



TRANSNET FREIGHT RAIL, a division of

TRANSNET SOC LTD

Registration Number 1990/000900/30

[hereinafter referred to as **Transnet**]

REQUEST FOR QUOTATION [RFQ] NO: CRA-CJHR-16880

FOR THE PROVISION OF: THE ENVIRONMENTAL ASSESSMENT PRACTITIONER(S) TO UNDERTAKE SCOPING/EIA PROCESS FOR THE DEVELOPMENT OF THE RAIL LINK BETWEEN THARISA MINE AND MARIKANA SIDING, NORTH-WEST PROVINCE

FOR DELIVERY TO: THARISA MINE AND MARIKANA SIDING, NORTH-WEST PROVINCE

ISSUE DATE: 17. APRIL. 2015

CLOSING DATE: 28. APRIL .2015

CLOSING TIME: 10:00 am

Section 1 NOTICE TO BIDDERS

Quotations which must be completed as indicated in Section 2 of this RFQ are to be submitted as follows:

METHOD: [tender box at physical address Transnet freight Rail Inyanda 1 21 Wellington road Parktown Johannesburg]

CLOSING VENUE: [tender box at physical address Transnet Freight Rail Inyanda 1 21 Wellington road Parktown Johannesburg]

1 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.

2 Broad-Based Black Economic Empowerment [B-BBEE]

Transnet fully endorses and supports the Government's Broad-Based Black Economic Empowerment Programme and it would therefore prefer to do business with local business enterprises who share these same values. As described in more detail in the attached B-BBEE Claim Form Transnet will allow a "preference" to companies who provide a valid B-BBEE Verification Certificate.

The value of this bid is estimated to exceed R1 000 000 (all applicable taxes included); and therefore the **90/10** system shall be applicable. Respondents are required to complete Annexure A [the B-BBEE Preference Point Claim Form] and submit it together with proof of their B-BBEE Status as stipulated in the Claim Form in order to obtain preference points for their B-BBEE status.

Failure to submit a valid and original B-BBEE certificate or a certified copy thereof at the Closing Date of this RFQ will result in a score of zero being allocated for B-BBEE.

2.1 B-BBEE Improvement Plan Transnet encourages its Suppliers/Service Providers to constantly strive to improve their B-BBEE rating. Whereas Respondents will be allocated points in terms of a preference point system based on its B-BBEE scorecard to be assessed as detailed in paragraph 2.1 above, in addition to such scoring, Transnet also requests that Respondents submit a B-BBEE improvement plan. Respondents are therefore requested to indicate the extent to which the extent to which they will maintain or improve their B-BBEE status over the contract period. Respondents are requested to submit their B-BBEE Improvement Plan as an additional document with their Proposals by completion of ***Annexure A appended*** hereto. [*Refer to Annexure A for further instructions*]

3 Communication

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

A Respondent may, however, before the closing date and time, direct any written enquiries relating to the RFQ to the following Transnet employee:

Name: Alex Baloyi

Email: Alex.Baloyi@transnet.net

Telephone: 011 584 1425

Respondents may also, at any time after the closing date of the RFQ, communicate with the Secretariat of the Transnet Acquisition Council on any matter relating to its RFQ response:

Telephone 011-544-9486

Email: prudence.nkabinde@transnet.net

4 Legal Compliance

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

5 Changes to Quotations

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

6 Pricing

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

7 Prices Subject to Confirmation

Prices quoted which are subject to confirmation will not be considered.

8 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.

9 Disclaimers

Transnet 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 Transnet 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;
- reject all Quotations, if it so decides;
- place an order in connection with this Quotation at any time after the RFQ's closing date;
- 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 Transnet's discretion be more advantageous in terms of, amongst others, cost or developmental considerations ;
or
- Make no award at all.

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, Transnet reserves the right to cancel the contract.

Transnet reserves the right to award business to the highest scoring bidder/s unless objective criteria justify the award to another bidder.

Transnet reserves the right to conduct Post Tender Negotiations (PTN) with selected Respondents or any number of short-listed Respondents, such PTN to include, at Transnet's discretion, any evaluation criteria listed in the RFQ document.

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

Transnet reserves the right to lower the threshold for Technical from 100 if no Bidders pass the predetermined minimum threshold.

10 Specification

CONTRACT DESCRIPTION

REQUEST FOR THE APPOINTMENT OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER(S) TO UNDERTAKE SCOPING/EIA PROCESS FOR THE DEVELOPMENT OF THE RAIL LINK BETWEEN THARISA MINE AND MARIKANA SIDING, NORTH-WEST PROVINCE

11 TASK SUMMARY

The task involves commissioning Scoping/EIA process in order to acquire environmental authorisation, in accordance with the National Environmental Management, 1998 (Act 107 of 1998) and all relevant regulations promulgated in terms thereof for the development of the rail link between Tharisa Mine and Marikana Siding, North-West Province. Where conflict or discrepancy exists between a specific procedure, requirement or definition contained in this document, with that of the EIA regulations, the latter will take precedence.

The process must be undertaken as outlined in Regulations 15 – 25 of the Environmental Impact Assessment Regulations, 2014, promulgated in terms of Section 24(5), 24M and 44 of the National Environmental Management Act, 1998 (Act No. 107 of 1998), as amended. The appointed Consultant will be required to conduct a comprehensive screening exercise to ensure that all triggered listed activities under the 2014 EIA regulations (GNR 983, 984 and 985) have been

identified and as confirmation that the process to follow is in fact Scoping/EIA. The following listed activity has already been identified by Transnet:

- GN 984 (Listing Notice 2) Activity 12: The development of railway lines, stations or shunting yards, excluding – (i) railway lines, shunting yards and railway stations in industrial complexes or zones; (ii) underground railway lines in a mining area; or (iii) additional railway lines within the railway line reserve.

12 PROJECT DESCRIPTION

Tharisa mine is currently producing metallurgical grade chrome concentrate which is expected to reach a maximum production rate of approximately 160 000 tonnes per month in the near future. To cater for such volumes, Transnet Freight Rail (TFR) is proposing the construction of the rail link that runs from the main railway line about 2km west of the existing Marikana siding, along the 275kV Eskom line into mine. The railway line will service the new load out station to be built by Tharisa. It will be within the existing Eskom servitude to ensure a minimal environmental impact. This proposed route also ensures that there will be minimal land acquisition of parts of surrounding farms. **Below, please see the project location (Figure 1).**



Figure1: Project Location

Although Route Option 2B: Balloon Load-out siding at Mine (rail access to balloon east of two tailings dams), It is recommended that during the Detailed Design stage of the project, where the proposed rail route would be topographically surveyed, the elevation of the power lines at the crossing points be accurately determined. This would allow the detail designs of the railway line to ensure that the statutory vertical clearance is met to avoid the expense of having to raise the power line during construction. Such information (on Layout and design alternatives) will be provided to the successful bidder.

Specialist Studies

The EAP will be required to appoint specialists to undertake the specialist studies that will be required for the proposed rail link development. As a minimum, the following two specialist studies have been identified and must be budgeted for by the EAP and placed for in his tender submission:

- Traffic Impact Assessment
- Geotechnical Study

Consulting Team Requirements

The team must have personnel who have the following key competencies:

- Environmental impact assessment
- Project management
- Public participation/ facilitation

Composition of the team

- The EAP must have undertaken and completed at least five environmental impact assessment processes, at least one for mining related activities.
- The Project Manager must have at least eight years relevant experience.
- The team must include a proficient public participation facilitator/company with a minimum of five years' experience. The public participation process must be cognisant of language requirements and ensure that consultation with I&APs is open and transparent.
- Any *sub-consultants* contracted by the appointed EAP to undertake specialist studies or other relevant environmental approval processes, must meet the requirements with respect to experience and qualifications.

3. THE ACTIVITIES

The tasks that are listed below are generic to the process of Scoping/EIA. The tasks have been categorised according to certain project phases. In all the subsections for each task, only what are considered the main tasks, deliverables, etc have been listed. The *Consultant* shall carry out all the tasks as listed plus any others which are required, to fulfil all the functions necessary so that Transnet is able to obtain an Environmental Authorisation from the Competent Authority for the Project. Importantly, the Consultant should take note that the Competent Authority for this project will be the Department of Environmental Affairs.

Task 1: Project Initiation

Tasks will include but not necessarily be limited to the following main activities.

- Conduct a comprehensive screening exercise to identify any applicable listed activities in the 2014 EIA Regulations
- Arrange and conduct a pre-application meeting with the Competent Authorities.
- Prepare and submit an application for environmental authorisation under NEMA, together with all the prescribed documents to the Department of Environmental Affairs (DEA).
 - Review and understand existing project data and information which will be provided by Transnet to the EAP on request.
 - Identify project information gaps and list information requirements.
 - Project initiation meeting and site visit.
 - The deliverables include, but not limited to -
 - Environmental authorisation application forms and other relevant documents.
 - Minutes of all project progress and planning meetings.
 - Project plan and schedule.

Task 2: Public participation

Carry out a public participation process to comply with Regulations 41 – 44 of the EIA Regulations of December 2014. Tasks will include but not necessarily be limited to the following main activities.

- Plan, implement and manage all aspects of the public participation programme for all the parts of the Project. This includes keeping a detailed record of all public participation activities, comments received and responses to these in terms of the NEMA Regulations.
- Develop and maintain a comprehensive database of stakeholders as required by the NEMA Regulations. The database shall differentiate clearly with respect to key stakeholders as required by the NEMA Regulations.
- Announce and advertise the environmental assessment process and application for environmental authorisation appropriately, in terms of the requirements of the NEMA Regulations.
 - Such announcements and advertisements shall include but not necessarily be limited to press releases, a background information document, site notice boards, letters to stakeholders, telephone calls, e-mail correspondence and information placed on the internet.
 - Public participation shall be carried out during Scoping, EIA and appeal phases if and when necessary and as required by the NEMA Regulations.
 - Liaise and consult with the competent authority and other government departments that are relevant to the Project. This includes but is not necessarily limited to DEA, North-West Department of Transport, DMR, DWS and appropriate departments within the relevant Municipality.
 - Where appropriate organise, conduct and record the discussions and inputs received from workshops aimed at the Competent Authority and key stakeholders.
 - Where appropriate organise and convene appropriate focus group meetings to inform the public of the contents of, the findings and recommendations contained in the Scoping/EIA Report.

- Record comments and inputs from stakeholders and draw up a Comments and Response report based on the feedback obtained from stakeholders.
- Include the Comments and Response Report in the Draft and Final Reports.
- Appropriate distribution of all reports and documentation in compliance with the Regulations and as required by the Competent Authority.
- Ongoing consultation with authorities and the broader stakeholder base throughout the EIA process.
- Notification to stakeholders of the decision of the competent authority on the application.
- Handle any appeals in consultation with the *Employer*, as and when necessary.

The deliverables include, but not limited to -

- Register of I&APs, stakeholders and lead stakeholders.
- Minutes of all relevant project and public meetings, workshops and discussions.
- All public documents such as advertisements, background information document, letters, press releases and the like.
- Reports (e.g. comments response report, public participation report, Scoping/EIA Report, etc.).

Task 3: Scoping/Environmental Impact Assessment

Carry out scoping/environmental impact assessment in terms of Regulations 15 - 25 of the EIA Regulations of December 2014. The tasks involved include but are not necessarily limited to:

- Project management.
- Prepare a plan of study for Scoping/EIA.
- Identify and draw up final terms of reference for specialist studies (where necessary)
- Appoint specialists to carry out studies (where necessary)
- Undertake site visits.
- Arrange and conduct integration meetings with specialists.
- Review specialist reports.
- Compile draft reports (i.e. Draft Scoping Report, Draft EIR, Draft EMPr, etc.).
- *Employer's* peer and public review of draft reports.
- Arrange and conduct meetings, workshops and interactions with stakeholders.
- Analyse feedback from Stakeholders and compile final reports (i.e. Final Scoping Report, Final EIR and Final EMPr.
- Finalise documentation and submit to authorities for consideration.

The deliverables include, but not limited to -

- Specialist Reports (where required)
- Draft Scoping Report, Draft EIR and Draft EMPr.
- Final Scoping Report, Final EIR and Final EMPr etc.
- Minutes of all relevant project planning and progress meetings.

Task 4: Project Management

Tasks will include but not necessarily be limited to the following main activities.

- Project planning and management of all project tasks and deliverables.
- Hold project planning and coordination meetings.
- Submit monthly project progress reports to the *Employer*.
- Attend and take the minutes of *Employer's* formal monthly project progress meetings.
- Draw up and revise the project programme when necessary.
- Arrange and hold project meetings with DEA in Pretoria.
- Manage specialist investigations.
- Manage review processes.
- Liaise with *Employer*.
- Liaise with authorities.

The deliverables include, but not limited to

- General project communication.
- Minutes of all project related meetings.
- Project management of Scoping/EIA process.
- Project management of public participation process.
- Project management of specialists.

13 PROGRAMME

The Consultant must provide a programme of work to achieve the objectives of the study.

Task Starting Date : xxxxxxxxxxxx

Task Completion Date : xxxxxxxxxxxx

It is envisaged that environmental authorisation is required with the expectation to start construction as soon as possible.

14 PRICING

With regards to specialist studies, the *Consultant* shall provide a cost for the specialist studies identified in Section 1 above. The cost of additional specialist studies required shall be indicated separately. With regards to man-hours, the *Consultant* shall provide details on the hourly rate of each team member and the amount of hours each team member will spend on the project.

15 DELAY DAMAGES

Delay damages for the late completion of the task are: Not applicable.

Notes

The *Consultant* is hereby instructed to carry out the Task Order in accordance with Contract No: **xxxxxx**, which includes the Data stated in this Task Order.

16 APPROVALS (TFR)

Project Manager:

Employer's Agent:

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Accepted by the *Consultant*

Name

Signed

Date

Transnet urges its clients, suppliers and the general public to report any fraud or corruption to

TIP-OFFS ANONYMOUS: 0800 003 056

THE ENVIRONMENTAL ASSESSMENT PRACTITIONER(S) TO UNDERTAKE SCOPING/EIA PROCESS FOR THE DEVELOPMENT OF THE RAIL LINK BETWEEN THARISA MINE AND MARIKANA SIDING, NORTH-WEST PROVINCE

RFQ FOR THE PROVISION/SUPPLY OF: THE ENVIRONMENTAL ASSESSMENT PRACTITIONER(S) TO UNDERTAKE SCOPING/EIA PROCESS FOR THE DEVELOPMENT OF THE RAIL LINK BETWEEN THARISA MINE AND MARIKANA SIDING, NORTH-WEST PROVINCE

CLOSING VENUE: TRANSNET FREIGHT RAIL INYANDA 1 21 WELLINGTON ROAD PARKTOWN JOHANNESBURG]

CLOSING DATE & TIME: 28 APRIL 2015 & 10H00am

VALIDITY PERIOD: 90 Business Days

SECTION 2 EVALUATION CRITERIA AND RETURNABLE DOCUMENTS

17 Evaluation Criteria

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

Criterion/Criteria	Explanation
Administrative responsiveness	Completeness of response and returnable documents
Substantive responsiveness(mandatory)	<p>↓ Bidders must submit relevant degree in environmental or natural sciences or equivalent, post graduate qualification will be considered as an advantage.</p> <p>Failure to submit the above mention document will result in disqualification of supplier's bid</p>
Functionality Threshold (100%)	<p>As prescribed in terms of the Preferential Procurement Policy Framework Act (PPPFA), Act 5 of 2000 and its Regulations, Respondents are to note that functionality is included as a threshold with a prescribed percentage threshold of 100%.</p> <p>↓ Compliance to specification / quality ↓ Programmes schedule of activities with time lines) (informed by EIA (environmental impact association programme) regulations) and ↓ CVs of key persons(eg :Project team members)will be considered as part of the technical evaluation</p>
Final weighted evaluation based on 90/10 preference point	<ul style="list-style-type: none"> • Pricing and price basis [firm] • B-BBEE status of company - Preference points will be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table indicated in Annexure A: B-BBEE Claim Form.

THE ENVIRONMENTAL ASSESSMENT PRACTITIONER(S) TO UNDERTAKE SCOPING/EIA PROCESS FOR THE DEVELOPMENT OF THE RAIL LINK BETWEEN THARISA MINE AND MARIKANA SIDING, NORTH-WEST PROVINCE

18 Validity Period

Transnet desires a validity period of 90[ninety] Business Days from the closing date of this RFQ.

This RFQ is valid until 03.september 2015

19 Disclosure of Prices Quoted

Respondents must indicate here whether Transnet may disclose their quoted prices and conditions to other Respondents:

YES NO

20 Returnable Documents

Returnable Documents means all the documents, Sections and Annexures, as listed in the tables below.

All Returnable Sections, as indicated in the header and footer of the relevant pages, must be signed, stamped and dated by the Respondent.

- a) Respondents are required to submit with their Quotations the **mandatory Returnable Documents**, as detailed below.

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.

Please confirm submission of these mandatory Returnable Documents by so indicating [Yes or No] in the tables below:

Mandatory Returnable Documents	Submitted [Yes or No]
SECTION 3 : Quotation Form	

- b) In addition to the requirements of section (a) above, Respondents are further required to submit with their Quotations the following **essential Returnable Documents** as detailed below.

Failure to provide all these Returnable Documents may result in a Respondent's disqualification. Respondents are therefore urged to ensure that all these documents are returned with their Quotations.

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Essential Returnable Documents	Submitted [Yes or No]
SECTION 2 : Evaluation criteria and list of returnable documents	
- SECTION 4 : RFQ Declaration and Breach of Law Form	
- Valid and original, or a certified copy, of your entity's B-BBEE Verification Certification as per the requirements stipulated in Annexure A: B-BBEE Claims Form Note: failure to provide these required documents at the closing date and time of the RFQ will result in an automatic score of zero being allocated for preference	
- Original valid Tax Clearance Certificate [Consortia / Joint Ventures must submit a separate Tax Clearance Certificate for each party]	
ANNEXURE A – B-BBEE Preference Points Claim Form	

CONTINUED VALIDITY OF RETURNABLE DOCUMENTS

The successful Respondent will be required to ensure the validity of all returnable documents, including but not limited to its Tax Clearance Certificate and valid B-BBEE Verification Certificate, for the duration of any contract emanating from this RFQ. Should the Respondent be awarded the contract [**the Agreement**] and fail to present Transnet with such renewals as and when they become due, Transnet shall be entitled, in addition to any other rights and remedies that it may have in terms of the eventual Agreement, to terminate such Agreement forthwith without any liability and without prejudice to any claims which Transnet may have for damages against the Respondent.

THE ENVIRONMENTAL ASSESSMENT PRACTITIONER(S) TO UNDERTAKE SCOPING/EIA PROCESS
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SECTION 3
QUOTATION FORM

I/We _____

hereby offer to supply the goods/services at the prices quoted in the Price Schedule below, in accordance with the conditions related thereto.

I/We agree to be bound by those terms and conditions in:

- the Standard RFQ Terms and Conditions for the Supply of Goods or Services to Transnet; and
- any other standard or special conditions mentioned and/or embodied in this Request for Quotation.

I/We accept that unless Transnet should otherwise decide and so inform me/us, this Quotation [and, if any, its covering letter and any subsequent exchange of correspondence], together with Transnet's acceptance thereof shall constitute a binding contract between Transnet and me/us.

I/We further agree that if, after I/we have been notified of the acceptance of my/our Quotation, I/we fail to deliver the said goods/services within the delivery lead-time quoted, Transnet may, without prejudice to any other legal remedy which it may have, cancel the order and recover from me/us any expenses incurred by Transnet in calling for Quotations afresh and/or having to accept any less favourable offer.

Respondent's Signature

Date & Company Stamp

**THE ENVIRONMENTAL ASSESSMENT PRACTITIONER(S) TO UNDERTAKE SCOPING/EIA PROCESS
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Price Schedule

I/We quote as follows for the goods required, on a "delivered nominated destination" basis, excluding VAT:

Details on Man-Hours			
Team Member (e.g. Senior EAP)	Hourly Rate	Estimated Hours to be spent on project	Price
Total			

Priced list of items of work in the Task taken from the Task Schedule		
Item	Description	Price
1	Cost of Consultant to undertake the required approval processes	R
2	Cost of specialist studies identified in Section 1 above (price for each of the 3 studies identified to be indicated separately)	R
3	Cost of Additional specialist studies identified by Consultant	R
4	Total	R

Delivery Lead-Time from date of purchase order: _____ **[days/weeks]**

Notes to Pricing:

- a) All Prices must be quoted in South African Rand, exclusive of VAT
- b) 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 disqualified.

Please note that should you have offered a discounted price(s), Transnet will only consider such price discount(s) in the final evaluation stage if offered on an unconditional basis.

Respondent's Signature

Date & Company Stamp

THE ENVIRONMENTAL ASSESSMENT PRACTITIONER(S) TO UNDERTAKE SCOPING/EIA PROCESS FOR THE DEVELOPMENT OF THE RAIL LINK BETWEEN THARISA MINE AND MARIKANA SIDING, NORTH-WEST PROVINCE

By signing this Quotation Form the Respondent is deemed to acknowledge that he/she has made himself/herself thoroughly familiar, and agrees, with all the conditions governing this RFQ, including those contained in any printed form stated to form part hereof, including but not limited to the documents stated below and Transnet SOC Ltd will recognise no claim for relief based on an allegation that the Respondent overlooked any such condition or failed properly to take it into account for the purpose of calculating tendered prices or otherwise:

1. Specifications and drawings included in this RFQ - if applicable; and
2. **The following documents all of which are available on Transnet's website or upon request:**
 - 2.1. **General Bid Conditions;**
 - 2.2. **Standard RFQ Terms and Conditions for the Supply of Goods or Services to Transnet;**
 - 2.3. **Supplier Integrity Pact;**
 - 2.4. **Non-disclosure Agreement; and**
 - 2.5. **Vendor Application Form and all supporting documents (first time vendors only)**

Alternatively, for all existing vendors, please provide vendor number(s) here:

Transnet Operating Division	Unique Vendor Number	Yes / No
Transnet Group		
TFR, etc.		

In the Yes/No column above, please confirm that all the information e.g. company address and contact details, banking details etc. are still correct as at the time of allocation of the vendor number(s). Alternatively, Respondents are required to provide the updated information with their bid submission.

SIGNED BY _____ on this _____ day of _____ 20____

SIGNATURE OF WITNESSES

ADDRESS OF WITNESSES

1 _____
Name _____

2 _____
Name _____

SIGNATURE OF RESPONDENT'S AUTHORISED REPRESENTATIVE: _____

NAME: _____

DESIGNATION: _____

**THE ENVIRONMENTAL ASSESSMENT PRACTITIONER(S) TO UNDERTAKE SCOPING/EIA PROCESS
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SECTION 4

RFQ DECLARATION AND BREACH OF LAW FORM

NAME OF ENTITY: _____

We _____ do hereby certify that:

1. Transnet has supplied and we have received appropriate responses to any/all questions [as applicable] which were submitted by ourselves for RFO Clarification purposes;
2. we have received all information we deemed necessary for the completion of this Request for Quotation [RFQ];
3. we have been provided with sufficient access to the existing Transnet facilities/sites and any and all relevant information relevant to the supply of the Goods as well as Transnet information and Employees, and has had sufficient time in which to conduct and perform a thorough due diligence of Transnet's operations and business requirements and assets used by Transnet. Transnet will therefore not consider or permit any pre- or post-contract verification or any related adjustment to pricing, service levels or any other provisions/conditions based on any incorrect assumptions made by the Respondent in arriving at his Bid Price.
4. at no stage have we received additional information relating to the subject matter of this RFQ from Transnet sources, other than information formally received from the designated Transnet contact(s) as nominated in the RFQ documents;
5. we are satisfied, insofar as our entity is concerned, that the processes and procedures adopted by Transnet in issuing this RFQ and the requirements requested from Bidders in responding to this RFQ have been conducted in a fair and transparent manner; and
6. furthermore, we declare that a family, business and/or social relationship **exists / does not exist** [delete as applicable] between an owner / member / director / partner / shareholder of our entity and an employee or board member of the Transnet Group including any person who may be involved in the evaluation and/or adjudication of this Bid.
7. In addition, we declare that an owner / member / director / partner / shareholder of our entity **is / is not** [delete as applicable] an employee or board member of the Transnet Group.
8. If such a relationship as indicated in paragraph 6 and/or 7 exists, the Respondent is to complete the following section:

THE ENVIRONMENTAL ASSESSMENT PRACTITIONER(S) TO UNDERTAKE SCOPING/EIA PROCESS FOR THE DEVELOPMENT OF THE RAIL LINK BETWEEN THARISA MINE AND MARIKANA SIDING, NORTH-WEST PROVINCE

FULL NAME OF OWNER/MEMBER/DIRECTOR/
PARTNER/SHAREHOLDER:

ADDRESS:

Indicate nature of relationship with Transnet:

[Failure to furnish complete and accurate information in this regard will lead to the disqualification of a response and may preclude a Respondent from doing future business with Transnet]

- 9. We declare, to the extent that we are aware or become aware of any relationship between ourselves and Transnet [other than any existing and appropriate business relationship with Transnet] which could unfairly advantage our entity in the forthcoming adjudication process, we shall notify Transnet immediately in writing of such circumstances.

BREACH OF LAW

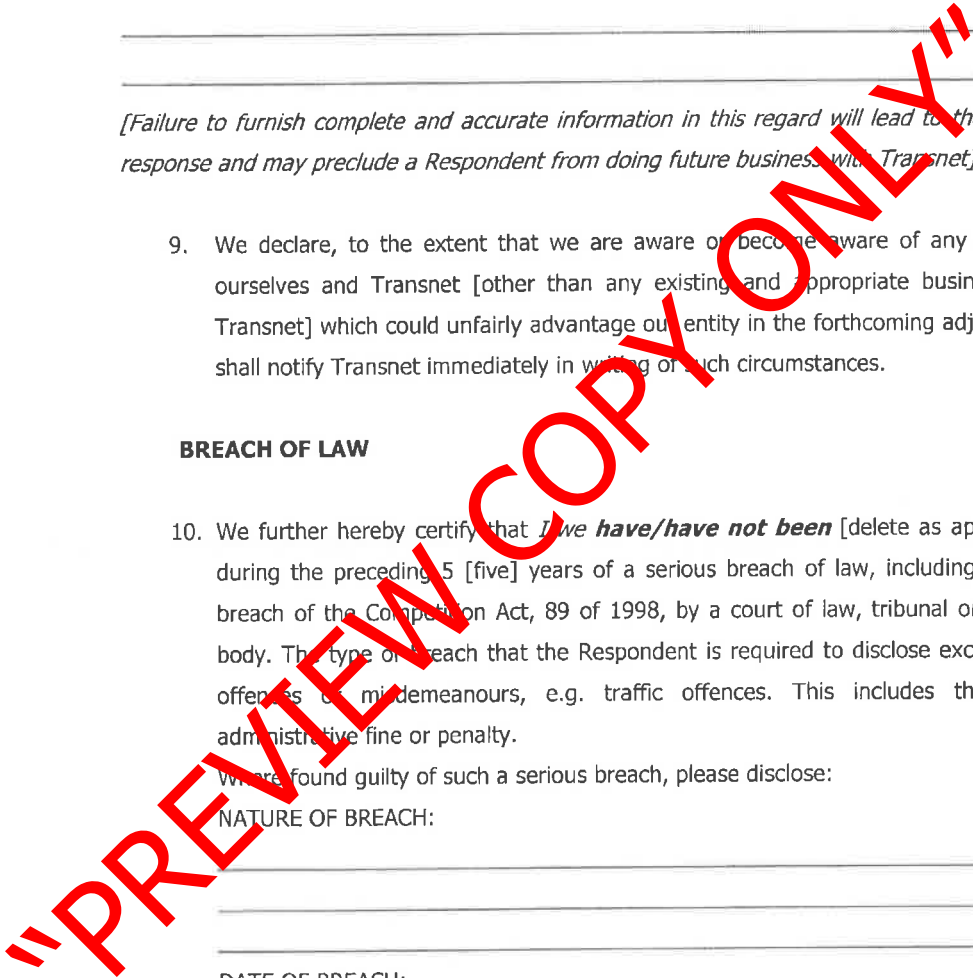
- 10. We further hereby certify that I/we **have/have not been** [delete as applicable] found guilty during the preceding 5 [five] years of a serious breach of law, including but not limited to a breach of the Competition Act, 89 of 1998, by a court of law, tribunal or other administrative body. The type of breach that the Respondent is required to disclose excludes relatively minor offences or misdemeanours, e.g. traffic offences. This includes the imposition of an administrative fine or penalty.

If we are found guilty of such a serious breach, please disclose:

NATURE OF BREACH:

DATE OF BREACH: _____

Furthermore, I/we acknowledge that Transnet SOC Ltd reserves the right to exclude any Respondent from the bidding process, should that person or entity have been found guilty of a serious breach of law, tribunal or regulatory obligation.



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SIGNED at _____ on this ____ day of _____ 20__

For and on behalf of _____ duly authorised hereto	AS WITNESS:
Name:	Name:
Position:	Position:
Signature:	Signature:
Date:	Registration No of Company/CC _____
Place:	Registration Name of Company/CC _____

"PREVIEW COPY ONLY"

**THE ENVIRONMENTAL ASSESSMENT PRACTITIONER(S) TO UNDERTAKE SCOPING/EIA PROCESS
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THARISA MINE AND MARIKANA SIDING, NORTH-WEST PROVINCE**

FOR A PERIOD OF ONCE

ANNEXURE A: B-BBEE PREFERENCE POINTS CLAIM FORM

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

1. INTRODUCTION

- 1.1 A total of 10 preference points shall be awarded for B-BBEE Status Level of Contribution.
- 1.2 Failure on the part of a Bidder to fill in and/or to sign this form and submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System [**SANAS**] or a Registered Auditor approved by the Independent Regulatory Board of Auditors [**IRBA**] or an Accounting Officer as contemplated in the Close Corporation Act [**CCA**] together with the bid will be interpreted to mean that preference points for B-BBEE Status Level of Contribution are not claimed.
- 1.3 Transnet 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 Transnet.

2. GENERAL DEFINITIONS

- 2.1 "**all applicable taxes**" include value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- 2.2 "**B-BBEE**" means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- 2.3 "**B-BBEE status 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;
- 2.4 "**Bid**" means a written offer in a prescribed or stipulated form in response to an invitation by Transnet for the provision of goods, works or services;
- 2.5 "**Broad-Based Black Economic Empowerment Act**" means the Broad-Based Black Economic Empowerment Act, 2003 [Act No. 53 of 2003];
- 2.6 "**comparative price**" means the price after the factors of a non-firm price and all unconditional discounts that can utilised have been taken into consideration;
- 2.7 "**consortium or joint venture**" means an association of persons for the purpose of combining their expertise, property, capital, efforts, skills and knowledge in an activity for the execution of a contract;

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- 2.8 **"contract"** means the agreement that results from the acceptance of a bid by Transnet;
- 2.9 **"EME"** means any enterprise with an annual total revenue of R5 [five] million or less as per the 2007 version of the B-BBEE Codes of Good Practice and means any enterprise with an annual total revenue of R10 [ten] million or less as per the Revised Codes of Good Practice issued on 11 October 2013 in terms of Government Gazette No. 36928;
- 2.10 **"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 and excise duty and any other duty, levy, or tax, which, in terms of the law of 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;
- 2.11 **"functionality"** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;
- 2.12 **"non-firm prices"** means all prices other than "firm" prices;
- 2.13 **"person"** includes reference to a juristic person;
- 2.14 **"QSE"** means any enterprise with an annual total revenue between R5 [five] million and R35 [thirty five] million as per the 2007 version of the B-BBEE Codes of Good Practice and means any enterprise with an annual total revenue of between R10 [ten] million and R50 [fifty] million as per the Revised Codes of Good Practice issued on 11 October 2013 in terms of Government Gazette No. 36928;
- 2.15 **"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;
- 2.16 **"subcontract"** means the primary contractor's assigning or leasing or 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;
- 2.17 **"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 Empowerment Act and promulgated in the Government Gazette on 9 February 2007;
- 2.18 **"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
- 2.19 **"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.

3. ADJUDICATION USING A POINT SYSTEM

- 3.1 The Bidder obtaining the highest number of total points for the evaluation criteria as enumerated in Section 2 of the RFP will be awarded the contract, unless objective criteria justifies the award to another bidder.
- 3.2 Preference points shall be calculated after prices have been brought to a comparative basis taking

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into account all factors of non-firm prices and all unconditional discounts.

- 3.3 Points scored will be rounded off to 2 [two] decimal places.
- 3.4 In the event of equal points scored, the Bid will be awarded to the Bidder scoring the highest number of preference points for B-BBEE.
- 3.5 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 will be the one scoring the highest score for functionality.
- 3.6 Should two or more Bids be equal in all respect, the award shall be decided by the drawing of lots.

4. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTION

- 4.1 In terms of the Preferential Procurement Regulations, 2011, preference points shall 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 [Maximum 10]
1	10
2	9
3	8
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

- 4.2 Bidders who qualify as EMEs in terms of the 2007 version of the Codes of Good Practice must submit a certificate issued by an Accounting Officer as contemplated in the CCA or a Verification Agency accredited by SANAS or a Registered Auditor. Registered auditors do not need to meet the prerequisite for IRBA's approval for the purpose of conducting verification and issuing EME's with B-BBEE Status Level Certificates.
- 4.3 Bidders who qualify as EMEs in terms of the Revised Codes of Good Practice issued on 11 October 2013 in terms of Government Gazette No. 36928 are only required to obtain a sworn affidavit on an annual basis confirming that the entity has an Annual Total Revenue of R10 million or less and the entity's Level of Black ownership.
- 4.4 In terms of the 2007 version of the Codes of Good Practice, Bidders other than EMEs must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.
- 4.5 The Department of Trade and Industry recently revised the Codes of Good Practice on 11 October 2013 [Government Gazette No. 36928]. The Revised Codes will replace the Black Economic Empowerment Codes of Good Practice issued on 9 February 2007. The Revised Codes provide for a

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transitional period ending 30 April 2015. During the transitional period, companies may elect to be measured in terms of the Revised Codes or the 2007 version of the Codes. Companies which are governed by Sector-specific Codes will be measured in terms of those Sector Codes.

- 4.6 As such, Transnet will accept B-BBEE certificates issued based on the Revised Codes. Transnet will also continue to accept B-BBEE certificates issued in terms of the 2007 version of the Codes provided it was issued before 1 May 2015. Thereafter, Transnet will only accept B-BBEE certificates issued based on the Revised Codes.
- 4.7 In terms of the Revised Codes of Good Practice, Bidders who qualify as QSEs must comply with all the elements of B-BBEE for the purposes of measurement. QSEs that are at least 51% or 100% Black owned 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. Large enterprises must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.
- 4.8 A trust, consortium or joint venture will qualify for points for its B-BBEE status level as a legal entity, provided that the entity submits its B-BBEE status level certificate.
- 4.9 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- 4.10 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialised scorecard contained in the B-BBEE Codes of Good Practice.
- 4.11 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 subcontracting more than 25% [twenty-five per cent] of the value of the contract to any other enterprise that does not qualify for at least the same number of points that such a Bidder qualifies for, unless the intended subcontractor is an EME that has the capability and ability to execute the subcontract.
- 4.12 A person awarded a contract may not subcontract more than 25% [twenty-five per cent] 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 subcontracted to an EME that has the capability and ability to execute the subcontract.
- 4.13 Bidders are to note that in terms of paragraph 2.6 of Statement 000 of the Revised Codes of Good Practice issued on 11 October 2013 in terms of Government Gazette No. 36928, any representation made by an entity about its B-BBEE compliance must be supported by suitable evidence or documentation. As such, Transnet reserves the right to request such evidence or documentation from Bidders in order to verify any B-BBEE recognition claimed.

5. B-BBEE STATUS AND SUBCONTRACTING

- 5.1 **Bidders who claim points in respect of B-BBEE Status Level of Contribution must complete the following:**

B-BBEE Status Level of Contributor _____ = _____ [maximum of 10 points]

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Note: Points claimed in respect of this paragraph 5.1 must be in accordance with the table reflected in paragraph 4.1 above 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 in the case of an EME or QSE.

5.2 Subcontracting:

Will any portion of the contract be subcontracted? YES/NO [delete which is not applicable]

If YES, indicate:

- (i) What percentage of the contract will be subcontracted?%
- (ii) The name of the subcontractor
- (iii) The B-BBEE status level of the subcontractor
- (iv) Is the subcontractor an EME? YES/NO

5.3 Declaration with regard to Company/Firm

- (i) Name of Company/Firm.....
- (ii) VAT registration number.....
- (iii) Company registration number.....
- (iv) Type of Company / Firm [TICK APPLICABLE BOX]

- Partnership/Joint Venture/Consortium
- One person business/sole propriety
- Close Corporations
- Company (Pty) Ltd

(v) Describe Principal Business Activities

(vi) Company Classification [TICK APPLICABLE BOX]

- Manufacturer
- Supplier
- Professional Service Provider
- Other Service Providers, e.g Transporter, etc

(vii) Total number of years the company/firm has been in business.....

BID DECLARATION

I/we, the undersigned, who warrants that he/she is duly authorised to do so on behalf of the company/firm, certify that points claimed, based on the B-BBEE status level of contribution indicated in paragraph 4 above, qualifies the company/firm for the preference(s) shown and I / we acknowledge that:

- (i) The information furnished is true and correct.

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- (ii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 6 above, the contractor may be required to furnish documentary proof to the satisfaction of Transnet that the claims are correct.
- (iii) If the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, Transnet may, in addition to any other remedy it may have:
 - (a) disqualify the person from the bidding process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (c) 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;
 - (d) restrict the Bidder or contractor, its shareholders and directors, and/or associated entities, or only the shareholders and directors who acted in a fraudulent manner, from obtaining business from Transnet for a period not exceeding 10 years, after the *audi alteram partem* [hear the other side] rule has been applied; and/or
 - (e) forward the matter for criminal prosecution.

WITNESSES:

- 1.
- 2.

SIGNATURE OF BIDDER

DATE:.....

COMPANY NAME:

ADDRESS:

"PREVIEW COPY ONLY"