C1.3 Forms of Securities

Pro forma Performance Guarantee

For use with the NEC3 Term Service Contract - June 2005 (with amendments June 2006 and April 2013)

The *conditions of contract* stated in the Contract Data Part 1 include the following Secondary Option:

Option X13: Performance bond

The pro forma document for this Guarantee is provided here for convenience but is to be treated as part of the *Service Information*.

The organisation providing the Guarantee does so by copying the pro forma document onto its letterhead without any change to the text or format and completing the required details. The completed document is then given to the *Employer* within the time stated in the contract.

The Performance Bond needs to be issued by an institution that are reasonably acceptable to the *Employer*.

Transnet may choose to not to accept an Issuer. Should the issuer not being accepted, the performance bond needs to be replaced by an issuer that are acceptable to Transnet. Issuers need to be verified for acceptance by Transnet before a performance bond is issued.

Pro-forma Performance Bond (for use with Option X13)

(to be reproduced exactly as shown below on the letterhead of the Surety)

Transnet SOC Ltd
C/o Transnet Freight Rail
Transnet Corporate Centre
138 Eloff Street
Braamfontein
Johannesburg
2000

Date:

Dear Sirs,

Performance Bond for Contract No. .....

With reference to the above numbered contract made or to be made between

Transnet SOC Limited, Registration No. 1990/000900/30 (the *Employer*) and

{Insert registered name and address of the *Contractor*} (the *Contractor*), for

{Insert details of the *service* from the Contract Data} (the *service*).

I/We the undersigned .....

on behalf of the Guarantor .....

of physical address .....

.....

and duly authorised thereto do hereby bind ourselves as Guarantor and co-principal debtors in solidum for the due and faithful performance of all the terms and conditions of the Contract by the *Contractor* and for all losses, damages and expenses that may be suffered or incurred by the *Employer* as a result of non-performance of the Contract by the *Contractor*, subject to the following conditions:

1. The terms *Employer*, *Contractor*, *Service Manager*, *Service* have the meaning as assigned to them by the *conditions of contract* stated in the Contract Data for the aforesaid Contract.

2. We renounce all benefits from the legal exceptions "Benefit of Excussion and Division", "No value received" and all other exceptions which might or could be pleaded against the validity of this bond, with the meaning and effect of which exceptions we declare ourselves to be fully acquainted.

3. The *Employer* has the absolute right to arrange his affairs with the *Contractor* in any manner which the *Employer* deems fit and without being advised thereof the Guarantor shall not have the right to claim his release on account of any conduct alleged to be prejudicial to the Guarantor. Without derogating from the foregoing compromise, extension of the service period, indulgence, release or variation of the *Contractor's* obligation shall not affect the validity of this performance bond.

4. This bond will lapse on the earlier of

   - the date that the Guarantor receives a notice from the *Service Manager* stating that the Completion Certificate for the whole of the *service* has been issued, that all amounts due from the *Contractor* as certified in terms of the contract have been received by the *Employer* and that the *Contractor* has fulfilled all his obligations under the Contract, or

   - the date that the Surety issues a replacement Performance Bond for such lesser or higher amount as may be required by the *Service Manager*.

5. Always provided that this bond will not lapse in the event the Guarantor is notified by the *Service Manager*, (before the dates above), of the *Employer's* intention to institute claims and the particulars thereof, in which event this bond shall remain in force until all such claims are paid and settled.

6. The amount of the bond shall be payable to the *Employer* upon the *Employer's* demand and no later than 7 days following the submission to the Guarantor of a certificate signed by the *Service Manager* stating the amount of the *Employer's* losses, damages and expenses incurred as a result of the non-performance aforesaid. The signed certificate shall be deemed to be conclusive proof of the extent of the *Employer's* loss, damage and expense.

7. Our total liability hereunder shall not exceed the sum of:

   (say) _____

   R _____

8. This Performance Bond is neither negotiable nor transferable and is governed by the laws of the Republic of South Africa, subject to the jurisdiction of the courts of the Republic of South Africa

Signed at _____ on this _____ day of _____ 201_

Signature(s)		
Name(s) (printed)		
Position in Guarantor company		
Signature of Witness(s)		
Name(s) (printed)		