

**REQUEST FOR QUOTATION (RFQ)**

**RFQ NUMBER: [Q03/2020/CTN/INFRA]**

**PR NUMBER: 10311160**

**REQUEST FOR QUOTATION (RFQ) FOR THE *[*SUPPLY AND DELIVERY OF Repairing and Surfacing of Level Crossing and Depot entrances at various locations within Western Cape Region*]***

**NB!!! Quotations submitted by email must be limited to a maximum of 7MB, virus-free. They must be free from any form of virus or corrupted contents, or the quotations shall be rejected.**

**It shall remain your responsibility to ensure that your quotation will reach the address above on or before the deadline. Quotations that are received by Metrorail after the deadline indicated above, for whatever reason, shall not be considered for evaluation**

**SECTION 1: SBD1**

**PART A INVITATION TO BID**

|  |
| --- |
| **YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF PASSENGER RAIL AGENCY (PRASA)** |
| BID NUMBER: |

|  |
| --- |
| Q03/2020/CTN/INFRA (10311160) |

 | CLOSING DATE:  | **17/02/2021** | CLOSING TIME: | …10H00 |
| DESCRIPTION | **SUPPLY AND DELIVERY OF Repairing and Surfacing of Level Crossing and Depot entrances at various locations within Western Cape Region** |
| **BID RESPONSE DOCUMENTS SHALL BE ADDRESSED AS FOLLOWS:**   |
| BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT *(STREET ADDRESS)*:**1 ADDERLEY STREET****METRORAIL SUPPLY CHAIN MANAGEMENT****6TH FLOOR, ROOM 622B****PROPNET BUILDING****CAPE TOWN****Or** **Emailed to:** RFQWC@prasa.com |
| **BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO** |
| CONTACT PERSON | **Thembakazi Genu** |
| TELEPHONE NUMBER | **021 4493858** |
| E-MAIL ADDRESS | **(for enquiries only) thembakazi.genu@prasa.com** |
| **SUPPLIER INFORMATION** |
| NAME OF BIDDER |  |
| POSTAL ADDRESS |  |
| STREET ADDRESS |  |
| TELEPHONE NUMBER | CODE |  | NUMBER |  |
| CELLPHONE NUMBER |  |
| FACSIMILE NUMBER | CODE |  | NUMBER |  |
| E-MAIL ADDRESS |  |
| VAT REGISTRATION NUMBER |  |
| SUPPLIER COMPLIANCE STATUS | TAX COMPLIANCE SYSTEM PIN: |  | **OR** | CENTRAL SUPPLIER DATABASE No:  | MAAA…………….. |
| B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE | TICK APPLICABLE BOX][ ]  Yes [ ]  No | B-BBEE STATUS LEVEL SWORN AFFIDAVIT  | [TICK APPLICABLE BOX][ ]  Yes [ ]  No |
| ***[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]*** |
| 1. ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?
 | [ ] Yes [ ] No [IF YES ENCLOSE PROOF] | 1. ARE YOU A FOREIGN BASED SUPPLIER FOR **THE GOODS /SERVICES /WORKS OFFERED?**
 | [ ] Yes [ ] No[IF YES, ANSWER THE QUESTIONNAIRE BELOW ] |
| **QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS** |
| IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? [ ]  YES [ ]  NODOES THE ENTITY HAVE A BRANCH IN THE RSA? [ ]  YES [ ]  NODOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? [ ]  YES [ ]  NODOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? [ ]  YES [ ]  NOIS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? [ ]  YES [ ]  NO **IF THE ANSWER IS “NO” TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.**  |

**PART B: TERMS AND CONDITIONS FOR BIDDING**

|  |
| --- |
| 1. **BID SUBMISSION:**
 |
| * 1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
	2. **ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR IN THE MANNER**
	3. **PRESCRIBED IN THE BID DOCUMENT.**
	4. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
	5. **THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).**
 |
| 1. **TAX COMPLIANCE REQUIREMENTS**
 |
| 1. BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
2. BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER’S PROFILE AND TAX STATUS.
3. APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE [WWW.SARS.GOV.ZA](http://www.sars.gov.za).
4. BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
5. IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
6. WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
7. NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE.”
 |

**NB: FAILURE TO PROVIDE / OR COMPLY WITH ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID NVALID**.

SIGNATURE OF BIDDER: ……………………………………………

CAPACITY UNDER WHICH THIS BID IS SIGNED: ……………………………………………

(Proof of authority must be submitted e.g. company resolution)

DATE: …………………………………………...

**NB**:

* ***Quotation(s) must be addressed to PRASA before the closing date and time shown above.***
* ***PRASA General Conditions of Purchase shall apply.***

**SECTION 2**

**NOTICE TO BIDDERS**

# Responses to RFQ

Responses to this RFQ [**Quotations]** must not include documents or reference relating to any other quotation or proposal. Any additional conditions must be embodied in an accompanying letter.

Proposals must reach the PRASA before the closing hour on the date shown on SBD1 above, and must be enclosed in a sealed envelope.

# PREQUALIFICATION / ELIGIBILITY CRITERIA

* 1. Only those Respondents who satisfy the following pre-qualification or eligibility criteria are eligible to submit quotations as per section 3.

# CIDB Grading

# Only those Respondents who are registered with the CIDB, or are capable of being so prior to the submission of the quotation, in a contractor grading designation equal to or higher than a contractor grading designation determined in accordance with the sum tendered or a value determined in accordance with Regulation 25 (1B) or 25(7A) of the Construction Industry Development Regulations, for a ……….. or higher class of construction works, are eligible to have their quotations evaluated.

Joint ventures are eligible to submit tenders provided that:

* every member of the joint venture is registered with the CIDB;
* the lead partner has a contractor grading designation in the 9CE class of construction work; and
* the combined Contractor grading designation calculated in accordance with the Construction Industry Development Regulations is equal to or higher than a Contractor grading designation determined in accordance with the sum quoted for a …. class of construction works or a value determined in accordance with Regulation 25(1B) or 25(7A) of the Construction Industry Development Regulations

# Communication

Respondent/s are warned that a response will be liable for disqualification should any attempt be made either directly or indirectly to canvass any SCM Officer(s) or PRASA employee in respect of this RFQ between the closing date and the date of the award of the business.

# Legal Compliance

The successful Respondent shall be in full and complete compliance with any and all applicable national and local laws and regulations.

# Changes to Quotations

Changes by the Respondent to its submission will not be considered after the closing date and time.

# Pricing

All prices must be quoted in South African Rand on a fixed price basis, including VAT.

# Binding Offer

Any Quotation furnished pursuant to this Request shall be deemed to be an offer. Any exceptions to this statement must be clearly and specifically indicated.

# Disclaimers

# PRASA is not committed to any course of action as a result of its issuance of this RFQ and/or its receipt of a Quotation in response to it. Please note that PRASA reserves the right to:

# Modify the RFQ’s goods / service(s) and request Respondents to re-bid on any changes;

# Reject any Quotation which does not conform to instructions and specifications which are detailed herein;

# Disqualify Quotations submitted after the stated submission deadline;

# Not necessarily accept the lowest priced Quotation or an alternative bid;

# Bids lodged at the incorrect venue that reach the correct venue late will be regarded as late.

# Reject all Quotations, if it so decides;

# Place an order in connection with this Quotation at any time after the RFQ’s closing date;

# Make no award at all.

# Award only a portion of the proposed goods / service/s which are reflected in the scope of this RFQ;

# split the award of the order/s between more than one Supplier/Service Provider should it at PRASA’s discretion be more advantageous in terms of, amongst others, cost or developmental consideration; or

## Should a contract be awarded on the strength of information furnished by the Respondent, which after conclusion of the contract, is proved to have been incorrect, PRASA reserves the right to cancel the contract. PRASA reserves the right to award business to the highest scoring bidder/s unless objective criteria justify the award to another Respondent.

## Should the preferred fail to sign or commence with the contract within a reasonable period after being requested to do so, PRASA reserves the right to award the business to the next highest ranked Respondent provided that he/she is still prepared to provide the required goods at the quoted price.

# LEGAL REVIEW

A Proposal submitted by a Respondent will be subjected to review and acceptance or rejection of its proposed contractual terms and conditions by PRASA’s Legal Counsel, prior to consideration for an award of business.

# NATIONAL TREASURY’S CENTRAL SUPPLIER DATABASE

Respondents are required to self-register on National Treasury’s Central Supplier Database (CSD) which has been established to centrally administer supplier information for all organs of state and facilitate the verification of certain key supplier information. PRASA is required to ensure that price quotations are invited and accepted from prospective bidders listed on the CSD. Business may not be awarded to a respondent who has failed to register on the CSD. Only foreign suppliers with no local registered entity need not register on the CSD. The CSD can be accessed at <https://secure.csd.gov.za/>.

# PROTECTION OF PERSONAL DATA

In responding to this bid, PRASA acknowledges that it may obtain and have access to personal data of the Respondents. PRASA agrees that it shall only process the information disclosed by Respondents in their response to this bid for the purpose of evaluating and subsequent award of business and in accordance with any applicable law.

Furthermore, PRASA will not otherwise modify, amend or alter any personal data submitted by Respondents or disclose or permit the disclosure of any personal data to any Third Party without the prior written consent from the Respondents. Similarly, PRASA requires Respondents to process any personal information disclosed by PRASA in the bidding process in the same manner.

1. **EVALUATION METHODOLOGY**

PRASA will utilise the following criteria [not necessarily in this order] in choosing a Supplier/Service Provider, if so required:

1. **ADMINISTRATIVE RESPONSIVENES**The test for administrative responsiveness will include completeness of response and whether all returnable and/or required documents, certificates; verify completeness of warranties and other bid requirements and formalities have been complied with. Incomplete Bids will be disqualified.
2. **Validity Period**
	1. PRASA requires a validity period of **………………90…………. Business Days** from the closing date.
	2. Respondents are to note that they may be requested to extend the validity period of their response, on the same terms and conditions, if the internal processes are not finalized within the validity period. However, once the adjudication body has approved the process and award of the business to the successful respondent(s), the validity of the successful respondent(s)’ response will be deemed to remain valid until a final contract has been concluded.
3. **Disclosure of Prices Quoted**

Respondents are to note that, on award of business, PRASA is required to publish the prices and preferences claimed of the successful and unsuccessful Respondents *inter alia* on the National Treasury e-Tender Publication Portal, ([www.etenders.gov.za](http://www.etenders.gov.za)), on CIDB website for construction related RFQ’s.

1. **Returnable Documents**

**Returnable Documents** means all the documents, Sections and Annexures, as listed in the tables below. There are three types of returnable documents as indicated below and Respondents are urged to ensure that these documents are returned with the quotation based on the consequences of non-submission as indicated below:

1. **Mandatory Returnable Documents**

Failure to provide all these Mandatory Returnable Documents at the Closing Date and time of this RFQ will result in a Respondent’s disqualification. Respondents are therefore urged to ensure that all these Documents are returned with their Quotations.

**SECTION 3**

1. **EVALUATION CRITERIA: N/A**

**Stage1 & Stage2**: Adherence to Prequalification requirements and Compliance checklist

**NB:** Compliance Checklist Requirements **for all Services/Goods and works**

**Only Respondents who satisfy the following Pre-Qualification Criteria will be considered for next stage of the evaluation:**

|  |  |  |
| --- | --- | --- |
| **No.** | **Description of requirement** |  |
| a) | Minimum B-BBEE level [Delete if not applicable] | **N/A** |
| b)  | Exempted Micro Enterprises (EMEs) **and/or** Qualifying Small Delete if not applicable] | **N/A** |
| c) | Declaration document for local content and production SBD 6.2 Delete if not applicable] | **N/A** |
| d) | Annexure C – Local Content Declaration – Summary Schedule | **N/A** |

**If you do not submit the following mandatory documents your Proposal/Quote will be disqualified automatically:**

|  |  |  |
| --- | --- | --- |
| **No.** | **Description of requirement** |  |
| a) | Price Schedule / Pricing form | **X** |
| b)  | Completion of ALL RFQ declarations | **X** |
| c) | Joint Venture / Consortium agreement / Trust Deed (if applicable) | **X** |
| d) | Proof of CIDB grading of 2CE or higher | **2CE/higher** |
| e) | Attendance certificate of compulsory briefing session ( if applicable) |  |
| f) | Compulsory briefing will be held on 29/01/2021@Room 163,Infrastructure BuildingOff Malta Road Salt River @10:00 am  |  |

**The following documents are non-mandatory and where not submitted, Prasa may request the documents and must be made available at the time of request:**

|  |  |  |
| --- | --- | --- |
| **No.** | **Description of requirement** |  |
| a) | Company Registration Documents |  |
| b) | Copies of Directors’ ID documents; |  |
| c) | Valid BBBEE Certificate from a SANAS accredited rating agency (Original or Certified) or affidavit signed by the Commissioner of Oath  |  |
| d) | Valid Tax Clearance Certificate (must be valid on closing date of submission of the proposal) and SARS Issued Pin |  |
| e) | CSD report / CSD reference number  |  |
| f) | Proof of UIF registration |  |
| g) | Annexure D – Imported Content Declaration – Supporting Schedule to Annex C |  |
| h) | Annexure E – Local Content Declaration – Supporting Schedule to Annex C |  |
| i) | Proof of Bank Account (i.e. cancelled cheque or letter issued by the bank |  |
| j) | Valid and Original, or certified copy of Letter of Good Standing (COID) |  |

* 1. **Stage 3**

**Technical / Functionality Requirements (N/A**

**Scoring of Functionality:**

The minimum threshold for Technical/functionality criteria is and bidders who score below this minimum will not be considered for further evaluation in terms of price and B-BBEE. **N/A**

|  |  |  |
| --- | --- | --- |
| **CRITERIA** | **WEIGHT** | **SCORES**  |
| **N/A** | **N/A** | **N/A** |

* 1. **Stage4- Price and B-BBEE: N/A**

|  |  |
| --- | --- |
| **Evaluation criteria** | **Weighting** |
| BBBEE | 20 |
| Price | 80 |
| **TOTAL** | **100** |

PS = 80 $\left(1-\frac{Pt-Pmin}{Pmin}\right)$

Where:

*Ps* = Score for the Bid under consideration

*Pt* = Price of Bid under consideration

*Pmin* = Price of lowest acceptable Bid

## Evaluation of Preference : N/A

 Evaluation and final weighted scoring

### Broad-Based Black Economic Empowerment criteria [weighted score 20 points] Preference Points will be awarded to a bidder for attaining the B-BBEE status level contribution in accordance with the table indicated in Section 8 B-BBEE claim form.

**SECTION 4**

PRICING AND DELIVERY SCHEDULE (PLACE PRICING AND BOQ IN SEPARATE ENVELOPE MARKED AS ENVELOPE TWO)

Respondents are required to complete the attached Pricing Schedule **Annexure:**

1. Prices must be quoted in South African Rand, inclusive of VAT.
2. Price offer is firm and clearly indicate the basis thereof.
3. Pricing Bill of Quantity is completed in line with schedule if applicable.
4. Cost breakdown must be indicated.
5. Price escalation basis and formula must be indicated.
6. To facilitate like-for like comparison bidders must submit pricing strictly in accordance with this price schedule and not utilise a different format. Deviation from this pricing schedule could result in a bid being declared non-responsive.
7. Please note that should you have offered a discounted price(s), PRASA will only consider such price discount(s) in the final evaluation stage on an unconditional basis.
8. Respondents are to note that if price offered by the highest scoring bidder is not market related, PRASA may not award the contract to the Respondent. PRASA may:
9. negotiate a market-related price with the Respondent scoring the highest points or cancel the RFQ;
10. if that Respondent does not agree to a market-related price, negotiate a market-related price with the Respondent scoring the second highest points or cancel the RFQ;
11. If a market-related price is not agreed with the Respondent scoring the third highest points, PRASA must cancel the RFQ.
12. if the Respondent scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the Respondent scoring the third highest points or cancel the RFQ.

I / We \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Insert Name of Bidding Entity) of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ code \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Full address) conducting business under the style or title of: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ represented by: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in my capacity as:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ being duly authorised, hereby offer to undertake and complete the above-mentioned work/services at the prices quoted in the bills of quantities / schedule of quantities or, where these do not form part of the contract, at a lumpsum, of R \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (amount in numbers); \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (amount in words) Incl. VAT.

 **Covid-19 Measurements**

 The contractor shall implement measures required in terms of covid-19 regulations. No separate payment will be made for such measures, as the contractor shall allow for this in his rates tendered for the Works

**DELIVERY PERIOD:** Suppliers are requested to offer their earliest delivery period possible.

Delivery will be effected within …………. working days from date of order. (To be completed by Service provider)

|  |  |
| --- | --- |
|  | **SCHEDULE OF WORK AND PRICES** |
| **ITEM** | **DESCRIPTION** | **UNIT** | **QUANTITY** | **RATE** | **AMOUNT** |
| **1** | Break up existing surface material, remove, load, transport and dump at an approved municipal dumping site | m3 | 60 |  |  |
| **2** | Provide and compact base course | m3 | 60 |  |  |
| **3** | Compact (in situ) base course | m2 | 580 |  |  |
| **4** | Prepare and prime base course to receive premix wearing course | m2 | 580 |  |  |
| **5** | Provide and compact Bitumen Treated Base course (BTB) | m3 | 40 |  |  |
| **6** | Provide and compact PREMIX wearing course | m3 | 50 |  |  |
| **7** | Re-align and place end pieces 200mm x 2100mm | each | 10 |  |  |
| **8** | Provide and install 25mm x 150mm spacer block (treated wood) | meter | 10 |  |  |
| **9** | Supply and Install E1 pathway kerb | each | 10 |  |  |
| **10** | **Density testing** |  |  |  |  |
| **10.1** | Metro Region: Density test by hydrodensimeter "TROXLER" | each | 10 |  |  |
| **10.2** | Metro Region: Material Grading and property tests | each | 3 |  |  |
| **11** | **Emergency repairs of potholes** |  |  |  |  |
| **11.1** | Callout fee | each | 30 |  |  |
| **11.2** | Repair of potholes | m2 | 10 |  |  |
|  |  | **GROSS TOTAL R\_\_\_\_\_\_\_\_\_\_\_ \_\_\_****15 % V.A.T. R\_\_\_\_\_ \_\_\_\_\_\_\_\_\_****AMOUNT DUE R\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |

**SECTION 5**

**PRASA GENERAL CONDITIONS OF PURCHASE**

**General**

PRASA and the Supplier enter into an order/contract on these conditions to supply the items (goods/services/works) as described in the order/contract.

**Conditions**

These conditions form the basis of the contract between PRASA and the Supplier. Notwithstanding anything to the contrary in any document issued or sent by the Supplier, these conditions apply except as expressly agreed in writing by PRASA.

No servant or agent of PRASA has authority to vary these conditions orally. These general conditions of purchase are subject to such further special conditions as may be prescribed in writing by PRASA in the order/contract.

**Local Content Obligations**

Respondents are to note that the Local Content commitments made by the successful Respondent(s) will be incorporated as a term of the contract and monitored for compliance. Should the successful Respondent fail to meet its Local obligations, non-compliance penalties shall be applicable. Breach of Local Content obligations also provide PRASA cause to terminate the contract in certain cases where material non-compliance with Local Content requirements are not achieved.

**Price and payment**

The price or rates for the items stated in the order/contract may include an amount for price adjustment, which is calculated in accordance with the formula stated in the order/contract.

 The Supplier may be paid in one currency other than South African Rand. Only one exchange rate is used to convert from this currency to South African Rand. Payment to the Supplier in this currency other than South African Rand, does not exceed the amounts stated in the order/contract. PRASA pays for the item within 30 days of receipt of the Suppliers correct tax invoice.

**Delivery and documents**

The Supplier’s obligation is to deliver the items on or before the date stated in the order/contract. Late deliveries or late completion of the items may be subject to a penalty if this is imposed in the order/contract. No payment is made if the Supplier does not provide the item as stated in order/contract.

Where items are to be delivered the Supplier:

Clearly marks the outside of each consignment or package with the Supplier’s name and full details of the destination in accordance with the order and includes a packing note stating the contents thereof; On dispatch of each consignment, sends to PRASA at the address for delivery of the items, an advice note specifying the means of transport, weight, number of volume as appropriate and the point and date of dispatch; Sends to PRASA a detailed priced invoice as soon as is reasonably practical after dispatch of the items, and states on all communications in respect of the order the order number and code number (if any).

**Containers / packing material**

Unless otherwise stated in the order/contract, no payment is made for containers or packing materials or return to the Supplier.

**Title and risk**

Without prejudice to rights of rejection under these conditions, title to and risk in the items passes to PRASA when accepted by PRASA.

**Rejection**

If the Supplier fails to comply with his obligations under the order/contract, PRASA may reject any part of the items by giving written notice to the Supplier specifying the reason for rejection and whether and within what period replacement of items or re-work are required.

In the case of items delivered, PRASA may return the rejected items to the Supplier at the Supplier’s risk and expense. Any money paid to the Supplier in respect of the items not replaced within the time required, together with the costs of returning rejected items to the Supplier and obtaining replacement items from a third party, are paid by the Supplier to PRASA.

In the case of service, the Supplier corrects non-conformances as indicated by PRASA.

**Warranty**

Without prejudice to any other rights of PRASA under these conditions, the Supplier warrants that the items are in accordance with PRASA’s requirements, and fit for the purpose for which they are intended, and will remain free from defects for a period of one year (unless another period is stated in the Order) from acceptance of the items by PRASA.

**Indemnity**

The Supplier indemnifies PRASA against all actions, suits, claims, demands, costs, charges and expenses arising in connection therewith arising from the negligence, infringement of intellectual or legal rights or breach of statutory duty of the Supplier, his subcontractors, agents or servants, or from the Supplier’s defective design, materials or workmanship.

The Supplier indemnifies PRASA against claims, proceedings, compensation and costs payable arising out of infringement by the Supplier of the rights of others, except an infringement which arose out of the use by the Supplier of things provided by PRASA.

**Assignment and sub-contracting**

The Supplier may not assign or subcontract any part of this order/contract without the written consent of PRASA.

**Termination**

PRASA may terminate the order/contract at any time (without prejudice to any right of action or remedy which has accrued or thereafter accrues to PRASA):

If the Supplier defaults in due performance of the order/contract, or if the Supplier becomes bankrupt or otherwise is, in the opinion of PRASA, in such financial circumstances as to prejudice the proper performance of the order/contract, or for any other reason in which case the Supplier will be compensated for all costs incurred.

**Governing law**

The order/contract is governed by the law of the Republic of South Africa and the parties hereby submit to the non-exclusive jurisdiction of the South African courts.

**SECTION 6**

**DECLARATION OF INTEREST SBD4**

1. Any legal person, including persons employed by the state\*, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her positionin relation to the evaluating/adjudicating authority and/or take an oath declaring his/her interest, where-

 - the bidder is employed by the state; and/or

 - the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

2. **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

* 1. Full Name of bidder or his or her representative:

 ………………………………………………………….

* 1. Identity Number:

 …………………………………………………………

* 1. Position occupied in the Company (director, shareholder etc):

 …………………………………………………………

* 1. Company Registration Number:

 ……………………………………………………………..

* 1. Tax Reference Number:

 ………………………………………………………………

* 1. VAT Registration Number:

 …………………………………………………………

 \* “State” means –

1. any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
2. any municipality or municipal entity;
3. Provincial legislature;
4. National Assembly or the national Council of provinces; or
5. Parliament.
	1. Are you or any person connected with the bidder presently employed by the state? **YES / NO**
		1. If so, furnish the following particulars:

Name of person / director / shareholder/ member: ………………..……....………………………………

Name of state institution to which the person is connected: ……...………………………………………

Position occupied in the state institution: ……………………….……..……………………………………

Any other particulars:

………………………………………………………………

………………………………………………………………

………………………………………………………………

* 1. Did you or your spouse, or any of the company’s directors **YES / NO**

shareholders / members or their spouses conduct business

with the state in the previous twelve months?

**DECLARATION**

I, THE UNDERSIGNED (NAME)………………………………………………………………………

CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2.1 TO 2.11.1 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY ACT AGAINST ME IN TERMS OF PRASA’S GENERAL CONDITIONS OF TENDER AS STIPULATED IN THE RFQ SHOULD THIS DECLARATION PROVE TO BE FALSE.

………………………………….. ..……………………………………………

 SIGNATURE DATE

…………………………………. ………………………………………………

 POSITION NAME OF BIDDER

**SECTION 7**

**B-BBEE PREFERENCE POINTS CLAIM FORM**

This preference form must form part of all bids invited. It contains general information and serves as a claim for preference points for Broad-Based Black Economic Empowerment [**B-BBEE**] Status Level of Contribution.

**NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017.**

1. **GENERAL CONDITIONS**
	1. The following preference point systems are applicable to all bids:
* the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
	1. The value of this bid is estimated to not exceed R50 000 000 (all applicable taxes included) and therefore the **………….** preference point system shall be applicable.
	2. Either the **80/20** preference point system shall be applicable to this bid.
	3. Preference points for this bid shall be awarded for:
1. Price; and
2. B-BBEE Status Level of Contribution.
	1. The maximum points for this bid are allocated as follows:

|  |  |
| --- | --- |
|  | **POINTS** |
| **PRICE** | **80** |
| **B-BBEE STATUS LEVEL OF CONTRIBUTION** | **20** |
| **Total points for Price and B-BBEE must not exceed** | **100** |

* + 1. Failure on the part of a bidder to submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System [**SANAS**], or a sworn affidavit confirming annual turnover and level of black ownership in case of all EMEs and QSEs with 51% black ownership or more together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.
	1. The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.
1. **DEFINITIONS**
	1. **“all applicable taxes”** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
	2. **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
	3. “**B-BBEE status level of contributor”** means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
	4. **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;
	5. **“Black designated group”** has meaning assigned to it in codes of good practice issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act.
	6. **“Black People”** meaning assigned to in Section 1 of Broad-Based Black Economic Empowerment Act.
	7. **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
	8. **“CIPC”** means the Companies and Intellectual Property Commission, formerly known as CIPRO, the Companies and Intellectual Property Registration Office.
	9. **“comparative price”** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;
	10. **“consortium or joint venture”** means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;
	11. **“contract”** means the agreement that results from the acceptance of a bid by an organ of state;
	12. **“co-operative”** means a co-operative registered in terms of section 7 of Cooperatives Act, 2005 (Act No. 14 of 2005)
	13. **“Designated Group”** means - i) Black designated groups; ii) Black People; iii) Women; iv) people with disabilities or v) Small enterprise, as defined in Section 1 of National Small Enterprise Act, (102 of 1996)
	14. **“Designated Sector”** means, sub-sector or industry or product designated in terms of regulation 8(1)(a)
	15. **“EME”** means an Exempted Micro Enterprise as defines by Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
	16. **“firm price”** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
	17. **“functionality”** means the ability of a bidder to provide goods or services in accordance with specification as set out in the bid documents;
	18. **“Military Veteran”** has meaning assigned to it in Section 1 of Military Veterans Act, 2011 (Act No. 18 of 2011);
	19. **“National Treasury”** has meaning assigned to it in Section 1 of Public Finance Management Act, 1999 (Act No. 1 of 1999);
	20. **“non-firm prices”** means all prices other than “firm” prices;
	21. **“person”** includes a juristic person;
	22. **“People with disabilities”**  meaning assigned to it in terms of Section 1 of Employment Equity Act, 1998 (Act No. 55of 1998)
	23. **“Price”** includes all applicable taxes less all unconditional discounts.
	24. **“Proof of B-BBEE Status Level of Contributor”** i)the B-BBBEE status level certificate issued by an unauthorised body or person; ii) a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice; or iii) any other requirement prescribed in terms of the Broad- Based Black Economic Empowerment Act.
	25. **“Rural Area”** i) a sparsely populated area in which people farm or depend on natural resources, including villages and small towns that are dispersed through the area; or ii) an area including a large settlement which depends on migratory labour and remittances and government social grants for survival, and may have traditional land tenure system.
	26. **“QSE”** means a Qualifying Small Enterprise as defines by Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
	27. **“rand value”** means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties;
	28. **“sub-contract”** means the primary contractor’s assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;
	29. **“total revenue”** bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the *Government Gazette* on 9 February 2007;
	30. **“Township”** means an urban living area that any time from the late 19th century until 27 April 1994, was reserved for black people, including areas developed for historically disadvantaged individuals post 27 April 1994
	31. **“Treasury”** meaning assigned to it in Section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999)
	32. **“trust”** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
	33. “**trustee**” means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.
	34. “**Youth”** meaning assigned to it in terms of Section 1 of National youth Development Agency Act, 2008 (Act No. 54 of 2008).
2. **ADJUDICATION USING A POINT SYSTEM**
	1. The bidder obtaining the highest number of total points will be awarded the contract.
	2. Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts.
	3. Points scored must be rounded off to the nearest 2 decimal places.
	4. In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for B-BBEE.
	5. However, when functionality is part of the evaluation process and two or more bids have scored equal points including equal preference points for B-BBEE, the successful bid must be the one scoring the highest score for functionality.
	6. Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.
3. **POINTS AWARDED FOR PRICE**
	1. **THE 80/20 PREFERENCE POINT SYSTEMS**

A maximum of 80 points is allocated for price on the following basis:

**80/20**

 ****

 Where

 Ps = Points scored for comparative price of bid under consideration

 Pt = Comparative price of bid under consideration

 Pmin = Comparative price of lowest acceptable bid

1. **POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTION**
	1. In terms of Regulation 6 (2) and 7 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

|  |  |
| --- | --- |
| **B-BBEE Status Level of Contributor** | **Number of points****(80/20 system)** |
| 1 | 20 |
| 2 | 18 |
| 3 | 14 |
| 4 | 12 |
| 5 | 8 |
| 6 | 6 |
| 7 | 4 |
| 8 | 2 |
| Non-compliant contributor | 0 |

* 1. A bidder who qualifies as an EME in terms of the B-BBEE Act must submit a sworn affidavit confirming Annual Total Revenue and Level of Black Ownership. Furthermore EMEs may also obtain a sworn affidavit from CIPC (formerly CIPRO) Self Service Terminals when registering a business or filing annual returns. In these instances PRASA would require proof of turnover as well as proof of ownership. Sworn affidavits must substantially comply with the format that can be obtained on the DTI’s website at [www.dti.gov.za/economic\_empowerment/bee\_codes.jsp](http://www.dti.gov.za/economic_empowerment/bee_codes.jsp).
	2. QSEs that are at least 51% Black owned or higher are only required to obtain a sworn affidavit on an annual basis confirming that the entity has an Annual Total Revenue of R50 million or less and the entity’s Level of Black ownership.
	3. A Bidder other than EME or a QSE that is at least 51% Black owned must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating a Verification Agency accredited by SANAS.
	4. A trust, consortium or joint venture (including unincorporated consortia and joint ventures) must submit a consolidated B-BBEE Status Level verification certificate for every separate bid.
	5. Tertiary Institutions and Public Entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
	6. A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.
	7. A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.
	8. Bidders are to note that the rules pertaining to B-BBEE verification and other B-BBEE requirements may be changed from time to time by regulatory bodies such as National Treasury or the DTI. It is the Bidder’s responsibility to ensure that his/her bid complies fully with all B-BBEE requirements at the time of the submission of the bid.
1. **BID DECLARATION**
	1. Bidders who claim points in respect of B-BBEE Status Level of Contribution must complete the following:
		1. **B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 5.1**
	2. B-BBEE Status Level of Contribution: . = ………(maximum of 20 points)

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 5.1 and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or a sworn affidavit.

1. **SUB-CONTRACTING**
	1. Will any portion of the contract be sub-contracted?

(***Tick applicable box***)

|  |  |  |  |
| --- | --- | --- | --- |
| YES |  | NO |  |

* + 1. If yes, indicate:
1. What percentage of the contract will be subcontracted............…………….…………%
2. The name of the sub-contractor…………………………………………………………..
3. The B-BBEE status level of the sub-contractor......................................……………..
4. Whether the sub-contractor is an EME.

***(Tick applicable box***)

|  |  |  |  |
| --- | --- | --- | --- |
| YES |  | NO |  |

1. Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations,2017:

|  |  |  |
| --- | --- | --- |
| Designated Group: An EME or QSE which is at last 51% owned by: | EME √ | QSE √ |
| Black people |  |  |
| Black people who are youth |  |  |
| Black people who are women |  |  |
| Black people with disabilities |  |  |
| Black people living in rural or underdeveloped areas or townships |  |  |
| Cooperative owned by black people |  |  |
| Black people who are military veterans |  |  |
| OR |
| Any EME  |  |  |
| Any QSE |  |  |

1. **DECLARATION WITH REGARD TO COMPANY/FIRM**
	1. Name of company/firm:…………………………………………………………………………….
	2. VAT registration number:……………………………………….…………………………………
	3. Company registration number:…………….……………………….…………………………….
	4. **TYPE OF COMPANY/ FIRM**

 Partnership/Joint Venture / Consortium

 One person business/sole propriety

 Close corporation

 Company

 (Pty) Limited

[Tick applicable box]

* 1. **DESCRIBE PRINCIPAL BUSINESS ACTIVITIES**

………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………

* 1. **COMPANY CLASSIFICATION**

 Manufacturer

 Supplier

 Professional service provider

 Other service providers, e.g. transporter, etc.

[*Tick applicable box*]

* 1. Total number of years the company/firm has been in business:…………………………………………………….
	2. I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contribution indicated in paragraph 7 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:
1. The information furnished is true and correct;
2. The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
3. In the event of a contract being awarded as a result of points claimed as shown in paragraph 7, the contractor may be required to furnish documentary proof to the satisfaction of the
4. purchaser that the claims are correct;
5. If a bidder submitted false information regarding its B-BBEE status level of contributor, local production and content, or any other matter required in terms of the Preferential Procurement Regulations, 2017 which will affect or has affected the evaluation of a bid, or where a bidder has failed to declare any subcontracting arrangements or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have.
	1. disqualify the person from the bidding process;
	2. recover costs, losses or damages it has incurred or suffered as a result of that person’s conduct;
	3. cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
	4. if the successful bidder subcontracted a portion of the bidder to another person without disclosing it, PRASA reserves the right to penalise the bidder up to 10 percent of the value of the contract;
	5. recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
	6. forward the matter for criminal prosecution.

………………………………………………..

SIGNATURE(S) OF BIDDERS(S)

DATE: …………………………………..

ADDRESS …………………………………..

 …………………………………..

 ………………………………..

WITNESSES

1. ……………………………………..
2. …………………………………….

 **SECTION 8**

CERTIFICATE OF ATTENDANCE OF COMPULSORY RFQ BRIEFING

It is hereby certified that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Representative(s) of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_[name of entity[ has attended the RFQ Briefing session to which this enquiry relates.

FOR / ON BEHALF OF PRASA DESIGNATION

Name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Acknowledgement**

It is hereby certified that the bidder has acquainted himself /themselves with the RFQ enquiry

THUS DONE and SIGNED at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_ 20…..

DULY AUTHORISED SIGNATORY(IES) WITNESSES

Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_

Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SECTION 9 SBD 8**

**DECLARATION OF COMPANY’S PAST SUPPLY CHAIN MANAGEMENT PRACTICES**

1. This Standard Company Document must form part of all RFQs invited.
2. It serves as a declaration to be used by institutions in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
3. The RFQ of any Company may be disregarded if that Company, or any of its directors have-
	1. abused the institution’s supply chain management system;
	2. committed fraud or any other improper conduct in relation to such system; or
	3. failed to perform on any previous contract.
4. **In order to give effect to the above, the following questionnaire must be completed and submitted with the RFQ.**

|  |  |  |  |
| --- | --- | --- | --- |
| **Item** | **Question** | **Yes** | **No** |
| 4.1 | Is the Company or any of its directors listed on the National Treasury’s Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector?(Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the *audi alteram partem* rule was applied).***The Database of Restricted Suppliers now resides on the National Treasury’s website (***[*www.treasury.gov.za*](http://www.treasury.gov.za)***) and can be accessed by clicking on its link at the bottom of the home page.***  | Yes[ ]  | No[ ]  |
| 4.1.1 | If so, furnish particulars: |
| 4.2 | Is the Company or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? ***The Register for Tender Defaulters can be accessed on the National Treasury’s website (***[***www.treasury.gov.za***](http://www.treasury.gov.za)***) by clicking on its link at the bottom of the home page.***  | Yes[ ]  | No[ ]  |
| 4.2.1 | If so, furnish particulars: |
| 4.3 | Was the Company or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years? | Yes[ ]  | No[ ]  |
| 4.3.1 | If so, furnish particulars: |
| 4.4 | Was any contract between the Company and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract? | Yes[ ]  | No[ ]  |
| 4.4.1 | If so, furnish particulars: |

**CERTIFICATION**

**I, THE UNDERSIGNED (FULL NAME) ………………………………………………… CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS TRUE AND CORRECT.**

**I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT, ACTION MAY BE TAKEN AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.**

 **………………………………………... …………………………..**

 **Signature Date**

 **………………………………………. …………………………..**

 **Position Name of Company**

**SECTION 10**

 **SBD 9**

**CERTIFICATE OF INDEPENDENT RFQ DETERMINATION**

* + 1. This Standard Company Document (SBD) must form part of all RFQs¹ invited.
		2. Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive Company (or RFQ rigging).² Collusive Company is a *pe se* prohibition meaning that it cannot be justified under any grounds.
		3. Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
	1. disregard the RFQ of any Company if that Company, or any of its directors have abused the institution’s supply chain management system and or committed fraud or any other improper conduct in relation to such system.
	2. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the Company process or the execution of that contract.
		1. This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when RFQs are considered, reasonable steps are taken to prevent any form of RFQ-rigging.
		2. In order to give effect to the above, the attached Certificate of RFQ Determination (SBD 9) must be completed and submitted with the RFQ

*¹ Includes price quotations, advertised competitive RFQs, limited RFQs and proposals.*

*² RFQ rigging (or collusive Company) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a Company process. RFQ rigging is, therefore, an agreement between competitors not to compete*

**CERTIFICATE OF INDEPENDENT RFQ DETERMINATION**

I, the undersigned, in submitting the accompanying RFQ: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Quotation Number and Description) in response to the invitation for the RFQ made by: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Name of Institution) do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Name of Company) that:

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying RFQ will be disqualified if this Certificate is found not to be true and complete in every respect; I am authorized by the Company to sign this Certificate, and to submit the accompanying RFQ, on behalf of the Company;
3. Each person whose signature appears on the accompanying RFQ has been authorized by the Company to determine the terms of, and to sign the RFQ, on behalf of the Company;
4. For the purposes of this Certificate and the accompanying RFQ, I understand that the word “competitor” shall include any individual or organization, other than the Company, whether or not affiliated with the Company, who:
5. has been requested to submit a RFQ in response to this RFQ invitation;
6. could potentially submit a RFQ in response to this RFQ invitation, based on their qualifications, abilities or experience; and
7. provides the same goods and services as the Company and/or is in the same line of business as the Company
8. The Company has arrived at the accompanying RFQ independently from, and without consultation, communication, agreement or arrangement with any competitor.
9. However communication between partners in a joint venture or consortium³ will not be construed as collusive Company
10. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
11. prices;
12. geographical area where product or service will be rendered (market allocation)
13. methods, factors or formulas used to calculate prices;
14. the intention or decision to submit or not to submit, a RFQ;
15. the submission of a RFQ which does not meet the specifications and conditions of the RFQ; or
16. Company with the intention not to win the RFQ.
17. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this RFQ invitation relates.
18. The terms of the accompanying RFQ have not been, and will not be, disclosed by the Company, directly or indirectly, to any competitor, prior to the date and time of the official RFQ opening or of the awarding of the contract.
19. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to RFQs and contracts, RFQs that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

 ………………………………………………… …………………………………

Signature Date

…………………………………………………. …………………………………

Position Name of Company

³ Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

**SECTION 11**

**COMMISSIONER OF OATH**

*I certify that the above has acknowledged that he/she knows and understands the contents of this document, that he/she does not have any objection to taking the oath, and that he/she considers it to be binding on his/her conscience, and which was sworn to and signed before me at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ on this the \_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_\_, and that the administering oath complied with the regulations contained in Government Gazette No. R 1258 of 21 July 1972, as amended.*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Sign – SERVICE PROVIDER)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Name – SERVICE PROVIDER)

|  |
| --- |
|  COMMISSIONER OF OATHS STAMP AND DETAILS OF PERSON |
| *STAMP :*  *NAME & SURNAME:* *DESIGNATION/RANK :* *PERSAL/EMPLOYEE NO:* *PLACE/DATE:*  |

**SECTION 13**

**SPECIFICATION/SCOPE OF WORK**

**Insert Specification / Scope of Work here OR cross-reference to separate Annexure…...**

**C3.1 DESCRIPTION OF THE WORKS**

**C3.1.1 Overview and extent of the works:**

This contract covers ***repair and*** ***resurfacing of level crossings and depot entrances at various locations within Cape Metrorail region on an “As and When required basis”*** hereinafter also referred to as the “Works” and any other work arising out of or incidental to the above, or required of the contractor to the proper completion of the works in accordance with the true meaning and intent of the contract. The crossings are divided in different categories:

CATEGORY 1 Vehicular crossing with resurface area ≤ 40 m2.

 CATEGORY 2 Vehicular crossings with resurface area ≥ 80m2

 CATEGORY 3 Pedestrian crossings with resurface area less than 30 m2.

CATEGORY 4 Emergency repairs of potholes with area between 1m2- 5m2 (total area).

**C3.1.2 Location of the works**

The location and extent of the site of the Works is as Metrorail Level crossings between the property boundaries of the Passenger Rail Agency of South Africa along the railway line in Cape Metrorail Region. The Contractor shall acquaint himself with the available access to the site and the condition of the road during site inspection.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Road name** | **EMPAC Asset no.** | **Station before**  | **Station after** | **KM distance** | **GPS Coordinate (Lat)** | **GPS Coordinate (Long)** |
| Kenilworth Road | JK/LCR001 | Harfield Road | Kenilworth | 11.744 | -33.994856 | 18.472958 |
| Austell Road | JL/LCR001 | Heathfield | Retreat | 18.137 | -34.051183 | 18.464175 |
| White Road | JL/LCR002 | Retreat | Steenberg | 20.214 | -34.069861 | 18.463506 |
| Military Road | JL/LCR003 | Retreat | Steenberg | 20.863 | -34.075714 | 18.463731 |
| Uxbridge Road | JL/LCR004 | Lakeside | Valsbaai | 22.821 | -34.092744 | 18.464722 |
| Albertyn Road | JL/LCR005 | Valsbaai | Muizenberg | 24.085 | -34.103528 | 18.468986 |
| Essex Road (Kalkbaai entrance to Harbour) | JL/LCR006 | Kalkbaai | Clovelly  | 27.679 | -34.129214 | 18.448106 |
| Belmont Road (Vishoek entrance to Harbour) | JM/LCR001 | Vishoek | Sunny Cove | 30.117 | -34.140825 | 18.431572 |
| Sarepta Road | OF/LCR001 | Sarepta | Kuilsrivier | 4.508 | -33.923278 | 18.669694 |
| Buttskop Road | OF/LCR002 | Blackheath | Meltonrose | 10.669 | -33.970083 | 18.722389 |
| Quarry/Stasie Road | OF/LCR003 | Eerste Rivier | Lynedoch | 15.017 | -34.001847 | 18.733069 |
| Metrorail Service Road | OG/LCR025 | Eerste Rivier | Lynedoch | 15.781 | -34.005276 | 18.74021 |
| Farm Road | OG/LCR011 | Vlottenburg | Stellenbosch | 25.147 | -33.954967 | 18.814983 |
| Farm Road | OG/LCR012 | Vlottenburg | Stellenbosch | 26.196 | -33.950267 | 18.824800 |
| Entrance/exit to Farmers Wineries | OG/LCR013 | Vlottenburg | Stellenbosch | 27.193 | -33.945650 | 18.833411 |
| Entrance/exit to Distell complex | OG/LCR014 | Vlottenburg | Stellenbosch | 27.692 | -33.943817 | 18.838883 |
| George Blank Road | OG/LCR015 | Stellenbosch | Du Toit | 29.394 | -33.934364 | 18.852028 |
| Nooitgedacht 1 Farm Road | OG/LCR017 | Du Toit | Koelenhof | 35.077 | -33.888400 | 18.831750 |
| Nooitgedacht 2 Farm Road | OG/LCR018 | Du Toit | Koelenhof | 35.699 | -33.883408 | 18.827367 |
| Elsenburg Road | OG/LCR019 | Du Toit | Koelenhof | 36.291 | -33.879900 | 18.823417 |
| Kromme Rhee Road | OG/LCR020 | Koelenhof | Muldersvlei | 37.170 | -33.872917 | 18.819233 |
| Farm Road | OG/LCR021 | Koelenhof | Muldersvlei | 37.937 | -33.866383 | 18.816650 |
| Farm Road | OG/LCR023 | Koelenhof | Muldersvlei | 40.081 | -33.848567 | 18.820383 |
| Entrance/exit to The Steyn/Faure Wine Farm | OH/LCR001 | Faure | Firgrove | 4.196 | -34.031833 | 18.753200 |
| Entrance/exit to The Ridgemor Wine Farm | OH/LCR004 | Faure | Firgrove | 6.742 | -34.046783 | 18.773117 |
| Farm Road | OH/LCR005 | Faure | Firgrove | 7.588 | -34.049583 | 18.781367 |
| Salt River ERS | JP/LCR001 | Soutrivier | Koebergweg | 4.512 | -33.929803 | 18.47206 |
| Metrorail Service Road | MC/LCR001 | Nyanga | Philippi | 16.912 | -34.013576 | 18.58205 |
| Metrorail Service Road | MC/LCR002 | Philippi | Stock Road | 1.373 | -34.014392 | 18.599818 |
| Metrorail Service Road | ON/LCR001 | Bontheuwel | Lavistown | 14.689 | -33.943111 | 18.564977 |
| Metrorail Service Road | MA/LCR001 | Langa | Pinelands | 4.382 | -33.937965 | 18.526579 |
| Metrorail Service Road | MF/LCR001 | Kensington | Mutual | 8.081 | -33.923172 | 18.506612 |
| Metrorail Service Road | OG/LCR027 | Koelenhof | Muldersvlei | 41.780 | -33.834186 | 18.826614 |
| Metrorail Service Road | OH/LCR008 | Eerste Rivier | Faure | 0.372 | -34.002776 | 18.734112 |
| Metrorail Service Road | OH/LCR009 | Faure | Firgrove | 6.310 | -34.045164 | 18.769322 |
| Metrorail Service Road | OL/LCR001 | Sarepta | Bellville | 23.637 | -33.918591 | 18.660779 |
| Metrorail Service Road | MD/LCR002 | Stock Road | Mandalay | 3.588 | -34.019097 | 18.622064 |
| Metrorail Service Road | ON/LCR002 | Belhar | Unibell | 20.169 | -33.93769 | 18.623338 |

 **C3.1.3 Temporary works**

Void

**C3.2 ENGINEERING**

Void

**C3.3 PROCUREMENT**

**C3.3.1** **Preferential procurement procedures**

Procurement works contract shall be done in accordance with Metrorail Policies and Procedures

 **C3.3.2** **Subcontracting**

Void

**C3.4 CONSTRUCTION**

 **C3.4.1 Applicable SANS 2001 Standards**

None

 **C3.4.2 Applicable national and international standards**

None

**C3.4.3 Particular / Generic specifications**

The following particular – and generic PRASA specifications are applicable to this contract:

**C3.4.3.1 Particular Specification (also referred as “Project Specifications”)**

Repair and resurface of level crossings at various locations within Cape Metrorail Region

**C3.4.3.2 Generic Specification (also referred as “Standard Specification)**

E10 Gen – 1996 GENERAL: Specification for Railway Track work

**C3.4.3.3 Discrepancy between specifications**

In the event of any discrepancy between the particular specification and the generic specification the Particular specification shall prevail.

**C3.4.4 Plant and materials**

No material and plant will be supplied by Metrorail.

Shall Read: *Metrorail will supply/provide Concrete edging end-pieces and the Contractor shall install it, thereafter.*

**C3.4.5 Construction Equipment**

The Contractor shall supply all construction equipment required for the proper execution of the Work.

**C3.4.6 Existing services**

Information regarding the location of known existing services will be pointed out at the time of the site inspection where possible, but Metrorail will accept no responsibility for the accuracy of this information.

Where the position of a known service cannot be determined with sufficient accuracy by visual inspection, the Contractor shall open up and make further investigation before commencing with any of his activities related to the work, so that the position of such services may be determined with sufficient accuracy. Thereafter the Contractor shall assume responsibility for all known services.

The Contractor shall take all reasonable precautions to protect existing services during his activities on the site, and any known service damaged as a result of the Contractor's operations, shall be repaired and reinstated by the Contractor or the Authority concerned, all at the expense of the Contractor and to the satisfaction of the Technical Officer.

**C3.4.7 Site establishment**

 **C3.4.7.1** Services and facilities provided by Metrorail

No services or facilities will be provided by Metrorail.

 **C3.4.7.2** Services and facilities provided by the Contractor:

* Site Storage / Camp Site

N/A

* Housing of employees

No housing of employees of the Contractor will be allowed on the property of the Passenger Rail Agency of South Africa and the Contractor shall make his own arrangements for the housing of his employees.

* Water supply, light, power etc.

The contractor shall make his own arrangements for the supply of water (for all purposes), light, power, approved portable sanitation facilities, and telephones, as required for on the site for the duration of the contract.

* Contractor’s agent and communication

The Contractor or his duly authorised agent shall at all times be in possession of a cellular phone, in working condition, so as to enable the Technical Officer to communicate with the Contractor at all times during the duration of the contract. The Contractor shall allow for this in his rates tendered for the Works.

* Site office and Accommodation for the Technical Officer

No site office will be required for the Technical Officer.

* Security

The Contractor shall provide his own security for the protection of his workmen and assets

* Tidiness of site

The contractor shall continuously clear and dispose of waste and surplus materials to maintain the site in a tidy state unless otherwise agreed with the Project Manager.

* Removal of facilities established on site

On completion of the contract the Contractor shall remove all established facilities from the site and restore the site as directed by the Technical Officer.

**C3.4.8 Occupations and Work Permits**

No occupations and work permits will be granted and the contractor shall plan and execute the Work in such a manner that the safe passage of trains will not be affected. Clearances as set out in the E7/1 specification shall at all times be adhered to.

**C3.4.9 Safety Clothing**

The Contractor shall supply all relevant safety clothing to all supervision and labour. The Contractor shall also supply reflective vests to all supervision and labour so that they are more visible to train drivers. No separate payment will be made for safety clothing, as the contractor shall

**C3.5 MANAGEMENT**

 **C3.5.1 Management of the Works**

**C3.5.1.1** *Project manager and Technical Officer*

The Project Manager for this contract will be the Regional Engineer Perway Maintenance, Infrastructure, Metrorail, Cape. The Technical Officer will be appointed by the Project Manager to administer the performance and the execution of the Works according to the powers and rights held by and obligations placed upon him in terms of the Contract.

 **C3.5.1.2** *Construction programme*

***No programme of Works is required*.** All works will be done as when requested by Client. The Client will formally write to the contractor and issue a written Callout describing and giving details and quantities of works to be done.

**C3.5.2 Health and Safety**

**C3.5.2.1** *Health and Safety specifications*

Most of the activities pertaining to the Works will be executed on, over, under or adjacent to Railway lines and near High Voltage equipment.

Trains will be operated on the railway lines while work is in progress. The contractor shall at all times perform the work in such a manner that the tracks are safe for the passage of trains.

The contractor shall at all times be responsible for the safety of his personnel on the site of the works while paying special attention to the danger of them being over-run by passing trains.

The following generic (Standard) PRASA specifications are applicable to this contract:

* E7/1: Specification for works on, over, under or adjacent to Railway lines and near High Voltage equipment. (Also referred to as the E7/1 specification)
* E.4E Transnet (Jan 2004 - As adapted for PRASA): Safety arrangements and procedural compliance with the Occupational Health and Safety Act (Act 85 of 1993) and applicable Regulations. (Also referred to as the E4E specification)

**C3.5.2.2** Site Access certificate

Refer Annexure 4 of the E4E specification: A Site Access Certificate will not be issued unless the contractor’s Health and Safety programme has been approved by the Technical Officer.

**C3.6 ANNEXES**

 **C3.6.1 Particular Specifications:** (Also referred to as “Project Specifications”)

* Specification for Resurfacing of Level Crossings

**C3.6.2 Manufacturer’s Specifications:**

* + N/A

**C3.6.3 Generic Specifications:** (also referred to as “Standard Specifications)

* E7/1: Specification for works on, over, under or adjacent to Railway lines and near High Voltage equipment. (Also referred to as the E7/1 specification)
* E.4E Transnet (Jan 2004 - As adapted for PRASA): Safety arrangements and procedural compliance with the Occupational Health and Safety Act (Act 85 of 1993) and applicable Regulations. (Also referred to as the E4E specification)

**ANNEXURE 3**

|  |
| --- |
| **STANDARD/PROJECT SPECIFICATION****Repair and resurfacing of level crossings and depot entrances at various locations within Cape Metrorail region on an ‘As and When required basis’** |

**P.1 SCOPE AND DESCRIPTION OF WORK**

This contract covers the resurfacing of level crossings consisting of:

* 1. The breaking up, transportation and dumping of existing surface material.
	2. Provision and compaction of base course.
	3. Provision and placing of new wearing course.
	4. The provision and installation of kerbs and spacer blocks.
	5. The placing of concrete end pieces.
	6. Provision and installation of spacer block.
	7. Emergency repairs on level crossings within the boundaries of the property of the Passenger Rail Agency of South Africa within the Cape Metrorail Region.

**P.2 BREAKING UP OF EXISTING SURFACE MATERIAL**

The rate tendered for the breaking up of existing surface material shall allow for excavating, loading, transporting and dumping of the material at an approved disposal area. No overhaul will be paid for.

**P.3 PROVISION, COMPACTION AND CONSTRUCTION OF BASE COURSE MATERIAL**

P3.1 **In-situ Material:**

When the upgrading of approaching roads to level crossings is required the in-situ material layer shall be scarified, watered, mixed and compacted to 98% Mod AASHTO.

Where sub-standard material, if so determined by Grading Analysis, exist (as in-situ), the road shall be excavated to 200mm depth and 4000mm wide over the length of the road. The excavated material shall be removed from the site. Imported material, similar or equal to G10 subgrade material, shall be spread, laid and compacted to 98% Mod AASHTO.

P3.2 **Base Course Material:**

The base course layer shall consist of an approved 37mm G4 *Hornfels* base course, which after compaction shall be 100mm thick for vehicular and 50mm thick for pedestrian crossings. Compaction of base course layers to be 95% Modified AASHTO.

P3.3 **Existing Base Course Layer:**

If, in the opinion of the Technical Officer, the existing layer is still suitable to serve as a base course, the Contractor shall scarify, water, mix and compact the in situ base course to 95% Mod AASHTO.

**P.4 PROVISION AND CONSTRUCTION OF NEW WEARING COURSE LAYER**

Before the placing of the wearing course the Contractor shall prime with an approved bituminous basis primer. Application shall be done to the manufacturer’s specification.

The *PREMIX* wearing course shall be similar or equal to Messrs “More Asphalt” mix design *with a bitumen content of 5 to 5.5%.* The thickness of the wearing course for vehicular level crossings shall not be less than 40mm. The thickness for footway premix shall not be less than 25mm.

When tested with a 3m straightedge, the surface of the wearing course shall nowhere vary from the lower edge, by more than 3mm.

**P.5 PROVISION AND LAYING OF KERBS AND CONCRETE-END PIECES**

P5.1 The Contractor shall provide and install *E1* precast concrete kerb units that will comply with the relevant requirements of SABS 927. The standard length of kerbs shall be one meter.

P5.2 Metrorail will provide all precast end pieces (2100 mm x 200 mm). The Contractor shall install end pieces as per instruction of the Technical Officer. (See attached drawing.) The vertical height of end pieces will at no point be more than 10mm higher than the height of the rail level.

Trenches for the precast sections shall be excavated to the required depth and all loose material shall be removed and the bottom compacted to the density required for the adjacent material. The precast sections shall be bedded on a layer of class 15/13 concrete, placed on 100 mm thick subbase, at least 50mm thick.

**P.6 PROVISION AND PLACING OF SPACER BLOCKS**

The Contractor shall supply and install 25mm x 150mm treated pine (wood) spacer blocks as per instruction by the Manager or Technical Officer. The minimum length of spacer blocks will be 1.5 meter long.

**P.7 SAMPLING AND TESTING**

The Contractor shall make use of an approved Geotechnical testing laboratory for the in-situ and laboratory testing of:

* In-situ density of compacted wearing layer (Hydrodensimeter)

SHALL READ: *In-situ density of compacted wearing layer (TROXLER)*

* Material Grading and properties as and when ordered by the Technical Officer.

**P.8 EMERGENCY REPAIRS**

Repairs of potholes shall include all labour, plant and supervision for the excavation, cutting of edges, preparation and placing of cold mix wearing course. Potholes shall be excavated to a maximum depth of 75 mm. Excavated material shall be removed from site and dumped at the local dumpsite. Call out fee shall include vehicle, driver and fuel cost, etc.

**P.9 ACCOMODATION OF TRAFFIC**

**P9.1 Safety**

All construction workers shall wear high visibility safety clothing at all times when working alongside public traffic.

**P9.2 Traffic Safety Officer**

A competent person shall be appointed as traffic safety officer on site. The traffic safety officer shall inspect and assess the traffic control facilities / measures on site to ensure an orderly flow of traffic past the construction area.

**P9.3 Parking of construction vehicles and plant**

Where there is no parking space off the road, construction vehicles may be parked on the shoulder only during working hours in which case flagmen and traffic cones shall be utilised to warn public traffic of the hazard. During non-working hours all obstructions shall be removed from the road.

**P9.4 Traffic-control devices**

Traffic accommodation shall be carried out in strict accordance with the requirements of the South African Road Traffic Signs Manual (SARTSM) – Volume 2 – Chapter 13: Roadworks Signing (June 1999).

Flagmen shall be provided on either side of the level crossing, equipped with high visibility safety jackets, red flags, STOP/GO-RY signs and two-way radios to ensure an orderly flow of traffic past the work area. All signals must be clear and the flagmen shall be intelligent and responsible personnel. In areas of high traffic density, the assistance of the relevant traffic authorities’ officials shall be solicited.

**P9.5 Measurement and payment**

Payment for Accommodation of Traffic will be made under item 11 of the Schedule of Work and Prices for each level crossing completed. The tendered rate shall include full compensation for accommodating traffic during the different construction operations or work phases included in the contract.

**SECTION B 1800: DAYWORK**

*Add the following section to Series 1000: General, of the standard specifications:*

**SERIES 1000: GENERAL**

Contents

B1801 Scope

B1802 General Requirements

B1805 Measurement and payment

**B1801 SCOPE**

This section covers the method of measurement and payment for work ordered by Technical Officer in writing, carried out on a day work basis, all in accordance with sub clause 6.5 (GCC 2010) of the General and/or Special Conditions of Contract.

**B1802 GENERAL REQUIREMENTS**

Work will be classified as day work only if the Engineer and/or Technical Officer consider no other rate in the schedule of quantities appropriate for payment purposes.

The Contractor shall keep and submit records of the work performed in accordance with the requirements of 6.5.4 (GCC 2010) of the General and/or Special Condition of Contract.

**B1803 LABOUR**

The tendered rates for labour to be included as daywork charges shall include the salaries and wages of gangers or charge hands working with their gangs but shall exclude the costs of the time of the foremen or supervision.

**B1804 PLANT**

The hourly rate tendered or agreed shall constitute the daywork rate for the plant and will be deemed to include all costs for plant operators, consumable stores, fuel, maintenance, depreciation, ground-engaging tools and all other incidentals necessary to operate the plant for the purposes for which it was designed.

**B1805 MEASUREMENT AND PAYMENT**

**Item B18.01 Labour charges Unit**

1. Description of employee/designation/skilled indicated ………………………hour (hr)

The unit of measurement shall be the hour of time worked by the particular employee on the designated work on instruction by the Engineer.

The daywork rates submitted for labour in the schedule of quantities shall be the cost of labour for each skills level (as described in the BOQ) and shall apply only to the number of workers approved in writing by the Engineer and/or Technical Officer.

**Item B18.02 Plant charges Unit**

Vehicles, plant and equipment

1. High pressure water jetting and suction ……………………………………………hour (hr)
2. Water Pump hour ……………………………..………………………………………hour (hr)

The unit of measurement shall be the hour actually worked by each item of plant (vehicle, machine, and/or equipment as indicated on BOQ) on the designated work on instruction by the Engineer and/or Technical Officer.

The Contractor and the Engineer will agree on the method of recording the working hours prior to the commencement of the work. Any long period of idling at any one time which in the opinion of the Engineer or his representative is beyond that required for normal operating conditions will not be paid for as working time. Non-working hours for any reason shall not be measured for payment.

Where there is ambiguity between the power developed at the flywheel and mass of a machine, the power shall govern the measurement category. However, this is to be confirmed with the Engineer/Technical Officer before the vehicle, plant or equipment is used.

The tendered rates include full compensation for furnishing and using the plant, including the cost of the plant operators, consumable stores, fuel, ground-engaging tools, maintenance and for all other incidentals necessary to excute the authorised daywork as specified.

**PASSENGER RAIL AGENCY OF SOUTH AFRICA**

**SERVICE CONTRACT FOR THE**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

CONTRACT NUMBER :

CONTRACTOR :

NATURE OF WORK :

LOCALITY OR PLACE :

DATE OF ACCEPTANCE

OF TENDER :

DATE OF COMMENCEMENT

OF TENDER :

DATE OF COMPLETION

DUE :

CONTRACT PRICE :

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1. DEFINITIONS AND INTERPRETATIONS
	1. In this contract (as hereinafter defined) the following words, definitions and expressions shall have the meanings hereby assigned to them except where the context otherwise requires:
		1. “**Applicable Laws**” means the Constitution of the Republic of South Africa, Act No.108 of 1996, and all applicable statutes, regulations, codes of good practice, sector codes, industry charters, ordinances, by-laws, rules (including rules of court) and other secondary legislation, directives, practice notes having force of law in South Africa and the common law arising out of judicial decisions, notifications and with which the Parties are bound to comply;
		2. “**Bill of Quantities**” means the bill of quantities submitted by the Contractor as part of the Contractor’s Bid;
		3. “**BBBEE**” means Broad Based Black Economic Empowerment as defined in the Broad Based Black Economic Empowerment Act No.53 of 2003;
		4. “**BBBEE Status**” means the composition, ownership, make up, level and any other criterion of measurement of BBBEE as indicated in the RFT;
		5. “**Business Day**” means any day other than a Saturday, Sunday or public holiday in South Africa, within the meaning of the Public Holidays Act, 1994;
		6. “**Chief Executive Officer**” means (i) the chief executive officer of the Contractor and (ii) the chief executive officer of PRASA Technical, a division of the Employer;
		7. “**Chief Procurement Officer**” means the chief procurement officer of the Employers;
		8. “**Commencement Date**” means the Business Day following the date on which the Condition Precedent is fulfilled;
		9. “**Condition Precedent**” means the condition precedent in clause 5.1;
		10. “**Construction Equipment**” means all appliances or things of whatsoever nature required in or for the execution, correction of defects, or completion of the Services but does not include materials, Plant or other things that are part of, or intended to form part of the Permanent Services;
		11. **“Contract”** means this contract and all Annexures thereto;
		12. **“Contractor”** means\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_;
		13. **“Contractor’s Default"** **means** any of the following events or circumstances –
			1. any arrangement, composition or compromise with or for the benefit of creditors (including any voluntary arrangement as defined in the Insolvency Act, 1936 or the Companies Act, 2008) being entered into by or in relation to the Contractor;
			2. a liquidator, business rescue practitioner or the like taking possession of or being appointed over, or any, winding-up, execution or other process being levied or enforced upon the whole or any material part of the assets of the Contractor.
			3. the Contractor ceases to carry on business; and
			4. the Contractor commits a breach of any of its material obligations under this Contract;
		14. **“Contractor’s Bid”** means the documents submitted by the Contractor to the Employer in response to the RFT or Request for Quotation which is attached hereto as Annexure “E” to this Contract;
		15. **“Contract Sum”** means the amount set out in clause 29.2 payable by the Employer to the Contractor in terms of this Contract, subject to such addition thereto or deduction therefrom as may be made from time to time under the provisions of the Contract;
		16. **“Contract Period”** means a period of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, being the period agreed between the Parties for the Contractor to complete the Services, beginning on the Commencement Date;
		17. **“Consents”** mean shall mean all consents, permits, clearances, authorisations, approvals, rulings, exemptions, registrations, filings, decisions, licenses, permissions required to be issued by or made with any Responsible Authority in connection with the performance of the Works;
		18. **“Drawings”** means the plans, technical diagrams and drawings provided by the Employer to the Contractor from time to time to enable the Contractor to render the Services;
		19. **“Day”** means a calendar day;
		20. **“Employer”** means the Passenger Rail Agency of South Africa, a public entity established in terms of the Legal Succession to the South African Transport Services Act 9 of 1989 and the legal successors in title thereto;
		21. **“Employer’s Default”** occurs if - PRASA fails to make the payment in accordance with the provisions of clause 29 PRASA commits a breach of any material term of this Contract.
		22. **“Final Approval Certificate”** means the final approval certificate to be issued by the Employer on completion of the Service by the Contractor;
		23. **“Good Industry Practice**” means applying, in relation to the manner in which the Services are performed and the services rendered, the standards, practices, methods and procedures conforming to applicable law, and exercising that degree of skill, care, diligence, prudence and foresight that would reasonably and ordinarily be expected from a skilled and experienced person engaged in a similar type of undertaking under similar circumstances, irrespective of whether or not it is conducted by or on behalf of an organ of state or the private sector;
		24. **“Group Chief Executive** Officer**”** means the group chief executive officer of the Employer;
		25. **“Mobilisation Fee”** means an amount equal to 10% of the Contract Price payable to the Contractor by the Employer, as an upfront payment in accordance with clause 29.4 of this Contract;
		26. **“Occupational Health** and **Safety Act”** means the Occupational Health and Safety Act 85 of 1993;
		27. “**Option”** means the Employers Option as indicated in clause 11 of this Contract;
		28. **“Performance Bond”** means an unconditional and on demand bank guarantee to the value of 10% of the Contract Price as indicated pursuant to clause 29.5, to be issued by a South African registered bank in favour of the Employer, substantially in the form set out in the RFT or Request of Quotation;
		29. **“Party”** means the Contractor and the Employer, collectively referred to as the “Parties”;
		30. **“Permanent Services”** means the Services provided by the Contractor and approved by the Employer through issue of the Final Approval Certificate;
		31. **“Project”** means the programmed and non-programmed service work to be undertaken by the Contractor in terms of the provisions of this Contract;
		32. **“Project Manager”** means the person appointed by the Employer to be the project manager for the Project, it being agreed that the Employer shall procure that such project manager discharges the duties, functions and responsibilities required of it in terms of this Contract;
		33. **“Plant”** means machinery, apparatus, articles and things of all kind that become part of the Permanent Services to be provided in accordance with the Contract;
		34. **“Restricted Enterprise”** means an entity restricted from contracting with the Employer or any other public entity as a result of being listed either on the register for tender defaulters compiled in terms of the regulations to the Prevention and Combating of Corrupt Activities Act 12, of 2004; or any other relevant Applicable Law;
		35. **“Request for Tender”** or **“RFT”** means the request for tender issued by the Employer for the appointment of a Contractor for the Project, as set out in Annexure “E” to this Contract;
		36. **“Request for Quotation”** means the request for quotation issued by the Employer for the appointment of a Contractor for the Project, as set out in Annexure “E” to this Contract;
		37. **“Responsible Authority”** shall mean any ministry, any minister, any organ of state, any official, any official in the public administration or any other governmental or regulatory Employer, commission, entity, service utility, board of directors, committee, agency, instrumentality or authority (in each case, whether national, provincial or municipal) or any court, each having jurisdiction over the matter in question;
		38. **“Scope of Services”** means the Services which are to be provided by the Contractor to the Employer in terms of the terms and conditions of this Contract;
		39. **“Services”** means the services to be provided by the Contractor in terms of this Contract in connection with the Project, as set out in Annexure “B” of this Contract;
		40. **“Service Levels”** means the Service levels set out in clause 10;
		41. **“Signature Date”** means the date of signature of this Contract by the last Party signing;
		42. “**South Africa”** means the Republic of South Africa;
		43. **“Subcontractors”** means any person named in the Contract as a subcontractor as listed in Annexure “C” of this Contract and the legal successors in title to each of these persons;
		44. **“Temporary Services”** means the Services provided by the Contractor but not approved by the Employer through issue of the Final Approval Certificate;
		45. **“Writing”** means any hand-written typed or printed communication including facsimiles, electronic communication or any similar communication resulting in a permanent record. The terms “in writing” and “written” shall have corresponding meanings;
		46. **“Work”** means all works to be undertaken for the Services in this Contract.
2. INTERPRETATIONS
	1. This Contract shall be interpreted according to the following provisions, unless the context requires otherwise -
		1. references to the provisions of any law shall 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 transaction entered into under this Contract;
		2. references to “Month” shall be to a calendar month;
		3. references to “Parties” shall include the Parties’ respective successors-in-title and, if permitted in this Contract, their respective cessionaries and assignees;
		4. references to a “person” shall include an individual, firm, company, corporation, juristic person, Responsible Authority, and any trust, organization, association or partnership, whether or not having separate legal personality;
		5. references to any “Responsible Authority” or any public or professional organization shall include a reference to any of its successors or any organization or entity, which takes over its functions or responsibilities;
		6. references to “clauses”, “sub-clauses” and “Schedules” are references to the clauses, sub-clauses and Annexures of this Contract;
		7. the headings of clauses, sub-clauses and Schedules are included for convenience only and shall not affect the interpretation of this Contract;
		8. the Parties acknowledge that each of them has had the opportunity to take legal advice concerning this Contract, and agree that no provision or word used in this Contract shall be interpreted to the disadvantage of either Party because that Party was responsible for or participated in the preparation or drafting of this Contract or any part of it;
		9. words importing the singular shall include the plural and vice versa, and words importing either gender or the neuter shall include both genders and the neuter;
		10. references to “this Contract” shall include this Contract as amended, varied, novated or substituted in Writing from time to time;
		11. any reference to any enactment, order, regulation or similar instrument shall be construed as a reference to enactment, regulation or instrument as amended, re-enacted or replaced from time to time; and
		12. when any number of days is prescribed in this Contract, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a day which is not a Business Day in which case the last day shall be the immediately following Business Day.
	2. The common or statute law shall determine whether any person acting or purporting to act on behalf of the Employer, Project Manager or Contractor is duly authorised, save to the extent that a party shall, by written notice to each of the others, designate a person or the holder of any office, to the exclusion of another person or holder of office, to have such authority, or to limit in any way, or terminate the authority of such designated person or holder of office.
	3. The marginal notes or headings in this Contract shall not be deemed to be part thereof nor be taken into consideration in the interpretation or construction of the Contract.
3. General Provisions
	1. No grant by the Employer or the Contractor to the other of any concession, waiver, condonation or allowance shall, in respect of any specific event or circumstance other than that in respect of which the grant was made, constitute a waiver of the rights of the grantor in terms of the Contract or an estoppel of the grantor's right to enforce the provisions of the Contract.
	2. The law which is to apply to the Contract, and according to which the Contract is to be interpreted, shall be the law of South Africa.
	3. The language of the Contract and of written communications shall be English.
	4. In the event that the Contractor and the Employer conclude a supplementary contract, the additional work executed in terms of such a contract shall not be taken to be a variation or addition under clause 29.6, but to be a separate contract. The value of such additional work shall, for the purposes of clause 29.7, not be taken into account for this Contract, but it shall be taken into account for the separate contract concluded in terms of the supplementary contract.
	5. Except where otherwise provided in this Contract, the Contractor shall retain the copyright and other intellectual property rights in documents supplied by it to the Employer or Project Manager under this Contract.
	6. The Contractor shall be deemed to have given the Employer a non-terminable, non‑transferable, non-exclusive, royalty-free licence to copy, use and communicate the Contractor's documents provided to it by the Contractor under this Contract, including making and using modifications of such documents for the purposes of further work required to the Services.
4. INTRODUCTION
	1. The Employer issued an RFT or Request for Quotation for provision of the Services with the option to undertake the redesign of the Services.
	2. The Contractor has submitted the Contractors Bid and the Employer appointed the Contractor to provide the Services with the option to redesign the Services.
5. CONDITION PRECEDENT
	1. The provisions of this Contract (other than clauses 1 to 3, 11, 14, 34 to 41 which will come into effect from the Signature Date) are subject to the fulfilment of the condition precedent that must be fulfilled within 30 (thirty) Business Days of the Signature Date (or such other date agreed by the Parties in Writing).
	2. The Contractor shall deliver to the Employer the Performance Bond.
	3. The Parties shall, where it is within their respective power and control to do so, use their respective reasonable commercial endeavours to procure the fulfilment of the Condition Precedent within the time period permitted therefore in clause 5.1.
	4. If the Condition Precedent is not fulfilled on or prior to the date stipulated in clause 5.1 for such fulfilment, this Contract shall not come into force and effect and neither Party shall have any claim against the other Party as a result of or in connection with any such non-fulfilment (other than a claim for a breach by a Party of any of its obligations under clause 5.1).
6. PRIORITY OF DOCUMENTS
	1. The documents forming the Contract are to be taken as mutually explanatory of one another. For the purposes of interpretation, the priority of such documents shall be in accordance with the following sequence -
		1. the Contract, Annexures and schedules thereto;
		2. the RFT; and
		3. the Contractor’s Bid.
	2. If an ambiguity or discrepancy is found in the documents referred to in clause 6.1, the Project Manager shall issue a clarification or instruction. If either Party is not satisfied with the clarification or instruction of the Project Manager, it may refer the matter for dispute resolution in accordance with clause 33.
7. DURATION OF CONTRACT
	1. Subject to the provisions of clause 4 and any other clause in this Contract which entitles the Contractor to an extension of time, this Contract shall come into force and effect on the Commencement Date and shall endure for the Contract Period , whereafter it shall automatically terminate, provided that the Employer may, on notice given to the Contractor not less than 3 (three) months prior to the expiry date of the Contract Period, extend this Contract for a period to be determined by the Employer, during which period the Employer may terminate this Contract on 30 (thirty) days’ notice to the Employer.
8. SCOPE OF Services
	1. The Contractor shall undertake the Services in accordance with Good Industry Practice and the Scope of Services set in Annexure “B” and this Contract.
	2. The Services to be undertaken by the Contractors shall include the following:
9. SUPPLY OF SERVICES
	1. The Contractor will use adequate numbers of appropriately skilled, qualified and experienced personnel and all equipment, assets and other resources necessary to provide the Services. The Contractor will throughout the Contract Period consider the requirements of the Employer and apply its expertise to ensure that it renders the Services in a manner which, in its expert judgment, meets the needs of the Employer.
	2. Services will be performed during working hours and in accordance with the Service Levels.
	3. Where the performance of the Service requires the Contractor to liaise or co-operate with the Employer’s personnel or other contractors rendering services to the Employer, the Contractor must give its full co-operation and deal with all such persons in a professional and courteous manner. The Employer will in turn procure the co-operation of its personnel and other contractors in their interactions with the Contractor.
	4. The Contractor shall provide the Services applying Good Industry Practice.
10. SERVICE LEVELS AND SCHEDULES
	1. All Services costs shall conform to agreed prices.
	2. A schedule reflecting details Services to be undertaken during the next month shall be submitted to the Employer by the Contractor before the end of each month during the Contract Period.
	3. Work shall be undertaken by the Contractor as per agreed schedule and agreed turnaround times. Special requirements in relation to any work shall be agreed in progress meetings held between the Parties from time to time in accordance with clause 24.
	4. Should additional Work be required, the Employer shall be advised immediately and a separate quotation for this work shall be prepared and submitted to the Employer for approval, prior to commencement of any such Work.
11. EMPLOYERS OPTION
	1. The Employer has appointed the Contractor to provide the Services with the option of the Employer to extend the scope of the Services to include the redesign of the Services.
	2. The Employer shall have a right at its own discretion to extend and/or amend the scope of Services to include the redesign of the Services based of the trends and failure analysis undertaken in accordance with clause 24.1.1.
	3. Once the Employer has exercised its option to extend the scope of Services in accordance with clause 11.2, both Parties shall agree on the amount to be paid to the Contractor for the redesign of the Services.
	4. The amount to be paid to the Contractor for the redesign of the Services shall be paid in accordance with the Redesign Payment Schedule which is annexure “T” of this Contract.
12. CONTRACTOR’S WARRANTIES
	1. The Contractor warrants that as at the Signature Date -
	2. it is a limited liability company, duly incorporated and validly existing under the Applicable Laws and has taken all necessary actions to authorise its execution of and to fulfilment of its obligations under this Contract;
	3. no litigation, arbitration, investigation or administrative proceeding is in progress as at the Signature Date or, to the knowledge of the Contractor as at the Signature Date, threatened against it or the Subcontractors, which is likely to have a material adverse effect on the ability of the Contractor to provide the Services;
	4. the Contractor is not subject to any obligation or non-compliance which is likely to have a material adverse effect on its ability to conduct the Services;
	5. no proceedings or any other steps have been taken or, to the knowledge of the Contractor, threatened for the winding-up or liquidation (whether voluntary or involuntary, provisional or final), judicial management (whether provisional or final) or deregistration of the Contractor, or under business rescue; or for the appointment of a liquidator, judicial manager or similar officer over it or over any of its assets;
	6. its obligations under this Contract are legal, valid, binding and enforceable against it in accordance with the terms of this Contract;
	7. all information disclosed by or on behalf of the Contractor at any time up to the Signature Date and up to the end of the Contract Period and, in particular, when submitting the Contractor’s Bid prior to the award of this Contract to the Contractor, is true, complete and accurate in all material respects and the Contractor is not aware of any material facts or circumstances not disclosed to the Employer which would, if disclosed, be likely to have an adverse effect on the Employer’s decision (acting reasonably) to award this Contract to the Contractor;
	8. it will use reasonable care and skill in carrying out its obligations under this Contract;
	9. it is not a Restricted Enterprise;
	10. in being awarded its appointment under this Contract, it did not engage, either directly or indirectly, or in any manner participate in the perpetration of a corrupt activity as defined in terms of the Corrupt Activities Act Number 12 of 2004; and
	11. it has all the insurances required in terms of this Contract.
13. EMPLOYER’s WARRANTIES
	1. The Employer hereby warrants that -
		1. the execution and performance of this Contract by the Employer does not and will not contravene any provision of its constitutive documents as at the Signature Date, or any order or other decision of any Responsible Authority or arbitrator that is binding on the Employer as at the Signature Date;
		2. it has taken all necessary actions to authorise the execution and the fulfilment of its obligations under this Contract; and
		3. its obligations under this Contract are legal, valid, binding and enforceable against it, in accordance with the terms of this Contract.
14. INDEMNITIES
	1. The Contractor, in relation to the Services -
		1. indemnifies the Employer against any liability in respect of damage to, or physical loss of the property, or injury to or death of any person; and
		2. shall be liable to the Employer for damage to or physical loss of all property of the Employer, arising directly from the execution of the Services.
	2. The Contractor shall not be liable in respect of -
		1. the permanent use or occupation of land by reason of the Services or any part thereof;
		2. any nuisance, disturbance or interference arising necessarily by reason of the construction of the Services;
		3. interference, whether temporary or permanent, with any servitude or any other right which is the unavoidable result of the construction of the Services in accordance with the Contract; or
		4. death of, or any injuries or damage to persons or property resulting from any act, omission or neglect of the Employer, its agents, employees or other contractors (not being employed by the Contractor).
15. ASSIGNMENT AND SUBCONTRACTING
	1. The Contractor shall not assign the Contract or any part thereof, or any obligation under the Contract, or cede any right or benefit there under without the written consent of the Chief Procurement Officer and Group Chief Executive Officer of the Employer, which consent shall not be unreasonably withheld.
	2. **Subcontracting**
		1. The Contractor shall not subcontract the whole Contract and shall only subcontract a portion of the Services subject to the written approval of the Employer.
		2. The Contractor shall be liable for the acts, defaults and negligence of any subcontractor, its agents or employees as fully as if they were the acts, defaults or negligence of the Contractor.
		3. The contractual relationship between the Contractor and any subcontractors selected by the Contractor in consultation with the Employer in accordance with the requirements of and a procedure set out in this Contract, shall be the same as if the Contractor had appointed the Subcontractor without consultation with the Employer.
		4. Any appointment of a Subcontractor in accordance with clause 15.2.3 shall not amount to a contract between the Employer and the subcontractor, or any responsibility or liability on the part of the Employer to the subcontractor and shall not relieve the Contractor from any liability or obligation under the Contract.
		5. In the event of termination of the Contract under clause 31, the Contractor shall assign the subcontract it has in place with a Subcontractor to the Employer, upon instruction by the Employer.
	3. **Procedure for appointment of Subcontractor****s**
		1. In the event that the Contractor wishes to appoint subcontractors or replace any one of the subcontractors, it shall -
		2. consult with the Employer regarding such proposed subcontractor, including providing details as to such subcontractor’s experience, financial standing and empowerment credentials;
		3. obtain the Employer’s written consent prior to contracting with any proposed subcontractor, which consent shall not be unreasonably withheld; and
		4. in respect of the replacement of a Subcontractor procure that the terms and conditions upon which any replacement subcontractor is appointed are substantially the same as those on which the Subcontractor was appointed, and provide the Employer with a copy of the duly executed contract with any such proposed subcontractor.
		5. Every Subcontractor shall enter into a subcontracting agreement with the Contractor which shall provide that ‑
		6. such Subcontractor shall undertake the same obligations to the Contractor in respect of the subcontract as those by which the Contractor is bound in respect of the contract;
		7. payment for work covered by the subcontract shall not be due until receipt by the Contractor of the payment certificate which includes the value of such work;
		8. within 7 (seven) days of receipt by the Contractor of the Project Manager's payment certificate in which the value of such Subcontractor's work is included, the Contractor shall make payment in full to the Subcontractor for work covered by the subcontract without discount or deduction, other than retention money as may be specified in the subcontract.
16. JOINT AND SEVERAL LIABILITY
	1. If the Contractor constitutes (under Applicable Laws) a joint venture, consortium or other unincorporated grouping of two or more persons -
	2. these persons shall be deemed to be jointly and severally liable to the Employer for the performance of the Services;
	3. these persons shall notify the Employer of their leader who shall have authority to bind the Contractor and each of these persons; and
	4. the Contractor shall not alter its composition or legal status without the prior consent of the Employer.
17. BASIS OF CONTRACT
	1. The Employer shall have made available to the Contractor, as part of or available data by reference in the RFT or Request for Quotation, data relevant to the Services obtained by or on behalf of the Employer, but the Contractor shall be responsible for its own interpretation thereof and deductions thereof.
	2. The Contractor shall be deemed to have obtained attainable information on risks, contingencies and all other information regarding circumstances which may influence or affect the Services.
18. CONTRACTOR'S GENERAL OBLIGATIONS
	1. **Extent of obligations and liability**

The Contractor's general obligations under the Contract shall include the provision of the Services at its own expense, including all labour, equipment, tools, material, transport, consumables, stores, services, samples and Temporary Services, and everything, whether of a temporary or permanent nature, required in and for the construction, completion and commission of the Services. The Contractor shall remedy any defects in the Services and the completed Services must be fit for the purpose for which the Services are intended as defined in the RFT and in this Contract.

* 1. **Legal provisions**
		1. The Contractor shall, in fulfilling the Contract, comply with Applicable Laws.
		2. If required, the Contractor shall provide proof to the Project Manager that it is in good standing with respect to duties, taxes, levies and standing contributions required in terms of the Applicable Laws.
	2. **Notices and Fees**
		1. The Contractor shall in the execution of the Services comply with the provisions of, and give all notices and pay all fees, taxes, levies and other charges required to be given or paid in terms of -
			1. applicable law, and
			2. the conditions imposed by any other body or person stated in this Contract.
		2. The Contractor indemnifies the Employer against any liability for any breach of the provisions of clause 18.3.1.
		3. The Employer shall be responsible for obtaining any planning approval required in respect of the Permanent Services and the Temporary Services.
		4. The Contractor shall be responsible for obtaining all requisite consents and permits for the execution of the Services arising from the approvals consents referred to in clause 18.3.3.
		5. All notices and any other communications whatsoever (including, without limitation, any approval, consent, demand, query or request) by either Party in terms of this Contract or relating to it shall be given in Writing and sent by registered post, or delivered by hand, or transmitted by facsimile to the recipient Party at its relevant address set out below -
		6. if to the Employer at:

 Address: Propnet Building

 1 Adderley Street

 Cape Town

 Attention: Supply Chain Management

 Postal address: P.O. Box X 5446

 Cape Town

 8000

* + 1. Facsimile number:
		2. Telephone number:
		3. if to the Contractor:

 Address:

 Attention:

 Postal address:

* + 1. Facsimile number: 021 449 6300
		2. Telephone number: 021 449 3168
		3. Either Party may, by written notice to the other Party, change any of the addresses at which or the designated person for whose attention those notices or other communications are to be given.
		4. Any notice or other communication given by any Party to the other Party which -
		5. is sent by registered post to the addressee at its specified address shall be rebuttably presumed to have been received by the addressee on the 7th (seventh) day after the date of posting; or
		6. is delivered by hand to the addressee during the normal business hours of the addressee at its specified address shall be refutably presumed to have been received by the addressee at the time of delivery; or
		7. is transmitted by facsimile to the addressee during the normal business hours of the addressee at its specified facsimile number shall be rebuttably presumed to have been received by the addressee on the date of transmission as indicated on the sender’s facsimile transmission report.
		8. The provisions of this clause 18.3 shall not invalidate any notice or other communication actually given and received otherwise than as described in those provisions.
		9. The Parties choose their respective physical addresses in clause 18.3.5 as their respective domicilia citandi et executandi at which all documents relating to any legal proceedings to which they are a party may be served. If that address is changed to another address which is not a physical address in South Africa, then the original address shall remain the domicilium citandi et executandi of the relevant Party until it nominates a new physical address within the Republic of South Africa in Writing to be its new domicilium citandi et executandi.
1. Change in Control and BBBEE
	1. The Contractor shall not, during the term of this Contract, be allowed to proceed with any of the following matters without the prior written consent from the Employer’s Chief Procurement Officer and Group Chief Executive Officer -
		1. any transfer of any amount of shares of the Contractor;
		2. any change in the composition of the Contractor;
		3. any change in the ownership of the Contractor;
		4. any material change in the constitution, memorandum, articles of association or memorandum of incorporation or similar document providing for the creation, formation or incorporation of the Contractor; or
		5. any change on the BBBEE component of the Contractor.
		6. provided that the Contractor shall not require any approval and/or consent of the Employer and/or Employer’s Chief Procurement Officer and Group Chief Executive Officer where any change as contemplated in clause 19.1.1 to 19.1.5 Employers not have impact of the BBBEE Status of the Contractor.
	2. Breach of clause 19 by the Contractor shall result in immediate termination of the Contract by the Employer.
2. DRAWINGS AND INTELLECTUAL PROPERTY
	1. The Drawings will remain in the sole custody of the Project Manager. Three copies thereof will be furnished to the Contrac­tor free of cost, but any further copies shall be paid for by the Contractor. The Contractor shall give reasonable notice in Writing to the Project Manager of any further drawing or specification that may be required for the execution of the Services.
	2. One copy of the Drawings furnished to the Contractor as aforesaid shall be kept by the Contractor on its site, and shall at all reasonable times be available for inspection and use by the Project Manager and any Subcontractor appointed in terms of clause 15.3 hereof.
	3. Where the design of the Services or part of the Services is performed by the Contractor, it shall, unless otherwise directed, submit paper prints, in triplicate, of all plans or drawings of such Services to the Project Manager whose written approval must be obtained before the Work concerned is commenced. Such approval shall be subject to clause 3.2.
	4. Design, plans and drawings prepared by the Contractor in accordance with clause 20.3 and paid for by the Employer including the intellectual rights thereto shall belong to the Employer.
	5. In the event that the designs, drawings and/or plans are created by both Employer and Contractor, the intellectual property rights attaching to the Work done and paid for by Employer shall vest on the Employer. and the intellectual property rights associated therewith shall vest jointly in the Parties.
	6. The Contractor hereby grants to the Employer a non-exclusive licence, in accordance with the provisions of section 22 of the Copyright Act, No.98 of 1978 -
		1. to copy any plan, diagram, drawing, specification, Bill of Quantity, design calculation or other similar document made by the Contractor, other than under the direction or control of the Employer, in connection with the Services;
		2. to make free and unrestricted use thereof for its own purposes;
		3. to provide copies thereof to the Project Manager to be used by it for consultations and consulting services to the Employer;
		4. to provide other parties with copies thereof where tenders are invited by the Employer.
	7. Such non-exclusive licence shall apply mutatis mutandis to any plan, diagram, drawing, specification, bill, design calculation or other similar document made, other than under the direction or control of the Employer, by any Subcontractor of the Contractor. The provisions of this clause shall in the case of materials, machines or equipment to be provided as part of the Services, not apply in respect of documents created for the manufacturing thereof.
	8. No separate or additional payment shall be made by the Employer in respect of any non-exclusive licence granted in terms hereof.
	9. Save in respect of the Employer's or the Project Manager's design of the Services or method of construction and proprietary brand specified by the Employer or its Project Manager, or in connection with any Drawings, the Contractor indemnifies the Employer against any liability arising from the infringement of any patent rights, design, trade-mark or name or other protected right in respect of any design work, Construction Equipment, Plant, machine, work, method of construction or material used for or in connection with the Services.
	10. Except where otherwise specified in the Contract, the Contractor shall pay all amounts due by it in respect of the rights referred to in clause 20.
3. Contractor's superintendence
	1. The Contractor shall provide all necessary superintendence during the execution of the Services.
	2. The Contractor's manager shall have authority to receive, on behalf of the Contractor, all oral or written communications from the Project Manager or the Project Manager's Representative.
4. TIME AND RELATED MATTERS
	1. Commencement of the Services
		1. Following the Commencement Date, and on the Project Manager's instruction, the Contractor shall, save as may be otherwise provided in the Contract or legally or physically impossible, commence executing the Services. Such instruction shall be subject to the submission by the Contractor, and approval by the Project Manager, of documentation required before commencement with Services execution which information shall be as follows -
			1. any Consents required;
			2. proof of insurance in accordance with clause 12.11.
		2. The documentation referred to in clause 22.1.1 above shall be made available within 30 (thirty) days from the Commencement Date.
		3. If the documentation referred to in clause 22.1.1 is not submitted within the number of days stipulated in clause 22.1.2  from the Commencement Date, or is found to be unacceptable, the Employer may terminate the Contract on written notice to the Contractor.
		4. If the Project Manager's instruction to commence executing the Services, or to resubmit documentation, is not received by the Contractor within 7 (seven) days from the actual date of submission of the documentation referred to in clause 22.1.1, commencement of the Services shall be deemed to be on the expiry of such 7 (seven) days.
5. SUPERVISION
	1. The function of the Project Manager is to control, manage and administer the Contract acting on instructions of the Employer, in accordance with the provisions of the Contract.
	2. Whenever the Project Manager intends, in terms of the Contract, to exercise any discretion or make or issue any ruling, contract interpretation or price determination, he shall first consult with the Contractor and the Employer in an attempt to reach agreement. Failing agreement, the Project Manager shall act impartially and equitably and shall make a decision in accordance with this Contract, taking into account all relevant facts and circumstances.
	3. The Project Manager will provide overall technical superintendence of the Services, and may direct the Contractor in terms of the provisions of this Contract or in respect of any measures which the Project Manager may require for the operations of the Employer on the safety of trains, the property and workmen of the Employer, and for the safety of other property and persons. The Contractor shall carry out the directions of the Project Manager. The superintendence exercised by the Project Manager, including any agreement, approval, refusal or withdrawal of any approval given, shall not relieve the Contractor of any of his duties and liabilities under the Contract, and shall not imply any assumption by the Employer or by the Project Manager of the legal and other responsibilities of the Contractor in carrying out the Services.
	4. The Project Manager may delegate to any deputy or other person, any of his duties or functions under the Contract. On receiving notice in Writing of such delegation, the Contrac­tor shall recognise and obey the deputy or person to whom any such duties or functions have been delegated as if he were the Project Manager.
	5. The Contractor shall exercise supervision over the Services at all times when work is performed or shall be represented by an agent having full power and authority to act on behalf of the Contractor. Such agent shall be competent and responsible, and have adequate experience in carrying out work of a similar nature to the Services, and shall exercise personal supervision on behalf of the Contractor. The Project Manager shall be notified in Writing of such appoint­ment which will be subject to his approval.
	6. The Contractor or the Contractor’s Site Agent shall be available on the Site at all times while the Services are in progress to receive the orders and directions of the Project Manager.
	7. If the Contractor is dissatisfied with any order or instruction of the Project Manager's representative, or any other person appointed by the Project Manager to act on his behalf, he shall be entitled to refer the matter to the Project Manager who shall promptly confirm, reverse or vary such order or instruction.
	8. **Instructions**
		1. On the Commencement Date, the Project Manager shall deliver to the Contractor copies of the Drawings and any instructions required for the commencement of the Services.
		2. The Project Manager shall deliver to the Contractor from time to time, during the progress of the Services, drawings for construction purposes or instructions as shall be necessary for the proper and adequate construction, completion and defect correction of the Services.
		3. The Contractor shall give adequate written notice to the Project Manager of any requirements additional to that contained in the Scope of Services or Drawings, which the Contractor may require for the execution of the Services and the Project Manager shall deliver such instructions and/or drawings to the Contractor.
		4. The aforesaid instructions and/or Drawings referred to in clause 23.8.3 shall be delivered in good time taking the approved programme into account.
		5. The Contractor shall give effect to and be bound by any drawing or instruction given in terms of this Clause and, if such drawing or instruction shall require any variation of, addition to, or omission from the Services, clause 29.6 shall apply.
		6. If by reason of a failure by the Project Manager, after his receipt of written notice from the Contractor in terms of clause 23.8.3, to comply in good time with the provisions of clause 23.8.4, the Contractor suffers delay to Practical Completion and, he shall be entitled to make a claim for additional time in accordance with clause 32, for which purpose the time limit of 28 (twenty eight) days shall commence after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Project Manager, the Contractor shall send to the Project Manager a fully detailed claim which includes full supporting particulars of the basis of the clam and of the extension of time and/or additional payment claimed.
6. MONTHLY PROGRESS MEETINGS: employer/CONTRACTOR OBLIGATION
	1. Monthly progress meetings shall be convened by and between the Employer and the Contractor if required, in order to review the following ‑
		1. Review trends and failure analysis;
		2. Specification/work list requirements;
		3. Unit price/Quantity changes;
		4. Drawing amendments;
		5. Delivery schedule;
		6. Quality aspects;
		7. Financial aspects; and
		8. Manage exceptions.
	2. The above-mentioned progress meetings shall be arranged from time to time by mutual agreement by and between the Employer and the Contractor.
7. Delays attributable to the Employer

If the Contractor fails to comply with any agreed time schedule referred to in clause 10 as a result of failure or delay on the part of the Employer, its agents, employees or other contractors (not employed by the Contractor) in fulfilling any necessary obligations in order to enable the Services to proceed in accordance with the Contract, the Contractor shall be entitled to claim extra time incurred by it in performing the Services. The Contractor shall make such claim within 28 (twenty eight) days of such failure by the Employer to meet its contractual obligations. The Contractor’s claim shall be submitted to the Project Manager stating in detail such failure by the Employer.

1. Suspension of the Services
	1. The Contractor shall, on the written order of the Project Manager stating the cause for suspension(other than force majeure in terms of clause 31), suspend the progress of the Services or any part thereof for such time or times and in such manner as the Project Manager shall order and shall, during such suspension, properly protect the Services as far as is necessary unless such suspension is by reason of some default or breach of the Contract by the Contractor
	2. If the progress of the Services or any part thereof is so suspended for more than 84 (eighty four) Days in total, the Contractor may deliver a written notice to the Project Manager requiring permission to proceed with the Services or that part thereof in respect of which progress is suspended.
	3. If such permission is not granted within 28 (twenty eight) Days after the Project Manager's receipt of the written notice, the Contractor may, by a further written notice to the Employer, elect to treat the suspension, where it affects the whole Services, as a repudiation of the Contract by the Employer.
2. Extension of time for Completion
	1. If the Contractor considers itself entitled to an extension of time for circumstances of any kind whatsoever which may cause it to fail to comply with any agreed time schedule referred to in clause 10, the Contractor shall claim in accordance with clause 32 for extension of time. Such extension of time shall take into account any non-Business Days and all relevant circumstances, including concurrent delays or savings of time which might apply in respect of such claim.
	2. Without limiting the generality of clause 32.1 the circumstances referred to in that clause include -
		1. the nature of additional work, time; and
		2. any disruption which is entirely beyond the Contractor's control.
	3. Instead of granting extension of time, if feasible, the Project Manager may request the Contractor to accelerate the rate of progress.
3. Penalty for delay
	1. If the Contractor fails to complete the Services within the time a stipulated in this Contract for completion of Services or a part or portion of Services, the Contractor shall be liable to the Employer for an amount calculated at 0.5% of the Contract Price per delayed Day per order, which shall be paid for every [Day](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Lerato\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\h00711050\AppData\Local\Microsoft\h00711050\AppData\AppData\Local\Microsoft\Windows\Users\h00711050\AppData\Local\Documents%20and%20Settings\T0071215\Local%20Settings\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef017.htm) which shall elapse between the [time for due completion](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Lerato\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\h00711050\AppData\Local\Microsoft\h00711050\AppData\AppData\Local\Microsoft\Windows\Users\h00711050\AppData\Local\Documents%20and%20Settings\T0071215\Local%20Settings\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef055.htm) and completion of the relevant Services. However, the total amount due under this sub-clause shall not exceed the maximum of 10% of the Contract Price.
	2. The imposition of such penalty shall not relieve the Contractor from its obligation to complete Services or from any of its obligations and liabilities under the Contract,
	3. The Employer may set off or deduct from the fees due to the Contractor any penalty amounts due and owing by the Contractor in terms of clause 28.1.
4. PRICE, PAYMENT AND RELATED MATTERS
	1. **Payment to Contractor**
		1. As consideration for the provision of the Services, the Employer shall pay the Contractor in terms of the provisions of the Contract.
		2. Payment shall be made to the Contractor within thirty (30) Days after receipt of the relevant invoice/s and shall be the amount calculated as being the product of unit price and the quantity accepted as given on the relevant invoice (Refer to Annexure A for the unit prices).
		3. The Employer will verify the invoices and authorize payment on condition that a Final Approval Certificate has been issued.
		4. All invoices shall be paid within thirty (30) Days from the date of issue of the invoice by the Contractor.
	2. **Price**

The Contract Sum for the Services for the Contract Period is R\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_) including VAT.

* 1. **Payment in Applicable Currencies**

Payment of all amounts due and payable either to the Contractor or Employer shall be in South African Rand.

* 1. **Payment for Mobilisation**
		1. If the Contractor is going be paid the Mobilisation Fee it shall be paid within 30 (thirty) days of fulfilment of the Condition Precedent set out in clause 4.
		2. The Contractor shall use the Mobilisation Fee towards the purchase of material and equipment for the Services.
		3. The Contractor shall provide the Employer with documentary proof of purchase of material and equipment purchased pursuant to clause 29.4.2.
		4. The Contractor shall deliver to the Employer the documentary proof of purchase as contemplated in clause 29.4.3 within 30 (thirty) Days of payment of the Mobilisation Fee.
		5. Failure by the Contractor to provide the Employer with documentary proof of purchase in accordance with clause 29.4.3 within the time frame stipulated in clause 29.4.4 shall be a breach of this Contract and the Employer shall also be entitled to Mobilisation Fee paid.
	2. **Security**

The Contractor shall procure that the Performance Bond remains valid until the expiry of the Contract Period. The Performance Bond shall specify an expiry date not less than 36 Months from Commencement Date, and if the Contractor has not become entitled to receive the Final Approval Certificate of the Services by the date 14 (fourteen) days prior to that date, the Contractor shall procure the extension the validity of the Performance Bond until such time that the Services have been completed.

* 1. **Variations**
		1. lf, at any time the Project Manager shall require any variation of the form, quality or quantity of the Services or any part thereof that may be necessary or for any reason appropriate, he shall, subject to the terms of the Contract, be entitled to require the Contractor to do any of the following -
			1. increase or decrease the quantity of any Work;
			2. omit any such Work;
			3. change the character or quality of any such Work;
			4. change the levels, lines, position and dimensions of any part of the Services;
			5. execute additional Work of any kind necessary for the completion of the Services; and
			6. change the specified or approved sequence or method of rendering the Services.
		2. No such variation shall in any way vitiate or invalidate the Contract, but the value, if any, of all such variations shall be taken into account in ascertaining the amount of the Contract Price. Furthermore, no such variation shall be binding on the Parties until reduced to Writing and signed by them.
		3. No such variation shall be made by the Contractor without written orders from the Project Manager in which it is stated to be a “variation order”.
	2. **Value of variations**
		1. No variation orders shall exceed 10% (10 percent) of the Contract Price as required by the Employers procurement policies.
		2. Subject to clause 29.6.2, no variation orders shall be valid unless approved by the Group Chief Executive Officer and the Chief Procurement Officer of the Employer.
1. TERMINATION
	1. This Contract may be terminated by either Party by giving a 90 (ninety) days’ notice or following the occurrence of either the Contractor’s Default or Employer’s Default.
	2. If termination is as a result of the Employer’s Default, the Contractor shall be entitled to payment for all the Services undertaken by the Contractor up to the date of termination.
2. Force Majeure
	1. **Definition of** [**Force Majeure**](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef027.htm)
		1. In this clause 31, "Force Majeure" means an exceptional event or circumstance -
			1. which is beyond a [Party](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef035.htm)’s control,
			2. which such [Party](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef035.htm) could not reasonably have provided against before entering into the [Contract](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef007.htm),
			3. which, having arisen, such [Party](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef035.htm) could not reasonably have avoided or overcome, and
			4. which is not substantially attributable to the other [Party](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef035.htm).
		2. [Force Majeure](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef027.htm) may include, but is not limited to, exceptional events or circumstances of the kind listed below, so long as conditions 31.1.1.1 to 31.1.1.4 above are satisfied -
			1. war, hostilities (whether war be declared or not), invasion, act of foreign enemies;
			2. rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war;
			3. munitions of war, explosive [Materials](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef057.htm), ionising radiation or contamination by radio-activity, except as may be attributable to the Contractor’s use of such munitions, explosives, radiation or radio-activity; and
			4. natural catastrophes such as earthquake, hurricane, typhoon or volcanic activity.
	2. **Notice of** [**Force Majeure**](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef027.htm)
		1. If a [Party](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef035.htm) is or will be prevented from performing any of its obligations under the [Contract](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef007.htm) by [Force Majeure](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef027.htm), then it shall give notice to the other [Party](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef035.htm) of the event or circumstances constituting the [Force Majeure](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef027.htm) and shall specify the obligations, the performance of which is or will be prevented. The notice shall be given within 14 (fourteen) [day](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef017.htm)s after the [Party](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef035.htm) became aware, or should have become aware, of the relevant event or circumstance constituting [Force Majeure](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef027.htm).
		2. The [Party](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef035.htm) shall, having given notice, be excused performance of such obligations for so long as such [Force Majeure](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef027.htm) prevents it from performing them.
		3. Notwithstanding any other provision of this Clause, [Force Majeure](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef027.htm) shall not apply to obligations of either [Party](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef035.htm) to make payments to the other [Party](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef035.htm) under the [Contract](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef007.htm).
		4. Duty to Minimise Delay
		5. Each [Party](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef035.htm) shall at all times use all reasonable endeavours to minimise any delay in the performance of the [Contract](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef007.htm) as a result of [Force Majeure](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef027.htm).
		6. A [Party](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef035.htm) shall give notice to the other [Party](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef035.htm) when it ceases to be affected by the [Force Majeure](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef027.htm).
	3. **Consequences of** [**Force Majeure**](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef027.htm)
		1. If the Contractor is prevented from performing any of its obligations under the [Contract](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef007.htm) by Force Majeure of which notice has been given under sub-clause 31.2, and suffers delay and/or incurs additional [cost](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef014.htm)s by reason of such [Force Majeure](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef027.htm), the Contractor shall be entitled, subject to [sub-clause](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowY00520.htm#A2001)32 to -
			1. an extension of time for any such delay, if completion is or will be delayed, under sub-clause 27, and
			2. if the event or circumstance is of the kind described in of sub-clauses 31.1.2.1 to 31.1.2.4 , payment of any such additional [cost](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef014.htm).
		2. After receiving this notice, the Parties shall proceed in accordance with clause 31.2 to agree or determine these matters.
	4. Optional Termination, Payment and Release
		1. If the execution of substantially all the [Services](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef051.htm) is prevented for a continuous period of 84 (eighty four) [Day](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef017.htm)s by reason of [Force Majeure](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef027.htm) of which notice has been given under sub-clause 31.2, or for multiple periods which total more than 140 (one hundred and forty) [day](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef017.htm)s due to the same notified [Force Majeure](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef027.htm), then either [Party](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef035.htm) may give to the other [Party](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef035.htm) a notice of termination of the [Contract](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef007.htm). In such event, the termination shall take effect 7 (seven) [day](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef017.htm)s after the notice is given, and the Contractor shall proceed in accordance with Sub-Clause 31.4.2.4 [Cessation of Work and Removal of [Contractor's Equipment](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef012.htm)].
		2. Upon such termination, the Project Manager shall determine the value of the Work done to date and issue a [payment certificate](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef058.htm) to the Contractor which shall include -
			1. the amounts payable for any work carried out for which a price is stated in the [Contract](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef007.htm);
			2. the [cost](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef014.htm) of [equipment](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef039.htm) and [materials](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef057.htm) ordered for the [Services](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef051.htm) which have been delivered to the Employer, such [equipment](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef039.htm) and [materials](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef057.htm) shall become the property of (and be at the risk of) the Employer when paid for in full by the Employer, and the Contractor shall place the same at the Employer’s disposal;
			3. any other [cost](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef014.htm)s or liabilities which in the circumstances were reasonably incurred by the Contractor in the expectation of completing the [Services](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef051.htm); and
			4. the [cost](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef014.htm) of removal of [Temporary Services](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef049.htm) and [Contractor's Equipment](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef012.htm) from the [Site](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef045.htm) and the return of these items to the Contractor.
	5. **Release from Performance under the Law**
		1. Notwithstanding any other provision of this clause 31.5.1, if any event or circumstance outside the control of the [Parties](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef035.htm) (including, but not limited to, [Force Majeure](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef027.htm)) arises which makes it impossible or unlawful for either or both [Parties](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef035.htm) to fulfil its or their contractual obligations or which, under the law governing the [Contract](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef007.htm), entitles the [Parties](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef035.htm) to be released from further performance of the [Contract](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef007.htm), then upon notice by either [Party](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef035.htm) to the other [Party](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef035.htm) of such event or circumstance -
			1. the [Parties](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef035.htm) shall be discharged from further performance, without prejudice to the rights of either [Party](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef035.htm) in respect of any previous breach of the [Contract](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef007.htm), and
			2. the sum payable by the Employer to the Contractor shall be the same as would have been payable under sub-clause 31.4 [Optional Termination, Payment and Release] if the [Contract](file://E:\..\..\..\..\AppData\Local\Microsoft\AppData\Local\AppData\Local\Microsoft\Windows\Users\Sgroup\AppData\Local\AppData\Documents%20and%20Settings\1006899\AppData\Local\Microsoft\Windows\Temporary%20Internet%20Files\Content.Outlook\Documents%20and%20Settings\Administrator\My%20Documents\FIDICFIDIC%20PowerdocYRGSYellowdefnsYdef007.htm) had been terminated under sub-clause 31.4.
3. Contractor’s Claims
	1. If the Contractor considers itself to be entitled to any extension of [time for completion](file:///E%3A%5CAppData%5CLocal%5CAppData%5CDocuments%20and%20Settings%5C1006899%5CAppData%5CLocal%5CMicrosoft%5CWindows%5CTemporary%20Internet%20Files%5CConten) of the Services, the Contractor shall give notice to the Employer, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, as and not later than 28 (twenty eight) [Day](file:///E%3A%5CAppData%5CLocal%5CAppData%5CDocuments%20and%20Settings%5C1006899%5CAppData%5CLocal%5CMicrosoft%5CWindows%5CTemporary%20Internet%20Files%5CConten)s after the Contractor became aware, or should have become aware, of the event or circumstance. All requests for an extension of time shall be granted in the Employer’s sole and absolute discretion, having considered the reasons for the request in consultation with the Project Manager. Should the Employer and/or the Project Manager require any additional information substantiating the Contractor’s claim, the Contractor shall provide the Employer and/ or Project Manager with such information within 48 (forty eight hours).
	2. If the Contractor fails to give notice of a claim within such period of 28 (twenty eight) [Day](file:///E%3A%5CAppData%5CLocal%5CAppData%5CLocal%5CMicrosoft%5CWindows%5CTemporary%20Internet%20Files%5CContent.Outlook%5CDocuments%20and%20Settings%5CAdmini)s, the relevant time for completion of the Services shall not be extended, the Contractor shall not be entitled to additional payment, and the Employer shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this clause 32 shall apply.
	3. The Contractor shall also submit any other notices which are required by the [Contract](file:///E%3A%5CAppData%5CLocal%5CAppData%5CDocuments%20and%20Settings%5C1006899%5CAppData%5CLocal%5CMicrosoft%5CWindows%5CTemporary%20Internet%20Files%5CConten), and supporting particulars for the claim, all as relevant to such event or circumstance.
	4. The Contractor shall keep such records as may be necessary to substantiate any claim made by it in accordance with this clause 32. Without admitting the Employer’s liability, the Project Manager acting on instructions of the Employer may, after receiving any notice under this sub-clause, monitor the record-keeping and/or instruct the Contractor to keep further records. The Contractor shall permit the Employer to inspect all these records, and shall (if instructed) submit copies to the Employer.
	5. Within 28 (twenty eight) [Day](file:///E%3A%5CAppData%5CLocal%5CAppData%5CDocuments%20and%20Settings%5C1006899%5CAppData%5CLocal%5CMicrosoft%5CWindows%5CTemporary%20Internet%20Files%5CConten)s after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Employer, the Contractor shall send to the Employer a fully detailed claim which includes full supporting particulars of the basis of the claim and of the extension of time and/or additional payment claimed.
	6. The Contractor shall send a final claim within 28 (twenty eight) [Day](file:///E%3A%5CAppData%5CLocal%5CAppData%5CDocuments%20and%20Settings%5C1006899%5CAppData%5CLocal%5CMicrosoft%5CWindows%5CTemporary%20Internet%20Files%5CConten)s after the end of the effects resulting from the event or circumstance, or within such other period as may be proposed by the Contractor and approved by the Employer.
	7. Within 42 (forty two) [Day](file:///E%3A%5CAppData%5CLocal%5CAppData%5CDocuments%20and%20Settings%5C1006899%5CAppData%5CLocal%5CMicrosoft%5CWindows%5CTemporary%20Internet%20Files%5CConten)s after receiving a claim or any further particulars supporting a previous claim, or within such other period as may be proposed by the Employer acting on instructions of the Employer and approved by the Contractor, the Employer acting on instructions of the Employer shall respond with approval, or with disapproval and detailed comments. It may also request any necessary further particulars, but shall nevertheless give his response on the principles of the claim within such time.
	8. The Parties shall agree or determine the extension (if any) of the [time for completion](file:///E%3A%5CAppData%5CLocal%5CAppData%5CDocuments%20and%20Settings%5C1006899%5CAppData%5CLocal%5CMicrosoft%5CWindows%5CTemporary%20Internet%20Files%5CConten) of any Services (before or after its expiry) in accordance with sub-clause 27 [Extension of [Time for Completion](file:///E%3A%5CAppData%5CLocal%5CAppData%5CDocuments%20and%20Settings%5C1006899%5CAppData%5CLocal%5CMicrosoft%5CWindows%5CTemporary%20Internet%20Files%5CConten)], to which the Contractor is entitled under the [Contract](file:///E%3A%5CAppData%5CLocal%5CAppData%5CDocuments%20and%20Settings%5C1006899%5CAppData%5CLocal%5CMicrosoft%5CWindows%5CTemporary%20Internet%20Files%5CConten). If the Contractor does not agree with the determination of the Employer, it shall refer the matter for determination in accordance with clause 33.
	9. The requirements of this sub-clause are in addition to those of any other sub-clause which may apply to a claim. If the Contractor fails to comply with this or another sub-clause in relation to any claim, any extension of time to which the failure has prevented or prejudiced proper investigation of the claim, unless the claim is excluded under the second paragraph of this sub-clause.
4. DISPUTE RESOLUTION
	1. If a dispute of any kind arises between the Contractor and the Employer, in connection with or arising out of the Contract or the execution of the Services, whether during the execution of the Services or after their completion, and whether before or after repudiation or other termination of the Con­tract, including any dispute as to any opinion, instruction, determination, certificate or valuation, the matter in dispute shall, within 14 (fourteen) days of dispute having arisen, be referred to the Project Manager with a copy to the Chief Executive Officers. The Project Manager shall decide the matter within 28 (twenty eight) days of receipt of the reference and notify the Contractor and Project Manager of his decision.
	2. If a dispute arises between the Employer and the Contractor, including a dispute arising out of the Project Manager's decision in terms of clause 33.1 hereof, or if the Contractor is dissatisfied with any instruction, assessment, determination, valuation, variation or ruling given or made by the Project Manager in terms of his powers under the Contract, the matter shall be referred in Writing to the Chief Executive Officer within 28 (twenty eight) days of the decision of the Project Manager or of the dispute or dissatisfaction, as the case may be, having arisen.
	3. The Parties shall thereafter endeavour to settle the dispute by way of negotiation.
	4. The procedure and forum for the negotiations shall be subject to agreement between the Parties. The negotiations shall be without prejudice to either of the Parties and neither shall be entitled to rely upon admissions or conces­sions made during such procedures in any ensuing arbitration and/or litigation proceedings.
	5. Either of the Parties may elect that the negotiation proceedings be facilitated by an independent mediator. In such case, the provisions of clause 33.10 shall apply mutatis mutandis to the appointment of such mediator. Each Party shall bear its own costs in respect of the mediation and pay half of the mediator's agreed fees and expenses.
	6. If the Parties fail to reach a negotiated settlement, or negotiations break down on account of a deadlock, the Chief Executive Officers shall decide the dispute and shall advise their decision in Writing to the Project Manager and the Contractor within 42 (forty two) Days after the day of receipt by them of the reference in terms of clause 33.2. The Chief Executive Officers’ decision shall forthwith be given effect to by the Project Manager, the Project Manager and the Contractor.
	7. Unless the Contract has already been completed, repudiated or otherwise termin­ated, the Contractor shall, in every case proceed with the Services with all due diligence, unless and until the Chief Executive Officers’ decision has been revised, as hereinafter provided for, by an arbitral award.
	8. The Chief Executive Officers’ decision shall be final and binding on the Parties.
	9. Should either of the Parties be dissatisfied with the decision of the Chief Executive Officers in terms of clause 33.6, it may, within 28 (twenty eight) Days after the receipt thereof, declare the matter to be in dispute by written notification to the Chief Executive Officers. Unless otherwise agreed, the matter shall be referred to an arbitrator appointed in terms of clause 33.10 hereof.
	10. The appointment of an arbitrator shall be made by agreement between the Parties, after a written submission has been made by either
	Party to the other of a shortlist containing the names of 3 (three) suitably qualified persons.
	11. If the Parties fail to agree within 14 (fourteen) Days of receipt of the submission, either Party may apply for the nomina­tion of a suitably qualified person by the Chairperson for the time being of the Arbitration Foundation of Southern Africa (“AFSA”), or by the Vice Chairperson in the absence of the Chairperson.
	12. The reference to the arbitrator shall, unless otherwise agreed, be deemed to be a submission to the arbitration of a single arbitrator in terms of the Arbitration Act (Act No. 42 of 1965, as amended), or any legislation passed in substitution thereof. The arbitration shall, unless otherwise agreed, be conducted in accordance with the AFSA Rules.
	13. The arbitrator shall have full power to open up, review and revise any decision, opinion, direction, certificate or valuation of the Project Manager, the Project Manager or the Executive Officers insofar as it may in his opinion be necessary to do so for the proper determination of the dispute.
	14. Neither Party shall be limited in the proceed­ings before the arbitrator to the evidence or arguments submitted to the Project Manager, the Project Manager or the Executive Officers, for the purposes of preceding proceedings. The award of the arbitrator shall be final and binding on the Parties.
	15. Arbitration proceedings may be entered into after and at any time before the completion or alleged completion of the Services, provided always –
	16. that the preceding dispute resolution procedures stipu­lated herein have been fol­lowed and fully exhausted,
	17. that no decision given by the Project Manager, the Project Manager or the Executive Officers in accordance with the foregoing provisions shall disqualify him as a witness and from giving evidence before the Arbitrator on any matter whatso­ever relevant to the dispute so referred to the Arbitrator.
	18. Any amount which may become payable by the Contractor to the Employer in consequence of any decision by the Chief Executive Officers or of an arbitrator's award, as the case may be, in accordance with the foregoing provisions of this clause, may be recovered in any manner described in clause 29 hereof or by instituting action in a court of competent jurisdiction.
	19. The arbitrator's fees and expenses shall be borne by the parties concerned in accordance with the terms of the arbitra­tor's award. Should one Party pay the arbitrator's fees, such Party will have the right to recover from the other Party any amount of such fee for which that party is responsible in terms of the arbitrator's award.
	20. Notwithstanding provisions of this clause 33 or any other clause in this Contract, either Party shall be entitled to proceed with court action to a court with relevant jurisdiction if they are not satisfied with the decision Chief Executive Officers.
5. PUBLIC RELATIONS AND PUBLICITY
	1. The Contractor acknowledges that certain information pertaining to the Services is required to be disclosed in accordance with the statutory reporting obligations of the Employer as it may be required to publish from time to time in response to enquiries from -
		1. Parliament and its members and officers in accordance with the provisions of the Public Finance Management Act, of 1999;
		2. the Auditor-General under the Public Audit Act, of 2004; and
		3. persons acting in the public interest in accordance with the provisions of the Promotion of Access to Information Act, 2000.
	2. Subject to clause 35, neither Party shall communicate with representatives of the press, television, radio or other communications media on any matter concerning this Contract without the prior approval of the other Party, such consent not to be unreasonably withheld.
6. CONFIDENTIALITY
	1. Each Party ("the Receiving Party") must treat and hold as confidential all information, which they may receive from the other party ("the Disclosing Party") or which becomes known to them concerning the Disclosing Party during the subsistence of this Contract and any extension thereof.
	2. The confidential information of the disclosing Party shall, without limitation, include-
		1. software and associated material and documentation, including information contained therein;
		2. all information relating to -
			1. the disclosing Party's past, present and future research and development;
			2. the Disclosing Party's business activities, products, services, customers and Employers, as well as its technical knowledge and trade secrets;
			3. the terms and conditions of this Contract; and
			4. Contractor’s data.
	3. The Receiving Party agrees that in order to protect the proprietary interests of the Disclosing Party in its confidential information -
		1. it will only make the confidential information available to those of its Personnel who are actively involved in the execution of this Contract;
		2. it will initiate internal security procedures reasonably acceptable to the Disclosing Party to prevent unauthorized disclosure and will take all practical steps to impress upon those Personnel who need to be given access to confidential information, the confidential nature thereof;
		3. subject to the right to make the confidential information available to their Personnel under clause 35.3.1 above, they will not at any time, whether during this Contract or thereafter, either use any confidential information of the Disclosing Party or directly or indirectly disclose any confidential information of the Disclosing Party to third parties;
		4. all written instructions, drawings, notes, memoranda and records of whatever nature relating to the confidential information of the Disclosing Party which have or will come into the possession of the Receiving Party and its Personnel, will be, and will at all times remain, the sole and absolute property of such Party and shall be promptly handed over to such Party when no longer required for the purposes of this Contract.
	4. Upon termination or expiry of this Contract, the Receiving Party will deliver to the Disclosing Party, or at the Disclosing Party’s option, destroy all originals and copies of the Disclosing Party's confidential information in its possession.
	5. The foregoing obligations shall not apply to any information which -
		1. is lawfully in the public domain at the time of disclosure;
		2. subsequently and lawfully becomes part of the public domain by publication or otherwise;
		3. subsequently becomes available to the Receiving Party from a source other than the Disclosing Party, which source is lawfully entitled without any restriction on disclosure to disclose such confidential information; or
		4. is disclosed pursuant to a requirement or request by operation of law, regulation or court order.
	6. Nothing in this Clause shall preclude the Parties from disclosing the confidential information to their professional advisors or financiers in the bona fide course of seeking finance, business and professional advice.
	7. Each Party hereby indemnifies the other Party against any loss or damage, which one Party may suffer as a result of a breach of this Clause by the other Party or its Personnel.
	8. The provisions of this clause 35 are severable from the rest of the provisions of this Contract and shall survive its termination and continue to be of full force and effect for a period of 2 (two) years after the date of termination. Notwithstanding the aforementioned, the obligation to keep confidential business and trade secrets shall remain in force for an unlimited period of time.
7. LIMITATION OF LIABILITY
	1. Under no circumstances shall either Party be liable for any indirect, consequential or like damages which may arise pursuant to this Contract.
	2. Furthermore, and notwithstanding anything to the contrary herein, the maximum total liability of the Parties to the Employer for any loss or damage suffered by the Employer, its agents, employees or sub-contractors, whether in contract, delict or otherwise, from any cause whatsoever, and whether in relation to damages, penalties or indemnities or otherwise, shall not exceed twice the Contract Price.
	3. Subject to the aforegoing, and to the extent that it relates to the Services, the Contractor indemnifies and shall keep Employer indemnified at all times against all losses sustained by Employer in consequence of any -
		1. loss of or damage to property;
		2. breach of a statutory duty arising under applicable law;
		3. claim for or in respect of the death or personal injury of any individual; or
		4. any breach by the Contractor of any warranties given by it in this Contract;
		5. including, without limitation, any legal fees or costs, arising in connection with the performance or non-performance of any Services; and
		6. save to the extent caused by the negligence or wilful misconduct of Employer or by a breach by Employer of an express provision of this Contract.
	4. The Contractor indemnifies and shall keep Employer indemnified at all times against all losses sustained by Employer in consequence of any claim or action whatsoever of the Contactor, instituted against Employer by a subcontractor of the Contractor. In the event that the Contractor or any of its sub-contractors rendering the Services to Employer, becomes or become involved in arbitration or other proceedings falling under a collective agreement under a bargaining council, then the Contractor shall immediately inform the Employer thereof and on request supply the Employer with a copy of any award made pursuant to such proceedings or agreement and any documentation that the Employer may request in respect thereof.
8. ENTIRE AGREEMENT
	1. Except where expressly provided otherwise in this Contract, this Contract constitutes the entire agreement between the Parties in connection with its subject matter and supersedes all prior representations, communications, negotiations and understandings concerning the subject matter of this Contract.
	2. Each of the Parties acknowledges that -
		1. it does not enter into this Contract on the basis of and does not rely, and has not relied, upon any statement or representation (whether negligent or innocent) or warranty or other provision (in any case whether oral, written, express or implied) made or agreed to by any person (whether a Party to this Contract or not) except those expressly contained in or referred to in this Contract, and the only remedy available in respect of any misrepresentation or untrue statement made to it shall be a remedy available under this Contract; and
		2. this clause 37 shall not apply to any statement, representation or warranty made fraudulently, or to any provision of this Contract which was induced by fraud, for which the remedies available shall be all those available under any Law governing this Contract.
9. SEVERABILITY

Whenever possible, each provision of this Contract shall be interpreted in a manner which makes it effective and valid under any Applicable Law, but if any provision of this Contract is held to be illegal, invalid or unenforceable under any Applicable Law, that illegality, invalidity or unenforceability shall not affect the other provisions of this Contract, all of which shall remain in full force.

1. INDEPENDENT STATUS
	1. Nothing in this Contract shall be construed as creating a partnership between the Parties and neither Party shall have any authority to incur any liability on behalf of the other or to pledge the credit of the other Party.
	2. It is recorded that it is the intention of the parties to exclude all legal consequences of a partnership.
2. INDEPENDENT ADVICE
	1. Each of the Parties hereby respectively agrees and acknowledges that -
		1. it has been free to secure independent legal advice as to the nature and effect of each provision of this Contract and that it has either taken such independent legal advice or has dispensed with the necessity of doing so; and
		2. each provision of this Contract (and each provision of the Annexures) is fair and reasonable in all the circumstances and is part of the overall intention of the Parties in connection with this Contract.
3. COUNTERPARTS

This Contract may be executed in any number of identical counterparts, all of which when taken together shall constitute one agreement. Any single counterpart or a set of counterparts taken together which, in either case, are executed by the Parties shall constitute a full original of this Contract for all purposes.

SIGNED at Cape Town on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 2018

The Contractor:

For: Contractor

 PRINT NAME

 Who warrants that he is duly authorised

AS WITNESSES:

1.

2.

SIGNED at Cape Town on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The Employer: THE PASSENGER RAIL AGENCY OF SOUTH AFRICA,

For: THE EMPLOYER

 PRINT NAME

 Who warrants that he is duly authorised

AS WITNESSES:

1.

2.

**ANNEXURE A**

**PERFORMANCE BOND**

**ANNEXURE B**

**SCOPE OF SERVICES**

**ANNEXURE C**

**SUBCONTRACTORS**

**ANNEXURE D**

**WORKING HOURS AND DAYS**

**ANNEXURE E**

**REQUEST FOR QUOTATION**

**ANNEXURE F**

Date: ..........................

TO: Regional Director

Department of Labour

.........................................

.........................................

........................................

**OCCUPATIONAL HEALTH AND SAFETY ACT 85 of 1993 :**

**GENERAL ADMINISTRATIVE REGULATION :**

**NOTICE OF CARRYING OUT OF CONSTRUCTION WORK**

Dear Sir

With reference to the above Regulation we submit the required information:

(a) The physical address of construction work to be carried out:

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(b) The nature of work to be undertaken:

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(c) Expected date on which work will commence: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(d) Anticipated date for completion: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Kind regards

Signature: .............................................

Designation: .......................................

Name: ...................................................

**ANNEXURE G**

**OCCUPATIONAL HEALTH AND SAFETY ACT 85 of 1993:**

**GENERAL SAFETY REGULATIONS 11(1):**

**SUPERVISION OF CONSTRUCTION/BUILDING WORK:**

**DESIGNATED EMPLOYEE (CONSTRUCTION WORK SUPERVISOR)**

1. In terms of the provisions of Regulation 11(1) I, ………….... (representing the Employer) do hereby appoint
2. ……………………………………. as the Designated Employee on the premises at …………………………………. (physical address) to assist in enforcing the observance of the Regulations framed under the abovementioned Act.
3. Your designated area(s) is/are as follows :

……………………………….

……………………………….

Date .....................................

Signature: .............................

Designation :..........................................................................................................

**ACCEPTANCE OF DESIGNATION**

I, ………………………………………… do hereby accept this designation and acknowledge that I understand the requirements of this appointment.

Date : ......................................

Signature: .....................................

Designation ..................................

**ANNEXURE H**

**OCCUPATIONAL HEALTH AND SAFETY ACT 85 of 1993:**

**GENERAL SAFETY REGULATIONS 13D(3)(b):**

**SUPERVISION OF CONSTRUCTION/BUILDING WORK:**

**SCAFFOLD FRAMEWORK: EXPERIENCED PERSON**

In terms of the provisions of Regulation 13D(3)(b) I, ..............................................

........................................................ (representing the Employer) do hereby appoint ............................................................ as the Experienced Person on the premises at ......................................................................................................................................

........................................................... (physical address) to ensure that all scaffold are erected, altered or dismantled in accordance with the Regulations pertaining to scaffolding.

Date : ......................................

Signature : ...............................

Designation :............................................................................................................

**ACCEPTANCE OF DESIGNATION**

I, ................................................................. do hereby accept this designation and acknowledge that I understand the requirements of this appointment.

Date : ......................................

Signature : ......................................

Designation : ........................................

**ANNEXURE I**

**OCCUPATIONAL HEALTH AND SAFETY ACT 85 of 1993**

**DECLARATION**

In terms of the above Act, I ................................................................................ am personally assuming the duties and obligations as Chief Executive Officer, defined in Section 1 of the Act and in terms of Section 16(1), I will, as far as is reasonably practicable, ensure that the duties and obligations of the Employer as contemplated in the above Act are properly discharged.

Signature : ..................................................

Date : ..................................................

Access to : .................................................................................................. (Area)

Name of Contractor/Builder: .................................................................................

Contract/Order No. ..............................................................................................

The Contract Services site/area described below are made available to you for the carrying out of associated Services in terms of your contract/order with (company)

.......................................................................................................................

Kindly note that you are at all times responsible for the control and safety of the Services Site, and for persons under your control having access to the site.

As from the date hereof you will be responsible for compliance with the requirements of the Occupational Health and Safety Act 85 of 1993 as amended, and all conditions of the contract pertaining to the site of the Services as defined and demarcated in the contract documents including the plans of the site or work areas forming part thereof.

Signed : ............................................................ Date : ......................

**PROJECT MANAGER**

**ACKNOWLEDGEMENT OF RECEIPT**

Name of Contractor: ...............................................................................I, ................................................................................ do hereby acknowledge and accept the duties and obligations in respect of the Safety of the site/area of Services in terms of the Occupational Health and Safety Act 85 of 1993.

Name: ................................ Designation .....................................

Signature: ................................ Date ..........................................

 **ANNEXURE J**

**PASSENGER RAIL AGENCY OF SOUTH AFRICA**

**(incorporated in terms of the Legal Succession Act, 9 of 1989)**

**SAFETY ON SITE**

1. The Contractor shall for the duration of Contract No. …………………, in respect of the provision of services to the Region, comply with the provisions of the Occupational Health and Safety Act 85 of 1993 and all regulations promulgated under this Act. For the purposes of the Act and in so far as the Contractor's personnel/employees are concerned, the Site on which the Contractor conducts the services for the Employer occupied by the Contractor, shall for the duration of the aforementioned agreement be deemed to be under the control of the Contractor. As employer, he is in every respect responsible for the compliance, at his own cost, with the provisions of this Act.
2. All records required in terms of this Act, and especially those required in terms of Section 24 of the Act with regard to the reporting of incidents, shall be available for inspection during normal business hours without any prior notice by the designated risk control official(s) of the Employer reportable incidents shall be reported by the Contractor to the Department of Manpower and the designated risk control official(s) of the Employer shall be informed forthwith.
3. The Contractor shall in terms of Sections 17, 18, 19 and 20 of the Act, appoint Safety Representatives and Safety Committees who shall meet as prescribed in Section of the Act. Minutes of the meetings shall be retained as prescribed in Section 7 of the General Administrative Regulations of the Act and shall be made available, on request, to the designated risk control official(s) of the Employer.

Signed at …......................................... on this …...... day of …………................................ 20…

**WITNESS: TENDERER**:

............................................................. ......................................................

**ANNEXURE K**

**PASSENGER RAIL AGENCY OF SOUTH AFRICA**

**(incorporated in terms of the Legal Succession Act, 9 of 1989)**

**COMPLIANCE WITH OCCUPATIONAL HEALTH AND SAFETY ACT 85 of 1993 AND REGULATIONS**

**AGREEMENT**

I, the undersigned, ……..........................................................................................

(full names and surname), on behalf of .................................................................

(name of company/close corporation), with registration number ..........................,

in my capacity as .........................................................................

and duly authorised hereto by virtue of a resolution by the directors/members dated ................................ (an extract of which is attached hereto), agree that the company/close corporation is an employer in its own right with rights and obligations, as set out in the Occupational Health and Safety Act 85 of 1993, and that the company/close corporation shall ensure that all work performed and all machinery and plant used in terms of the above mentioned contract shall be in accordance with the terms and conditions of the said Act.

The company/close corporation furthermore agrees to comply at all times with the terms and conditions of the various instructions attached hereto, and which may be amended from time to time. Further instructions may also be added from time to time by the Employer.

Signed at ............................................................................................... on this ..... day of

............................................................................................................... 20…….

**WITNESS : TENDERER :**

................................................... ...........................................................

**ANNEXURE L**

**PASSENGER RAIL AGENCY OF SOUTH AFRICA**

**(incorporated in terms of the Legal Succession Act, 9 of 1989)**

**GENERAL INFORMATION**

1. The Occupational Health and Safety Act comprises sections 1 to 50 and all irrevocable REGULATIONS promulgated in terms of the former Machinery and Occupational Safety Act, 1986 (Act No. 6 of 1986) as amended as well as other REGULATIONS which may be promulgated in terms of the new Act.
2. "Mandatory" is defined as including an agent, a contractor or a sub- contractor for the work, but without derogating from his status in his own right as an Employer or user of plant or machinery.
3. Section 37 of the Occupational Health and Safety Act potentially holds employers (principles) responsible for the unlawful acts or omissions of mandatories (contractors) save where a Written Contract between the parties has been concluded containing arrangements and procedures to ensure compliance with the said Act by the mandatory.
4. All documents attached or referred to in the above Contract form an integral part of the Contract.
5. To perform in terms of this Contract man dataries must be familiar with the relevant provisions of the Act.
6. Mandatories who utilise the services of their own mandatories (sub-contractors) are advised to conclude a similar Written Contract.
7. Be advised that this Contract places the onus on the mandatory to contact the employer in the event of inability to perform as per this Contract. The Employer, however reserves the right to unilaterally take any steps as may be necessary to enforce this Contract.

Signed at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ on this \_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_

**WITNESS : TENDERER :**

............................................................ ..............................................

**ANNEXURE M**

**PASSENGER RAIL AGENCY OF SOUTH AFRICA**

**(incorporated in terms of the Legal Succession Act, 9 of 1989)**

**COMPLIANCE WITH THE COMPENSATION FOR OCCUPATIONAL**

**INJURIES AND DISEASES ACT 130 of 1993**

1. The Contractor and sub-contractor shall comply with the provisions of the above Act and all regulations promulgated under this Act.
2. Written proof of compliance shall for the duration of Contract No. ……………., in respect of the provision of Signal personnel to the Employer, be made available, upon request, to the Employer.

Signed at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ on this \_\_\_\_\_\_\_\_\_

day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_\_\_\_\_\_\_\_\_\_.

**WITNESS : TENDERER :**

.................................................... .................................................

**ANNEXURE N**

**CONTRACTUAL SAFETY CLAUSES**

**Between**

**“THE EMPLOYER” AND “……………………………………………………”**

**FOR THE PROJECT: ………………………………………………………………..**

1. The parties agree on the following arrangements according to section 32 (1…2) of the Occupational Health and Safety Act 85 of 1993 to ensure compliance by the mandatory with the provisions of the Act.
2. That a Contractor is an “employer” in his own rights as defined in section 1 of Act 85 of 1993 as amended and that he must fulfil all his obligations as an Employer in terms of the Act.
3. The “Employer”, and the Project Manager hereby agree, in terms of the provisions of Section 37 (1…2) of the Occupational Health and Safety Act 85 of 1993 , hereinafter referred to as the (Act) that the following arrangements and procedures shall apply between them to ensure compliance by the Project Manager with the provisions of the Act, namely:
4. The Project Manager undertakes to acquaint the appropriate Officials and Employees of the Contractor/s with all relevant provisions of the Act and the regulations promulgated in terms of the Act.
5. The Project Manager undertakes that all relevant duties, obligations and prohibitions imposed in terms of the Act and regulations in terms of the Act and Regulations will be fully complied with.
6. The Project Manager hereby accepts sole liability for such due compliance with relevant duties, obligations and prohibitions imposed by the Act and Regulations and expressly absolves the Employer from itself being obliged to comply with any of the aforesaid duties, obligations and prohibitions.
7. The Project Manager agrees that any duly authorized officials of the Employer shall be entitled, although not obliged, to take such steps as may be necessary to ensure that the Contractor has complied with his undertakings as set out more fully in paragraphs (a) and (b) above, which steps may include, but will not be limited to, the right to inspect any appropriate records held by the Project Manager/Contractor.
8. The Project Manager/Contractor shall be obliged to report forthwith to the employer any investigation, complaint or criminal charge which may arise as a consequence of the provisions of the Act and Regulations, pursuant to work performed in terms of this Contract, and shall, on written demand, provide full details in Writing of such investigation, complaint or criminal charge.
9. The Project Manager/Contractor shall comply with the requirements of Act 85 of 1993, in its entirety.
10. Where special permits are required such as electrical switching, hot work permits, etc. the contractor shall obtain them from a person designated by the Employer for this purpose, and all requirements of the permit must be strictly complied with by the Project Manager/Contractor. As well as to comply fully with the general conditions and specifications in E7/1 2012 of April 1991 Annexures “A” & “B” as well as Transnet, Metrorail, Safety Instructions for H.V. Electrical equipment, engineering instructions and E.4E (November 1996) specifications.
11. The Project Manager’s appointed Health and Safety Co-ordinator must liaise with the Employer on matters pertaining to occupational health and safety and be part of such internal safety committee while on contract.
12. The appointed Health and Safety Co-ordinator must liaise at least once a week with the Risk Manager of the Employer.
13. The Project Manager shall furnish Risk Manager of the Employer immediately with full particulars of any sub-contractor that he may involve in the contract in order that the sub-contractor himself can be made aware of all the clauses in this contract pertaining to health and safety.
14. The Project Manager shall advise the Risk Manager of the Employer Services of any hazardous or potentially hazardous situations that may arise from work being performed either by the Contractor or his sub-contractor.
15. Copies of all appointments required by the Act must be given to the Risk Manager of the Employer.
16. A letter of good standing in terms of section 80 (Employer to register with the Compensation Commissioned) of the Compensation for Occupational Injuries and Diseases Act 130 of 1993, must also be furnished.
17. All clauses in the contract pertaining to health and safety form an integral part of the contract and if not complied with may be construed as breach of contract.
18. The Contractor:
19. must identify work processes that will be undertaken during the contract;
20. must identify any hazards that might occur due to work processes;
21. must provide control processes and mechanisms to prevent hazards developing into incidents.
22. Provision shall be made by the Contractor to ensure that the work does not hinder and/or endanger commuters on the premises. Sufficient room for movement especially during peak times, shall be provided for commuters.
23. An authorized representative of the Employer can stop any unsafe violation being done by the contractor or organize the necessary remedial steps (the cost whereof shall be for the contractor’s account) should any deviation from these conditions and or contract come to the attention of the Employer, until the Contractor has complied with such conditions.
24. This document or a copy thereof must be in the possession of the Contractor/Employer or an Employee of the contractor who is in charge of the premises. All Act 85 appointed persons names with their level of responsibility according to Act 85 to be submitted to Risk Manager the Employer as applicable.

**WHAT IS A SAFETY CASE?**

A Safety Case is an arrangement or promise by one party using or operating on the assets of the other party, to execute it’s activities in a safe and responsible manner, and in which risks are identified and the control mechanisms and program to manage the activities and risks are spelled out in detail to the satisfaction of the other party.

**PREPARING A SAFETY CASE**

1. Identify players (e.a. Contractor/Sub-contractor).
2. What acts, rules, regulations, codes of practice, etc. are applicable.
3. Identify hazards and assess risks to commuters, public, the Employer personnel, Rolling Stock, etc.
4. Access control mechanisms for managing risks, are they in place and adequate?
5. Determined action.
6. Indemnifies other party of responsibility of own personnel’s health and safety. Accountability must be made clear.
7. Name of the responsible person (Act 85/1993) for the project.
8. Document aforesaid in a Safety Case, signed by the Project Manager.

**WHY THE NEED FOR A SAFETY CASE?**

1. Act 85 of 1993 requires that the working environment is safe and without risk to the safety and health of employees, clients and public in general. The Safety Case will identify the risks that one Party’s activities may expose the other Party’s employees, clients and the general public to, and the mechanisms required to address these risks.
2. Because there are two asset owners, viz Intersite and the Project Manager (Project Manager/Contractor assets referred to are scaffolds, machines, vehicles, etc.), the relationships, responsibilities and accountability to ensure safe working are essential, which will be addressed in the Safety Case.
3. Railway operations are large and complex. The mix of technologies, equipment age, the workforce’s attitude, all affect safety. The Safety Case is intended to be part of the self‑regulatory mechanism in which the parties give confidence to each other that they have the ability, commitment and resources to properly access and effectively manage the risks to health and safety of staff and the general public.
4. The Safety Case is a tool for directing the attitudes and activities of all personnel, from top management to worker. It is therefore essential that all levels be involved in the process to obtain full commitment to ensure that safe practice are in place and carried out.
5. The Safety Case will identify the risks and the mechanism required to address them.
6. A Safety Case is unique to each project or any phase of a project.

**General Information**

1. The Occupational Health and Safety Act Comprises Sections 1 to 50 and all unrepealed regulations promulgated in terms of the former Machinery and Occupational Safety Act85 of 1993 as amended as well as other regulations promulgated in terms of the former Machinery and Occupational Safety Act 85 of 1983 as amended as well as other regulations which may be promulgated in terms of the new Act.
2. “Mandatory” is defined as including an agent, a contractor or a sub-contractor for work, but without derogating from his status in his own right as an Employer or user of plant or machinery.
3. Section 37 of the Occupational Health and Safety Act potentially punishes employers (principles) for the unlawful acts or omissions of mandatories (contractors) save where a Written Contract between the parties has been concluded containing arrangements and procedures to ensure compliance with the said act by the mandatory.
4. All documents attached hereto or referred to in the above Contract form an integral part of the Contract.
5. To perform in terms of this Contract mandatories must be familiar with the relevant provisions of the Act.
6. Mandatories who utilize the services of their own mandatories (sub-contractors) are advised to conclude a similar Written Contract.
7. Be advised that this Contract places the onus on the mandatory to contact the employer in the event of inability to perform as per this Contract.
8. The Employer, however, reserves the right to unilaterally take any steps as may be necessary to enforce this Contract.

**ANNEXURE O**

**“THE EMPLOYER” AND ……………………………………..**

**“MANDATORY”**

**FOR THE PROJECT: …………………………………………………………..**

I “\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_” representing

………………………………..

(Mandatory) do hereby acknowledge that ……………………..………………………..…… is an Employer in it’s own right with duties as prescribed in the Occupational Health and Safety Act 85 of 1993 as amended and agree to ensure that all work will be performed or machinery and plant used in accordance with the provisions of the said Act.

I furthermore agree to comply with the requirements of and the Employer as contained in the documents attached hereto and to liaise with the employer should I for whatever reason, be unable to perform in terms of this Contract. The mandatory responsibilities remain mandatory’s onus and do not absolve the mandatory from any agreements or laws.

Signed at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ on this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_\_

**Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ on behalf of**

**………………………….. (Mandatory)**

**Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of behalf of (the Employer).**

**ANNEXURE P**

**SPECIFICATION E4E PRASA (2004)**

**PASSENGER RAIL AGENCY OF SOUTH AFRICA**

**SAFETY ARRANGEMENTS AND PROCEDURAL COMPLIANCE**

**WITH THE OCCUPATIONAL HEALTH AND SAFETY ACT**

**(ACT 85 OF 1993) AND APPLICABLE REGULATIONS**

**1. General**

1.1 The Contractor and Transnet Limited (hereinafter referred to as “Transnet”) are individual employers, each in its own right, with their respective duties and obligations set out in the Occupational Health and Safety Act, Act 85 of 1993 (the Act) and applicable Regulations.

1.2 The Contractor accepts, in terms of the General Conditions of Contract and in terms of the Act, his obligations as an employer in respect of all persons in his employ, other persons on the premises or the Site or place of work or on the work to be executed by him, and under his control. He shall, before commencement with the execution of the contract work, comply with the provisions set out in the Act, and shall implement and maintain a Health and Safety Plan as described in the Construction Regulations, 2003 and as approved by Transnet, on the Site and place of work for the duration of the Contract.

1.3 The Contractor accepts his obligation to complying fully with the Act and applicable Regulations notwithstanding the omission of some of the provisions of the Act and the Regulations from this document.

1.4 Transnet accepts, in terms of the Act, its obligations as an employer of its own employees working on or associated with the site or place of work, and the Contractor and Technical Officer or his deputy shall at all times, co-operate in respect of the health and safety management of the site, and shall agree on the practical arrangements and procedures to be implemented and maintained during execution of the Services.

1.5 In the event of any discrepancies between any legislation and this specification, the applicable legislation will take precedence.

**2. Definitions**

2.1 In this Specification any word or expression to which a meaning has been assigned in the Construction Regulations, shall have the meaning so assigned to it, unless the context otherwise indicates: -

2.2 The work included in this Contract shall for the purposes of compliance with the Act be deemed to be "**Construction Work**", which, in terms of the Construction Regulations, 2003 means any work in connection with: -

(a) the erection, maintenance, alteration, renovation, repair, demolition or dismantling of or addition to a building or any similar structure;

(b) the installation, erection, dismantling or maintenance of fixed plant where such work includes the risk of a person falling;

(c) the construction, maintenance, demolition or dismantling of any bridge, dam, canal, road, railway, runway, sewer or water reticulation system or any similar civil engineering structure; or

(d) the moving of earth, clearing of land, the making of an excavation, piling, or any similar type of work;

2.3 **“competent person”** in relation to construction work, means any person having the knowledge, training and experience specific to the work or task being performed:

Provided that where appropriate qualifications and training are registered as per the South African Qualifications Authority Act, 1995 these qualifications and training shall be deemed to be the required qualifications and training;

2.4 **“contractor”** means principal contractor and “subcontractor” means contractor as defined by the Construction Regulations, 2003.

2.5 **“fall protection plan”** means a documented plan, of all risks relating to working from an elevated position, considering the nature of work undertaken, and setting out the procedures and methods applied to eliminate the risk;

2.6 **“health and safety file”** means a file, or other record in permanent form, containing the information required to be kept on site in accordance with the Act and applicable Regulations;

2.7 **“Health and Safety Plan”** means a documented plan which addresses the hazards identified and include safe work procedures to mitigate, reduce or control the hazards identified;

2.8 **“Risk Assessment”** means a programme to determine any risk associated with any hazard at a construction site, in order to identify the steps needed to be taken to remove, reduce or control such hazard;

2.9 “**the Act”** means the Occupational Health and Safety Act No. 85 of 1993.

**3. Procedural Compliance**

3.1 The Contractor who intends to carry out any construction work shall, before carrying out such work, notify the Provincial Director in writing if the construction work:-

(a) includes the demolition of a structure exceeding a height of 3 metres; or

(b) includes the use of explosives to perform construction work; or

1. includes the dismantling of fixed plant at a height greater than 3m,

and shall also notify the Provincial Director in writing when the construction work exceeds 30 days or will involve more than 300 person days of construction work and if the construction work:-

(a) includes excavation work deeper than 1m; or

(b) includes working at a height greater than 3 metres above ground or a landing.

3.2 The notification to the Provincial Director shall be on a form similar to Annexure A of the Construction Regulations, 2003, also shown in Annexure 1 of this Specification. The Contractor shall ensure that a copy of the completed notification form is kept on site for inspection by an inspector, Technical Officer or employee.

3.3 The Contractor shall, in accordance with the Act and applicable Regulations, make all the necessary appointments of competent persons in writing on a form similar to Annexure 2 of this Specification and deliver copies thereof to the Technical Officer. Copies should also be retained on the health and safety file.

3.4 Subcontractors shall also make the above written appointments and the Contractor shall deliver copies thereof to the Technical Officer.

3.5 In the case of a self-employed Contractor or any subcontractor who has the appropriate competencies and supervises the work himself, the appointment of a construction supervisor in terms of regulation 6.1 of the Construction Regulations, 2003 will not be necessary. The Contractor shall in such a case execute and sign a declaration, as in Annexure 3, by which he personally undertakes the duties and obligations of the "Chief Executive Officer" in terms of section 16(1) of the Act.

3.6 The Contractor shall, before commencing any work, obtain from the Technical Officer an access certificate as in Annexure 4 executed and signed by him, permitting and limiting access to the designated site or place of work by the Contractor and any subcontractors under his control.

3.7 Procedural compliance with Act and Regulations, as above, shall also apply to any subcontractors as employers in their own right. The Contractor shall furnish the Technical Officer with full particulars of such subcontractors and shall ensure that they comply with the Act and Regulations and Protekon's safety requirements and procedures.

**4. Special Permits**

Where special permits are required before work may be carried out such as for hotwork, isolation permits, work permits and occupations, the Contractor shall apply to the Technical Officer or the relevant authority for such permits to be issued. The Contractor shall strictly comply with the conditions and requirements pertaining to the issue of such permits.

**5. Health and Safety Programme**

5.1 The Tenderer shall, with his tender, submit a Health and Safety Programme setting out the practical arrangements and procedures to be implemented by him to ensure compliance by him with the Act and Regulations and particularly in respect of: -

(i) The provision, as far as is reasonably practical, of a working environment that is safe and without risk to the health of his employees and subcontractors in terms of section 8 of the Act;

(ii) the execution of the contract work in such a manner as to ensure in terms of section 9 of the Act that persons other than those in the Contractor's employment, who may be directly affected by the contract work are not thereby exposed to hazards to their health and safety;

(iii) ensuring, as far as is reasonably practical, in terms of section 37 of the Act that no employee or subcontractor of the Contractor does or omits to do any act which would be an offence for the Contractor to do or omit to do.

5.2 The Contractor's Health and Safety Programme shall be based on a risk assessment in respect of the hazards to health and safety of his employees and other persons under his control that are associated with or directly affected by the Contractor's activities in performing the contract work and shall establish precautionary measures as are reasonable and practical in protecting the safety and health of such employees and persons.

5.3 The Contractor shall cause a risk assessment contemplated in clause 5.2 above to be performed by a competent person, appointed in writing, before commencement of any Construction Work and reviewed during construction. The Risk Assessments shall form part of the Health and Safety programme to be applied on the site and shall include at least the following:

(a) The identification of the risks and hazards that persons may be exposed to;

(b) the analysis and evaluation of the hazards identified;

(c) a documented Health and Safety Plan, including safe work procedures to mitigate, reduce or control the risks identified;

(d) a monitoring and review plan.

5.4 The Health and Safety Plan shall include full particulars in respect of: -

(a) The safety management structure to be instituted on site or place of work and the names of the Contractor's health and safety representatives and members of safety committees where applicable;

(b) the safe working methods and procedures to be implemented to ensure the work is performed in compliance with the Act and Regulations;

(c) the safety equipment, devices and clothing to be made available by the Contractor to his employees;

(d) the site access control measures pertaining to health and safety to be implemented;

(e) the arrangements in respect of communication of health and safety related matters and incidents between the Contractor, his employees, subcontractors and the Technical Officer with particular reference to the reporting of incidents in compliance with Section 24 and General Administrative Regulation 8 of the Act and with the pertinent clause of the General Conditions of Contract forming part of the Contract and

(f) the introduction of control measures for ensuring that the Safety Plan is maintained and monitored for the duration of the Contract.

5.5 The Health and Safety programme shall be subject to the Technical Officer's approval and he may, in consultation with the Contractor, order that additional and/or supplementary practical arrangements and procedures be implemented and maintained by the Contractor or that different working methods or safety equipment be used or safety clothes be issued which, in the Technical Officer's opinion, are necessary to ensure full compliance by the Contractor with his obligations as an employer in terms of the Act and Regulations. The Technical Officer or his deputy shall be allowed to attend meetings of the Contractor's safety committee as an observer.

5.6 The Contractor shall take reasonable steps to ensure that each subcontractor’s Health and Safety Plan is implemented and maintained on the construction site: Provided that the steps taken, shall include periodic audits at intervals mutually agreed to between the them, but at least once every month.

5.7 The Contractor shall stop any subcontractor from executing any construction work, which is not in accordance with the Contractor’s, and/or subcontractor’s Health and Safety Plan for the site or which poses a threat to the health and safety of persons.

5.8 The Contractor shall ensure that a copy of the Health and Safety Plan is available on site for inspection by an inspector, Technical Officer, agent, subcontractor, employee, registered employee organisation, health and safety representative or any member of the health and safety committee.

5.9 The Contractor shall consult with the health and safety committee or, if no health and safety committee exists, with a representative group of employees, on the development, monitoring and review of the Risk Assessment.

5.10 The Contractor shall ensure that all employees under his control are informed, instructed and trained by a competent person regarding any hazard and the related work procedures before any work commences, and thereafter at such times as may be determined in the Risk Assessment.

5.11 The Contractor shall ensure that all subcontractors are informed regarding any hazard as stipulated in the Risk Assessment before any work commences, and thereafter at such times as may be determined in the Risk Assessment.

5.12 The Contractor shall ensure that all visitors to a construction site undergoes health and safety induction pertaining to the hazards prevalent on the site and shall be provided with the necessary personal protective equipment.

**6. Fall Protection Plan**

6.1 In the event of the risk and hazard identification, as required in terms of clause 5.3 of this Specification, revealing risks relating to working from an elevated position the contractor shall cause the designation of a competent person, responsible for the preparation of a fall protection plan;

6.2 The Contractor shall implement, maintain and monitor the fall protection plan for the duration of Contract. The Contractor shall also take such steps to ensure the continued adherence to the fall protection plan.

6.3 The fall protection plan shall include: -

(a) A Risk Assessment of all work carried out from an elevated position;

(b) the procedures and methods to address all the identified risks per location;

(c) the evaluation of the employees physical and psychological fitness necessary to work at elevated positions;

(d) the training of employees working from elevated positions; and

(e) the procedure addressing the inspection, testing and maintenance of all fall protection equipment.

**7. Hazards and Potential Hazardous Situations**

The Contractor and the Technical Officer shall immediately notify one another of any hazardous or potentially hazardous situations which may arise during performance of the Contract by the Contractor or any subcontractor and, in particular, of such hazards as may be caused by the design, execution and/or location and any other aspect pertaining to the contract work.

**8. Health and Safety File**

8.1 The Contractor shall ensure that a health and safety file is opened and kept on site and shall include all documentation required as per the Act and applicable regulations, and made available to an inspector, the Technical Officer, or subcontractor upon request.

8.2 The Contractor shall ensure that a copy of the both his Health and Safety Plan as well as any subcontractor’s Health and Safety Plan is available on request to an employee, inspector, contractor or the Technical Officer.

8.3 The Contractor shall hand over a consolidated health and safety file to the Technical Officer upon completion of the Construction Work and shall in addition to documentation mentioned in the Act and applicable Regulations include a record of all drawings, designs, materials used and other similar information concerning the completed structure.

**ANNEXURE 1 TO ANNEXURE P**

**OCCUPATIONAL HEALTH AND SAFETY ACT, 1993**

**Regulation 3(1) of the Construction Regulations**

**NOTIFICATION OF CONSTRUCTION WORK**

1(a) Name and postal address of principal contractor:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(b) Name and tel. no of principal contractor’s contact person:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2. Principal contractor’s compensation registration number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

3(a) Name and postal address of client:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(b) Name and telephone number of client’s contact person or agent:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

4(a) Name and postal address of designer(s) for the project:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(b) Name and tel. no of designer(s) contact person:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

5. Name and telephone number of principal contractor’s construction supervisor on site appointed in terms of regulation 6(1).

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

6. Name/s of principal contractor’s construction sub-ordinate supervisors on site appointed in terms of regulation 6(2).

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

7. Exact physical address of the construction site or site office:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

8. Nature of the construction work:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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9. Expected commencement date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

10. Expected completion date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

11. Estimated maximum number of persons on the construction site: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

12. Planned number of contractors on the construction site accountable to the principle contractor: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

13. Name(s) of contractors already chosen.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Principal Contractor Date**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Client Date**

\* THIS DOCUMENT IS TO BE FORWARDED TO THE OFFICE OF THE DEPARTMENT OF LABOUR **PRIOR TO COMMENCEMENT** OF WORK ON SITE.

**\* ALL PRINCIPAL CONTRACTORS** THAT QUALIFY TO NOTIFY MUST DO SO EVEN IF ANOTHER PRINCIPAL CONTRACTOR ON THE SAME SITE HAD DONE SO PRIOR TO THE COMMENCEMENT OF WORK.

**ANNEXURE 2 TO ANNEXURE P**

**(COMPANY LETTER HEAD)**

**OCCUPATIONAL HEALTH AND SAFETY ACT, 1993 (ACT 85 OF 1993):**

**SECTION/REGULATION: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**REQUIRED COMPETENCY: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

In terms of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

representing the Employer) do hereby appoint \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

As the Competent Person on the premises at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(physical address) to assist in compliance with the Act and the applicable Regulations.

Your designated area/s is/are as follows: -

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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***Date:* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

***Signature:* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

***Designation:* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**ACCEPTANCE OF DESIGNATION**

***I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ do hereby accept this Designation and acknowledge that I understand the requirements of this appointment.***

***Date:* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

***Signature:* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

***Designation:* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**ANNEXURE 3 TO ANNEXURE P**

**(COMPANY LETTER HEAD)**

**OCCUPATIONAL HEALTH AND SAFETY ACT, 1993 (ACT 85 OF 1993):**

**DECLARATION**

In terms of the above Act I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ am personally assuming the duties and obligations as Chief Executive Officer, defined in Section 1 of the Act and in terms of Section 16(1), I will, as far as is reasonably practicable, ensure that the duties and obligations of the Employer as contemplated in the above Act are properly discharged.

***Signature:* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

***Date:* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**ANNEXURE 4 TO ANNEXURE P**

**(LETTER HEAD OF BUSINESS DIVISION OR UNIT OF PRASA)**

**SITE ACCESS CERTIFICATE**

Access to: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Area)

Name of Contractor/Builder: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Contract/Order No.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The contract Services site/area described above are made available to you for the carrying out of associated Services

In terms of your contract/order with

(Company)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Kindly note that you are at all times responsible for the control and safety of the Services Site, and for persons under your control having access to the site.

As from the date hereof you will be responsible for compliance with the requirements of the Occupational Health and Safety Act, 1993 (Act 85 of 1993) as amended, and all conditions of the Contract pertaining to the site of the Services as defined and demarcated in the contract documents including the plans of the site or work areas forming part thereof.

***Signed:* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *Date:* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

***TECHNICAL OFFICER***

**ACKNOWLEDGEMENT OF RECEIPT**

***Name of Contractor/Builder: - \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ I,***

***\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ do hereby acknowledge and accept the duties and obligations in respect of the Safety of the site/area of Work in terms of the Occupational Health and Safety Act; Act 85 of 1993.***

***Name:* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *Designation:* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

***Signature:* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *Date:* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**ANNEXURE Q**



PASSENGER RAIL AGENCY OF SOUTH AFRICA

E.10: SPECIFICATION FOR RAILWAY TRACKWORK

E.10 Gen: GENERAL

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**1. SCOPE**

This specification covers the general requirements for all types and methods of railway trackwork.

**2. INTERPRETATIONS**

This specification must be read together with all contract documents and specifications, (specifically with the E7/1 Specification for work on, over, under or adjacent to railway lines and near high voltage equipment), the specific supplementary specifications hereof applicable to the project as well as the Project Specification.

2.1 SUPPORTING SPECIFICATIONS

The following specifications shall form part of the contract documents.

a) Spoornet's Track Welding Specification SSS-8.

2.2 DEFINITIONS

To ALIGN TRACK means to correct the horizontal geometry of a track to a defined centre line, to within the specified geometric standards.

BALLAST means broken stone used to support sleepers.

To BOX IN AND TRIM means to place the correct quantity of ballast between the sleepers and on the ballast shoulders to form the specified ballast profile.

To CLEAN BALLAST means to remove all ballast and fouling matter to a specified depth below the required rail level, screen the ballast and return it to the track.

CONSTRUCTION SIDING means a railway line built for the purpose of handling construction traffic, or an incomplete new line on which construction traffic is handled.

CONSTRUCTION TRAFFIC means wagons carrying material required by the Contractor or others for construction purposes.

CONTINUOUS WHEEL SPIN DAMAGE means wheel spin damage to the rail crown occurring continuously over a length of more than 150 mm.

Cr Mn RAILS means chrome - manganese rails.

CROSSING FROG means that part of the crossing of a set which enables a train wheel on one rail to cross over another rail at the same level. (See Annexure B).

To CURVE a RAIL means to give a rail a permanent set of the required radius, by bending of the rail.

DESTRESSING means the process whereby rails are relieved from all internal stresses existing in them at that moment in time.

To DISTRIBUTE MATERIAL means to place material on the formation clear, of the structure gauge of open lines and drains, in the required quantities along the track to suit the Works.

FORMATION, when referring to the laying of new track, means the prepared layer works on which railway tracks are to be laid. When referring to an existing track on which work must be done,

FORMATION means the earthworks to a specified width at a specified depth below the required rail level.

FREE HAUL DISTANCE means the distance specified in the Project Specification over which the Contractor moves material without separate compensation for distance travelled.

GAUGE, when referring to a railway track, means the shortest distance between the running edges of a pair of rails which are fastened to the sleepers, measured as shown in Annexure F hereof. BROAD

GAUGE TRACK means track with a nominal gauge of 1065 mm, and NARROW GAUGE TRACK means track with a nominal gauge of 610 mm.

HEAVY MACHINE means an on-track machine which may not be operated on open lines without a prior notice having been issued by an operating office of the Railway Authority.

INSULATING JOINT, INSULATED RAIL JOINT or BLOCK JOINT means a rail joint at which the adjacent rails are electrically insulated from each other.

To LAY TRACK means to lay sleepers on the formation, place rails on the sleepers, apply or tighten sleeper and rail fastenings, adjust the gauge and expansion gaps, and pack.

To LIFT means to raise the track from one level to another level.

LIGHT MACHINE means a machine which may be operated on open lines, without a prior notice having been issued by an operating office of the Railway Authority.

LONG WELDED RAILS (LWR) or CONTINUOUS WELDED RAILS (CWR) means rails which have been welded into lengths longer than 36m.

To MAINTAIN means to do the day-to-day repairs and adjustments necessary to keep earthworks and drains in good order and to keep the track at the required standard for trains to run at the prescribed speeds.

MATERIAL TRAIN means a train of wagons and a locomotive for loading or offloading of material at a construction siding, or open lines.

MULTIPLE LINES means a group of tracks of which the maximum distance between any 2 adjacent tracks does not exceed 7,5 m.

OPEN LINE means a railway track that is already in use by the Railway Authority for its everyday business, and under control of its operating department.

To OPEN UP a TRACK means to remove all ballast and fouling matter above the level of the

bottom of the sleepers.

To PACK means to insert approved material under a sleeper in such a way that the sleeper will have even bearing over at least 450mm of its length under each rail seat for the full width of the sleeper, and will carry a train without damage to the permanent way material or the formation.

RAILWAY AUTHORITY means the owner and his appointed operator of the railway system designated in the Project Specification.

RAILWAY TRACK, TRACK or LINE means a route on which trains travel on steel rails.

RAIL FASTENINGS means the components used to fasten rails to rails.

To REALIGN TRACK means to align the track on the specified centre line, where the horizontal movements are not more than 100mm.

To RELAY means to perform the combined operations defined as RESLEEPER , RERAIL, LIFT, TAMP and ALIGN.

To RERAIL means to remove the rails and rail fastenings from the track and to replace them with other rails and rail fastenings of the same or different mass and/or length with minimum disturbance of the sleepers or ballast.

To RESLEEPER means to remove designated sleepers and sleeper fastenings from the track, and replace them with other sleepers and sleeper fastenings, at the same or a different spacing.

To RESPACE SLEEPERS means to loosen the sleeper fastenings, move the sleepers along the length of the track to the required spacing, thereafter tighten the sleeper fastenings, and tamp the sleepers.

SET means the arrangement of permanent way material, assembled so as to form a unit which enables a train to switch from one railway line to another, or to cross another railway line at the same level. Turnouts, slips and diamond crossings are examples of sets.

SLEEPER means an item of permanent way material designed to support the rails and to hold them at the correct gauge.

SLEEPER FASTENINGS means the components used to fasten rails to sleepers or other railbeds.

To SLEW TRACK means to move a track horizontally by more than 100mm to a different defined centre line of the track.

SPLICE JOINT means an expansion joint inserted in the track.

STABILISED TRACK means track of which the ballast remaining loose after completion of tamping, has been compacted either by the passing of a sufficient number of trains, or by mechanical means designed to expedite the compacting action.

SUPERELEVATION or CANT means the difference in level between the two rails of a track.

To TAMP, TAMP BALLAST or TAMP TRACK means to place and compact sufficient ballast under the sleepers to form a firm interlocking mass which will support the sleepers at the correct level and enable trains to run at the permissible speed.

TOTAL OCCUPATION - is defined in specification E7/1.

TRANSITION CURVE means a curve of decreasing or increasing radius used to connect a straight track to a curved track of uniform radius, or a curved track of one uniform radius to a curved track of another uniform radius.

WAGON means a goods-carrying on-track vehicle.

WORK, OR OCCUPATION, BETWEEN TRAINS - is defined in specification E7/1.

WORK PERMIT - is defined in specification E7/1.

3. MATERIALS

3.1 The Railway Authority will supply all permanent way material and ballast required for the Works except that detailed in the Project Specification and in 3.2 hereof.

3.2 Unless otherwise stated in the Project Specification, the Contractor shall supply the following:-

i) Exothermic portions and moulds for welding of rail joints.

ii) Welding rods.

iii) Cleaning materials, oil, grease, black lead and graphite for treating contact surfaces and sliding surfaces of items of permanent way material.

iv) Track thermometers for measuring rail temperature.

v) Shims for setting expansion gaps at rail joints.

vi) Tar.

vii) Dowels and creosote for plugging holes in wood sleepers.

viii) Grease for rail and flange lubricators in accordance with Transnet specification CSS 181/63/1315.

ix) White P.V.A. paint for switch boxes, tumbler mass pieces, clearance marks, scotch blocks, derailers, stop blocks and cattle guards.

x) Steel pegs at least 10mm diameter and 300mm long for survey and setting out.

xi) Concrete materials and ingredients for fixing steel pegs in position.

xii) Suitable carbon books with detachable sheets, as required.

xiii) Other miscellaneous items as stated in the Project Specification.

3.3 All material delivered for the works prior to the Contractor starting work on site, will be distributed or stacked by the Technical Officer, as detailed in the Project Specification.

3.4 Should the Contractor fail to start work by the time specified in the Project Specification, the Technical Officer may, at his sole discretion, offload and stack or distribute material, and recover money as a penalty from the Contractor, as specified in the Project Specification.

3.5 Immediately after he starts work, the Contractor shall check the quantities of all the material distributed or stacked by the Technical Officer and give the Technical Officer a receipt therefore, and thereafter, accept responsibility for the protection and safe custody of such material. Should the Technical Officer agree that it is necessary, the Contractor shall move the material in order to check the quantities.

3.6 The Contractor shall provide the Technical Officer together with all construction programs, a detailed Schedule of required dates of delivery of materials, for approval. When approved the Technical Officer will base orders for material thereon. The Contractor shall continuously ascertain whether the material provided by the Technical Officer satisfies his needs, and he shall advise the Technical Officer of any shortages which might delay progress in terms of his approved tender programme. All requests for and advice concerning material shall be made in writing, numbered consecutively and dated. Should the Contractor require material outside his approved schedule, he shall provide the Technical Officer with detail and a revised schedule for approval. The Technical Officer will not be obliged to approve the revised schedule, if the material cannot be supplied in accordance therewith.

3.7 The Contractor shall give the Technical Officer receipts for material offloaded from wagons. These receipts shall show the date on which the material was offloaded and the numbers of the wagons from which it was offloaded. The wagon labels shall be attached to the receipts.

3.8 The Contractor shall bring to the notice of the Technical Officer any shortages or defects in any material supplied, and shall endorse the relevant receipt accordingly. If steel or concrete sleepers or second hand permanent way material is supplied, the Contractor shall examine each and every item and shall not use any item which he considers damaged or sub-standard unless the Technical Officer instructs otherwise.

**4. PLANT**

4.1 The Contractor shall submit with his tender a list of vehicles, heavy machines, light machines and other tools and equipment he intends to use, with a statement of how these will be applied in his proposed method of construction.

4.2 The Contractor shall submit for the approval of the Technical Officer, a list of any additional heavy machines he intends using prior to the use thereof.

4.3 The Technical Officer may by his written instructions, hire the Contractor's vehicles or plant, including operators at the rates quoted in the Schedule of Quantities and Prices.

4.4 When laying track on new formation the Contractor shall not use machines that may damage the formation.

4.5 The Contractor shall make his own arrangements with the relevant Railway Authorities, for transport of heavy machines to and from the site. Such transport shall be at the cost of the Contractor. Delays due to whatever reasons, occurring while the Contractor's heavy machines travel to the site on open lines as trains controlled by the operating department of the Railway Authority, shall be at the risk of the Contractor, subject to extension of time claims in accordance with the Contract document.

4.6 Once the use of heavy machines have been accepted in terms of 4.1 or 4.2, the risk of delays caused by actions of the Technical Officer or the Railway Authority to these machines once they are on the worksite or travelling to the worksite from the specified or approved staging point, will be on the Railway Authority.

The estimated cost to the Railway Authority of hauling these machines on site, during the execution of the works, will be taken into account to the extent as specified in the Project Specification.

4.7 Heavy machines used on the works, shall comply with the following basic requirements:-

4.7.1 All machinery shall be in good condition initially, and the Contractor shall maintain the machinery in good condition for the duration of the contract.

4.7.2 Axle loads shall not exceed 20 tons.

4.7.3 All machines shall have service brakes and independent emergency brakes capable of providing retardation of not less than 12,5% and 6% of gravitational acceleration respectively, on dry rail.

4.7.4 All machines shall actuate all signalling equipment used by the Railway Authority for traffic control.

4.7.5 Each machine shall be operated by a qualified operator.

**5. CONSTRUCTION**

**5.1 GENERAL**

5.1.1 The Contractor may use machine based or labour based methods, or a combination thereof, f or the execution of the Works. He shall submit with his tender a method statement of how he proposes to carry out the work.

5.1.2 The Technical Officer and the Contractor may agree on normal working hours other than those defined in the contract, to suit local conditions.

5.1.3 The Contractor shall only employ supervisors with knowledge and experience of railway trackwork construction and maintenance, and capable of supervising all phases of the work. Their competence to undertake the work will be assessed by the Technical Officer.

5.1.4 The Technical Officer will have the right to stop any work where adequate supervision is not present and no claims will be considered in respect of such stoppage.

5.1.5 The Contractor shall record daily in a triplicate carbon copy book sufficient information (and any additional information requested by the Technical Officer), to enable the contract to be efficiently managed and to have available all relevant facts for payment purposes. Each and every sheet of the book must be signed and dated, on the day it is completed, by the Contractor and by the Technical Officer who will remove and retain the original of each set of sheets immediately after he signs it. The Contractor may remove the first copy but the book with the second copy shall remain on site.

5.1.6 When the Contractor causes work planned to be done during normal working hours, to extend to outside normal working hours, the cost of overtime payable to the Technical Officer's staff, will be recovered from the Contractor, at the rates specified in the Project Specification. Vice versa, when the work is caused to go outside normal working hours by actions of the Technical Officer or the Railway Authority, the Contractor's cost of overtime will be paid for at the extra-over rate quoted for in the Schedule of Quantities and Prices.

**5.2 SAFETY PRECAUTIONS**

5.2.1 The safety of the public, the employees of the Railway Authority and the Technical Officer's and the Contractor's own staff shall be the primary consideration of the Contractor.

5.2.2 The Contractor shall not do any work on an open line without the knowledge and consent of the Technical Officer.

5.2.3 The Technical Officer will decide whether a temporary speed restriction is required or not and will arrange for it to be applied. The Contractor shall keep the track safe for the passage of trains at the maximum speed allowed, and he and his workmen shall be prepared to stand aside to allow trains to pass.

5.2.4 The Contractor shall ensure that he obtains the temporary speed restriction notices applicable to the site and that he does no work outside the limits given in such notices. The Contractor shall check that the temporary speed-reduction boards have been erected and that the speed shown on the boards agrees with the notice. If there is any discrepancy, the Contractor shall immediately advise the Technical Officer.

5.2.5 During and after completion of each day's work, the Technical Officer will evaluate the safety of the track, and the Contractor shall do all work deemed necessary by the Technical Officer to make it safe for the passage of trains at the arranged speed. The line will not be reopened until the Technical Officer certifies in writing that it is safe to do so.

5.2.6 Before the start of any occupation, the Contractor shall ensure that he has sufficient workmen, tools and material on site to complete the work planned to be done during the occupation.

5.2.7 The Contractor shall not move any clearance mark or obscure it unless work is being done in its immediate vicinity, in which case he shall replace or clear it as soon as it is physically possible to do so and before the end of each working day. Clearance marks shall be replaced in position where the adjacent track centres are 3,45m or 2,75m apart for broad-gauge and narrow-gauge tracks respectively. If the rails are bonded, the Technical Officer must be advised before a clearance mark is moved, and it shall be repositioned as directed by him.

5.2.8 The Contractor shall not move any electrified track vertically or horizontally unless the Technical Officer gives permission to do so.

**5.3 PROGRAMME**

5.3.1 Details of available occupation times and other limitations will be given in the Project Specification, around which the Contractor shall plan his programme.

5.3.2 The Contractor shall submit with his tender a proposed programme of work. The Contractor

shall indicate, as part of this programme, the total number of occupations required, as well as for each occupation, the duration thereof, and the production rate for and type of work intended during that occupation.

The above information will be taken into account when adjudicating the tender.

5.3.3 Before he starts work, the Contractor shall, if requested by the Technical Officer, elaborate on the proposed programme, in writing, for approval by the Technical Officer. Work on open lines tends to disrupt railway traffic, and the work itself is subject to disruption due to the needs of the Railway Authority. The programme must therefore allow for work to be limited as specified in the Project Specification. Should the Contractor be prevented from carrying out a particular activity, he must be prepared to carry on with other activities, when and where possible.

**5.4 METHODS AND PROCEDURES**

5.4.1 HANDLING OF MATERIAL

5.4.1.1 After he has started work, the Contractor shall load, offload, transport, stack as directed by the Technical Officer, and distribute permanent way material and ballast as required for the works and as approved by the Technical Officer. The sites at which material is to be stacked shall be cleared of all rubbish and vegetation by the Contractor.

5.4.1.2 Failure on the part of the Contractor to offload wagons built specially for the conveyance of ballast or rails could result in delays in delivery of subsequent consignments of such materials and this aspect will be taken into consideration if a claim for late supply is made. The Contractor shall as far as is reasonably possible plan and execute the Works so that it will not be unduly delayed by the late arrival of any specific item of material. Demurrage charges as specified in the Project Specification will be applicable to delaying of wagons.

5.4.1.3 The Contractor shall take the utmost care when off-loading wagons, that offloaded material or ballast does not damage or interfere with drainage, cables, wires, the movement of the wagons or the running of trains after offloading is complete.

5.4.1.4 If permanent way material or ballast is incorrectly offloaded and/or distributed by the Contractor, he shall bear all costs of rectifying the errors. If material has been incorrectly distributed by the Railway Authority, the Contractor shall rectify the errors as directed by the Technical Officer. Payment at daywork rates will be made for such correction of errors.

5.4.1.5 The Contractor shall obtain the approval of the Technical Officer for the route over which he intends conveying material.

5.4.1.6 The Contractor shall record at least the following information about material handled on site :-

(a) Wagon numbers and details of contents of any wagons loaded or offloaded.

(b) The kilometre distances at or over which materials were loaded or offloaded.

(c) The type and quantity of material handled.

(d) Deficiencies in quality of material.

(e) Delays in delivery.

(f) Shortages of material.

5.4.1.7 The Contractor shall provide the driver of each lorry with a suitable triplicate carbon book with detachable numbered sheets. All such books shall be written up in the same manner. Each time a lorry is loaded, one set of 3 sheets of the book shall be legibly completed by the Contractor or his representative to show the following:

a) The lorry registration number.

b) The date.

c) The time loading was completed.

d) The quantity and type of material loaded.

e) The odometer reading.

f) The signature of the driver.

The driver shall also record the time of arrival and odometer reading on the same set of sheets in the book. Both the driver and the Technical Officer’s representative shall sign the book and the Technical Officer's representative will retain the original sheet.

5.4.1.8 Should the odometer of any lorry become defective, the lorry shall be withdrawn from service until the odometer has been repaired.

5.4.2 LEVEL CROSSINGS

5.4.2.1 When it is necessary for the Contractor to disturb the road surface at a level crossing, he shall give the Technical Officer 3 weeks' written notice, or such other period specified in the Project Specification, and shall carry out all instructions and comply with all requirements laid down by the road authority as directed by the Technical Officer and as specified in the Project Specifications. When the crossing is fitted with precast concrete slabs, they shall be uplifted and replaced by the Contractor as directed by the Technical Officer. On lines within 30 m of an electrified line, the Contractor shall paint the buried lengths of rail at level crossings with tar.

5.4.2.2 The Contractor shall remove cattle guards, repaint them with white P.V.A. paint and reaffix them as shown on the drawings and shall correct the drainage if necessary. While any portion of a cattle guard is not in it's proper position, the Contractor shall, at his own cost, ensure that no animals gain access to the right-of-way.

5.4.3 MATERIAL TRAINS

5.4.3.1 The Technical Officer will arrange material trains for off-loading of material, under the same conditions specified in clause 3.6. The Contractor shall order material trains for loading of released material timeously, as specified in the Project Specifications. The Technical Officer will give the Contractor at least 24 hours notice of the date and time for which a material train has been arranged and give details of types and approximate quantities of material to be offloaded.

5.4.3.2 The Contractor shall supply sufficient supervision and labour to offload or load all the wagons in material trains during the hours which the trains are scheduled to work. The Contractor shall close all doors before the train departs whether he opened them or not.

5.4.3.3 If a material train is delayed in any way by any act of the Contractor, he will he held liable for demurrage charges on any wagons so delayed at the rates specified in the Project Specifications for the full period of such delay.

5.4.3.4 The Technical Officer will keep the Contractor informed as to the running times of material trains and their expected arrival times. The Contractor shall arrange his work to avoid, as far as possible, any loss of working time while waiting for a material train to arrive. The Contractor will be compensated for time lost due to a material train being late only if the material train arrives more than 30 minutes late, or is cancelled, and provided that the Technical Officer certifies that no other work was available within a reasonable distance of where the train was arranged to stop first.

5.4.3.5 The Contractor shall record at least the following information about material trains :-

a) The time a material train was due.

b) The time a material train stopped at the site.

c) All interruptions in excess of 30 minutes in working a material train.

d) The time a material train left the site.

e) The names of the Contractor's and the Technical Officer's representatives attending to a material train.

f) The number of the Contractor's workmen assigned to work with a train.

5.4.4 PLATELAYING

5.4.4.1 The Technical Officer will provide the Contractor with survey information as specified in specification E10/11, as well as in the Project Specification, for alignment of the works.

5.4.4.2 Before any items of permanent way material subject to movement are assembled, all contact surfaces shall be cleaned, oiled, greased or blackleaded and polished as required. The contact surfaces between the rails, sleepers and sleeper fastenings shall be kept free of oil, grease and foreign matter.

5.4.4.3 Unless self-locking nuts are supplied, spring washers must be fitted under the nuts.

5.4.4.4 Permanent way material shall be assembled as shown on the relevant drawings.

5.4.4.5 When curved track is aligned, the high leg must be positioned at 533 mm from the centre line pegs for broad gauge track, and at 305 mm for narrow gauge track.

5.4.4.6 The Contractor shall destress the rails after certain operations on open lines, as specified in the Project Specification.

5.4.4.7 The Contractor shall at all times ensure that sleepers are adequately packed to avoid derailments or damage to perway material or the formation. Any such damage will be for the Contractor's account.

5.4.4.8 If there is a mismatch at a fish-plated railjoint of more than 1 mm, this mismatch shall be reduced to less than 1 mm, as specified in Track Welding Specification SSS-8.

5.4.4.9 When joints in rails, which are to be welded, are temporarily fishplated the following shall apply:

a) The joint shall be midway between sleepers, to be achieved by either moving of sleepers or cutting off short sections of rail.

b) The cutting of rails shall generally be in accordance with specification E10/1.

c) The joint may be fishplated by either :-

i) Using joggle type fishplates (painted yellow), together with four clamps; or

ii) Using conventional fishplates with drilling and bolting, except that this method may not be used on CrMn - rails.

d) On open lines, temporarily fishplated joints may not be left in the track for longer than three days.

e) The Contractor shall obtain the Technical Officer’s approval of the position of the joints. The Technical Officer will only certify payment for the joint if the joint was made at his request or instruction, and not when it was provided for the convenience of the Contractor.

5.4.4. The Contractor shall record daily at least the following information about work performed :-

a) The amount of work performed per scheduled item.

b) Whether the work was done under total occupation, occupation between trains or work permit.

c) The weather conditions.

d) The state of the work site and roads.

e) Details of any occurrence which may have a bearing on any claim which the Contractor may wish to make. No claims will be considered unless supported by an entry in the diary containing all the facts on which the claim is based.

5.4.5 FINISHING

5.4.5.1 After the track has been brought to the final level, the Contractor shall check and correct the running top, the expansion gaps, gauge and superelevation. He shall arrange with the Technical Officer to check, together with the Signalling Technician of the Railway Authority, turnouts, slips, scissors and diamond crossings and derailers to ensure that they have been installed correctly and operate correctly. He shall realign the track, tighten all fastenings, check and correct the quantity of ballast, and box in and trim.

5.4.5.2 The Contractor shall be responsible for all maintenance of the Works until such time as the track is taken over by the Technical Officer, when the standard of the track shall be as specified.

5.4.6 RELEASEMENTS AND SURPLUS MATERIAL

5.4.6.1 The Contractor shall dispose of released and surplus material in accordance with the Project Specification.

5.4.6.2 Released material shall not be stacked or loaded into wagons together with new or second-hand material supplied surplus to requirements for the works. Each type of permanent way material shall be stacked separately. Material shall be loaded into wagons as directed by the Technical Officer.

5.4.6.3 Material trains for the loading of released and surplus material will be arranged as provided for in the Project Specification.

5.4.6.4 To achieve safe working conditions at the site, clearing and loading of released material shall be a continuous operation which shall be done as the work proceeds. Small items of released rail and sleeper fastenings, as well as wood sleepers, shall be cleared out of the section before the end of each day, as specified in the Project Specifications.

5.4.6.5 The Contractor shall, on every day that material is loaded, give the Technical Officer a signed, dated list in duplicate for each wagon, detailing the type and quantity of material in each wagon and giving the wagon number and place where loaded. The Technical Officer will sign the lists and return the duplicate to the Contractor as a receipt.

5.4.6.6 If the Technical Officer instructs that material is to be left in stacks, the Contractor and Technical Officer shall together count it. The Contractor shall give the Technical Officer a signed list in duplicate of all such material. The list shall indicate where and on what date the stack was made. The Technical Officer will sign the list and return the duplicate to the Contractor as a receipt. Thereafter the Railway Authority will be responsible for that material.

5.5 STANDARDS

5.5.1 GENERAL

5.5.1.1 Lines are classified into the following classes :-

Class S

N1

N2

N3

Yard lines

5.5.1.2 An outline of the track design standard applicable to each class of line is shown in Annexure C Sheet 1 hereto.

5.5.1.3 For each class of line, A, B or C categories of track condition standards are defined herein and in the supplementary specifications. The condition standards with which completed trackwork shall comply, are as specified in the Project Specification.

5.5.1.4 During construction, the following interim condition standards shall apply :-

a) For opened up track, to allow trains to run at the temporary restricted speed. - C standard.

b) For destressing of rails - B standard, unless C standard has been specified for the completed trackwork.

5.5.2 TRACK GAUGE

5.5.2.1 The nominal gauge on the straight for broad-gauge track shall be 1 065 mm and for narrow-gauge track 610 mm.

5.5.2.2 The gauge for track on curves shall be as follows:

|  |  |  |
| --- | --- | --- |
| RADIUS OF CURVE | NOT CHECK-RAILED | CHECK-RAILED |
| BROAD-GAUGE TRACK |
| Under 135  | 1 085 mm | 1 090 mm |
| 135 m - 150 m | 1 080 mm | 1 085 m |
| 151 m - 175 m | 1 075 mm | - |
| 176 m - 200 m | 1 070 mm | - |
| Over 200 m | 1 065 mm | - |
| NARROW-GAUGE TRACK |
| Under 201 m | 620 mm |  |
| 201 m - 300 m | 615 mm |  |
| Over 300 m | 610 mm |  |

5.5.2.3 Gauge widening on circular and transition curves, shall be provided in accordance with Annexure F hereof.

5.5.3 SUPERELEVATION

5.5.3.1 The Contractor shall provide superelevation as specified in the Project Specification or as directed by the Technical Officer. In the absence of such directives, it shall be provided in accordance with the clauses below.

5.5.3.2 Superelevation shall be provided on curves on open lines in accordance with annexure G hereof. In yard tracks the superelevation shall be 10 mm on all curves.

5.5.3.3 On curves without transitions, two thirds of the full superelevation shall be provided at the beginning and ends of the curves. The superelevation shall be increased to the full amount towards the middle of the curve and decreased to zero into the straight at a rate not exceeding 20 mm in 10 m.

5.5.3.4 On curves with transitions, application of superelevation shall commence at the point where the transition curve meets the straight and be provided at a uniform rate over the transition curve, to reach the required value for the curve at the beginning of the circular curve, provided that the rate of application of superelevation does not exceed 20 mm in 10 m. If it is not possible to reach the required superelevation at the beginning of the circular curve at the abovementioned maximum rate, the increase of superelevation at this maximum rate shall be continued into the circular curve until the required superelevation is reached.

5.5.3.5 On reverse curves where the intervening straight is less than 40 m, zero superelevation shall be provided for a distance of 6 m between the two curves.

5.5.4 TORQUE

Unless otherwise specified in the Project Specification or supplementary specification E.10/12, all rail and sleeper fastenings, bolts and screws, shall be tightened to a torque of 340 N.m.

5.5.5 CLEARANCES

At specific points, the Technical Officer may instruct that clearances less than the minimum specified in specification E7/1 shall apply.

5.6 COMPLETION

5.6.1 TAKING OVER

5.6.1.1 The Contractor shall complete trackwork ready for taking over, at the rates and in quantities as specified in the Project Specification. The Technical Officer may at his sole discretion, take over portions of the work under lesser conditions than those specified in the Project Specifications, of which he will advise the Contractor.

5.6.1.2 Work will only be taken over after it has been tested and found to be satisfactory.

5.6.2 MAINTENANCE PERIOD

Notwithstanding the requirements in the contract dealing with maintenance of the Works after completion thereof, the Contractor will be relieved of all responsibilities for the maintenance of any portion of the trackwork after the Technical Officer has taken it over, except that latent defects shall be rectified.

6. TOLERANCES

Unless otherwise specified in the Project Specification, the permissible deviations from the specified standards shall be within the limits specified hereinafter.

6.1 HORIZONTAL ALIGNMENT

6.1.1 TRACK CENTRELINE

The centreline of the track shall be aligned correctly to within 20 mm from the staked line, on all classes and standards of lines.

6.1.2 STRAIGHT TRACK AND CURVES

On straight track and curves, the mid-ordinate measured on the gauge side of both rails from a chord of 10 m, shall not exceed the value calculated from the formulae specified in table A1 of Annexure A hereto. In addition, the number of measurements allowed to be one standard lower, is also specified in the above table.

6.2 VERTICAL ALIGNMENT

6.2.1 TRACK LEVEL.

Track levels shall be within 10 mm of the specified levels.

6.2.2 RUNNING TOP AND VERTICAL CURVES

The maximum permissible deviation from the theoretical grade measured by means of a standard track gauge measuring instrument, shall not exceed the values calculated from the fomulae specified in table A1 Annexure A hereof. In addition the number of measurements allowed to be one standard lower, is also specified in the above table.

6.2.3 SUPERELEVATION

The superelevation at any point, shall not differ from the required superelevation by more than the values in table A1 of Annexure A hereof.

In addition, the number of measurements allowed to be one standard lower, is also specified in the above table.

6.2.4 TWIST

The algebraic difference between the measured superelevations at any two measuring points, shall not exceed the theoretical difference by more than the values calculated from the formulae in table A1 of Annexure A hereof. The values given in brackets in the table, is the calculated value for measuring points 5 m apart.

6.3 TRACK GAUGE

The algebraic difference between the actual gauge and the required gauge shall not be more than the maximum nor less than the minimum shown in table A2 of Annexure A hereof. In addition, the algebraic difference between the deviations at any two measuring points 5 m apart, shall not be more than the maximum values in the above mentioned table.

6.4 SLEEPER SPACING

The spacing between any two adjacent sleepers shall not exceed the specified spacing by more than the values shown in table A3 of Annexure A hereof.

In addition, the total number of sleepers on a 50 m portion of track, shall not differ from the specified number of sleepers by more than the numbers shown in table A4 of Annexure A hereof.

6.5 SQUARENESS OF SLEEPERS

Sleepers shall not be out of square relative to the centreline of the track, by more than 25 mm for A Standard and 50 mm for B and C Standard lines, measured at the running edges of the rail crowns.

6.6 BALLAST PROFILE

The dimensions Y, K and Z defined in the diagram in Annexure C sheet 2, shall not be less than the minimum nor more than the maximum values in the table in that Annexure, unless otherwise specified in the Project Specification.

6.7 STRUCTURE GAUGE

The horizontal and vertical clearances shall be not less than those specified in specification E7/1. The horizontal distance from track centreline to a platform shall not exceed the specified distance by more than 20 mm.

7. TESTING

7.1 QUALITY

7.1.1 Testing of the trackwork will take the form of the checking of construction generally to comply with the specifications, and by measuring the items listed in 6 hereof.

7.1.2 The Contractor shall measure and mark the track at 5 meter intervals and indicate the kilometre distance at each 20 m mark. The horizontal and vertical track alignment, and the gauge shall be measured at each 5 m station, clearance to obstructions where necessary, and the rest at 20 m stations. The results shall be recorded and evaluated by the Contractor before handing them to the Technical Officer. On open lines, this shall be done before the end of each day and prior to the opening of the track to traffic. Final measurements shall be made not longer than 24 hours before final handover, or as detailed in the Project Specification.

7.1.3 The Contractor shall advise the Technical Officer in writing (stating kilometre distances), when he considers that he has completed all the work on a section which he wishes the Technical Officer to take over, and after he has done his own inspection and measuring of the work. The Technical Officer will, within 3 days of receipt of such notification, inspect the section in the company of the Contractor. The Technical Officer will point out any defects he sees to the Contractor who shall record such defects in duplicate. On completion of the inspection, both parties shall sign the record and the Technical Officer will endorse the record that either he is prepared to take over the track immediately subject to the defects being remedied within a specified time or that the Contractor shall remedy the defects and then ask for another inspection. The Technical Officer will retain the original of the record.

7.1.4 At the start of any inspection by the Technical Officer in accordance with 7.1.3 hereof, the Technical Officer may define a sample test portion of that section that the Contractor wants him to take over. When inspection of that sample portion indicates defects at more than 5% of the number of measurements, the Technical Officer may abandon the inspection and will endorse the record accordingly. Before requesting another handover of that section, the Contractor shall re-inspect the section, and rectify all faults.

7.1.5 The testing of the track will be deemed to be successful, if all measurements are within the specified tolerances.

7.2 PRODUCTION

7.2.1 The production rate tendered for work to be done under occupations, will be used as the basis to test the production actually achieved, for which penalties or bonuses will be calculated in terms of the Project Specification.

8. MEASUREMENT AND PAYMENT

8.1 The Contractor shall tender for each item in the Schedule of Quantities and Prices on the assumption that the work will be done during normal working hours, unless otherwise specified in the Project Specification.

8.2 Work done on instructions from the Technical Officer outside normal working hours will be paid for at normal rates plus the percentage tendered therefore in the Schedule of Quantities and Prices.

8.3 SCHEDULED ITEMS

8.3.1 Overhaul ............................................................................................. Unit:- (Unit of item). km.

Separate items will be provided for all items of material transported in excess of the free haul distance.

The overhaul distance for an item of material will be measured along the approved route to the nearest 0,1 km, based on the average haul distance for that item. The free haul distance for rails will be 0 km.

The rate tendered shall include for all costs associated with the transport of the specific item.

8.3.2 Disturb and re-instate road surface at level crossings- ............................................. Unit:-m2

The area of road surface necessary to be disturbed and re-instated, shall be measured.

Separate items will be provided for various road classifications and road surfaces.

The rate shall include all costs to -

Meet the requirements set out in the Project Specifications ;

Break up the road surface and open up to the level required ;

Backfill and compact material, required to re-instate the level crossing ; and,

Provide the surface layer, as required.

8.3.3 Move and reaffix cattle guards when disturbing level crossings .............................. Unit:- set

A set includes all items required to guard both sides of a level crossing.

Separate items will be provided for:

- Single line crossings

- Multiple line crossings

The rate tendered shall include for all costs to -

Remove the cattle guard;

Ensure that no animals gain access to the right of way while the guard is not in position;

Correct drainage at the cattle guard;

Paint the cattle guard white; and,

Reaffix the cattle guard in accordance with the drawings.

8.3.4 Temporarily fishplated joints ................................................................................... Unit:- Joint

Each fishplated joint in each rail requested or instructed by the Technical Officer, will be taken as one joint. Joints provided for the convenience of the Contractor, will not be paid for.

The rate tendered shall include for all work necessary, as specified, including -

Positioning the joint midway between sleepers in accordance with 5.4.4.9 (a) hereof; and,

Boxing in of disturbed ballast at the joints.

8.3.5 Daywork ..................................................................................................................... Unit:- Hour

Daywork will only be paid for if such daywork was done on the instruction of the Technical Officer. Payment will be made only for the personnel agreed to.

Typical items for which daywork will be the basis of payment, include:-

a) To move material to check quantities, in accordance with clause 3.1.5.

b) To move material distributed incorrectly by the Railway Authority in accordance with clause 5.4.1.4.

c) Delays to the Contractor where material trains arrive late, are cancelled or are interrupted during loading or offloading, in accordance with clause 5.4.3.4.

In the case of (c) above, the period for which daywork will be paid will be measured as follows :-

ii) For trains that are cancelled, the period will be the time between the time the Contractor is advised of the cancellation and the expected time of arrival, less 30 minutes. One hour will be added to this period to allow for the Contractor to make safe the track, and re-organise.

iii) For worktrains interrupted during the loading or offloading of material for an interval of more than 30 minutes because of the requirements of the Railway Authority, payment will be made at daywork rates for workmen who could not be productively employed during this period, less 30 minutes.

Separate items will be provided for different grades of staff.

8.3.6 Plant Hire .................................................................................................................. Unit:-Hour

As specified in the Project Specification.

8.3.7 Extra-over scheduled items, for working outside normal working hours, on instruction of the Technical Officer................................................................................................ Unit:-as per item

Work performed outside normal working hours on instruction of the Technical Officer, will be paid for at the scheduled rates, enhanced by an extra-over percentage.

The percentage tendered shall include for all additional costs for working outside normal working hours.

 SPK7/1

**ANNEXURE R**



PASSENGER RAIL AGENCY OF SOUTH AFRICA

E7/1 2012

SPECIFICATION FOR SERVICES ON, OVER, UNDER OR ADJACENT TO RAILWAY

 LINES AND NEAR HIGH VOLTAGE EQUIPMENT

(This specification shall be used in SA Rail Commuter Corporation contracts)

|  |  |  |
| --- | --- | --- |
| ***DESIGNATION*** | **SIGNATURE** | **DATE** |
| Approved by:PRASA –MANAGEMENTBOARD |  |  |
| Issued by:PRASA –Executive Manager (AM&D) |  |  |
| Understood and accepted by:PRASA –Senior Manager Infrastructure |  |  |
| Prepared by:PRASA –Manager (Perway and Structures) |  |  |
| Prepared by:PRASA –Manager (Electrical) |  |  |
| Prepared by:PRASA –Manager (Signal |  |  |

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1 **DEFINITIONS**

The following definitions shall apply:

**Authorised Person:** A person whether an employee of Transnet or not, who has been specially authorised to undertake specific duties in terms of Spoornet's publication ELECTRICAL SAFETY INSTRUCTIONS, and who holds a certificate or letter of authority to that effect.

**Barrier:** Any device designed to restrict access to and prevent inadvertent contact with exposed "live" high-voltage electrical equipment.

**Bond:** A short conductor installed to provide electrical continuity.

**Responsible Representative:** The responsible person in charge, appointed by a contractor, who has undergone specific training (and holds a certificate) to supervise staff under his control to work on, over, under or adjacent to railway lines and in the vicinity of high-voltage electrical equipment.

**Contractor:** Any person or organisation appointed by PRASA to carry out work on its behalf.

**Dead:** Isolated and earthed.

**Electrical Officer (Contracts):** The person appointed in writing by the responsible Electrical Engineer in Transnet or PRASA’S maintenance Contractor as the person who shall be consulted by the Contractor in all electrical matters to ensure that adequate safety precautions are taken by the Contractor.

**Engineer:** The person, firm or company appointed by PRASA to act as Engineer for the purposes of the contract and designated as such in the Special Conditions of Contract, or any other Engineer appointed from time to time by PRASA and notified in writing to the Contractor.

**Executive Officer:** The person appointed by PRASA from time to time as the Executive Officer to act according to the rights and powers held by and obligations placed upon him in terms of the Contract.

**High-Voltage:** A voltage normally exceeding 1 000 volts.

**Live:** A conductor is said to be "live" when it is at a potential different from that of the earth or any other conductor of the system of which it forms a part.

**Near:** To be in such a position that a person's body or the tools he is using or any equipment he is handling may come within 3 metres of live exposed high-voltage electrical equipment.

**Occupation:** An authorisation granted by Transnet or PRASA’S maintenance and/or operating Contractor for work to be carried out under specified conditions on, over under or adjacent to railway lines.

**Occupation Between Trains:** An occupation during an interval between successive trains.

**Project Manager:** The person or juristic person appointed by PRASA from time to time as the

Project Manager, to administer the Contract according to the powers and rights held by and obligations placed upon him in terms of the Contract.

**Total Occupation:** An occupation for a period when trains are not to traverse the section of line covered by the occupation.

**Work on:** Work undertaken on or so close to the equipment that the specified working clearances to the live equipment cannot be maintained.

**Work Permit:** A combined written application and authority to proceed with work on or near dead electrical equipment.

**PART A - GENERAL SPECIFICATION**

2. **AUTHORITY OF OFFICERS OF TRANSNET OR PRASA’S MAINTENANCE AND/OR OPERATING CONTRACTOR**

2.1 The Contractor shall co-operate with the authorised personnel of Transnet or PRASA’S maintenance and/or operating Contractor and shall comply with all instructions issued and restrictions imposed with respect to the Services which bear on the presence and operation of Transnet or PRASA’S railway lines and high-voltage equipment.

2.2 Without limiting the generality of the provisions of 2.1, any duly authorised representative of Transnet or PRASA, having identified himself, may stop the work if, in his opinion, the safe passage of trains or the safety of Transnet or PRASA assets or any person is affected. **CONSIDERATIONS OF SAFETY SHALL TAKE PRECEDENCE OVER ALL OTHER CONSIDERATIONS**.

3. **CONTRACTOR'S REPRESENTATIVES**

3.1 The Contractor shall nominate Responsible Representatives of whom at least one shall be available at any hour for call-out in cases of emergency. The Contractor shall provide the Engineer with the names, addresses and telephone numbers of the representatives.

3.2 The Contractor guarantees that he has satisfied himself that the Responsible Representative is fully conversant with this specification and that he shall comply with all his obligations in respect thereof.

3.3 The Responsible Representative shall be familiar with the contents and provisions of the ELECTRICAL SAFETY INSTRUCTIONS, copies of which they shall keep in their possession for the duration of the contract.

4. **OCCUPATIONS AND WORK PERMITS**

4.1 Work to be done during total occupation or during an occupation between trains or under a work permit shall be done in a manner decided by the Engineer and at times to suit the requirements of Transnet or PRASA’S maintenance and/or operating Contractor.

4.2 The Contractor shall organise the Services in a manner, which will minimise the number and duration of occupations and work permits required.

4.3 PRASA shall not be liable for any financial or other loss suffered by the Contractor arising from his failure to complete any work scheduled during the period of an occupation or work permit.

4.4 The Contractor shall submit to the Engineer, in writing, requests for occupations or work permits together with details of the work to be undertaken, at least 21 days before they are required. Transnet or PRASA’S maintenance and/or operating Contractor does not undertake to grant an occupation or work permit for any particular date, time or duration.

4.5 Transnet or PRASA’S maintenance and/or operating Contractor reserves the right to cancel any occupation or work permit at any time before or during the period of occupation or work permit. If, due to cancellation or change in date or time, the Contractor is not permitted to start work under conditions of total occupation or work permit at the time arranged, all costs caused by the cancellation shall be born by the Contractor except as provided for in clauses 4.6 to 4.8 above.

4.6 When the Contractor is notified less than 2 hours before the scheduled starting time that the occupation or work permit is cancelled, he may claim reimbursement of his direct financial losses caused by the loss of working time up to the time his labour and plant are employed on other work, but not exceeding the period of the cancelled occupation or work permit.

4.7 When the Contractor is notified less than 2 hours before the scheduled starting time, or during an occupation or work permit, that the duration of the occupation or work permit is reduced, he may claim reimbursement of his direct financial losses caused by the loss of working time due to the reduced duration of the occupation or work permit, but not exceeding the balance of the reduced occupation or work permit.

4.8 Reimbursement of the Contractor for any loss of working time in terms of 4.6 and 4.7, shall be subject to his claims being submitted within 14 days of the event with full details of labour and plant involved, and provided that the Engineer certifies that no other work on which the labour and plant could be employed was immediately available.

4.9 Before starting any work for which an occupation has been arranged, the Contractor shall obtain from the Engineer written confirmation of the date, time and duration of the occupation including the specified conditions applicable.

4.10 Before starting any work for which a work permit has been arranged, the Responsible Representative shall read and sign portion C of Annexure 8.1 of the ELECTRICAL SAFETY INSTRUCTIONS, presented by an authorised person, signifying that he is aware of the limits within which work may be undertaken. After the work for which the permit was granted has been completed, or when the work permit is due to be terminated, or if the permit is cancelled after the start, the same person who signed portion C shall sign portion D of Annexure 8.1 of the ELECTRICAL SAFETY INSTRUCTIONS, thereby acknowledging that he is aware that the electrical equipment is to be made "live". The Responsible Representative shall advise all his workmen accordingly.

5. **SPEED RESTRICTIONS AND PROTECTION**

5.1 When speed restrictions are imposed by Transnet or PRASA’S maintenance and/or operating Contractor because of the Contractor's activities, the Contractor shall organise and carry out his work so as to permit the removal of the restrictions as soon as possible.

5.2 When the Engineer considers protection to be necessary the Contractor shall, provide all protection including flagmen, other personnel and all equipment for the protection of Transnet or PRASA’s personnel and assets, the public and including trains. The Contractor shall arrange training and Transnet accreditation of the Contractor's flagmen and other personnel performing protection duties. The cost of the training shall be to the Contractor’s account. It remains the responsibility of the Contractor to protect his personnel and assets at all times.

5.3 The Contractor shall consult with the Engineer, whenever he considers that protection will be necessary, taking into account the minimum permissible clearances set out in Transnet’s publication, PERMANENT WAY INSTRUCTIONS.

5.4 The Contractor shall appoint a Responsible Representative to receive and transmit any instruction, which may be given by Transnet or PRASA’S maintenance and/or operating Contractor personnel providing protection.

6. **ROADS ON TRANSNET OR PRASA PROPERTY**

6.1 The Contractor shall use every reasonable means to prevent damage to any of the roads or bridges communicating with or on the direct route to the site and shall select routes, use vehicles, and restrict loads so that any extraordinary traffic as may arise from the moving of plant or material to or from the site shall be limited as far as reasonably possible.

6.2 The Contractor shall not occupy or interfere in any way with the free use of any public or private road, right-of-way, path or street unless the Engineer has obtained the approval of the road authority concerned.

7. **CLEARANCES**

7.1 No temporary Services shall encroach on the appropriate minimum clearances set out in Transnet’s publications, PERMANENT WAY INSTRUCTIONS and ELECTRICAL SAFETY INSTRUCTIONS.

8. **STACKING OF MATERIAL**

8.1 The Contractor shall not stack any material closer than 3 metres from the centre line of any railway line or within 2.5 metres of the boundary fence without prior approval of the Engineer and considering the presence of any trackside equipment.

8.2 All stacking of material shall take place in accordance with the Occupational Health and Safety Act No. 85 of 1993, and Regulations and Instructions, and the ELECTRICAL SAFETY INSTRUCTIONS.

9. **EXCAVATION, SHORING, DEWATERING AND DRAINAGE**

9.1 Unless otherwise approved by the Engineer any excavation adjacent to a railway line shall not encroach on the hatched area shown in Figure 1.



Formation level

9.2 The Contractor shall provide, at his own cost, any shoring, dewatering or drainage of any excavation unless otherwise stipulated elsewhere in the Contract.

9.3 Where required by the Engineer, drawings of shoring for any excavation under or adjacent to a railway line shall be submitted and permission to proceed obtained, before the excavation is commenced.

9.4 The Contractor shall prevent ingress of water to the excavation but where water does enter, he shall dispose of it as directed by the Engineer.

9.5 The Contractor shall not block, obstruct or damage any existing drains either above or below ground level unless he has made adequate prior arrangements to deal with drainage.

10. **FALSEWORK FOR STRUCTURES**

10.1 Drawings of falsework for the construction of any structure over, under or adjacent to any railway line shall be submitted to the Engineer and his permission to proceed obtained before the falsework is erected. Each drawing shall be given a title and a distinguishing number and shall be signed by a registered professional engineer certifying that he has checked the design of the falsework and that the drawings are correct and in accordance with the design.

10.2 After the falsework has been erected and before any load is applied, the Contractor shall submit to the Engineer a certificate signed by a registered professional engineer certifying that he has checked the falsework and that it has been erected in accordance with the drawings. Titles and numbers of the drawings shall be stated in the certificate. Notwithstanding permission given by the Engineer to proceed, the Contractor shall be entirely responsible for the safety and adequacy of the falsework.

11. **PILING**

11.1 The Engineer will specify the conditions under which piles may be installed on Transnet or PRASA property.

12. **UNDERGROUND SERVICES**

12.1 No pegs or stakes shall be driven or any excavation made before the Contractor has established that there are no underground services, which may be damaged thereby.

12.2 Any damage shall be reported immediately to the Engineer, or to the personnel in charge at the nearest station, or to the traffic controller in the case of centralised traffic control.

12.3 Any previously uncharted underground services encountered by the Contractor during the course of his activities shall be reported immediately to the Engineer who shall ensure the necessary inclusion in the “as built” drawings.

13. **BLASTING**

13.1 No blasting in the vicinity of a railway line shall be carried out except with the prior written permission of the Engineer and under such conditions as he may impose.

13.2 The Contractor shall make arrangements for the supply, transport, storage and use of explosives.

13.3 The Contractor shall have labour, tools and plant, to the satisfaction of the Engineer, available on the site to clear immediately any stone or debris deposited on the track or formation by blasting, and to repair any damage to the track or formation immediately after blasting. Repairs to the track shall be carried out only under the supervision of a duly authorised representative of the PRASA’s maintenance and/or operating Contractor.

13.4 The Contractor shall advise the Engineer of his intention to blast at least 21 days prior to the commencement of any blasting operations.

13.5 Before any blasting is undertaken, the Contractor and the Engineer shall jointly examine and measure up any buildings, houses or structures in the vicinity of the proposed blasting to establish the extent of any cracking or damage that exists. The Contractor, at his own expense shall make good any deterioration of such buildings, houses, or structures, which, in the opinion of the Engineer, is a direct result of the blasting.

13.6 All claims shall be settled by the Contractor as soon as possible. Should unreasonable delays occur, the PRASA will have the right to settle any such claims and recover the costs from the Contractor.

13.7 Within a reasonable time after completion of the blasting, the Contractor shall obtain a written clearance from each land owner in the vicinity of the blasting operations to the effect that all claims for compensation in respect of damage caused by the blasting operations to their respective properties have been settled.

13.8 The Contractor shall provide proof that he has complied with the provisions of clauses 10.17.1 to 10.17.4 of the Explosives Regulations (Act 26 of 1956 as amended).

13.9 Blasting within 500 metres of a railway line will only be permitted during intervals between trains. A person appointed by the Engineer, assisted by flagmen with the necessary protective equipment, will be in communication with the controlling railway station. Only this person will be authorised to give the Contractor permission to blast, and the Contractor shall obey his instructions implicitly regarding the time during which blasting may take place.

3.10 The flagmen described in clause 13.9 above, where provided by Transnet or PRASA’S maintenance and/or operating Contractor, are for the protection of trains and Transnet or PRASA property and personnel only, and their presence does not relieve the Contractor in any manner of his responsibilities in terms of Explosives Act or Regulations, or any obligation in terms of this Contract.

13.11 The person described in clause 13.9 above will record in a book provided and retained by the Engineer the dates and times:

(i) when each request is made by him to the controlling station for permission to blast;

(ii) when blasting may take place;

(iii) when blasting actually takes place; and

(iv) when he advises the controlling station that the line is safe for the passage of trains.

13.12 Before each blast the Contractor shall record in the same book, the details of the blast to be carried out. The person appointed by the Engineer and the person who will do the blasting shall both sign the book whenever an entry described in clause 13.11 above is made.

13.13 The terms of clause 27 hereof shall be strictly adhered to.

14. **RAIL TROLLEYS**

14.1 The use of rail trolleys on a railway line will be permitted only if approved by the Engineer and under the conditions stipulated by him.

14.2 All costs in connection with such trolley working requested by the Contractor shall, unless otherwise agreed, be borne by the Contractor, including the costs of any train protection services required.

15. **ANCILLARY TRACKSIDE EQUIPMENT AND FACILITIES.**

15.1 Where signal track circuits are installed, the Contractor shall ensure that no material capable of conducting an electrical current makes contact between rails of a railway line/lines.

15.2 No signal connections on track-circuited tracks shall be severed without the Engineer’s knowledge and consent.

15.3 No ancillary trackside equipment or facilities such as axle counters, bonds, wiring runs, connection boxes, points machines, signals, drainage systems etc. shall be disconnected, removed, altered or in any way interfered with without the Engineer’s knowledge and consent.

16. **PENALTY FOR DELAYS TO TRAINS**

16.1 If any trains are delayed by the Contractor and the Engineer is satisfied that the delay was avoidable, a penalty will be imposed on the Contractor in terms of the Special Conditions of Contract.

17. **COMPLIANCE WITH STATUTES AND REGULATIONS**

17.1 The Contractor shall comply with the provisions of the following:

(i) the OHS Act 85 of 1993, as amended;

(ii) the Explosive Act 26 of 1956, as amended;

(iii) the Workmen’s Compensation Act, 1941, as amended;

(iv) the Mines Health and Safety Act 29 of 1996, as amended;

(v) the ELECTRICAL SAFETY INSTRUCTIONS, as amended;

and all regulations framed under these acts.

17.2 The Contractor shall prepare and submit to the PRASA’s maintenance and operating contractor for acceptance, a Safety Case clearly explaining his Safety Management System. A site access certificate will not be issued to the Contractor unless this Safety Case has been accepted.

17.3 The Contractor shall comply with the provisions of the OHS Act 85 of 1993, as amended. For the purpose of this Act, the site occupied by the Contractor is transferred, for the duration of the contract, to the control of the Contractor as if it were his property. Prior to commencement of any work, and following the acceptance of a Safety Case, a site access certificate shall be issued to the Contractor by the PRASA’s maintenance and/or operating Contractor. As employer, the Contractor is in every respect responsible for compliance with the provisions of this Act.

17.4 Compliance with all applicable legislation shall be entirely at the Contractor's cost.

18**. TEMPORARY LEVEL CROSSINGS**

18.1 Applications for temporary level crossings shall be submitted by the Contractor in writing for approval to the PRASA’s maintenance and/or operating Contractor. These applications shall include a plan and cross-sectional view of the site including all affected services and proposed temporary alterations thereto.

18.2 The PRASA’s maintenance and/or operating Contractor may permit the construction of a temporary level crossing over the railway line at any approved site. The period for which the level crossing is permitted will be at the discretion of the PRASA’s maintenance and/or operating Contractor.

18.3 The Contractor at his own cost, shall arrange the construction by a nominated specialist subcontractor of the entire approved temporary level crossing, including all level crossing signs and height gauges and alterations to communication, power and signal equipment as well as drainage.

 The constructed temporary level crossing shall be subject to the inspection and approval of the PRASA’s maintenance and/or operating Contractor. After the temporary level crossing has served its purpose, the Contractor, at its own cost, shall arrange its removal by a nominated specialist Contractor and return the infrastructure assets to normal to the approval of PRASA’s maintenance and/or operating contractor.

18.4 The Contractor shall, at his own cost, take all necessary steps including the provision of gates, locks and, where necessary, watchmen to restrict the use of the level crossing to himself and his employees, his sub-contractors and their employees, the staff of the PRASA and its maintenance and/or operating Contractor and to such other persons as the PRASA may permit, of whose identity the Contractor will be advised.

If ordered by the PRASA’s maintenance and/or operating Contractor, the Contractor shall, at his own cost, appoint persons to control road traffic using any temporary level crossing. Such persons shall stop all road traffic when any approaching train is within 750 m of the level crossing and shall not allow the road traffic to proceed over the level crossing until the lines are clear.

**PART B - ADDITIONAL SPECIFICATION FOR WORK NEAR HIGH-VOLTAGE**

**ELECTRICAL EQUIPMENT**

**1 GENERAL**

1.1 This specification is based on the contents of Spoornet's publication ELECTRICAL SAFETY INSTRUCTIONS, as amended, a copy of which will be made available on loan to the Contractor for the duration of the contract on request only. These instructions apply to all work near live high-voltage equipment maintained and/or operated by Transnet or PRASA’S maintenance contractor, and the onus rests on the Contractor to ensure that he obtains a copy.

1.2 The Contractor's attention is drawn in particular to the contents of Sections 1 and 2 of the publication ELECTRICAL SAFETY INSTRUCTIONS.

1.3 The publication ELECTRICAL SAFETY INSTRUCTIONS covers the minimum safety precautions which must be taken to ensure safe working on or near high-voltage electrical equipment, and must be observed at all times. Should additional safety measures be considered necessary because of peculiar local conditions, these may be ordered by and at the discretion of the Electrical Officer (Contracts).

1.4 This specification must be read in conjunction with and not in lieu of the publication ELECTRICAL SAFETY INSTRUCTIONS.

1.5 The Contractor shall obtain the approval of the Electrical Officer (Contracts) before any work is done which causes or could cause any portion of a person's body or the tools he is using or any equipment he is handling, to come within 3 metres of any live high-voltage equipment.

1.6 The Contractor shall regard all high-voltage equipment as live unless a work permit is in force.

1.7 Safety precautions taken or barriers erected shall comply with the requirements of the Electrical Officer (Contracts), and shall be approved by him before the work to be protected is undertaken by the Contractor. The Contractor shall, unless otherwise agreed, bear the cost of the provision of the barriers and other safety precautions required, including the attendance of Transnet or PRASA’s maintenance contractor where this is necessary.

1.8 No barrier shall be removed unless authorised by the Electrical Officer (Contracts).

**2. WORK ON BUILDINGS OR FIXED STRUCTURES**

2.1 Before any work is carried out or measurements are taken on any part of a building, fixed structure or earthServices of any kind above ground level situated within 3 metres of live high voltage equipment, the Electrical Officer (Contracts) shall be consulted to ascertain the conditions under which the work may be carried out.

2.2 No barrier erected to comply with the requirements of the Electrical Officer (Contracts) shall be used as temporary staging or shuttering for any part of the Services.

2.3 The shuttering for bridge piers, abutments, retaining walls or parapets adjacent to or over any track may be permitted to serve as a barrier, provided that it extends at least 2,5 metres above any working level in the case of piers, abutments and retaining walls and 1,5 metres above any working level in the case of parapets.

**3. WORK DONE ON OR OUTSIDE OF ROLLING STOCK, INCLUDING LOADING AND/OR UNLOADING**

3.1 No person shall stand, climb or work whilst on any platform, surface or foothold higher than the normal unrestricted places of access, namely:-

(i) the floor level of trucks;

(ii) external walkways on diesel, steam and electric locomotives, steam heat vans, etc. and

(iii) walkways between coaches and locomotives.

When in these positions, no person may raise his hands or any equipment or material he is handling above his head.

3.2 In cases where the Contractor operates his own rail mounted equipment, he shall arrange for the walkways on this plant to be inspected by the Electrical Officer (Contracts) and approved, before commencement of work.

3.3 The handling of long lengths of material such as metal pipes, reinforcing bars, etc. should be avoided, but if essential they shall be handled as nearly as possible in a horizontal position below head height.

3.4 The Responsible Representative shall warn all persons under his control of the danger of being near live high-voltage equipment, and shall ensure that the warning is fully understood.

3.5 Where the conditions in clauses 3.1 to 3.3 above cannot be observed the Electrical Officer (Contracts), shall be notified. He will arrange for suitable safety measures to be taken. The Electrical Officer (Contracts), may in his discretion and in appropriate circumstances, arrange for a suitable employee of the Contractor to be specially trained by the relevant authority at the Contractor’s costs, as an Authorised Person to work closer than 3 metres from live overhead conductors and under such conditions as may be imposed by the responsible Electrical Engineer in Transnet or PRASA’S maintenance contractor.

**4. USE OF EQUIPMENT**

4.1 MEASURING TAPES AND DEVICES.

4.1.1 Measuring tapes may be used near live high-voltage equipment provided that no part of any tape or a person's body comes within 3 metres of the live equipment.

4.1.2 In windy conditions the distance shall be increased to ensure that if the tape should fall it will not be blown nearer than 3 metres from the live high-voltage equipment.

4.1.3 Special measuring devices longer than 2 metres such as survey staves and rods may be used if these are of non-conducting material and approved by the senior responsible Electrical Engineer in Transnet or PRASA’S maintenance contractor, but these devices must not be used within 3 metres of live high-voltage equipment in rainy or wet conditions.

4.1.4 The assistance of the Electrical Officer (Contracts) shall be requested when measurements within the limits defined in clauses 4.1.1 to 4.1.3 above are required.

4.2 **PORTABLE LADDERS.**

4.2.1 Any type of portable ladder longer than 2 metres may only be used near live high-voltage equipment under the direct supervision of the Responsible Representative. He shall ensure that the ladder is always used in such a manner that the distance from the base of the ladder to any live high-voltage equipment is greater than the fully extended length of the ladder plus 3 metres. Where these conditions cannot be observed, the Electrical Officer (Contracts) shall be advised, and he will arrange for suitable safety measures to be taken.

4.3 SERVICES FROM INSULATED VEHICLES AND TRESTLE TROLLEYS.

4.3.1 Where specially constructed insulated vehicles or trestle trolleys are available for use, authorised persons, category A, or a person issued with a letter of authority (clause 303.0 of the ELECTRICAL SAFETY INSTRUCTIONS) may be permitted to work from the top of such vehicles under “live” overhead track equipment.

**5. CARRYING AND HANDLING MATERIAL AND EQUIPMENT**

5.1 Pipes, scaffolding, iron sheets, reinforcing bars and other material, which exceeds 2 metres in length, shall be carried completely below head height near live high-voltage equipment. For maximum safety such material should be carried by two or more persons so as to maintain it as nearly as possible in a horizontal position. The utmost care must be taken to ensure that no part of the material comes within 3 metres of any live high-voltage equipment.

5.2 Long lengths of wire or cable shall never be run out in conditions where a part of a wire or cable can come within 3 metres of any live high-voltage equipment unless the Electrical Officer (Contracts) has been advised and has approved appropriate safety precautions.

5.3 The presence of overhead power lines shall always be considered, especially when communications lines or cables or aerial cables, stay wires, etc. are being erected above ground level.

**6. PRECAUTIONS TO BE TAKEN WHEN ERECTING OR REMOVING POLES, ANTENNAE, TREES ETC.**

6.1 A pole may be handled for the purpose of erection or removal near high-voltage equipment under the following conditions:

(i) If the distance between the point at which the pole is to be erected or removed and the nearest live high-voltage equipment is more than the length of the pole plus 3 metres, the work shall be supervised by the Responsible Representative.

(ii) If the distance described in (i) is less than the length of the pole plus 3 metres, the Electrical Officer (Contracts) shall be consulted to arrange for an Authorised Person to supervise the work and to ensure that the pole is earthed where possible. The pole shall be kept in contact with the point of erection, and adequate precautions shall be taken to prevent contact with live high-voltage equipment.

6.2 The cost of supervision by an Authorised Person and the provision of earthing shall, unless otherwise agreed, be borne by the Contractor.

6.3 The provisions of clauses 6.1 and 6.2 above shall also apply to the erection or removal of columns, antennae, trees, posts, etc.

**7. USE OF WATER**

7.1 No water shall be used in the form of a jet if it can make contact with any live high-voltage equipment or with any person working on such equipment.

**8. USE OF CONSTRUCTION PLANT**

8.1 "Construction plant" entails all types of plant including cranes, piling frames, boring machines, excavators, draglines, dewatering equipment and road vehicles with or without lifting equipment.

8.2 When work is being undertaken in such a position that it is possible for construction plant or its load to come within 3 metres of live high-voltage equipment, the Electrical Officer (Contracts) shall be consulted. He will arrange for an Authorised Person to supervise the work and to ensure that the plant is adequately earthed. The Electrical Officer (Contracts) will decide whether further safety measures are necessary.

8.3 The cost of any supervision by an Authorised Person and the provision of earthing shall, unless otherwise agreed, be borne by the Contractor.

8.4 When loads are handled by cranes, non-metallic rope hand lines shall be used, affixed to such loads so as to prevent their swinging and coming within 3 metres of live high-voltage equipment.

8.5 Clauses 8.1 to 8.4 above shall apply mutatis mutandis to the use of maintenance machines of any nature.

**9. WORK PERFORMED UNDER DEAD CONDITIONS UNDER COVER OF A WORK PERMIT**

9.1 If the Responsible Representative finds that the work cannot be done in safety with the high voltage electrical equipment live, he shall consult the Electrical Officer (Contracts) who will decide on the action to be taken.

9.2 If a work permit is issued the Responsible Representative shall:

(i) before commencement of work ensure that the limits within which work may be carried out have been explained to him by the Authorised Person who issued the permit to him, and that he fully understands these limits.

(ii) sign portion C of the permit before commencement of work;

(iii) explain to all persons under his control the limits within which work may be carried out, and ensure that they fully understand these limits;

(iv) care for the safety of all persons under his control whilst work is in progress; and

(v) withdraw all personnel under his control from the equipment on completion of the work before he signs portion D of the work permit.

**10. TRACTION RETURN CIRCUITS IN RAILS**

10.1 DANGEROUS CONDITIONS CAN BE CREATED BY REMOVING OR SEVERING ANY BOND.

10.2 Broken rails with an air gap between the ends, and joints, at which fishplates are removed under "broken bond" conditions, are potentially lethal. The rails on either side of an air gap between rail ends on electrified lines shall not be touched simultaneously until rendered safe by an Authorised Person.

10.3 The Contractor shall not break any permanent bonds between rails or between rails and any structure. He shall give the Engineer at least 21 days written notice when removal of such bonds is necessary.

10.4 No work on the track, which involves interference with the traction return rail circuit, either by cutting or removing the rails, or by removal of bonds shall be done unless the Electrical Officer (Contracts) is consulted. He will take such precautions as may be necessary to ensure continuity of the return circuit before permitting the work to be commenced.

**11. BLASTING**

11.1 The Contractor shall obtain the permission of the Electrical Officer (Contracts) before blasting, and shall give at least 21 days’ notice of his intention to blast. The Electrical Officer (Contracts) shall then decide whether it is necessary to have an Authorised Person in attendance during such operations.

11.2 The terms of clause 13 of SPK7/1 Part A or clause 15 of the SPK7/2 Part A, as applicable, shall be strictly adhered to.

**12. HIGH-VOLTAGE ELECTRICAL EQUIPMENT NOT MAINTAINED AND/OR OPERATED BY TRANSNET OR PRASA’S MAINTENANCE CONTRACTOR**

Where the work is undertaken on or near high-voltage electrical equipment which is not maintained and/or operated by Transnet or PRASA’S maintenance contractor, the Occupational Health and Safety Act No. 85 of 1993, and Regulations and Instructions, and/or the Mines Health and Safety Act (Act 29 of 1996), shall apply.

Such equipment includes:

(i) Equipment of Electricity Suppliers**;**

(ii) the Contractor's own power supplies;

(iii) Equipment being installed by, but not yet taken over from the Contractor, and

1. Electrified Private Siding equipment

**ANNEXURE S**

**SERVICE PAYMENT SCHEDULE**

**ANNEXURE T**

**REDESIGN PAYMENT SCHEDULE**

|  |  |  |
| --- | --- | --- |
| Engineering Project Payment Schedule | Deliverable | Condition for payment/ Milestone |
| 1 | 1st Progress Payment | - New Design or Modification- Service performance improvement | Preliminary design concept and documentation or Asset performance improvement initiative  |
| 2 | Completion Payment | Prototype  | After PRASA Representative acceptance and the issuing of design. Completion payment minus 10% retention |
| Individual Asset | After PRASA Representative acceptance and the issuing of final design. This is classified as a final payment. |
| 3 | Retention Release | Applicable project | RAMS analysis fault free declaration and Compliance Certificate |
| Final documentation and detailed 3D Model | Applicable on service design improvement |