.4:** "the *Contractor* shall only be entitled to changes to the Prices, the Completion Date and/or the Key Date if the compensation event affects the critical path."
- Z14** **Termination**
- Z14.1** **Add the following to core clause 91.1, at the second main bullet, fifth sub-bullet point, after the words "assets or":** "business rescue proceedings are initiated, or steps are taken to initiate business rescue proceedings".

AMENDMENTS TO THE SECONDARY OPTION CLAUSES

- Z15** **Changes in Law: Add the following clause to secondary option X2 as X2.2:**

Z15.1 A change in law is defined as:

Z15.1.1 the adoption, enactment, promulgation, coming into effect, repeal, amendment, reinterpretation, change in application or other modification after the Contract Date of any law, excluding (i) the enactment of any bill inside the country, but only if such bill is enacted without any material changes being made to the contents of such bill from the form published in the Gazette (as defined in the Interpretation Act, 1957) as at the Contract Date, and (ii) any such modification in law relating to any taxes, charges, imposts, duties, levies or deductions that are assessed in relation to a person's income

Z15.1.2 any permit being terminated, withdrawn, amended, modified or replaced, other than (i) in accordance with the terms upon which it was originally granted, (ii) as a result of the failure by the *Contractor* to comply with any condition set out therein, or (iii) as a result of any act or omission of the *Contractor*, any Subcontractor or any affiliate to the *Contractor*.

Z16. Delay damages: add the following to secondary Option X7 (if applicable in this contract)

Z16.1 If the amount due for the *Contractor's* payment of delay damages reaches the limits stated in this Contract Data for Option X7, the *Employer* may, at its sole discretion, terminate the *Contractor's* obligation to Provide the Works.

Z16.2 If the *Employer* terminates in terms of this clause, the procedures and payment on termination as those applied for reasons R1 to R15 or R18 stated in the Termination Table

Z17 Performance Bond

Z17.1 Amend the first sentence of clause X13.1 to read as follows: The *Contractor* gives the *Employer* an unconditional, on-demand performance bond, provided by a bank or insurer which the *Project Manager* and the *Employer* have accepted, for the amount stated in the Contract Data and in the form set out in Annexure B of this Contract Data.

Z16.2Z17.2 Add the following new clause as Option X13.2: The *Contractor ensures* that the performance bond is valid and enforceable until the end of the *contract period*. If the terms of the performance bond specify its expiry date and the end of the *contract period* does not coincide with such expiry date, four weeks prior to the said expiry date, the *Contractor* extends the validity of the performance bond until the end of the *contract period*. If the *Contractor* fails to so extend the validity of the performance bond, the *Employer* may claim the full amount of the performance bond and retain the proceeds as cash security

Z18 Limitation of liability: Insert the following new clause as Option X18.6:

Z18.1 The *Employer's* liability to the *Contractor* for the *Contractor's* indirect or consequential loss is limited to R0.00.

Z18.2 Notwithstanding any other clause in this contract, any proceeds received from the security bonds and guarantees provided by the *Contractor* in terms of this Contract and any insurances or any proceeds which would have been received from any insurances but for the conduct of the *Contractor* shall be excluded from the calculation of the limitations of liability listed in the contract.

ADDITIONAL Z CLAUSES

Z19 Cession, delegation and assignment

Z19.1 The *Contractor* shall not cede, delegate or assign any of its rights or obligations to any person without the written consent of the *Employer*, which consent shall not be unreasonably withheld. This clause shall be binding on the liquidator/business rescue practitioner /trustee (whether provisional or not) of the *Contractor*.

Z19.2 The *Employer* may, on written notice to the *Contractor*, cede and delegate its rights and obligations under this contract to any person or entity.

Z20 Joint and several liability

- Z20.1** If the *Contractor* constitutes a joint venture, consortium or other unincorporated grouping of two or more persons, these persons are deemed to be jointly and severally liable to the *Employer* for the performance of the Contract.
- Z20.2** The *Contractor* shall, within 1 week of the Contract Date, notify the *Project Manager* and the *Employer* of the key person who has the authority to bind the *Contractor* on their behalf.
- Z20.3** The *Contractor* does not materially alter the composition of the joint venture, consortium or other unincorporated grouping of two or more persons without prior written consent of the *Employer*.
- Z21 Ethics**
- Z21.1** The *Contractor* undertakes:
- Z21.1.1** not to give 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;
- Z21.1.2** 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 *Employer* is subject, including but not limited to the Prevention and Combating of Corrupt Activities Act, 12 of 2004.
- Z21.2** The *Contractor's* breach of this clause constitutes grounds for terminating the *Contractor's* obligation to Provide the Works or taking any other action as appropriate against the *Contractor* (including civil or criminal action). However, lawful inducements and rewards shall not constitute grounds for termination.
- Z21.3** If the *Contractor* 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 *Employer*, the *Employer* shall be entitled to terminate the contract in accordance with the procedures stated in core clause 92.2. The amount due on termination is A1.
- Z22 Confidentiality**
- Z22.1** All information obtained in terms of this contract or arising from the implementation of this contract shall be treated as confidential by the *Contractor* and shall not be used or divulged or published to any person not being a party to this contract, without the prior written consent of the *Project Manager* or the *Employer*, which consent shall not be unreasonably withheld.
- Z22.2** If the *Contractor* is uncertain about whether any such information is confidential, it is to be regarded as such until otherwise notified by the *Project Manager*.
- Z22.3** This undertaking shall not apply to –
- Z22.3.1** Information disclosed to the employees of the *Contractor* for the purposes of the implementation of this agreement. The *Contractor* undertakes to procure that its employees are aware of the confidential nature of the information so disclosed and that they comply with the provisions of this clause;
- Z22.3.2** Information which the *Contractor* is required by law to disclose, provided that the *Contractor* notifies the *Employer* prior to disclosure so as to enable the *Employer* to take the appropriate action to protect such information. The *Contractor* may disclose such information only to the extent required by law and shall use reasonable efforts to obtain assurances that confidential treatment will be afforded to the information so disclosed;
- Z22.3.3** Information which at the time of disclosure or thereafter, without default on the part of the *Contractor*, enters the public domain or to information which was already in the possession of the *Contractor* at the time of disclosure (evidenced by written records in existence at that time);
- Z22.4** The taking of images (whether photographs, video footage or otherwise) of the *works* or any portion thereof, in the course of Providing the Works and after Completion, requires the prior written consent of the *Project Manager*. All rights in and to all such images vests exclusively in the *Employer*.
- Z22.5** The *Contractor* ensures that all his Subcontractors abide by the undertakings in this clause.

Z23 Liens and Encumbrances

Z23.1 The *Contractor* keeps the Equipment used to Provide the Services free of all liens and other encumbrances at all times. The *Contractor*, vis-a-vis the *Employer*, waives all and any liens which he may from time to time have, or become entitled to over such Equipment and any part thereof and procures that his Subcontractors similarly, vis-a-vis the *Employer*, waive all liens they may have or become entitled to over such Equipment from time to time

Z24 Intellectual Property

Z24.1 Intellectual Property ("IP") rights mean all rights in and to any patent, design, copyright, trade mark, trade name, trade secret or other intellectual or industrial property right relating to the Works.

Z24.2 IP rights remain vested in the originator and shall not be used for any reason whatsoever other than carrying out the *works*.

Z24.3 The *Contractor* gives the *Employer* an irrevocable, transferrable, non-exclusive, royalty free licence to use and copy all IP related to the *works* for the purposes of constructing, repairing, demolishing, operating and maintaining the works.

Z24.4 The written approval of the *Contractor* is to be obtained before the *Contractor's* IP made available to any third party which approval will not be unreasonably withheld or delayed. Prior to making any *Contractor's* IP available to any third party the *Employer* shall obtain a written confidentiality undertaking from any such third party on terms no less onerous than the terms the *Employer* would use to protect its IP.

Z24.5 The *Contractor* shall indemnify and hold the *Employer* harmless against and from any claim alleging an infringement of IP rights ("**the claim**"), which arises out of or in relation to:

Z24.5.1 the *Contractor's* design, manufacture, construction or execution of the Works;

Z24.5.2 the use of the *Contractor's* Equipment, or

Z24.5.3 the proper use of the Works.

Z24.6 The *Employer* shall, at the request and cost of the *Contractor*, assist in contesting the claim and the *Contractor* may (at its cost) conduct negotiations for the settlement of the claim, and any litigation or arbitration which may arise from

Part 2: Pricing Data

Document reference	Title	No of pages
C2.1	Pricing assumptions: Option B	24 - 29
C2.2	The <i>bill of quantities</i>	30 - 36

C2.1 Pricing assumptions: Option B

The conditions of contract

How work is priced and assessed for payment

Clause 11 in NEC3 Engineering and Construction Contract, April 2013 (ECC3)
Option B states:

Identified and defined terms	11 11.2	(21) The Bill of Quantities is the <i>bill of quantities</i> as changed in accordance with this contract to accommodate implemented compensation events and for accepted quotations for acceleration.
		(22) Defined Cost is the cost of the components in the Shorter Schedule of Cost Components whether work is subcontracted or not excluding the cost of preparing quotations for compensation events.
		(28) The Price for Work Done to Date is the total of • the quantity of the work which the <i>Contractor</i> has completed for each item in the Bill of Quantities multiplied by the rate and • a proportion of each lump sum which is the proportion of the work covered by the item which the <i>Contractor</i> has completed. Completed work is work without Defects which would either delay or be covered by immediately following work.
		(31) The Prices are the lump sums and the amounts obtained by multiplying the rates by the quantities for the items in the Bill of Quantities.

This confirms that Option B is a re-measurement contract and the bill comprises only items measured using quantities and rates or stated as lump sums. The Contractor is paid based on the actual quantities of work performed as opposed to the quantities set out in the Bill of Quantities. Value related items are not used. Time related items are items measured using rates where the rate is a unit of time. With this pricing method, the Contractor bears the risk for his pricing of the bill and the Employer bears the risk for changes in the quantities.

Function of the Bill of Quantities

Clause 55.1 in Option B states, "Information in the Bill of Quantities is not Works Information or Site Information". This confirms that instructions to do work or how it is to be done are not included in the Bill, but in the Works Information. This is further confirmed by Clause 20.1 which states, "The *Contractor* Provides the Works in accordance with the Works Information". Hence the *Contractor* does not Provide the Works in accordance with the Bill of Quantities. The Bill of Quantities is only a pricing document.

Guidance before pricing and measuring

Employers preparing tenders or contract documents, and tendering contractors are advised to consult the sections dealing with the bill of quantities in the NEC3 Engineering and Construction Contract (April 2013) the requirements of the tender (if any) and the Guidance Notes before preparing the *bill of quantities* or before entering rates and lump sums into the *bill*.

The NEC approach to the P & G bill assumes use will be made of method related charges for Equipment applied to Providing the Works based on durations shown in the Accepted Programme, fixed charges for the use of Equipment that is required throughout the construction phase, time related charges for people working in a supervisory capacity for the period required, and lump sum charges for other facilities or services not directly related to performing work items typically included in other parts of the bill.

The P & G section of the bill is not used for the assessment of compensation events.

Measurement and payment

Symbols

The units of measurement described in the Bill of Quantities are metric units abbreviated as follows:

Abbreviation	Unit
%	percent
h	hour
ha	hectare
kg	kilogram
kl	kilolitre
km	kilometre
km-pass	kilometre-pass
kPa	kilopascal
kW	kilowatt
l	litre
m	metre
mm	millimetre
m ²	square metre
m ² -pass	square metre pass
m ³	cubic metre
m ³ -km	cubic metre-kilometre
MN	meganewton
MN.m	meganewton-metre
MPa	megapascal
No.	number
Prov sum ²	provisional sum
PC-sum	prime cost sum
R/only	Rate only
sum	Lump sum
t	ton (1000kg)
W/day	Work day

² Provisional Sums should not be used unless absolutely unavoidable. Rather include specifications and associated bill items for the most likely scope of work, and then change later using the compensation event procedure if necessary.

General assumptions

Unless otherwise stated, items are measured net in accordance with the drawings, and no allowance has been made in the quantities for waste.

The Prices and rates stated for each item in the Bill of Quantities shall be treated as being fully inclusive of all work, risks, liabilities, obligations, overheads, profit and everything necessary as incurred or required by the *Contractor* in carrying out or providing that item.

An item against which no Price is entered will be treated as covered by other Prices or rates in the *bill of quantities*.

The quantities contained in the Bill of Quantities may not be final and do not necessarily represent the actual amount of work to be done. The quantities of work assessed and certified for payment by the *Project Manager* at each assessment date will be used for determining payments due.

The short descriptions of the items of payment given in the *bill of quantities* are only for the purposes of identifying the items. Detail regarding the extent of the work entailed under each item is provided in the Works Information.

Departures from the *method of measurement*

Amplification of or assumptions about measurement items

For the avoidance of doubt the following is provided to assist in the interpretation of descriptions given in the *method of measurement*. In the event of any ambiguity or inconsistency between the statements in the *method of measurement* and this section, the interpretation given in this section shall be used.

C2.2 the *bill of quantities*

Use this page as a summary page or as a cover page to the *bill of quantities*.

C2.2 Price List

The Price List is as follows below and the attached excel spreadsheet

BILL OF QUANTITIES (BOQ)				RATE	PRICE
Media Room Refurbishment Project				R	R
1. PRELIMINARIES & GENERAL					
Item No.	Description	Unit	Qty		
1,1	Site establishment and mobilization	Item	1	R	R
1,2	Health and safety compliance	Item	1	R	R
1,3	Preparation of Health & Safety File	Item	1	R	R
1,4	ACSA permit compliance	Item	1	R	R
1,5	Access equipment, scaffolding and barricading	Item	1	R	R
1,6	Add as-is drawings	Item	1	R	R
1,7	Perform comprehensive condition assessment and add recommendations report	Item	1	R	R
1,8	Interior design services including design development, drawings, 3D renders, and approvals	Item	1	R	R
2. MEDIA ROOM WORKS					
Item No.	Description	Unit	Qty		
2,1	Carefully demolish and remove existing wall finishes	m ²	190	R	R

	including disposal off-site including kitchen and control room				
2,2	Remove existing ceiling boards and suspended ceiling system including kitchen and control room	m ²	190	R	R
2,3	Remove existing floor finishes, adhesive residue including kitchen and control room	m ²	190	R	R
2,4	Supply and install matt ceramic tiles	m ²	190	R	R
2,5	Remove existing wall cladding, and other wall finishes	m ²	160	R	R
2,6	Prepare and install wall acoustic panels	m ²	160	R	R
2,7	Supply and install suspended acoustic ceiling panels (tiles)	m ²	190	R	R
2,8	Supply and install customised illuminated bulkhead wall feature with O.R Tambo branding	Item	4	R	R
2,9	Supply and install customised illuminated bulkhead ceiling feature with O.R Tambo branding	Item	2	R	R
2,10	Supply and install stage structural framing in timber including all supports, bracing, and fixings	Item	1	R	R
2,11	Supply and install timber decking to stage surface	m ²	25	R	R

2,12	Supply and install stage floor finish carpet	m ²	25	R	R
2,13	Supply and install steel stage edging and trims	m	16	R	R
2,14	Supply and install skirting to stage perimeter	m	16	R	R
2,15	Supply and install stage access steps in timber complete with finish	No.	1	R	R
2,16	Supply and install quartz countertop	m	5	R	R
2,17	Supply and install base cabinets in melamine finish	m	5	R	R
3. KITCHEN WORKS					
Item No.	Description	Unit	Qty		
3,1	Remove existing kitchen cabinets and fittings	Item	1	R	R
3,2	Supply and install base kitchen cabinets in melamine finish	m	3	R	R
3,3	Supply and install wall-mounted kitchen cabinets	m	3	R	R
3,4	Supply and install quartz countertop complete with cut-outs	m	3,5	R	R
3,5	Supply and install stainless steel sink complete with mixer tap	No.	1	R	R
3,6	Supply and install ceramic wall tiles to splashback areas	m ²	2	R	R
3,7	Supply and install non-slip floor tiles	m ²	14	R	R
3,8	Supply and install hydro boil	No.	1	R	R
4. CONTROL ROOM WORKS					

Item No.	Description	Unit	Qty		
4,1	Supply and install operator control desk	No.	1	R	R
4,2	Supply and install quartz countertop complete with cut-outs	m	4	R	R
	Prepare and install wall acoustic panels	m ²	14	R	R
5. CARPENTRY WORKS					
Item No.	Description	Unit	Qty		
5,1	Supply and install timber doors complete with ironmongery (paint to be specified)	No.	5	R	R
5,2	Supply and install GLSAA front entrance door complete with aluminium frame, glazing, ironmongery, "Media Room" signage, and ACSA logo, including all fixing, sealing, testing, and making good in accordance with approved drawings and specifications	Item	1		
				R	R
6. MECHANICAL WORKS					
6.1 HVAC WORKS					
Item No.	Description	Unit	Qty		
6.1.1	Supply and install 1 controller to the existing AHU, add 1 x 4kW VSD integrated to this controller	No.	1	R	R
6.1.2	Supply and install modern air diffusers and	No.	35	R	R

	return air grilles to ceiling, complete and matching ceiling finish, including all fixings, connections to ductwork, testing, and making good in accordance with approved drawings and specifications.				
6.2 FIRE PROTECTION / SPRINKLER WORKS					
Item No.	Description	Unit	Qty	R	R
6.2.1	Relocate existing sprinkler heads to suit new ceiling layout	No.	10	R	R
6.2.2	Supply and install additional sprinkler pipework	m	10	R	R
6.2.3	Supply and install new sprinkler heads	No.	10	R	R
8. ELECTRICAL WORKS					
Item No.	Description	Unit	Qty		
8,1	Remove and make safe existing electrical installations (sockets outlets and switches)	Item	20	R	R
8,2	Supply and install new distribution board modifications (inclusive of any electrical works/wiring)	Item	1	R	R
8,3	Supply and install LED light fittings (inclusive of any electrical works/wiring)	No.	15	R	R
8,4	Supply and install motion sensors for lighting	No.	5		
				R	R

	control, complete with all wiring, connections, programming, testing, and making good in accordance with approved drawings and specifications (inclusive of any electrical works/wiring)				
8,5	Supply and install twin socket outlets (inclusive of any electrical works/wiring)	No.	10	R	R
8,6	Supply and install dedicated AV power outlets (inclusive of any electrical works/wiring)	No.	16	R	R
8,7	Supply and install 2 electrical outlets within stage fed from different circuits (inclusive of any electrical works/wiring)	No.	2	R	R
8,8	Supply and install cable trays and conduits	Item	2	R	R
8,9	Supply and install UPS power supply connections (inclusive of any electrical works/wiring)	Item	1	R	R
8,10	Earthing and bonding installation (inclusive of any electrical works/wiring)	Item	1	R	R
8,11	Testing, commissioning and certification of electrical	Item	1	R	R

	installations as per SANS 10142-1 (COC)				
	9. FURNISHER				
8,13	Furnisher layout, seating (chairs, couches, ergonomic setups), workstations and media desks, storage units and shelving, podium	SUM	1	R	R
SUBTOTAL (Excl.VAT)				R	R
VAT AMOUNT				R	R
GRAND TOTAL (Incl.VAT)				R	R

C3: Scope of Work

C3.1 Works Information

The works is for refurbishment of Media room at domestic terminal B of OR Tambo International airport. The capacity of the media room is for 110 occupants.

1. Description of the works

The ORTIA media room refurbishment scope consists of the following works:

Condition Assessment

- a) A comprehensive condition assessment to be conducted at the beginning of the project and full report issued to the project manager for review and Approval.

Design Phase

- a) Design the media room and present it in a 3D graphic presentation for approval by ACSA.
- b) Mock up drawings to be approved by ACSA

Structural & Architectural Works

- Walls, painting
- Ceiling refurbishment (lighting integration, soundproofing).
- Flooring replacement (carpet, vinyl, or hardwood).
- Podium/ Elevated Stage.
- Normal doors and emergency exit doors.
- Carpentry and Plumbing.

Electrical & Mechanical Works

- Electrical rewiring and outlets installation.
- HVAC adjustments (ventilation, cooling, heating).
- Lighting installation (ambient, task, accent lighting).
- Fire Detection System.
- Signage (Navigation and Emergency).

Audio-Visual Systems

- Cabling and connectivity setup
- Installation of projector/LED screen
- Sound system installation (speakers, amplifiers, mixers)

3. Specifications

Title	Date or revision	Tick if publicly available
<u>General Specifications:</u>		
Health and Safety requirements		
Environmental Management ACT (NEMA ACT)		
Site regulations and access control		
SANS 10142 - The wiring of premises — Part 1: Low-voltage installations		
SANS		
<u>Technical specifications:</u>		
Cinema type or foldable table chairs (pic given)		
Security scanning code devise		

4. Constraints on how the *Contractor* Provides the Works

No constraints, the contractor can work during the day and night in the media room without disturbance. The only constraint is moving of rubble outside the building for disposal, it can be done at night with proper cordoning of the exit route.

4.1 Meetings

Weekly project progress meetings to be held at specified Acsa offices.

4.2 Use of standard forms

Provide details of standard forms to be used by the *Contractor* in the administration of the contract, for example early warning and compensation event notifications.

4.3 Invoicing and payment

between the 30 days of each successive month. Four weeks after receipt of valid tax invoice

In terms of core clause 50 the *Contractor* assesses the amount due and applies to the *Employer* for payment. The *Contractor* applies for payment with a tax invoice addressed to the *Employer* as follows:

The *Contractor* includes the following information on each tax invoice:

- **Name and address of the *Contractor***
- **The contract number and title;**
- ***Contractor's* VAT registration number;**
- **The *Employer's* VAT registration number [•];**
- **The total Price for Work Done to Date which the *Contractor* has completed;**
- **Other amounts to be paid to the *Contractor*;**
- **Less amounts to be paid by or retained from the *Contractor*;**
- **The change in the amount due since the previous payment being the invoiced amount - excluding VAT, the VAT and including VAT;**
- **(add other as required)**

The *Contractor* attaches the detail assessment of the amount due to each tax invoice showing the Price for Work Done to Date for each item in the Price List for work which he has completed.

4.4 Records of Defined Cost

The contractor shall maintain records of Defined Cost in electronic format. Records shall comprise timesheets, invoices, delivery notes, plant records, subcontractor accounts and supporting documentation. Such records shall be made available to the Employer and Project Manager within 5 working days of request for inspection and audit.

4.5 BBBEE and preferencing scheme

Refer to page 16 and 30 of 77 under the Evaluation of preference and Returnable Documents in the Tender Document.

4.6 Facilities to be provided by the *Contractor*

Contractor to name all facilities to be provided before start of the contract, upon award stage.

4.7 Title to material from excavation and demolition

N/A

4.8 Design by the *Contractor*

The Contractor to design as per details on the Scope of Work. Acceptance by the Project Manager does not relieve the Contractor of responsibility for its design. The Contractor remains liable for design adequacy, correctness, and compliance with the contract requirements.

5. Requirements for the programme

Contractor must submit the full project plan on Ms Projects template before the start of the construction. This program must be updated on a weekly basis and presented on the site meetings between Acsa and contractor.

6. Services and other things provided by the *Employer*

Item	Date by which it will be provided
Electricity	
Material storage	
Contractor's parking	

C4: Site Information

The media room is located at ground floor of the domestic arrival terminal where passenger traffic flow is heavy. Door of media room site needs to be closed off for passengers not to be exposed to the inside works. Work may happen during the day or at night inside the media room. Removal of rubble outside the building will have to happen at night due to less passenger traffic and disturbance. The walkway from inside media room to outside must be created and cordoned off as such to minimise any safety issues to passengers and all other airport users and stakeholders.

C4.1: Information about the *site* at time of tender which may affect the work in this contract

1. Access limitations

There are no access limitations to the media room, work can be done any time during the day or night.

2. Ground conditions in areas affected by work in this contract

No earthworks included in the scope of work for revamping the media room.

3. Hidden and other services within the *site*

No underground or other hidden services on the scope of works for revamping the media room.

4. Details of existing buildings / facilities which *Contractor* is required to work on

Provided photographs can be used for as-is drawings in the absence of the actual drawings.