

C1.2 Contract Data

Part one - Data provided by the *Employer*

| Clause | Statement | Data |
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| 1 | General | |
| | The <i>conditions of contract</i> are the core clauses and the clauses for main Option | |
| | dispute resolution Option | A: Priced contract with activity schedule W1: Dispute resolution procedure |
| | and secondary Options | X1: Price adjustment for inflation X2: Changes in the law X5: Sectional Completion X7: Delay damages X13: Performance Bond X16: Retention X18: Limitation of liability Z: <i>Additional conditions of contract</i> |

of the NEC3 Engineering and
Construction Contract June 2005
(amended June 2006 and April 2013)¹

¹ Available from Engineering Contract Strategies Tel 011 803 3008, Fax 011 803 3009

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| 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 237 Mahatma Gandhi Road Queens Warehouse Point, Durban 4001 |
| 10.1 | The <i>Project Manager</i> is: (Name) | TBA |
| | Address | Transnet National Ports Authority 237 Mahatma Gandhi Road Queens Warehouse Point, Durban 4001 |
| | Tel | TBA |
| | e-mail | TBA |
| 10.1 | The <i>Supervisor</i> is: (Name) | TBA |
| | Address | Transnet National Ports Authority 237 Mahatma Gandhi Road Queens Warehouse Point, Durban 4001 |
| | Tel | TBA |
| | e-mail | TBA |
| 11.2(13) | The <i>works</i> are | DCT Berths 203 to 205 Reconstruction, Deepening and Lengthening. |

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| 11.2(14) | The following matters will be included in the Risk Register | <ul style="list-style-type: none"> ➤ Quay wall failure during construction. ➤ Restricted Working Areas. ➤ Heavy Traffic Congestion within the port (roads & waterways) ➤ High E-Coli levels preventing all underwater activities. ➤ High levels of debris during heavy rainfall restricting movement of marine fleet. ➤ Disruptions to the project as a result of Business Forum ➤ Working along operational berths and within an operating port. |
| 11.2(15) | The <i>boundaries of the site</i> are | All related areas necessary for the <i>Contractor</i> to Provide the Works within the boundaries of Berths 203, 204, 205 and Lot 10. Refer to Part C4.1 for details. |
| 11.2(16) | The Site Information is in | Part C4.1 |
| 11.2(19) | The Works Information is in | Part C3.1 |
| 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 | 31 Jan 2030 |
| 11.2(9) | The <i>key dates</i> and the <i>conditions</i> to be met are: | <i>Condition to be met</i> <i>key dates</i> |

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| | <p>1 Submission of all documents required for application of construction work permit & documents required to be accepted by the <i>Project Manager</i> for acceptance in accordance with the Works Information to ensure site Access Certificate can be issued.</p> | <p>Within 6 (six) weeks of Contract Start Date</p> |
| | <p>2 Provide full access (referred to as "other things" in accordance to clause 25.2 of conditions of contract) for Others to Section 1 back of quay Working Area (Berth 205) for the installation of electrical Plant and materials and undertaking of refurbishment within and of the existing busbar and back of quay tunnels or otherwise as instructed by the <i>Project Manager</i>.</p> | <p>13 Jan 2025</p> |
| | <p>3 Complete the removal and reconstruction of existing busbar tunnel tops at Section 1 of the <i>works</i> including adequate protection of electrical cables as installed by Others, within the tunnels Defect Free and accepted by the <i>Project Manager</i>.</p> | <p>7 Mar 2025</p> |
| | <p>4 Complete extension to existing busbar, existing quayside tunnels connecting to the North substation and link tunnel connecting North substation to the new quayside tunnel at Section 1 of the <i>works</i> Defect free including acceptance by the <i>Project Manager</i> and allow access to Others for the installation of electrical Plant and materials.</p> | <p>9 Jan 2027</p> |

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| 5 | Complete all Section 1a back of quay <i>works</i> within Section 1 back of quay STS modification site (as shown on construction sequencing drawings) in accordance to the Works Information, Defect free including acceptance by the <i>Project Manager</i> to allow access to Others for establishment of crane modification site and crane slipping from Berth 204. | 15 Dec 2025 |
| 6 | Complete all Section 1a superstructure <i>works</i> in accordance with the Works Information i.e but not limited to, stormwater and all services infrastructure, tunnels, concrete and asphalt paving, capping beam, crane beam, crane fixtures (rails and anchors), quay furniture, road markings and signage, installation of temporary stop blocks on new quay wall including quay wall dredging and scour protection to final design levels, between chainage 393.91 and chainage 193.91 Defect free accepted by the <i>Project Manager</i> to allow access for Others to slip STS cranes onto new quayside for modification and commissioning. | 15 Jan 2027 |
| 7 | Complete all Section 1a electrical infrastructure <i>works</i> in accordance with the Works Information i.e but not limited to, tunnels, ducts and chambers, mini-sub chambers and plinths, high mast light foundations, CCTV foundations Defect free accepted by the <i>Project Manager</i> to allow access to Others for installation and commissioning of electrical Plant and materials. | 16 Jan 2027 |

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| 8 | Provide full access (referred to as "other things" in accordance to clause 25.2 of conditions of contract) for Others to Section 2a back of quay Working Area (Berth 204) for the installation of electrical Plant and materials and undertaking of refurbishment within and of the existing busbar and back of quay tunnels or otherwise as instructed by the <i>Project Manager</i> . | 30 Mar 2027 |
| 9 | Complete the removal and reconstruction of existing busbar tunnel tops at Section 2a of <i>works</i> including adequate protection of electrical cables as installed by Others, within the tunnels Defect Free and certified by the <i>Project Manager</i> . | 30 Jun 2027 |
| 10 | Complete all Section 2a back of quay <i>works</i> in accordance with the Works Information within Section 2 back of quay STS modification site (as shown on construction sequencing drawings) Defect free including sign off by the <i>Project Manager</i> to allow access to Others for establishment of crane modification site and crane slipping from berth 203. | 19 May 2027 |

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| 11 | Complete all Section 2a superstructure <i>works</i> in accordance with the Works Information i.e but not limited to, stormwater and all services infrastructure, tunnels, concrete and asphalt paving, capping beam, crane beam, crane fixtures (rails and anchors), quay furniture, road markings and signage, installation of temporary stop blocks on new quay wall including quay wall dredging and scour protection to final design levels, between chainage 713.91 and chainage 513.91 Defect free certified by the <i>Project Manager</i> to allow access for Others to slip STS cranes onto new quayside for modification and commissioning. | 02 Mar 2028 |
| 12 | Complete all Section 2a (Berth 204) electrical infrastructure <i>works</i> in accordance with the Works Information i.e but not limited to, tunnels, ducts and chambers, mini-sub chambers and plinths, high mast light foundations, CCTV foundations Defect free certified by the <i>Project Manager</i> to allow access to Others for installation and commissioning of electrical Plant and materials. | 13 Dec 2027 |

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| 13 | Provide full access (referred to as "other things" in accordance to clause 25.2 of conditions of contract) for Others to Section 3a back of quay Working Area (Berth 203) for the installation of electrical Plant and materials and undertaking of refurbishment within and of the existing busbar and back of quay tunnels or otherwise as instructed by the <i>Project Manager</i> . | 13 Jun 2028 |
| 14 | Complete the removal and reconstruction of existing busbar tunnel tops at Section 3a of <i>works</i> including adequate protection of electrical cables as installed by Others, within the tunnels Defect Free and certified by the <i>Project Manager</i> . | 14 Aug 2028 |
| 15 | Complete all Section 3a (Berth 203) electrical infrastructure <i>works</i> in accordance with the Works Information i.e but not limited to, tunnels, ducts and chambers, mini-sub chambers and plinths, high mast light foundations, CCTV foundations Defect free certified by the <i>Project Manager</i> to allow access to Others for installation and commissioning of electrical Plant and materials. | 10 Sept 2029 |
| 16 | Hand-over of all close-out documentation associated with Sectional Completion Dates 1a and 1b and acceptance of same by <i>Project Manager</i> . | 2 (Two) weeks prior to Sectional Completion Date 1b. |
| 17 | Hand-over of all close-out documentation associated with Sectional Completion Dates 2a and 2b and acceptance of same by <i>Project Manager</i> . | 2 (Two) weeks prior to Sectional Completion Date 2b. |
| 18 | Hand-over of all close-out documentation associated with Sectional Completion Dates 3a, 3b and 4 and acceptance of same by <i>Project Manager</i> . | 2 (Two) weeks prior to Sectional Completion Date 4. |

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| 30.1 | The <i>access dates</i> are | Part of the Site | |
| 1 | Section 1a (Phase 1 Berth 205) – Access for installation of site boundary fence, terminal access route and installation of new temporary stop blocks at Berth 204. | 13 Jan 2025 | |
| 2 | Section 1b (Phase 1 Berth 205) – Access to the whole of the Working Area, on completion and sign-off of scope associated with Access Date Section 1a. | 1 (One) day after Completion of the installation of Section 1a construction site boundary fence, deviated terminal access route and installation stop blocks at existing Berth 204 and all other requirements being met in accordance with Works Information and certified by the <i>Project Manager</i> | |
| 3 | Section 1c (Phase 1 Berth 205) – Access to the central sandbank, approach basin dredging areas, T-jetty and Pier 1 waterside area, on completion and sign-off of scope associated with Access Date Section 1a. | *1 (One) day after Completion of the installation of Section 1a construction site boundary fence, deviated terminal access route and installation stop blocks at existing Berth 204, all in accordance with the Works Information and certified by the <i>Project Manager</i> | <i>*Subject to availability based on port operations.</i> |
| 4 | Lot 10 - Access for installation of site boundary fence. | 13 Jan 2025 | |
| 5 | Lot 10 – Access to the whole of the Working Area. | *1 Day after Completion of the installation of Lot 10 site boundary fence and all other requirements being met in accordance with the Works Information and certified by the <i>Project Manager</i> | <i>*Subject to availability based on port operations.</i> |

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| | | 6 | Section 2a (Phase 2 Berth 204) – Access for installation of site boundary fence & terminal access route | 1 (One) Day after Hand Over of Section 1a of the <i>works</i> to the <i>Employer</i> <u>and</u> Completion Certificate being issued by the <i>Project Manager</i> for section 1a <i>works</i> |
| | | 7 | Section 2b (Phase 1 Berth 204) – Access to the whole of the Working Area, terminal access route and installation of stop blocks for Berth 203 | 1 (One) day after Completion of the installation of Section 2a construction site boundary fence, deviated terminal access route in accordance with the Works Information and signed by the <i>Project Manager</i> |
| | | 8 | Section 3a (Phase 3 Berth 203) – Access for installation of site boundary fence, terminal access route | 1(One) Day after Hand Over of Section 2a of the <i>works</i> to the <i>Employer</i> <u>and</u> Completion Certificate being issued by the <i>Project Manager</i> for section 2a <i>works</i> |
| | | 9 | Section 3b (Phase 3 Berth 203) – Access to the whole of the Working Area, on completion and sign-off of scope associated with Access Date Section 3a. | 1 (One) Day after Completion of the installation of Section 3a construction site boundary fence, deviated terminal access route <u>and</u> Hand Over of Section 2a of the <i>works</i> to the <i>Employer</i> <u>including</u> Completion Certificate being issued by the <i>Project Manager</i> |
| 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. | 29 Aug 2024 | | |
| 31.3 | Acceptance of the programme | Within four weeks of the <i>Contractor</i> submitting a programme to him for acceptance, the <i>Project Manager</i> either accepts the programme or notifies the <i>Contractor</i> of his reasons for not accepting it. | | |
| 32.2 | The <i>Contractor</i> submits revised programmes at intervals no longer than | The <i>Contractor</i> submits revised programmes at intervals no longer than 4 weeks. | | |
| 35.1 | The <i>Employer</i> is 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 (two) weeks | | |

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| 5 | Payment | |
| 50.1 | The <i>assessment interval</i> is monthly on the | 18th (eighteenth) day of each successive month. 25th (twenty fifth) day 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 effected on or before the last day of the month following the month during which an undisputed valid Tax Invoice and Statement is received. |
| 51.4 | The <i>interest rate</i> is | the prime lending rate of the Rand Merchant Bank of South Africa. Standard Bank. |
| 6 | Compensation events | |
| 60.1(13) | The <i>weather measurements</i> to be recorded for each calendar month are, | the cumulative rainfall (mm); and the number of days with rainfall more than 10 (ten) mm |
| | The place where weather is to be recorded (on the Site) is: | The <i>Contractor's</i> site establishment area within the <i>boundaries</i> of the Site, refer to Part C4.1 and the specification agreed with the <i>Supervisor</i> |
| | The <i>weather data</i> are the records of past <i>weather measurements</i> for each calendar month which were recorded at: | Durban Weather Station |
| | and which are available from: | South African Weather Service 012 367 6023 or info3@weathersa.co.za. |
| | These are additional compensation events: | 1 Wind velocity exceeding 40 km/hr for a minimum duration of 4 (four) continuous hours shall be a compensation event based on accurate records verified by the <i>Supervisor</i>. |
| 7 | Title | No additional data is required for this section of the <i>conditions of contract</i>. |
| 8 | Risks and insurance | |
| 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 |

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| | 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 |
| 84.1 | 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. |
| 84.1 | <p>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</p> <p>The <i>Contractor</i> provides these additional Insurances</p> | |
| | 1 | 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 |
| | 2 | 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. |
| | 3 | 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 subcontractor |
| | 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 | Marine Craft Hull insurance in respect of all marine craft or vessels utilised in performance of the Works for a sum sufficient to provide for their replacement |

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| | | <p>6 Protection and Indemnity Insurance in respect of all marine craft or vessels utilised in performance of the Works extended for Specialist Operations with a minimum indemnity limit of R 50,000,000</p> <p>7 The insurance coverage referred to in 1, 2, 3, 4, 5 and 6 above shall be obtained from an insurer(s) in terms of an insurance policy approved by the Employer. The Contractor shall arrange with the insurer to submit to the Project Manager 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 Contractor.</p> |
| 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 Contractor) caused by activity in connection with this contract for any one event is | Whatever the Contractor requires in addition to the amount of insurance taken out by the Employer 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: | Project Specific Insurance |
| 9 | Termination | There is no additional Contract Data required for this section of the conditions of contract. |
| 10 | Data for main Option clause | |
| A | Priced contract with activity schedule | No additional data is required for this Option |
| 11 | Data for Option W1 | |
| W1.1 | The Adjudicator is | 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 nominate an Adjudicator. |
| W1.2(3) | The Adjudicator nominating body is: | The Chairman of the Association of Arbitrators (Southern Africa) |
| W1.4(2) | The tribunal is: | Arbitration |
| W1.4(5) | The arbitration procedure 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 |

The person or organisation who will choose an arbitrator.

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

The Chairman of the Association of Arbitrators (Southern Africa)

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| 12 | Data for secondary Option clauses | | |
| X1 | Price adjustment for inflation | | |
| X1.1(a) | The <i>base date</i> for indices is | Tender closing date | |
| X1.1(c) | The proportions used to calculate the Price Adjustment Factor are: | proportion | linked to index for |
| | | 0.30 | Labour |
| | | | Index prepared by |
| | | | The Consumer Price Index (CPI) for "All Items" in Table 1 (Consumer price indices for the total country) of the Statistical Release P0141 "Consumer Price Index - Additional Tables" published by Statistics South Africa. |
| | | | (Link - http://www.statssa.gov.za/?page_id=1854&PPN=P0141) |
| | | 0.25 | Plant (Equipment) |
| | | | The "Plant and Equipment" index in Table 4 (Mining and construction plant and equipment price index) of the Statistical Release P0151.1 "Construction Materials Price Indices" published by Statistics South Africa. |
| | | | (Link - http://www.statssa.gov.za/?page_id=1854&PPN=P0151.1); |

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| | | 0.40 | Material (Plant Materials) | and | The "Civil Engineering Material - Total" index in Table 6 (Civil engineering material price indices) of the Statistical Release P0151.1 "Construction Materials Price Indices" published by Statistics South Africa. (Link – http://www.statssa.gov.za/?page_id=1854&PPN=P0151.1); and |
| | | 0.05 | Fuel | | The "Diesel" index in Table 1 (PPI for final manufactured goods) of the Statistical Release P0142.1 "Producer Price Index" published by Statistics South Africa. (Link - http://www.statssa.gov.za/?page_id=1854&PPN=P0142.1) |
| | | 1.00 | | | |
| | | 0.15 | Non-Adjustable | | |
| X2 | Changes in the law | No additional data is required for this Option | | | |
| X5 | Sectional Completion | | | | |
| X5.1 | The <i>completion date</i> for each <i>section</i> of the <i>works</i> is: | <i>Section</i> | Description | <i>Completion date</i> | |
| | | 1a | Hand-over of complete Berth 205 including return quay and dredging and scour to new quay wall <i>works</i> in accordance with Works Information at Berth 205, Defect free as certified by the <i>Project Manager</i> . | 09 Mar 2027 | |

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| 1b | Hand-over of complete Central sandbank extension including scour protection to T-jetty and Pier 1, and all approach basin dredging works, complete to final design levels in accordance with the Works Information and Defect free as certified by the <i>Project Manager</i>. | 29 Jan 2027 |
| 2a | Hand-over of complete Berth 204 works in accordance with Works Information, Defect free as certified by the <i>Project Manager</i>. | 01 Jun 2028 |
| 2b | Hand-over of complete Berth 204 including dredging and scour to new quay wall works in accordance with Works Information, Defect free as certified by the <i>Project Manager</i>. | 02 Mar 2028 |
| 3a | Hand-over of complete Berth 203 quay wall works in accordance with Works Information, Defect free as certified by the <i>Project Manager</i>. | 10 Dec 2029 |

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| | | 3b | Hand-over of complete Berth 203 including dredging and scour to new quay wall <i>works</i> in accordance with Works Information, Defect free as certified by the <i>Project Manager</i>. | 15 Sept 2029 |
| | | 4 | Remainder of the <i>works</i> | 14 Jan 2030 |
| X5 & X7 | Sectional Completion and delay damages used together | | | |
| X7.1 X5.1 | Delay damages for late Completion of the <i>sections</i> of the <i>works</i> are: | <i>section</i> | Description | Amount per day |
| | | 1a | Hand-over of complete Berth 205 including return quay and dredging and scour to new quay wall <i>works</i> in accordance with Works Information at Berth 205, Defect free as accepted by the <i>Project Manager</i>. | R 295 000.00 |
| | | 1b | Hand-over of complete Central sandbank extension including scour protection to T-jetty and Pier 1, and all approach basin dredging <i>works</i>, complete to final design levels in accordance with the Works Information and Defect free as accepted by the <i>Project Manager</i>. | R 295 000.00 |

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| 2a | Hand-over of complete Berth 204 <i>works</i> in accordance with Works Information, Defect free as accepted by the <i>Project Manager</i> . | R 295 000.00 |
| 2b | Hand-over of complete Berth 204 including dredging and scour to new quay wall <i>works</i> in accordance with Works Information, Defect free as accepted by the <i>Project Manager</i> . | R 295 000.00 |
| 3a | Hand-over of complete Berth 203 quay wall <i>works</i> in accordance with Works Information, Defect free as accepted by the <i>Project Manager</i> . | R 295 000.00 |
| 3b | Hand-over of complete Berth 203 including dredging and scour to new quay wall <i>works</i> in accordance with Works Information, Defect free as accepted by the <i>Project Manager</i> . | R 295 000.00 |
| 4 | Remainder of the <i>works</i> | R295 000.00 |
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| X13 | Performance bond |
| X13.1 | The amount of the performance bond is 10% 5% of the total of the Prices including VAT |
| X16 | Retention |
| | The retention free amount is Nil |
| | The retention percentage is 5% 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: Total of the Prices 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 |

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| 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 |
| X18.5 | The <i>end of liability date</i> is | Five (5) years after Completion of the whole of the works |

Z Additional conditions of contract

The *additional conditions of contract* are:

Z1 Additional clauses relating to Performance Bonds and/or Guarantees

Z1.1 The Performance Guarantee under X13 above shall be an irrevocable, on-demand performance guarantee, to be issued exactly in the form of the Pro Forma documents provided for this purpose under C1.3 (Forms of Securities), in favour of the *Employer* by a financial institution reasonably acceptable to the *Employer*.

~~**Z1.2** A Retention Guarantee of 5% of the total of the Prices shall be provided, in lieu of Option X16 under the Contract, within four (4) weeks of the Contract Date. The Retention Guarantee shall be reproduced exactly as per the attached Pro Forma Retention Guarantee and shall be subject to the conditions stated under clause Z1.1 above.~~

Z2 Obligations in respect of Joint Venture Agreements

Z2.1 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:

- 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 constituents' 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 liability to the *Employer* to Provide the Works;
 - ii. identification of the leader in the joint venture confirming the authority of the leader 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:
 - i. 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;
 - ii. 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

27.6. In the instance that the *Contractor* is a joint venture, the *Contractor* shall not alter its composition or legal status without the approval of the *Employer*.

Z2.3

Consortiums will only be considered if they comply with all the tender requirements applicable to Joint Ventures, and provided they meet all commercial and technical requirements specified in the tender document.

| | |
|-------------|---|
| Z3 | Additional obligations in respect of Termination |
| Z3.1 | <p>The following will be included under core clause 91.1:</p> <p>In the second main bullet, after the word 'partnership' add 'joint venture whether incorporated or otherwise and consortiums (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) |
| Z3.2 | 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> <p>Amend "R1 – R15 or R18" to "R1 – R15, R18, R22 or R23."</p> |
| Z4 | Right Reserved by the <i>Employer</i> to Conduct Vetting through SSA |
| Z4.1 | <p>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:</p> <ol style="list-style-type: none"> 1. Confidential – this clearance is based on any information which may be used by malicious, opposing or hostile elements to harm the objectives and functions of an organ of state. 2. Secret – clearance is based on any information which may be used by malicious, opposing or hostile elements to disrupt the objectives and functions of an organ of state. 3. Top Secret – this clearance is based on information which may be used by malicious, opposing or hostile elements to neutralise the objectives and functions of an organ of state. |

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| Z5 | Additional clause relating to Collusion in the Construction Industry | |
| Z5.1 | | 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 bid 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. |
| Z6.2 | | The <i>Employer</i> owns the <i>Contractor's</i> rights over material, including but not limited to design and documentation, prepared for this contract by the <i>Contractor</i> except as stated otherwise in the Works Information. The <i>Contractor</i> obtains other rights for the <i>Employer</i> as stated in the Works Information and obtains from a Sub <i>Contractor</i> or third party equivalent rights for the <i>Employer</i> of the material prepared by the Sub <i>Contractor</i> . The <i>Contractor</i> provides to the <i>Employer</i> the documents which transfer these rights to the <i>Employer</i> at no costs to the <i>Employer</i> . |
| Z7 | The first assessment interval | |
| Z7.1 | | In the event the <i>Contractor</i> is not loaded on the <i>Employers</i> data base, the <i>Project Manager's</i> first assessment of the amount due will be done once the <i>Contractor</i> has been successfully loaded as a vendor on the <i>Employers</i> 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 <i>assessment</i> interval after the <i>starting</i> date" . |

| | | |
|-------------|---------------------------|---|
| Z8 | Transfer of rights | The <i>Employer</i> owns the <i>Contractor's</i> rights over material, including but not limited to design and documentation, prepared for this contract by the <i>Contractor</i> except as stated otherwise in the Works Information. The <i>Contractor</i> obtains other rights for the <i>Employer</i> as stated in the Works Information and obtains from a Subcontractor or third-party equivalent rights for the <i>Employer</i> of the material prepared by the Subcontractor. The <i>Contractor</i> provides to the <i>Employer</i> the documents which transfer these rights to the <i>Employer</i> at no costs to the <i>Employer</i> . |
| Z9 | Subcontracting | |
| Z9.1 | | The <i>Contractor's</i> Subcontracting percentage as detailed in the tender submission Returnable T2.2-30 will constitute a binding agreement throughout the duration of the contract until Completion, if not, it will be deemed that the <i>Contractor</i> has failed in full to meet the material term of the contract, which may constitute a reason for termination. |
| Z9.2 | | The <i>Contractor</i> shall report to the <i>Employer</i> on a monthly basis during the term of the Contract, the amounts spent on each sub-contractor. |
| Z9.3 | | The <i>Contractor</i> may not replace any sub-contractor without acceptance of the <i>Project Manager</i> . The <i>Project Manager</i> shall before acceptance of a replacement by the <i>Contractor</i> of any sub-contractor as detailed in the tender submission Returnable T2.2-30, obtain representations or input from the initial sub-contractor to make an informed decision as to the proposed replacement. The sub-contracting arrangement/contract remains between the <i>Contractor</i> and sub-contractor. |
| Z9.4 | | The <i>Contractor</i> shall provide to the <i>Employer</i> , upon receiving an instruction to do so, any documentation and/or evidence required by the <i>Employer</i> , which in the <i>Employer's</i> opinion would be necessary to verify whether the <i>Contractor</i> has maintained the subcontracting percentage. The <i>Contractor</i> shall provide the said documentation and/or evidence within the period stated in the instruction. The provision of the documentation and/or evidence shall not constitute a compensation event. |

Z10 **Obligations in respect of Job Creation**

- Z10.1** It will be a material term of this contract that the *Contractor* must contribute to the *Employer's* job-creation objectives as set out in Returnable Schedule T2.2-29.
- Z10.2** The *Contractor's* undertaking as to the number of new jobs created due to the award of this contract as set out in Returnable Schedule T.2.2-29 will constitute a binding agreement throughout the duration of the contract until Completion, if not, it will be deemed that the *Contractor* has failed in full to meet this specific material term of the contract, which may constitute a reason for termination..
- Z10.3** The *Contractor* shall provide to the *Employer*, on a monthly basis or upon receiving an instruction to do so by the *Project Manager*, any documentation and/or evidence required by the *Employer*, which in the *Employer's* opinion would be necessary to verify whether the *Contractor* has maintained the job-creation undertaking as stipulated in Returnable Schedule T.2.2-29 The *Contractor* shall provide the said documentation and/or evidence within the period stated or as instructed. The provision of the documentation and/or evidence shall not constitute a compensation event.

Z11 Foreign Exchange

Fluctuations in the foreign exchange rates to be determined prior to award of the contract, will be treated as a compensation event based on the actual cost of the Forward Exchange Contract (Forward Cover) arranged by the *Contractor*, when instructed to do so by the *Project Manager*, in accordance with the conditions stated hereunder.

The *Contractor* shall obtain a quote for a Forward Exchange Contract (Forward Cover) in respect of the imported Plant and Materials from a recognised financial institution registered in South Africa (an institution registered with the Financial Services Board) for comparative purposes within four weeks of the Contract Date and must submit this to the *Project Manager* for acceptance before it is entered into. If accepted by the *Project Manager*, this will be a compensation event and the Prices will be increased or reduced accordingly and the *Project Manager* will not accept any further changes in prices due to exchange rate fluctuations as thereafter the total of the Prices will be fixed in Rands (ZAR). The resulting compensation event will be based on an actual Forward Exchange Contract (FEC) between the *Contractor* and a recognised financial institution registered in South Africa.

It shall be the *Contractor's* responsibility to liaise directly with Transnet National Ports Authority Financial Accountant to finalise the foreign currency hedging process (Forward Exchange Contract) to be entered into by the *Contractor*.

If the *Contractor* fails to provide the Forward Exchange Contract (Forward Cover) within four weeks of the Contract Date, the *Project Manager* will assess this compensation event based on his own assessment of the foreign currency cash flow and projected forward rates.

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)² 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: Contract Manager / Project Manager Responsibilities: Qualifications: Experience: | |
| | 2 | Construction Manager |
| | 3 | Construction Manager |
| | 4 | Construction Manager |
| | 5 | Commercial Manager |
| | 6 | General Foreman |
| | 7 | General Foreman |
| | 8 | General Foreman |
| | 9 | General Foreman |
| | 10 | Site Engineer |

² Available from Engineering Contract Strategies Tel 011 803 3008, Fax 011 803 3009

| | |
|--|--|
| 11 | Site Engineer |
| 12 | Site Engineer |
| 13 | Site Engineer |
| 14 | Land Surveyor |
| 15 | Lead Planner |
| 16 | Health and Safety Manager |
| 17 | Environmental Manager |
| 18 | Quality Manager |
| 19 | Quality Officer |
| 20 | Quality Officer |
| 21 | Quality Officer |
| 22 | Health and Safety Officer |
| 23 | Health and Safety Officer |
| 24 | Health and Safety Officer |
| 25 | Environmental Officer |
| 26 | Environmental Officer |
| 27 | Document Controller |
| 28 | Document Controller |
| 29 | Industrial Relations Officer |
| 11.2(14) | The following matters will be included in the Risk Register - |
| A | Priced contract with activity schedule |
| 11.2(20) | The <i>activity schedule</i> is in Refer to C2.2 Activity Schedule |
| 11.2(30) | The tendered total of the Prices is |
| Data for Schedules of Cost Components <p><i>Note "SCC" means Schedule of Cost Components starting on page 60 of ECC, and "SSCC" means Shorter Schedule of Cost Components starting on page 63 of ECC.</i></p> | |
| A | Priced contract with activity schedule |
| A | Data for the Shorter Schedule of Cost Components |
| 41 SSCC | in The percentage for people overheads is: |
| 21 SSCC | in The published list of Equipment is the last edition of the list published by N/A |

The percentage for adjustment for Equipment in the published list is **0%**

| | | | | | |
|------------|----|--|-----------------------------|-------------------------|------------------------|
| 22 SSCC | in | The rates of other Equipment are: (Note: the <i>Contractor</i> to distinguish between dry and wet rate) | Equipment | Size or capacity | Hourly Rate (R) |
| 61 SSCC | in | The hourly rates for Defined Cost of design outside the Working Areas are | Category of employee | Hourly rate | |
| 62 SSCC | in | The percentage for design overheads is | 0% | | |
| 63 SSCC | in | The categories of design employees whose travelling expenses to and from the Working Areas are included in Defined Cost are: | None | | |
| | | | | | |