TRANSNSET FREIGHT RAIL, a division of

TRANSNET SOC LTD

Registration Number 1990/000900/30

[hereinafter referred to as **Transnet]**

REQUEST FOR QUOTATION [RFQ]

No CRAC JHB 22190

PROVISION FOR CLEANING OF DIESEL STORAGE TANK AT TRANSNET FREIGHT RAIL BETHLEHEM DEPOT.

FOR DELIVERY TO:	**Transnset Freight Rail Bethlehem Depot** **Movement Depot** **Joubert Street** **Bethlehem**

ISSUE DATE:	**26 AUGUST 2016**
COMPULSORY SITE BRIEFING:	**06 SEPTEMBER 2016**
CLOSING DATE:	**13 SEPTEMBER 2016**
CLOSING TIME:	**10:00 AM**

With effect from 1 May 2016, Transnet must implement the following:

As a general rule, Transnet may also not award business to any bidders not registered on the CSD. All prospective suppliers wanting to conduct business with organs of state are required to register on the CSD by accessing www.csd.gov.za.

Section 1

NOTICE TO BIDDERS

DESCRIPTION	PROVISION FOR CLEANING OF DIESEL STORAGE TANK AT TRANSNET FREIGHT RAIL BETHLEHEM DEPOT.
BID FEE AND BANKING DETAILS	**This RFQ is issued free of charge.**
INSPECT / COLLECT DOCUMENTS FROM	This RFQ may be collected free of charge from Transnet tender advice centre may be collected between **09:00** and **15:00** from **[26 August 2016]** until **[02 September 2016]**. This RFQ may be picked up from the following address: **RECEPTION, TENDER ADVICE CENTRE, INYANDA HOUSE 1, GROUND FLOOR, 21 WELLINGTON ROAD, PARKTOWN, JOHANNESBURG.**
COMPULSORY SITE BRIEFING	A compulsory pre-proposal RFQ site briefing will be conducted at :Transnet Freight Rail Movement Depot Joubert Street Bethlehem S: 28°12'58.79" E: 28°18'07.73" [address] On the **06 September 2016**, **at [11:00 Am]** for a period of ± 2 hours. [Respondents to provide own transportation and accommodation]. The briefing session will start punctually and information will not be repeated for the benefit of Respondents arriving late. 2.1A Certificate of Attendance in the form set out in **Section 5** hereto must be completed and submitted with your Proposal as proof of attendance is required for a compulsory site meeting. 2.2 Respondents failing to attend the compulsory RFQ site briefing will be disqualified. 2.3 Respondents without a valid RFQ document in their possession will not be allowed to attend the RFQ briefing.
CLOSING DATE	**10:00 on Tuesday 13 September 2016** This tender shall close punctually at the following address: **The Chairperson, Transnet Freight Rail Acquisition Council, Inyanda House 1, 21 Wellington Rd, Parktown, JOHANNESBURG, 2001.** As a general rule, if a bid is late or delivered to the incorrect address, it will not be accepted for consideration.
VALIDITY PERIOD	**90 (ninety) Business Days from Closing Date.** **End of validity period: 26 January 2017** Bidders are to note that they may be requested to extend the validity period of their bid, on the same terms and conditions, if the internal evaluation process has not been finalised within the validity period.
SUPPLIER REGISTRATION ON THE NATIONAL TREASURY CENTRAL SUPPLIER DATABASE (CSD)	In terms of paragraph 3 of the NATIONAL TREASURY SCM INSTRUCTION NO 4 OF 2016/2017, which became effective on 1 May 2016, [Transnet] must ensure that 3.1.1 Suppliers [of Transnet] are registered on the Central Supplier Database [CSD] before any procurement related activities commences; 3.1.2 The CSD can be used as the single on only list of prospective suppliers for [Transnet] Furthermore, according to paragraph 5.6 5.6 Transnet may only award bids to suppliers after verifying that the supplier is registered as prospective suppliers on the National Treasury Central Supplier

Respondent's Signature

Date & Company Stamp

	Database. Please ensure that you register your company on the CSD by following these steps: Step 1: Access the CSD site on https://secure.csd.gov.za/ Step 2: Register a new CSD account https://secure.csd.gov.za/Account/Register Step 3: Receive an activation email and click activate account Step 4: Activate account by requesting and entering the OTP Step 5: Log in the CSD Step 6: Complete supplier identification information Step 7: Complete contact information Step 8: Complete address information Step 9: Complete bank account information Step 10: Complete tax information Step 11: Complete directors/members information (if non-CIPC company) Step 12: Complete associations (if relevant) Step 13: Complete commodities information Step 14: Complete B-BBBEE information (future phase) Step 15: Maintain users Step 16: Complete notification information Step 17: Complete accreditations Step 18: Click on submit Step 19: A CSD supplier number and unique registration reference number is auto-generated and communicated

1 FORMAL SITE BRIEFING

A compulsory pre-proposal RFQ site briefing will be conducted at Transnset Freight Rail Bethlehem Fuel Depot Joubert Street Bethlehem on the **06 September 2016,** at **11:00** for a period of ± 2hours. [Respondents to provide own transportation and accommodation. The briefing session will start punctually and information will not be repeated for the benefit of Respondents arriving late.

1.1 *A Certificate of Attendance in the form set out in Section 5 hereto must be completed and submitted with your Proposal as proof of attendance is required for a* ***compulsory*** *site meeting.*

1.2 Respondents failing to attend the compulsory RFQ site meeting will be disqualified.

Respondents without a valid RFQ document in their possession will not be allowed to attend the compulsory site meeting.

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

METHOD: [post or courier]

CLOSING VENUE: [email address / courier and/or tender box at physical address]
Transnet Freight Rail
Inyanda House 1 Ground Floor
21 Wellington Road, Parktown, Johannesburg

2 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.

3 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 be below R1 000 000 (all applicable taxes included); and therefore the **80/20** 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.

Note: 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.

4 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: Koketso Selowa Email: Koketso.selowa@transnet.net

Telephone: 011 584 0688

Respondents may also, at any time after the closing date of the RFQ, communicate the following individuals on any matter relating to its RFQ response:

Name	Email address	Telephone	Fax
Lolo Sokhela	Lolo.sokhela@transnet.net	011 544 9494	011 774 9189
Thuli Mathebula	Thuli.mathebula@transnet.net	011 544 9497	011 774 9129

5 Legal Compliance

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

6 Changes to Quotations

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

7 Pricing

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

8 Prices Subject to Confirmation

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

9 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.

10 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;

Respondent's Signature

Date & Company Stamp

- 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.

11 Specification/Scope of Work

TANK CLEANING (internal &external) CENTRAL REGION – FUEL DEPOTS

CENTRAL REGION SITES:

- BETHLEHEM, TANK 29/3, 107,5 M³, Ø 2,89M, H 16,4M, Latitude S: 28°12'58.79", longitude E: 28°18'07.73
  (ABOVE GROUND VERTICAL TANKS)

Note: ***The following serves as a guide and is therefore not conclusive, it is expected that respondents who are deemed subject matter experts/ (API approved, etc) shall include any pertinent data that shall serve as a baseline scope to comprehensively carry out the tank cleaning as ascribed in API and any other related regulation/s.***

ONE TANK WILL BE CLEANED AT A TIME, THEREFORE ONE TANK SHOULD REMAIN OPERATIONAL

INTERNAL

1. Tanks should be emptied to the maximum extent by pumping dead stock to an empty RTC (Transnet to provide)/ to another Tank.
2. After the tank has been emptied all connecting pipes shall be emptied and flushed with water.

Respondent's Signature

Date & Company Stamp

3. Isolate all piping, drainage system and valves connecting to the Tank, if valves are to be closed then they are to be protected against inadvertent operation by the use of pneumatic or electric isolation of the actuator, and in case of manual valves the hand wheels are to be removed, to ensure isolation.
4. Relief valves discharges into the tank should be blanked off, and a review of the relief system is required to ensure that any blinding off will not impair the integrity of the rest of the site system.
5. All tank mounted electrical equipment (except earthing and bonding cables) is to be isolated at the distribution system. Tank cathodic protection systems shall be disconnected 24 hours before any work is to commence to allow depolarization to take place.
6. Open all manholes to vent the Tank.
7. Clean sludge inside tank and tank walls, sludge to be disposed in accordance with hazardous disposal requirements and provide disposable certificate.
8. To degas, clean & sandblast the tank floors to the first strake including all nozzles internal/external.

REQUIREMENTS

- All work to be done as per API 653 standards.
- Transnet Safety compliance and full PPE.
- Ensure conformance to Safety requirements for the confined space entry as specified by Oshact.
- Method statement and the risk assessments must be attached to the quote.
- Contractor to provide a gas tester during tank cleaning process to monitor the level of hydrocarbons, with a valid calibration certificate.

Respondent's Signature

Date & Company Stamp

Respondents must complete the Clause by Clause Compliance Schedule below in order to proceed to the next evaluation stage.

CLAUSE BY CLAUSE COMPLIANCE SCHEDULE.

The compliance response is to contain ONLY the following statements, "Noted", "Comply," or "Do not comply".

Where Do not comply" is inserted, remarks as to the reason for the deviation from the requirement is required.

Provision for Cleaning of Diesel storage tank at TFR Bethlehem Depot	**Compliance response**	**Explanation / Deviation / Reason**
1. Tanks should be emptied to the maximum extent by pumping dead stock to an empty RTC (Transnet to provide)/ to another Tank.		
2. After the tank has been emptied all connecting pipes shall be emptied and flushed with water.		
3. Isolate all piping, drainage system and valves connecting to the Tank, If valves are to be closed then they are to be protected against inadvertent operation by the use of pneumatic or electric isolation of the actuator, and in case of manual valves the hand wheels are to be removed, to ensure isolation.		
4. Relief valves discharges into the tank should be blanked off, and a review of the relief system is required to ensure that any blinding off will not impair the integrity of the rest of the site system.		
5. All tank mounted electrical equipment (except earthing and bonding cables) is to be isolated at the distribution system. Tank cathodic protection systems shall be disconnected 24 hours before any work is to commence to allow depolarization to take place.		
6. Open all manholes to vent the Tank.		
7. Clean sludge inside tank and tank walls, sludge to be disposed in accordance with hazardous disposal requirements and provide disposable certificate.		
8. To degas, clean & sandblast the tank floors to the first strake including all nozzles internal/external.		
9. All work to be done as per API 653 standards.		
10. Transnet Safety compliance and full PPE.		
11. Ensure conformance to Safety requirements for the confined space entry as specified by Oshact.		
12. Method statement and the risk assessments must be attached to the quote.		
13. Contractor to provide a gas tester during tank cleaning process to monitor the level of hydrocarbons, with a valid calibration certificate.		

Respondent's Signature

Date & Company Stamp

Tenderer SHE Management System Questionnaire

This questionnaire is part of the TFR tender evaluation process and is to be completed by all Tenderer's and submitted with their tender offer. The objective of the questionnaire is to provide an overview of the status of the Tenderer's SHE management system. Tenderer's will be required to verify their responses noted in their questionnaire by providing evidence of their ability and capacity in relevant matters. The tender warrants that the information provided below is accurate and correct. The tenderer shall advise TFR of any changes.

TFR may verify the accuracy of this information (where necessary) during the physical visit as part of the tender evaluation.

The information provided in this questionnaire is an accurate summary of the company's SHE management system.			
Company Name:			
Signed:	Name:		
Position:	Date:		
Tender Description:			
Tender Number:			
Tenderer SHE Management System Questionnaire		**Yes**	**No**
1. SHE Policy and Management			
- ***Is there a written company SHE policy?*** - If yes provide a copy of the policy (ANNEXURE #)			
- ***Does the company have an SHE Management system e.g NOSA, OHSAS, IRCA System etc*** - If yes provide details			
- ***Is there a company SHE Management System, procedures manual or plan?*** - If yes provide a copy of the content page(s)			
- ***Are the SHE responsibilities clearly identified for all levels of Management and employees?*** - If yes provide details			
2. Safe Work Practices and Procedures			
- **Are safe operating procedures or specific safety instructions relevant to its operations available?** - If yes provide a summary listing of procedures or instructions			
- **Is there a SHE incident register?** If yes provide a copy			

Respondent's Signature

Date & Company Stamp

- Are Risk Assessments conducted and appropriate techniques used? - If yes provide details		
3. SHE Training		
Describe briefly how health and safety training is conducted in your company:		
- Is a record maintained of all training and induction programs undertaken for employees in your company? - If yes provide examples of safety training records		
4. SHE Workplace Inspection		
- Are regular health and safety inspections at worksites undertaken? -If yes provide details		
- Is there a procedure by which employees can report hazards at workplaces? - If yes provide details		
5. SHE Consultation		
- Is there a workplace SHE committee?		
- Are employees involved in decision making over SHE matters? - If yes provide details		
- Are there appointed SHE representatives? - Comments		
6. SHE Performance Monitoring		
- Is there a system for recording and analysing health and safety performance statistics including injuries and incidents? - If yes provide details		
- Are employees regularly provided with information on company health and safety performance? - If yes provide details		
Is company registered with workmen's compensation and up to date?		

Respondent's Signature

Date & Company Stamp

- If yes provide proof of letter of good standing		
- **Has the company been fined or convicted of an occupational health and safety offence?** - If yes provide details		

Safety Performance Report
Monthly DIFR for previous months

Previous Year	No of Disabling Injuries	Total Number of employees	DIFR per month
Jan			
Feb			
Mar			
Apr			
May			
Jun			
Jul			
Aug			
Sep			
Oct			
Nov			
Dec			

DIFR = Number of Disabling injuries x 200000 divided by number of man-hours worked for the period

==========
Signed
(Tenderer)

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

TIP-OFFS ANONYMOUS: 0800 003 056

Respondent's Signature

Date & Company Stamp

RFQ PROVISION FOR CLEANING OF DIESEL STORAGE TANK AT TRANSNET FREIGHT RAIL BETHLEHEM DEPOT
CLOSING VENUE: INYANDA HOUSE 1, 21 WELLINGTON ROAD PARKTOWN JHANNESBURG
CLOSING DATE & TIME: 13 SEPTEMBER 2016 10:00 AM
VALIDITY PERIOD: 26 JANUARY 2017

SECTION 2
EVALUATION CRITERA AND RETURNABLE DOCUMENTS

1 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. Whether the Bid has been lodged on time. Whether all Returnable Documents and/or schedules were completed and returned by the closing date and time. Verify the validity of all returnable documents Submission of letter of good standing Proof of registration on the Central Supplier Database
Substantive responsiveness - Mandatory	SECTION 3: Quotation Form. • Provide proof of qualification: Fitter Certificate • Provide a Working at Height Certificates • Provide company Environmental Health and safety plan • SHE Questionnaire – sheet must be fully completed • Compliance to specification – Clause by clause statement of compliance declaration sheet must fully completed • First Aid Certificates
Technical Criteria 100%	Provide Method statement that is (detailed technical Works programme relevant to the scope of work) 60% Provide SHE Plan proposal programme relevant to the scope of work (API Standard)-40%

Respondent's Signature

Date & Company Stamp

Final weighted evaluation based on 80/20 preference point	• 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.

2 Validity Period

Transnet desires a validity period of 90 [ninety] Business Days from the closing date of this RFQ.
This RFQ is valid until 26 January 2017

3 Disclosure of Prices Quoted

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

YES ☐ NO ☐

4 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	
Provide proof of qualification: Fitter Certificate	
Provide a Working at Height Certificates	
Provide company Environmental Health and safety plan	
SHE Questionnaire – sheet must be fully completed	
Compliance to specification – Clause by clause statement of compliance declaration sheet must fully completed	

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.

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.

Respondent's Signature

Date & Company Stamp

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

TIP-OFFS ANONYMOUS: 0800 003 056

Respondent's Signature

Date & Company Stamp

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/service/s 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.

Price Schedule

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

Item No	Description of Goods /Services	Unit Price (ZAR)	Total Price (ZAR)
1	**PROVISION FOR CLEANING OF DIESEL STORAGE TANK AT TRANSNET FREIGHT RAIL BETHLEHEM FUEL DEPOT**		
vat			
Grand Total			

Please insert a price breakdown for the above mentioned total price.

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

All prices must be inclusive

Respondent's Signature

Date & Company Stamp

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.

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 at _____ on this _____ day of _____ 20___

SIGNATURE OF WITNESSES

ADDRESS OF WITNESSES

1 _____ _____

Name _____ _____

2 _____ _____

Name _____ _____

SIGNATURE OF RESPONDENT'S AUTHORISED REPRESENTATIVE: _____

_____ _____

Respondent's Signature

Date & Company Stamp

NAME: _____

DESIGNATION: _____

Respondent's Signature

Date & Company Stamp

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 RFQ 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:

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

_____

_____

Respondent's Signature

Date & Company Stamp

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.
    Where 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.

SIGNED at _____ on this _____ day of _____ 20___

For and on behalf of _____ duly authorised hereto	AS WITNESS:
Name:	Name:
Position:	Position:

_____ _____

Respondent's Signature Date & Company Stamp

Signature:	Signature:
Date:	Registration No of Company/CC _____
Place:	Registration Name of Company/CC _____

Important Note: All potential bidders must read this document and certify in the RFX Declaration Form that that have acquainted themselves with, and agree with the content. The contract with the successful bidder will automatically incorporate this Integrity Pact as part of the final concluded contract.

INTEGRITY PACT

Between

TRANSNET SOC LTD

Registration Number: 1990/000900/30

("Transnet")

and

The Bidder / Supplier/ Service Provider / Contractor (hereinafter referred to as the "Bidder / Supplier")

Respondent's Signature

Date & Company Stamp

PREAMBLE

Transnet values full compliance with all relevant laws and regulations, ethical standards and the principles of economical use of resources, fairness and transparency in its relations with its Bidders / Suppliers.

In order to achieve these goals, Transnet and the Bidder / Supplier hereby enter into this agreement hereinafter referred to as the "Integrity Pact" which will form part of the Bidder's / Supplier's application for registration with Transnet as a vendor.

The general purpose of this Integrity Pact is to agree on avoiding all forms of dishonesty, fraud and corruption by following a system that is fair, transparent and free from any undue influence prior to, during and subsequent to the currency of any procurement and / or reverse logistics event and any further contract to be entered into between the Parties, relating to such event.

All Bidders / Suppliers will be required to sign and comply with undertakings contained in this Integrity Pact, should they want to be registered as a Transnet vendor.

1 OBJECTIVES

1.2 Transnet and the Bidder / Supplier agree to enter into this Integrity Pact, to avoid all forms of dishonesty, fraud and corruption including practices that are anti-competitive in nature, negotiations made in bad faith and under-pricing by following a system that is fair, transparent and free from any influence / unprejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to:

a) Enable Transnet to obtain the desired contract at a reasonable and competitive price in conformity to the defined specifications of the works, goods and services; and

b) Enable Bidders / Suppliers to abstain from bribing or participating in any corrupt practice in order to secure the contract.

2 COMMITMENTS OF TRANSNET

Transnet commits to take all measures necessary to prevent dishonesty, fraud and corruption and to observe the following principles:

2.2 Transnet hereby undertakes that no employee of Transnet connected directly or indirectly with the sourcing event and ensuing contract, will demand, take a promise for or accept directly or through intermediaries any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the Bidder, either for themselves or for any person, organisation or third party related to the contract in exchange for an advantage in the bidding process, bid evaluation, contracting or implementation process related to any contract.

2.3 Transnet will, during the registration and bidding process treat all Bidders / Suppliers with equity, transparency and fairness. Transnet will in particular, before and during the registration process, provide to all Bidders / Suppliers the same information and will not provide to any Bidders / Suppliers confidential / additional information through which the Bidders / Suppliers could obtain an advantage in relation to any bidding process.

2.4 Transnet further confirms that its employees will not favour any prospective bidder in any form that could afford an undue advantage to a particular bidder during the tendering stage, and will further treat all Bidders / Supplier participating in the bidding process.

2.5 Transnet will exclude from the bidding process such employees who have any personal interest in the Bidders / Suppliers participating in the bidding process.

3 OBLIGATIONS OF THE BIDDER / SUPPLIER

3.2 The Bidder / Supplier commits itself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of its bid or during any ensuing contract stage in order to secure the contract or in furtherance to secure it and in particular the Bidder / Supplier commits to the following:

a) The Bidder / Supplier will not, directly or through any other person or firm, offer, promise or give to Transnet or to any of Transnet's employees involved in the bidding process or to any third person any material or other benefit or payment, in order to obtain in exchange an advantage during the bidding process; and

b) The Bidder / Supplier will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any employee of Transnet, connected directly or indirectly with the bidding process, or to any person, organisation or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the contract.

3.3 The acceptance and giving of gifts may be permitted provided that:

a) the gift does not exceed R1 000 (one thousand Rand) in retail value;

b) many low retail value gifts do not exceed R 1 000 within a 12 month period;

c) hospitality packages do not exceed R5 000 in value or many low value hospitality packages do not cumulatively exceed R5 000;

d) a Bidder / Supplier does not give a Transnet employee more than 2 (two) gifts within a 12 (twelve) month period, irrespective of value;

e) a Bidder / Supplier does not accept more than 1 (one) gift in excess of R750 (seven hundred and fifty Rand) from a Transnet employee within a 12 (twelve) month period, irrespective of value;

f) a Bidder / Supplier may under no circumstances, accept from or give to, a Transnet employee any gift, business courtesy, including an invitation to a business meal and /or drinks, or hospitality package, irrespective of value, during any bid evaluation process, including a period of 12 (twelve) months after such tender has been awarded, as it may be perceived as undue and improper influence on the evaluation process or reward for the contract that has been awarded; and

g) a Bidder / Supplier may not offer gifts, goods or services to a Transnet employee at artificially low prices, which are not available to the public at those prices.

3.4 The Bidder / Supplier will not collude with other parties interested in the contract to preclude a competitive bid price, impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract. The Bidder / Supplier further commits itself to delivering against all agreed upon conditions as stipulated within the contract.

3.5 The Bidder / Supplier will not enter into any illegal or dishonest agreement or understanding, whether formal or informal with other Bidders / Suppliers. This applies in particular to

certifications, submissions or non-submission of documents or actions that are restrictive or to introduce cartels into the bidding process.

3.6 The Bidder / Supplier will not commit any criminal offence under the relevant anti-corruption laws of South Africa or any other country. Furthermore, the Bidder /Supplier will not use for illegitimate purposes or for restrictive purposes or personal gain, or pass on to others, any information provided by Transnet as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.

3.7 A Bidder / Supplier of foreign origin shall disclose the name and address of its agents or representatives in South Africa, if any, involved directly or indirectly in the registration or bidding process. Similarly, the Bidder / Supplier of South African nationality shall furnish the name and address of the foreign principals, if any, involved directly or indirectly in the registration or bidding process.

3.8 The Bidder / Supplier will not misrepresent facts or furnish false or forged documents or information in order to influence the bidding process to the advantage of the Bidder / Supplier or detriment of Transnet or other competitors.

3.9 The Bidder / Supplier shall furnish Transnet with a copy of its code of conduct, which code of conduct shall reject the use of bribes and other dishonest and unethical conduct, as well as compliance programme for the implementation of the code of conduct.

3.10 The Bidder / Supplier will not instigate third persons to commit offences outlined above or be an accessory to such offences.

4 INDEPENDENT BIDDING

4.2 For the purposes of that Certificate in relation to any submitted Bid, the Bidder declares to fully understand that the word "competitor" shall include any individual or organisation, other than the Bidder, whether or not affiliated with the Bidder, who:

a) has been requested to submit a Bid in response to this Bid invitation;

b) could potentially submit a Bid in response to this Bid invitation, based on their qualifications, abilities or experience; and

c) provides the same Goods and Services as the Bidder and/or is in the same line of business as the Bidder.

4.3 The Bidder has arrived at his submitted Bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium will not be construed as collusive bidding.

4.4 In particular, without limiting the generality of paragraph 5 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:

a) prices;

b) geographical area where Goods or Services will be rendered [market allocation];

c) methods, factors or formulas used to calculate prices;

d) the intention or decision to submit or not to submit, a Bid;

e) the submission of a Bid which does not meet the specifications and conditions of the RFQ; or

f) bidding with the intention of not winning the Bid.

4.5 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 Goods or Services to which his/her Bid relates.

4.6 The terms of the Bid as submitted have not been, and will not be, disclosed by the Bidder, directly or indirectly, to any competitor, prior to the date and time of the official Bid opening or of the awarding of the contract.

4.7 Bidders are aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, Bids 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 10 [ten] years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

4.8 Should the Bidder find any terms or conditions stipulated in any of the relevant documents quoted in the RFP unacceptable, it should indicate which conditions are unacceptable and offer alternatives by written submission on its company letterhead, attached to its submitted Bid. Any such submission shall be subject to review by Transnet's Legal Counsel who shall determine whether the proposed alternative(s) are acceptable or otherwise, as the case may be.

5 DISQUALIFICATION FROM BIDDING PROCESS

5.2 If the Bidder / Supplier has committed a transgression through a violation of section 3 of this Integrity Pact or in any other form such as to put its reliability or credibility as a Bidder / Supplier into question, Transnet may reject the Bidder's / Supplier's application from the registration or bidding process and remove the Bidder / Supplier from its database, if already registered.

5.3 If the Bidder / Supplier has committed a transgression through a violation of section 3, or any material violation, such as to put its reliability or credibility into question. Transnet may after following due procedures and at its own discretion also exclude the Bidder / Supplier from future bidding processes. The imposition and duration of the exclusion will be determined by the severity of the transgression. The severity will be determined by the circumstances of the case, which will include amongst others the number of transgressions, the position of the transgressors within the company hierarchy of the Bidder / Supplier and the amount of the damage. The exclusion will be imposed for up to a maximum of 10 (ten) years. However, Transnet reserves the right to impose a longer period of exclusion, depending on the gravity of the misconduct.

5.4 If the Bidder / Supplier can prove that it has restored the damage caused by it and has installed a suitable corruption prevention system, or taken other remedial measures as the circumstances of the case may require, Transnet may at its own discretion revoke the exclusion or suspend the imposed penalty.

6 TRANSNET'S LIST OF EXCLUDED TENDERERS (BLACKLIST)

6.2 All the stipulations around Transnet's blacklisting process as laid down in Transnet's Supply Chain Policy and Procurement Procedures Manual are included herein by way of reference. Below follows a condensed summary of this blacklisting procedure.

6.3 Blacklisting is a mechanism used to exclude a company/person from future business with Transnet for a specified period. The decision to blacklist is based on one of the grounds for blacklisting. The standard of proof to commence the blacklisting process is whether a "*prima facie*" (i.e. on the face of it) case has been established.

6.4 Depending on the seriousness of the misconduct and the strategic importance of the Goods/Services, in addition to blacklisting a company/person from future business, Transnet may decide to terminate some or all existing contracts with the company/person as well.

6.5 A supplier or contractor to Transnet may not subcontract any portion of the contract to a blacklisted company.

6.6 Grounds for blacklisting include: If any person/Enterprise which has submitted a Bid, concluded a contract, or, in the capacity of agent or subcontractor, has been associated with such Bid or contract:

a) Has, in bad faith, withdrawn such Bid after the advertised closing date and time for the receipt of Bids;

b) has, after being notified of the acceptance of his Bid, failed or refused to sign a contract when called upon to do so in terms of any condition forming part of the bid documents;

c) has carried out any contract resulting from such bid in an unsatisfactory manner or has breached any condition of the contract;

d) has offered, promised or given a bribe in relation to the obtaining or execution of the contract;

e) has acted in a fraudulent or improper manner or in bad faith towards Transnet or any Government Department or towards any public body, Enterprise or person;

f) has made any incorrect statement in a certificate or other communication with regard to the Local Content of his Goods or his B-BBEE status and is unable to prove to the satisfaction of Transnet that:

(i) he made the statement in good faith honestly believing it to be correct; and

(ii) before making such statement he took all reasonable steps to satisfy himself of its correctness;

g) caused Transnet damage, or to incur costs in order to meet the contractor's requirements and which could not be recovered from the contractor;

h) has litigated against Transnet in bad faith.

6.7 Grounds for blacklisting include a company/person recorded as being a company or person prohibited from doing business with the public sector on National Treasury's database of Restricted Suppliers or Register of Tender Defaulters.

6.8 Companies associated with the person/s guilty of misconduct (i.e. entities owned, controlled or managed by such persons), any companies subsequently formed by the person(s) guilty of the misconduct and/or an existing company where such person(s) acquires a controlling stake may be considered for blacklisting. The decision to extend the blacklist to associated companies will be at the sole discretion of Transnet.

7 PREVIOUS TRANSGRESSIONS

7.2 The Bidder / Supplier hereby declares that no previous transgressions resulting in a serious breach of any law, including but not limited to, corruption, fraud, theft, extortion and contraventions of the Competition Act 89 of 1998, which occurred in the last 5 (five) years with any other public sector undertaking, government department or private sector company that could justify its exclusion from its registration on the Bidder's / Supplier's database or any bidding process.

7.3 If it is found to be that the Bidder / Supplier made an incorrect statement on this subject, the Bidder / Supplier can be rejected from the registration process or removed from the Bidder / Supplier database, if already registered, for such reason (refer to the Breach of Law Form contained in the applicable RFX document.)

8 SANCTIONS FOR VIOLATIONS

8.2 Transnet shall also take all or any one of the following actions, wherever required to:

a) Immediately exclude the Bidder / Supplier from the bidding process or call off the pre-contract negotiations without giving any compensation the Bidder / Supplier. However, the proceedings with the other Bidders / Suppliers may continue;
b) Immediately cancel the contract, if already awarded or signed, without giving any compensation to the Bidder / Supplier;
c) Recover all sums already paid by Transnet;
d) Encash the advance bank guarantee and performance bond or warranty bond, if furnished by the Bidder / Supplier, in order to recover the payments, already made by Transnet, along with interest;
e) Cancel all or any other contracts with the Bidder / Supplier; and
f) Exclude the Bidder / Supplier from entering into any bid with Transnet in future.

9 CONFLICTS OF INTEREST

9.2 A conflict of interest includes, inter alia, a situation in which:

a) A Transnet employee has a personal financial interest in a bidding / supplying entity; and
b) A Transnet employee has private interests or personal considerations or has an affiliation or a relationship which affects, or may affect, or may be perceived to affect his / her judgment in action in the best interest of Transnet, or could affect the employee's motivations for acting in a particular manner, or which could result in, or be perceived as favouritism or nepotism.

9.3 A Transnet employee uses his / her position, or privileges or information obtained while acting in the capacity as an employee for:

a) Private gain or advancement; or
b) The expectation of private gain, or advancement, or any other advantage accruing to the employee must be declared in a prescribed form.
Thus, conflicts of interest of any bid committee member or any person involved in the sourcing process must be declared in a prescribed form.

9.4 If a Bidder / Supplier has or becomes aware of a conflict of interest i.e. a family, business and / or social relationship between its owner(s) / member(s) / director(s) / partner(s) / shareholder(s)

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and a Transnet employee / member of Transnet's Board of Directors in respect of a bid which will be considered for the bid process, the Bidder / Supplier:

a) must disclose the interest and its general nature, in the Request for Proposal ("RFX") declaration form; or
b) must notify Transnet immediately in writing once the circumstances has arisen.

9.5 The Bidder / Supplier shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any committee member or any person involved in the sourcing process, where this is done, Transnet shall be entitled forthwith to rescind the contract and all other contracts with the Bidder / Supplier.

10 MONITORING

10.2 Transnet will be responsible for appointing an independent Monitor to:

a) Conduct random monitoring of compliance to the provisions of this Integrity Pact for contracts entered into between Transnet and the Bidder / Supplier for less than R100,000.000 (one hundred million Rand) in value;
b) Monitor compliance to the provisions of this Integrity Pact for contracts entered into between Transnet and the Bidder / Supplier for greater than R100,000.000 (one hundred million Rand) in value; and
c) Investigate any allegation of violation of any provisions of this Integrity Pact for contracts entered into between Transnet and the Bidder / Supplier, irrespective of value.

10.3 The Monitor will be subjected to Transnet's Terms of Conditions of Contract for the Provision of Services to Transnet, as well as to Transnet's Supplier Code of Conduct.

11 EXAMINATION OF FINANCIAL RECORDS, DOCUMENTATION AND/OR ELECTRONIC DATA

For the purpose of Monitoring, as stipulated above, the Monitor shall be entitled to:

a) Examine the financial records, documentation and or electronic date of the Bidder / Supplier / Transnet. The Bidder / Supplier / Transnet shall provide all requested information / documentation / data to the Monitor and shall extend all help possible for the purpose of such examination.

12 DISPUTE RESOLUTION

12.2 Transnet recognises that trust and good faith are pivotal to its relationship with its Bidders / Suppliers. When a dispute arises between Transnet and its Bidder / Supplier, the parties should use their best endeavours to resolve the dispute in an amicable manner, whenever possible. Litigation in bad faith negates the principles of trust and good faith on which commercial relationships are based. Accordingly, following a blacklisting process as mentioned in paragraph 6 above, Transnet will not do business with a company that litigates against it in bad faith or is involved in any action that reflects bad faith on its part. Litigation in bad faith includes, but is not limited to the following instances:

a) **Vexatious proceedings**: these are frivolous proceedings which have been instituted without proper grounds;
b) **Perjury:** where a supplier make a false statement either in giving evidence or on an affidavit;
c) **Scurrilous allegations:** where a supplier makes allegations regarding a senior Transnet employee which are without proper foundation, scandalous, abusive or defamatory; and
d) **Abuse of court process:** when a supplier abuses the court process in order to gain a competitive advantage during a bid process.

13 GENERAL

13.2 This Integrity Pact is governed by and interpreted in accordance with the laws of the Republic of South Africa.

13.3 The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the law relating to any civil or criminal proceedings.

13.4 The validity of this Integrity Pact shall cover all the bidding processes and will be valid for an indefinite period unless cancelled by either Party.

13.5 Should one or several provisions of this Integrity Pact turn out to be invalid the remainder of this Integrity Pact remains valid.

13.6 Should a Bidder / Supplier be confronted with dishonest, fraudulent or corruptive behaviour of one or more Transnet employees, Transnet expects its Bidders / Suppliers to report this behaviour directly to a senior Transnet official / employee or alternatively by using Transnet's "Tip-Off Anonymous" hotline number 0800 003 056, whereby your confidentiality is guaranteed.

The Parties hereby declare that each of them has read and understood the clauses of this Integrity Pact and shall abide by it. To the best of the Parties' knowledge and belief, the information provided in this Integrity Pact is true and correct.

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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 ..... 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;

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

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Date & Company Stamp

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 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;

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 RFQ 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 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 20]
1	20
2	18
3	16
4	12
5	8
6	6
7	4
8	2
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 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]

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

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.....

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(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.
(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;

Respondent's Signature

Date & Company Stamp

(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:.....

Name	:
Designation	:
Telephone	:
Cell Phone	:
Facsimile	:
Email	:
Website	:

PROVISION FOR CLEANING OF DIESEL STORAGE TANK AT TRANSNET

FREIGHT RAIL BETHLEHEM DEPOT

SECTION 5

CERTIFICATE OF ATTENDANCE OF RFQ SITE BRIEFING

It is hereby certified that –

1. _____

2. _____

Representative(s) of _____ *[name of entity]*
Attended the RFP briefing in respect of the proposed Services to be rendered in terms of this RFP on _____20___

_____	_____
TRANSNET'S REPRESENTATIVE	RESPONDENT'S REPRESENTATIVE
DATE _____	DATE _____
	EMAIL _____

Respondent's Signature

Date & Company Stamp

TRANSNET

GENERAL BID CONDITIONS - SERVICES

[March 2015]

TABLE OF CONTENTS

1 DEFINITIONS 40
2 GENERAL 40
3 SUBMISSION OF BID DOCUMENTS 40
4 USE OF BID FORMS 40
5 BID FEES 41
6 VALIDITY PERIOD 41
7 SITE VISIT / BRIEFING SESSION 41
8 CLARIFICATION BEFORE THE CLOSING DATE 41
9 COMMUNICATION AFTER THE CLOSING DATE 41
10 UNAUTHORISED COMMUNICATION ABOUT BIDS 41
11 POST TENDER NEGOTIATIONS 42
12 RETURNABLE DOCUMENTS 42
13 DEFAULTS BY RESPONDENTS 42
14 CURRENCY 42
15 PRICES SUBJECT TO CONFIRMATION 42
16 ALTERATIONS MADE BY THE RESPONDENT TO BID PRICES 42
17 EXCHANGE AND REMITTANCE 43
18 ACCEPTANCE OF BID 43
19 NOTICE TO UNSUCCESSFUL RESPONDENTS 43
20 TERMS AND CONDITIONS OF CONTRACT 44
21 CONTRACT DOCUMENTS 44
22 LAW GOVERNING CONTRACT 44
23 IDENTIFICATION 44
24 CONTRACTUAL SECURITIES 44
25 DELETION OF ITEMS TO BE EXCLUDED FROM BID 45
26 VALUE-ADDED TAX 45
27 IMPORTANT NOTICE TO RESPONDENTS REGARDING PAYMENT 45
28 DELIVERY REQUIREMENTS 46
29 SPECIFICATIONS AND COPYRIGHT 46
30 BIDS BY OR ON BEHALF OF FOREIGN RESPONDENTS 47
31 CONFLICT WITH BID DOCUMENT 48
32 TRANSNET'S LIST OF EXCLUDED TENDERERS (BLACKLIST) 48

Returnable Document

5 DEFINITIONS

Where the following words or phrases are used in this Agreement, such words or phrases shall have the meaning assigned thereto in this clause, except where the context clearly requires otherwise:

5.1 Bid shall mean a Respondent's tendered response / proposal to a Transnet RFP or RFQ;

5.2 Bid Document(s) shall mean a reference to a Request for Proposal or Request for Quotation;

5.3 Business Day shall mean any day other than a Saturday, Sunday or public holiday;

5.4 Respondent(s) shall mean a respondent/bidder to a Bid Document;

5.5 RFP shall mean Request for Proposal;

5.6 RFQ shall mean Request for Quotation;

5.7 RFX shall mean RFP or RFQ, as the case may be;

5.8 Services shall mean the services required by Transnet as specified in its Bid Document;

5.9 Service Provider shall mean the successful Respondent;

5.10 Tax Invoice shall mean the document as required by Section 20 of the Value-Added Tax Act, 89 of 1991, as may be amended from time to time;

5.11 Transnet shall mean Transnet SOC Ltd, a State Owned Company; and

5.12 VAT shall mean Value-Added Tax in terms of the Value-Added Tax Act, 89 of 1991, as may be amended from time to time.

6 GENERAL

All Bid Documents and subsequent contracts and orders shall be subject to the following general conditions as laid down by Transnet and are to be strictly adhered to by any Respondent to this RFX.

7 SUBMISSION OF BID DOCUMENTS

7.1 A Bid, which shall hereinafter include reference to an RFP or RFQ, shall be submitted to Transnet no later than the closing date and time specified in accordance with the directions issued in the Bid Documents. Late Bids will not be considered.

7.2 Bids shall be delivered in a sealed envelope in accordance with the instructions indicated in the Bid Documents with the Bid number and subject marked on the front of the envelope.

7.3 The Respondent's return address must be stated on the reverse side of the sealed envelope.

8 USE OF BID FORMS

8.1 Where special forms are issued by Transnet for the submission of Bids, Respondents are required to submit their Bids by completion of the appropriate sections on such official forms and not in other forms or documents bearing their own terms and conditions of contract. Non-compliance with this condition may result in the rejection of a Bid.

Returnable Document

8.2 Respondents must note that the original Bid forms must be completed for submission and not a reprocessed copy thereof.

8.3 Only if insufficient space has been allocated for a particular response may a Respondent submit additional information under separate cover using its company's letterhead. This must be duly cross-referenced in the RFX.

9 BID FEES

9.1 A non-refundable fee may be charged for Bid Documents, depending on the administrative cost of preparing and issuing such Bid Documents.

9.2 Only Respondents that have paid the Bid fee and provided proof of payment when submitting their Bid will be considered.

10 VALIDITY PERIOD

10.1 Respondents must hold their Bid valid for acceptance by Transnet at any time within the requested validity period after the closing date of the bid.

10.2 Respondents may be requested to extend their validity period for a specified additional period. In such instances, Respondents will not be allowed to change any aspect of their Bid, unless they are able to demonstrate that the proposed change(s) is as a direct and unavoidable consequence of Transnet's extension of the validity period.

11 SITE VISIT / BRIEFING SESSION

Respondents may be requested to attend a site visit where it is considered necessary to view the site prior to the preparation of Bids, or where Transnet deems it necessary to provide Respondents with additional information relevant to the compilation of their Bids. When such visits or sessions are indicated as compulsory in the Bid Document, Respondents are obliged to attend these meetings as failure to do so will result in their disqualification.

12 CLARIFICATION BEFORE THE CLOSING DATE

Should clarification be required on any aspect of the RFX before the closing date, the Respondent must direct such queries to the contact person identified in the Bid Document.

13 COMMUNICATION AFTER THE CLOSING DATE

After the closing date of a Bid [i.e. during the evaluation period] the Respondent may only communicate with the Chairperson or Secretary of the relevant Acquisition Council.

14 UNAUTHORISED COMMUNICATION ABOUT BIDS

Where Bids are submitted to the Secretary of an Acquisition Council, Respondents may at any time communicate with the Secretary on any matter relating to its Bid but, in the absence of written authority from the Secretary, no communication on a question affecting the subject of a Bid shall take place between Respondents or other potential service providers or any member of the Acquisition Council or official of Transnet during the period between the closing date for the receipt of the Bid and the date of

Returnable Document

the notification of the successful Respondent(s). A Bid, in respect of which any such unauthorised communication has occurred, may be disqualified.

15 POST TENDER NEGOTIATIONS

Transnet reserves the right to conduct post tender negotiations with the preferred bidder or a shortlist of preferred bidders. Should Transnet decide to conduct post tender negotiations, bidders will be requested to provide their best and final offers to Transnet based on such negotiations. A final evaluation will be conducted in terms of 80/20 or 90/10 (whichever is applicable) and the contract will be negotiated and awarded to the successful bidder(s).

16 RETURNABLE DOCUMENTS

All returnable documents listed in the RFX Documents must be submitted with Respondent's Bid. Failure to submit mandatory returnable schedules / documents will result in disqualification. Failure to submit other schedules / documents may result in disqualification.

17 DEFAULTS BY RESPONDENTS

If the Respondent, after it has been notified of the acceptance of its Bid fails to:

17.1 enter into a formal contract when called upon to do so within such period as Transnet may specify; or

17.2 accept an order in terms of the Bid;

17.3 furnish satisfactory security when called upon to do so for the fulfilment of the contract; or

17.4 comply with any condition imposed by Transnet,

Transnet may, in any such case, without prejudice to any other legal remedy which it may have, proceed to accept any other Bid or, if it is necessary to do so, call for Bids afresh, and may recover from the defaulting Respondent any additional expense incurred by Transnet in calling for new offers or in accepting a less favourable offer.

18 CURRENCY

All monetary amounts referred to in a Bid response must be in Rand, the currency of the Republic of South Africa [**ZAR**], save to the extent specifically permitted in the RFX.

19 PRICES SUBJECT TO CONFIRMATION

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

19.2 Firm prices quoted for the duration of any resulting order and/or contract will receive precedence over prices which are subject to fluctuation if this is in Transnet's best interests.

20 ALTERATIONS MADE BY THE RESPONDENT TO BID PRICES

All alterations made by the Respondent to its Bid price(s) prior to the submission of its Bid Documents must be done by deleting the incorrect figures and words where required and by inserting the correct figures and words against the items concerned. All such alterations must be initialled by the person who

Returnable Document

signs the Bid Documents. Failure to observe this requirement may result in the particular item(s) concerned being excluded in the matter of the award of the business.

21 EXCHANGE AND REMITTANCE

21.1 The Respondent should note that where the whole or a portion of the contract or order value is to be remitted overseas, Transnet shall, if requested to do so by the Service Provider, effect payment overseas directly to the foreign principal of such percentage of the contract or order value as may be stipulated by the Respondent in its Bid Documents.

21.2 It is Transnet's preference to enter into Rand-based agreements. Transnet would request, therefore, that the Respondent give favourable consideration to obtaining forward exchange cover on the foreign currency portion of the Agreement at a cost that is acceptable to Transnet to protect itself against any currency rate fluctuation risks for the duration of any resulting contract or order.

21.3 The Respondent who desires to avail itself of the aforementioned facility must at the time of bidding furnish the information called for in the *Exchange and Remittance* section of the Bid Documents and also furnish full details of the principals to whom payment is to be made.

21.4 The South African Reserve Bank's approval is required before any foreign currency payments can be made to or on behalf of Respondents.

21.5 Transnet will not recognise any claim for adjustment of the order and/or contract price if the increase in price arises after the date on which agreement on an overall Rand contract has been reached.

21.6 Transnet reserves the right to request a pro-forma invoice/tax invoice in order to ensure compliance with the contract and Value-Added Tax Act no. 89 of 1991 [**VAT Act**].

22 ACCEPTANCE OF BID

22.1 Transnet does not bind itself to accept the lowest priced or any Bid.

22.2 Transnet reserves the right to accept any Bid in whole or in part.

22.3 Upon the acceptance of a Bid by Transnet, the parties shall be bound by these General Bid Conditions and any contractual terms and/or any schedule of "Special Conditions" or otherwise which form part of the Bid Documents.

22.4 Where the Respondent has been informed by Transnet per fax message or email of the acceptance of its Bid, the acknowledgement of receipt transmitted shall be regarded as proof of delivery to the Respondent.

23 NOTICE TO UNSUCCESSFUL RESPONDENTS

Unsuccessful Respondents shall be advised in writing that their Bids have not been accepted as soon as possible after the closing date of the Bid. On award of business to the successful Respondent all unsuccessful Respondents shall be informed of the name of the successful Respondent and of the reason as to why their Bids have not been successful.

Returnable Document

24 TERMS AND CONDITIONS OF CONTRACT

24.1 The Service Provider shall adhere to the Terms and Conditions of Contract issued with the Bid Documents, together with any schedule of "Special Conditions" or otherwise which form part of the Bid Documents.

24.2 Should the Respondent find any conditions unacceptable, it should indicate which conditions are unacceptable and offer amendments/ alternatives by written submission on its company letterhead. Any such submission shall be subject to review by Transnet's Legal Counsel who shall determine whether the proposed amendments/ alternative(s) are acceptable or otherwise, as the case may be.

25 CONTRACT DOCUMENTS

25.1 The contract documents will comprise these General Bid Conditions, the Terms and Conditions of Contract and any schedule of "Special Conditions" which form part of the Bid Documents.

25.2 The abovementioned documents together with the Respondent's Bid response will constitute the contract between the parties upon receipt by the Respondent of Transnet's letter of award / intent, subject to all additional amendments and/or special conditions thereto as agreed to by the parties.

25.3 Should Transnet inform the Respondent that a formal contract will be signed, the abovementioned documents together with the Respondent's Bid response [and, if any, its covering letter and any subsequent exchange of correspondence] as well as Transnet's Letter of Acceptance/Intent, shall constitute a binding contract until the final contract is signed.

26 LAW GOVERNING CONTRACT

The law of the Republic of South Africa shall govern the contract created by the acceptance of a Bid. The *domicilium citandi et executandi* shall be a place in the Republic of South Africa to be specified by the Respondent in its Bid at which all legal documents may be served on the Respondent who shall agree to submit to the jurisdiction of the courts of the Republic of South Africa. A foreign Respondent shall, therefore, state in its Bid the name of its authorised representative in the Republic of South Africa who is empowered to sign any contract which may be entered into in the event of its Bid being accepted and to act on its behalf in all matters relating to the contract.

27 IDENTIFICATION

If the Respondent is a company, the full names of the directors shall be stated in the Bid. If the Respondent is a close corporation, the full names of the members shall be stated in the Bid. If the Respondent is a partnership or an individual trading under a trade name, the full names of the partners or of such individual, as the case may be, shall be furnished.

28 CONTRACTUAL SECURITIES

28.1 The successful Respondent, when called upon to do so, shall provide security to the satisfaction of Transnet for the due fulfilment of a contract or order. Such security shall be in the form of an

advanced payment guarantee [**APG**] and/or a performance bond [**Performance Bond**], as the case may be, to be furnished by an approved bank, building society, insurance or guarantee corporation carrying on business in South Africa.

28.2 The security may be applied in whole or part at the discretion of Transnet to make good any loss or damage which Transnet may incur in consequence of a breach of the contract or any part thereof.

28.3 Such security, if required, shall be an amount which will be stipulated in the Bid Documents.

28.4 The successful Respondent shall be required to submit to Transnet or Transnet's designated official the specified security document(s) within 30 [thirty] calendar days from the date of signature of the contract. Failure to return the securities within the prescribed time shall, save where prior extension has been granted, entitle Transnet without notice to the Service Provider to cancel the contract with immediate effect.

28.5 Additional costs incurred by Transnet necessitated by reason of default on the part of the Service Provider in relation to the conditions of this clause 28 will be for the account of the Service Provider.

29 DELETION OF ITEMS TO BE EXCLUDED FROM BID

The Respondent must delete items for which it has not tendered or for which the price has been included elsewhere in its Bid.

30 VALUE-ADDED TAX

30.1 In respect of local Services, i.e. Services to be rendered in the Republic of South Africa, the prices quoted by the Respondent are to be exclusive of VAT which must be shown separately at the standard rate on the Tax Invoice.

30.2 In respect of foreign Services rendered:

the invoicing by a South African Service Provider on behalf of its foreign principal rendering such Service represents a Service rendered by the principal; and

the Service Provider's Tax Invoice(s) for the local portion only [i.e. the "commission" for the Services rendered locally] must show the VAT separately.

31 IMPORTANT NOTICE TO RESPONDENTS REGARDING PAYMENT

31.1 Method of Payment

The attention of the Respondent is directed to the Terms and Conditions of Contract which set out the conditions of payment on which Bid price(s) shall be based.

However, in addition to the aforegoing the Respondent is invited to submit offers based on alternative methods of payment and/or financing proposals.

The Respondent is required to give full particulars of the terms that will be applicable to its alternative offer(s) and the financial merits thereof will be evaluated and taken into consideration when the Bid is adjudicated.

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The Respondent must, therefore, in the first instance, tender strictly in accordance with clause 31.10 above. Failure to comply with clause 31.10 above may preclude a Bid from further consideration.

NOTE: The successful Respondent [the **Service Provider**], where applicable, shall be required to furnish a guarantee covering any advance payments, as set out in clause 28 above *[Contractual Securities]*.

31.2 Conditional Discount

Respondents offering prices which are subject to a conditional discount applicable for payment within a specific period are to note that the conditional period will be calculated from the date of receipt by Transnet of the Service Provider's month-end statement reflecting the relevant Tax Invoice(s) for payment purposes, provided the conditions of the order or contract have been fulfilled and the Tax Invoice is correct in all respects in terms of the contract or order. Incomplete and/or incorrect Tax Invoices shall be returned and the conditional discount period will be recalculated from the date of receipt of the correct documentation.

32 DELIVERY REQUIREMENTS

32.1 Period Contracts

It will be a condition of any resulting contract/order that the delivery period embodied therein will be governed by the provisions of the Terms and Conditions of Contract.

32.2 Progress Reports

The Service Provider may be required to submit periodical progress reports with regard to the delivery of the Services.

32.3 Emergency Demands as and when required

If, due to unforeseen circumstances, the rendering of the Services covered by the Bid are required at short notice for immediate delivery, the Service Provider will be given first right of refusal for such business. If it is unable to meet the desired critical delivery period, Transnet reserves the right to purchase such services as may be required to meet the emergency outside the contract if immediate delivery can be offered from any other source. The "*Total or Partial Failure to Perform the Scope of Services"* section in the Terms and Conditions of Contract will not be applicable in these circumstances.

33 SPECIFICATIONS AND COPYRIGHT

33.1 Specifications

The Respondent should note that, unless notified to the contrary by Transnet or a designated official by means of an official amendment to the Bid Documents, it is required to tender for the Services strictly in accordance with the specifications supplied by Transnet.

33.2 Copyright

Returnable Document

Copyright in plans, drawings, diagrams, specifications and documents compiled by the Service Provider for the purpose of contract work shall be governed by the *Intellectual Property Rights* section in the Terms and Conditions of Contract.

34 BIDS BY OR ON BEHALF OF FOREIGN RESPONDENTS

34.1 Bids submitted by foreign principals may be forwarded directly by the principals or by its South African representative or agent to the Secretary of the Acquisition Council or to a designated official of Transnet according to whichever officer is specified in the Bid Documents.

34.2 In the case of a representative or agent, written proof must be submitted to the effect that such representative or agent has been duly authorised to act in that capacity by the principal. Failure to submit such authorisation by the representative or agent shall disqualify the Bid.

34.3 When legally authorised to prepare and submit Bids on behalf of their principals not domiciled in the Republic of South Africa, representatives or agents must compile the Bids in the names of such principals and sign them on behalf of the latter.

34.4 South African representatives or agents of a successful foreign Respondent must when so required enter into a formal contract in the name of their principals and must sign such contract on behalf of the latter. In every such case a legal Power of Attorney from their principals must be furnished to Transnet by the South African representative or agents authorising them to enter into and sign such contract.

Such Power of Attorney must comply with Rule 63 [Authentication of documents executed outside the Republic for use within the Republic] of the Uniform Rules of Court: Rules regulating the conduct of the proceedings of the several provincial and local divisions of the Supreme Court of South Africa.

The Power of Attorney must be signed by the principal under the same title as used in the Bid Documents.

If a Power of Attorney held by the South African representative or agent includes matters of a general nature besides provision for the entering into and signing of a contract with Transnet, a certified copy thereof should be furnished.

The Power of Attorney must authorise the South African representative or agent to choose the *domicilium citandi et executandi* as provided for in the Terms and Conditions of Contract.

34.5 If payment is to be made in South Africa, the foreign Service Provider [i.e. the principal, or its South African agent or representative], must notify Transnet in writing whether, for payment by electronic funds transfer [**EFT**]:

funds are to be transferred to the credit of the foreign Service Provider's account at a bank in South Africa, in which case the name and branch of such bank shall be furnished; or

funds are to be transferred to the credit of its South African agent or representative, in which case the name and branch of such bank shall be furnished.

Returnable Document

35 CONFLICT WITH BID DOCUMENT

Should a conflict arise between these General Bid Conditions and the Bid Document issued, the conditions stated in the Bid Document shall prevail.

36 TRANSNET'S LIST OF EXCLUDED TENDERERS (BLACKLIST)

36.1 All the stipulations around Transnet's blacklisting process as laid down in Transnet's Supply Chain Policy and Procurement Procedures Manual are included herein by reference. Below follows a condensed summary of this blacklisting procedure.

36.2 Blacklisting is a mechanism used to exclude a company/person from future business with Transnet for a specified period. The decision to blacklist is based on one of the grounds for blacklisting. The standard of proof to commence the blacklisting process is whether a "prima facie" (i.e. on the face of it) case has been established.

36.3 Depending on the seriousness of the misconduct and the strategic importance of the Goods/Services, in addition to blacklisting a company/person from future business, Transnet may decide to terminate some or all existing contracts with the company/person as well.

36.4 A supplier or contractor to Transnet may not subcontract any portion of the contract to a blacklisted company.

36.5 Grounds for blacklisting include: If any person/Enterprise which has submitted a Bid, concluded a contract, or, in the capacity of agent or subcontractor, has been associated with such Bid or contract:

i) Has, in bad faith, withdrawn such Bid after the advertised closing date and time for the receipt of Bids;

j) has, after being notified of the acceptance of his Bid, failed or refused to sign a contract when called upon to do so in terms of any condition forming part of the bid documents;

k) has carried out any contract resulting from such bid in an unsatisfactory manner or has breached any condition of the contract;

l) has offered, promised or given a bribe in relation to the obtaining or execution of the contract;

m) has acted in a fraudulent or improper manner or in bad faith towards Transnet or any Government Department or towards any public body, Enterprise or person;

n) has made any incorrect statement in a certificate or other communication with regard to the Service or his B-BBEE status and is unable to prove to the satisfaction of Transnet that:

(iii) he made the statement in good faith honestly believing it to be correct; and

(iv) before making such statement he took all reasonable steps to satisfy himself of its correctness;

Returnable Document

o) caused Transnet damage, or to incur costs in order to meet the contractor's requirements and which could not be recovered from the contractor;

p) has litigated against Transnet in bad faith.

36.6 Transnet recognizes that trust and good faith are pivotal to its relationship with its suppliers. When a dispute arises between Transnet and its supplier, the parties should use their best endeavours to resolve the dispute in an amicable manner, whenever possible. Litigation in bad faith negates the principles of trust and good faith on which commercial relationships are based. Accordingly, Transnet will not do business with a company that litigates against it in bad faith or is involved in any action that reflects bad faith on its part. Litigation in bad faith includes, but is not limited to the following instances:

a) Vexatious proceedings. These are frivolous proceedings which have been instituted without proper grounds;

b) Perjury. Where a supplier commits perjury either in giving evidence or on affidavit;

c) Scurrilous allegations. Where a supplier makes allegations regarding a senior Transnet employee which are without a proper foundation, scandalous, abusive or defamatory.

d) Abuse of court process. When a supplier abuses the court process in order to gain a competitive advantage during a bid process.

36.7 Where any person or Enterprise has been found guilty by a court of law, tribunal or other administrative body of a serious breach of any law, during the preceding 5 Years, such person/Enterprise may also be blacklisted. Serious breaches of the law would include but are not limited to corruption, fraud, theft, extortion, or contraventions of the Competition Act 89 of 1998 (e.g. collusive tendering). This process excludes minor convictions such as traffic offences or personal disagreements between parties which have no bearing on the business operations of the person or Enterprise.

36.8 Grounds for blacklisting include a company/person recorded as being a company or person prohibited from doing business with the public sector on National Treasury's database of Restricted Suppliers or Register of Tender Defaulters.

36.9 Companies associated with the person/s guilty of misconduct (i.e. entities owned, controlled or managed by such persons), any companies subsequently formed by the person(s) guilty of the misconduct and/or an existing company where such person(s) acquires a controlling stake may be considered for blacklisting. The decision to extend the blacklist to associated companies will be at the sole discretion of Transnet.

36.10 Any person or enterprise or company against whom a decision to blacklist has been taken, may make representations to the Chief Financial Officer of Transnet SOC Ltd, whose decision shall be final.

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With effect from **1 May 2016**, Transnet must implement the following:

National Treasury's Central Supplier Database (CSD)

The CSD has been established as the single source of all supplier information for all organs of state. Only the CSD must be used for the purpose of soliciting price quotations and the verification of certain key information (e.g. tax compliance status, CIPC information, etc.) of prospective bidders.

As a general rule, Transnet may also not award business to any bidders not registered on the CSD. All prospective suppliers wanting to conduct business with organs of state are required to register on the CSD by accessing www.csd.gov.za.