

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	
		B: Priced contract with bill of quantities
	dispute resolution Option	W1: Dispute resolution procedure
	and secondary Options	
		X2: Changes in the law
		X7: Delay damages
		X16: Retention
		X18: Limitation of liability
		Z: Additional conditions of contract
	of the NEC3 Engineering and Construction Contract June 2005 (amended June 2006 and April 2013)	
10.1	The <i>Employer</i> is:	Transnet SOC Ltd (Registration No. 1990/000900/30)
	Address	Registered address: Transnet Corporate Centre 138 Eloff Street, Braamfontein, JOHANNESBURG, 2000
	Having elected its Contractual Address for the purposes of this contract as:	Transnet National Ports Authority 1st Floor Bayvue Centre Ventura Road Port of Richards Bay, 3900

10.1	The <i>Project Manager</i> is: (Name)	Siphokazi Mpetshwa						
	Address	Pioneer Centre Building, San-thom Road Port of Richards Bay 3900						
	Tel	035 905 4650						
	e-mail	<u>Siphokazi.Mpetshwa@transnet.net@transnet.net</u>						
10.1	The <i>Supervisor</i> is: (Name)	Nontobeko Ntshangase						
	Address	Pioneer Centre Building, San-thom Road Port of Richards Bay 3900						
	Tel No.	0113081837						
	e-mail	Nontobeko.Ntshangase@transnet.net						
11.2(13)	The <i>works</i> are	SUPPLY, DELIVERY, INSTALLATION, TESTING AND COMMISSIONING OF FIRE FIGHTING WORKSHOP PLANT IN THE PORT OF RICHARDS BAY						
11.2(14)	The following matters will be included in the Risk Register	None						
11.2(15)	The <i>boundaries of the site</i> are	As stated in Part C4."Description of the Site and its surroundings"						
11.2(16)	The Site Information is in	Part C4						
11.2(19)	The Works Information is in	Part C3						
12.2	The <i>law of the contract</i> is the law of	the Republic of South Africa subject to the jurisdiction of the Courts of South Africa.						
13.1	The <i>language of this contract</i> is	English						
13.3	The <i>period for reply</i> is	2 (two) weeks						
2	The <i>Contractor's</i> main responsibilities	No additional data is required for this section of the <i>conditions of contract</i>.						
3	Time							
11.2(3)	The <i>completion date</i> for the whole of the <i>works</i> is	09 December 2022						
30.1	The <i>access dates</i> are	<table> <tr> <th colspan="2">Part of the Site</th><th>Access Date</th></tr> <tr> <td>1</td><td>Whole of the Construction Site</td><td>19 August 2022</td></tr> </table>	Part of the Site		Access Date	1	Whole of the Construction Site	19 August 2022
Part of the Site		Access Date						
1	Whole of the Construction Site	19 August 2022						

31.1	The <i>Contractor</i> is to submit a first programme for acceptance within	2 (two) weeks of the Contract Date.
31.2	The <i>starting date</i> is	01 September 2022
32.2	The <i>Contractor</i> submits revised programmes at intervals no longer than	2 (two) weeks.
35.1	The <i>Employer</i> is not willing to take over the <i>works</i> before the Completion Date.	
4	Testing and Defects	
42.2	The <i>defects date</i> is	52 (fifty-two) weeks after Completion of the whole of the <i>works</i>.
43.2	The <i>defect correction period</i> is	2 weeks
5	Payment	
50.1	The <i>assessment interval</i> is monthly on the	between 10th to 15th of the month and include forecasted period up to 25th.
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. Transnet payment terms is 30 (thirty) days from date of statement
51.4	The <i>interest rate</i> is	the prime lending rate of Standard Bank of South Africa.
6	Compensation events	
60.1(13)	The <i>weather measurements</i> to be recorded for each calendar month are,	the cumulative rainfall (mm) the number of days with rainfall more than 10 mm the number of days with minimum air temperature less than 0 degrees Celsius the number of days with snow lying at 08:00 hours South African Time and these measurements: N/a

The place where weather is to be recorded (on the Site) is: **The *Contractor's* Site establishment area**

The *weather data* are the records of past *weather measurements* for each calendar month which were recorded at: **Richards Bay Weather Station, KwaZulu Natal**

and which are available from: **South African Weather Service 012 367 6023 or info3@weathersa.co.za.**

7	Title	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	None
84.1	The <i>Employer</i> provides these insurances from the Insurance Table	
	1 Insurance against:	Loss of or damage to the <i>works</i>, Plant and Materials is as stated in the Insurance policy for Contract Works/ Public Liability.
	Cover / indemnity:	to the extent as stated in the insurance policy for Contract Works / Public Liability
	The deductibles are:	as stated in the insurance policy for Contract Works / Public Liability
	2 Insurance against:	Loss of or damage to property (except the <i>works</i>, Plant and Materials & Equipment) and liability for bodily injury to or death of a person (not an employee of the <i>Contractor</i>) arising out of or in connection with the performance of the Contract as stated in the insurance policy for Contract Works / Public Liability
	Cover / indemnity	Is to the extent as stated in the insurance policy for Contract Works / Public Liability
	The deductibles are	as stated in the insurance policy for Contract Works / Public Liability
	3 Insurance against:	Loss of or damage to Equipment (Temporary Works only) as stated in the insurance policy for contract Works and Public Liability

	Cover / indemnity	Is to the extent as stated in the insurance policy for Contract Works / Public Liability
	The deductibles are:	As stated in the insurance policy for Contract Works / Public Liability
4	Insurance against:	Contract Works SASRIA insurance subject to the terms, exceptions and conditions of the SASRIA coupon
	Cover / indemnity	Cover / indemnity is to the extent provided by the SASRIA coupon
	The deductibles are	The deductibles are, in respect of each and every theft claim, 0,1% of the contract value subject to a minimum of R2,500 and a maximum of R25,000.
	Note:	The deductibles for the insurance as stated above are listed in the document titled "Certificate of Insurance: Transnet (SOC) Limited Principal Controlled Insurance."
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 The <i>Contractor</i> provides these additional Insurances	
	The <i>Contractor</i> must comply at a minimum with the provisions of the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993 as amended. Where the contract requires that the design of any part of the <i>works</i> shall be provided by the <i>Contractor</i> the <i>Contractor</i> shall satisfy the <i>Employer</i> that professional indemnity insurance cover in connection therewith has been affected Where the contract involves manufacture, and/or fabrication of Plant & Materials, components or other goods to be incorporated into the <i>works</i> at premises other than the site, the <i>Contractor</i> shall satisfy the <i>Employer</i> that such plant & materials, components or other goods for incorporation in the <i>works</i> are adequately insured during manufacture and/or fabrication and transportation to the site. Should the <i>Employer</i> have an insurable interest in such items during manufacture, and/or fabrication, such interest shall be noted by endorsement to the <i>Contractor's</i> policies of insurance as well as those of any sub-contractor	

		4 Motor Vehicle Liability Insurance comprising (as a minimum) "Balance of Third Party" Risks including Passenger and Unauthorised Passenger Liability indemnity with a minimum indemnity limit of R 5 000 000. 5 The insurance coverage referred to in 1, 2, 3 and 4 above shall be obtained from an insurer(s) in terms of an insurance policy approved by the <i>Employer</i>. The <i>Contractor</i> shall arrange with the insurer to submit to the <i>Project Manager</i> the original and the duplicate original of the policy or policies of insurance and the receipts for payment of current premiums, together with a certificate from the insurer or insurance broker concerned, confirming that the policy or policies provide the full coverage as required. The original policy will be returned to the <i>Contractor</i>.
84.2	The minimum limit of indemnity for insurance in respect of loss of or damage to property (except the works, 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> requires in addition to the amount of insurance taken out by the <i>Employer</i> for the same risk.
84.2	The insurance against loss of or damage to the works, Plant and Materials as stated in the insurance policy for contract works and public liability selected from:	Principal Controlled Insurance (PCI) – Sankofa Insurance Brokers.
9	Termination	Additional Conditions of Contract Clause Z3
10	Data for main Option clause	
B	Priced contract with Bill of Quantities	No additional data is required for this Option.

60.6	The <i>method of measurement</i> is	The Bill of Quantities have been measured in accordance with SANS 1200 unless indicated otherwise.
11	Data for Option W1	
W1.1	The <i>Adjudicator</i> is	Both parties will agree as and when a dispute arises. If the parties cannot reach an agreement on the <i>Adjudicator</i>, the Chairman of the Association of Arbitrators will appoint an <i>Adjudicator</i>.
W1.2(3)	The <i>Adjudicator nominating body</i> is:	The Chairman of the Association of Arbitrators (Southern Africa)
	If no <i>Adjudicator nominating body</i> is entered, it is:	the Association of Arbitrators (Southern Africa)
W1.4(2)	The <i>tribunal</i> is:	Arbitration
W1.4(5)	The <i>arbitration procedure</i> is	The Rules for the Conduct of Arbitrations of the Association of Arbitrators (Southern Africa)
	The place where arbitration is to be held is	Durban, KwaZulu Natal, South Africa, South Africa
	The person or organisation who will choose an arbitrator	
	- if the Parties cannot agree a choice or	The Chairman of the Association of Arbitrators (Southern Africa)
	- if the arbitration procedure does not state who selects an arbitrator, is	
12	Data for secondary Option clauses	
X2	Changes in the law	No additional data is required for this Option
X2.1	The <i>law</i> of the project is	South African Law
X7	Delay damages	
X7.1	Delay damages for Completion of the whole of the <i>works</i> are	R1 500 per day
X16	Retention	
X16.1	The retention free amount is	Nil
	The retention percentage is	10% on all payments certified.
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 The deductible of the relevant insurance policy
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 which are not listed on the Defects Certificate 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 excluded matters, is limited to:	The Total of the Prices 2 (two) years after Completion of the whole of the works
X18.5	The <i>end of liability date</i> is/	

Z Additional conditions of contract are:

Additional clauses relating to Joint Venture Insert the additional core clause 27.5

27.5. In the instance that the *Contractor* is a joint venture, the *Contractor* shall provide the *Employer* with a certified copy of its signed joint venture agreement, and in the instance that the joint venture is an 'Incorporated Joint Venture,' the Memorandum of Incorporation, within 4 (four) weeks of the Contract Date.

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

Z2

Z2.1

- **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:**
 - i. **of their joint and several liabilities to the *Employer* to Provide the Works;**
 - ii. **identification of the lead partner in the joint venture confirming the authority of the lead partner to bind the joint venture through the *Contractor's* representative;**
 - iii. **Identification of the roles and responsibilities of the constituents to provide the Works.**
- **Financial requirements for the Joint Venture:**
 - iv. **the working capital requirements for the Joint Venture and the extent to which and manner whereby this will be provided and/or guaranteed by the constituents from time to time;**

		the names of the auditors and others, if any, who will provide auditing and accounting services to the Joint Venture.
Z2.2		Insert additional core clause 27.6
		v. 27.6. The <i>Contractor</i> shall not alter its composition or legal status of the Joint Venture without the prior approval of the <i>Employer</i>.
Z3	Additional obligations in respect of Termination	
Z3.1		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 Under the second main bullet, insert the following additional bullets after the last sub-bullet: commenced business rescue proceedings (R22) repudiated this Contract (R23)
Z3.2	Termination Table	The following will be included under core clause 90.2 Termination Table as follows: Amend "A reason other than R1 – R21" to "A reason other than R1 – R23"
Z3.3		Amend "R1 – R15 or R18" to "R1 – R15, R18, R22 or R23."
Z4	Right Reserved by the Employer to Conduct Vetting through SSA	
Z4.1		The <i>Employer</i> reserves the right to conduct vetting through State Security Agency (SSA) for security clearances of any <i>Contractor</i> who has access to National Key Points for the following without limitations: 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.

		1. 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. 2. 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.
Z5	Additional Clause Relating to Collusion in the Construction Industry	
Z5.1		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 any declared tender rigging including blacklisting.
Z6	Protection of Personal Information Act	
Z6.1		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.
Z7	The first assessment interval	
Z7.1		In the event the Contractor is not loaded on the Employers data base, the Project Manager's first assessment of the amount due will be done once the Contractor has been successfully loaded as a vendor on the Employers data base following submitting all valid updated documents. Therefore on NEC ECC Clause 50.1 the following text is removed in its entirety "and is no later than the assessment interval after the starting date".
Z8	Transfer of Rights	The Employer owns the Consultant rights over any of the material whatsoever prepared for the Services of this Contract by the Consultant. The Consultant provides on request by the Employer's Agent, all documentation in whatever form as required (native's, PDF's, CD's, etc) and all other material items which transfer these rights to the Employer.

C1.2 Contract Data

Part two - Data provided by the *Contractor*

The tendering *Contractor* is advised to read both the NEC3 Engineering and Construction Contract - June 2005 (with amendments June 2006 and April 2013) and the relevant parts of its Guidance Notes (ECC3-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 156 to 158 of the ECC3 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 <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:	
		CV's (and further key persons data including CVs) are appended to Tender Schedule entitled.....
11.2(14)	The following matters will be included in the Risk Register	

31.1		The programme identified in the Contract Data is			
B		Priced contract with bill of quantities			
11.2(21)		The <i>bill of quantities</i> is in			
11.2(31)		The tendered total of the Prices is	(in figures) (in words), excluding VAT		
41	in	The percentage for people overheads is:	 %		
21	in	The published list of Equipment is the last edition of the list published by			
		The percentage for adjustment for Equipment in the published list is	 % (state plus or minus)		
22	in	The rates of other Equipment are:	Equipment	Size or capacity	Rate
61	in	The hourly rates for Defined Cost of design outside the Working Areas are	Category of employee	Hourly rate	
62	in	The percentage for design overheads is	%		
63	in	The categories of design employees whose travelling expenses to and from the Working Areas are included in Defined Cost are:			