

**TRANSNET FREIGHT RAIL**

an Operating Division of **TRANSNET SOC LTD**

[Registration No. 1990/000900/30]

**REQUEST FOR PROPOSAL [RFP]**

**FOR PROCESSING – HANDLING, CUTTING, SORTING, WEIGHING AND STACKING OF FERROUS SCRAP METALS AS AND WHERE AVAILABLE FROM VARIOUS TRANSNET HUBS FOR A PERIOD OF 3 YEARS**

<b>RFP NUMBER</b>	<b>CRAC/JHB/9737</b>
<b>ISSUE DATE:</b>	<b>6 DECEMBER 2012</b>
<b>CLOSING DATE:</b>	<b>19 FEBRUARY 2013</b>
<b>CLOSING TIME:</b>	<b>10:00</b>
<b>BID VALIDITY PERIOD:</b>	<b>120 days from Closing Date</b>

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“PREVIEW COPY ONLY”

**LIST OF ACRONYMS**

B-BBEE	Broad-Based Black Economic Empowerment
CD	Compact/computer disc
DAC	Divisional Acquisition Council
DPE	Department of Public Enterprises
DTI	Department of Trade and Industry
EME	Exempted Micro Enterprise
FRC	Further Recognition Criteria
GBC	General Bid Conditions
ID	Identity Document
JV	Joint Venture
LOI	Letter of Intent
NDA	Non-Disclosure Agreement
NGP	New Growth Path
OD	Transnet Operating Division
PTN	Post-Tender Negotiations
QSE	Qualifying Small Enterprise
RFP	Request for Proposal
SD	Supplier Development
SME	Small Medium Enterprise
SOC	State Owned Company
TAC	Transnet Acquisition Council
TCO	Total Cost of Ownership
VAT	Value-Added Tax
ZAR	South African Rand

**FOR PROCESSING – HANDLING, CUTTING, SORTING, WEIGHING AND STACKING OF FERROUS  
SCRAP METALS AS AND WHERE AVAILABLE FROM VARIOUS TRANSNET HUBS FOR A PERIOD OF  
3 YEARS**

**Section 1 : NOTICE TO BIDDERS**

**1 PROPOSAL REQUEST**

Responses to this RFP [hereinafter referred to as a **Bid** or a **Proposal**] are requested from persons, companies, close corporations or enterprises [hereinafter referred to as an **entity, Respondent** or **Bidder**] to provision of Processing- handling, cutting, sorting, weighing and stacking of Ferrous scrap metals [**the Services**] to Transnet.

On or after 06 December 2012, the RFP documents may be inspected at, and are obtainable from the Reception, Tender Advice Centre, Inyanda House, 21 Wellington road , Park town Johannesburg, on payment of an amount of R350 [inclusive of VAT] per set. Payment is to be made as follows:

Bank:	Standard Bank
Account Number:	203158598
Branch:	Braamfontein
Branch code:	004805
Account Name:	Transnet Limited
Reference:	CRAC/JHB/9737

**NOTES –**

- a) This amount is not refundable.
- b) A receipt for such payment made must be presented when collecting the RFP documents and submitted thereafter with your Proposal.

RFP documents will only be available until 29 January 2013.

*N.B: Pursuant to note (b) above, should a third party [such as a courier] be instructed to collect RFP documents on behalf of a Respondent, please ensure that this person [the third party] has a "proof of payment" receipt for presentation to Transnet when collecting the RFP documents.*

Any additional information or clarification will be faxed or emailed to all Respondents, if necessary.

**2 FORMAL BRIEFING**

A non-compulsory pre-proposal RFP briefing will be conducted on the **30 January 2013**, at the Auditorium 201, railwayman's Inn, Esselenpark, Gauteng for a period of ± 2 hours. [Respondents to provide own transportation and accommodation].

- 2.1 Bid documents will not be issued and/or sold at the RFP briefing.
- 2.2 The briefing session will start punctually at 10:00am and information will not be repeated for the benefit of Respondents arriving late.

### 3 PROPOSAL SUBMISSION

Proposals **in duplicate [1 original and 1 copy] plus a CD copy** must reach the Secretariat, Transnet Acquisition Council before the closing hour on the date shown below, and must be enclosed in a sealed envelope which must have inscribed on the outside:

RFP No:	CRAC/JHB/9737
Description	Processing- handling, cutting, sorting, weighing and stacking of Ferrous scrap metals
Closing date and time:	19 February 2013
Closing address	<i>[Refer to options in paragraph 4 below]</i>

### 4 DELIVERY INSTRUCTIONS FOR RFP

#### 4.1 Delivery by hand

If delivered by hand, the envelope is to be deposited in the Transnet tender box in the foyer at Transnet Freight Rail, and should be addressed as follows:

The Secretariat, Transnet Freight Rail Acquisition Council  
Inyanda House  
21 Wellington Road  
Park Town  
Johannesburg  
2001

- a) The measurements of the "tender slot" are 500mm wide x 100mm high, and Respondents must please ensure that response documents or files are no larger than the above dimensions. Responses which are too bulky [i.e. more than 100mm thick] must be split into two or more files, and placed in separate envelopes, each such envelope to be addressed as required in paragraph 3 above.

#### 4.2 Dispatch by courier

If dispatched by courier, the envelope must be addressed as follows and delivered to the Office of The Secretariat, Transnet Freight Rail and a signature obtained from that Office:

The Secretariat, Transnet freight Rail Acquisition Council  
Inyanda house  
21 Wellington road  
Park town  
Johannesburg  
2001

4.3 Please note that this RFP closes punctually at **12:00 on Friday 19 February 2013**.

4.4 If responses are not delivered as stipulated herein, such responses will not be considered and will be treated as "NON-RESPONSIVE" and will be disqualified.

4.5 No email or facsimile responses will be considered, unless otherwise stated herein.

4.6 The responses to this RFP will be opened as soon as practicable after the expiry of the time advertised for receiving them.



- 4.7 Transnet shall not, at the opening of responses, disclose to any other company any confidential details pertaining to the Proposals / information received, i.e. pricing, delivery, etc. The names and locations of the Respondents will be divulged to other Respondents upon request.
- 4.8 Envelopes must not contain documents relating to any RFP other than that shown on the envelope. All envelopes must reflect the return address of the Respondent on the reverse side.
- 4.9 No slips are to be attached to the response documents. Any additional conditions must be embodied in an accompanying letter. Subject only to clause 15 [*Alterations made by the Respondent to Bid Prices*] of the General Bid Conditions, alterations, additions or deletions must not be made by the Respondent to the actual RFP documents.

## 5 SET ASIDES

South Africa's economy still excludes the vast majority of its people from ownership of productive assets and the possession of advanced skills. Unless further steps are taken to increase the effective participation of the majority of South Africans in the economy, the stability and prosperity of the economy in the future may be undermined to the detriment of all South Africans, irrespective of race. The introduction of "set asides" is required in sectors that have been historically lagging behind in terms of transformation. On a case by case basis, Transnet may decide to limit (set aside) participation in a bid process to previously disadvantaged persons e.g. black owned companies, black women owned companies, exempted micro enterprises, persons with disabilities, persons in rural areas, etc. Set asides will be considered where there is evidence that applying only a preference point system will not achieve desired transformation objectives.

Transnet will exercise its right to introduce set asides in this RFP which means that Respondents will have the opportunity to submit responses in relation to the pre-qualification criteria.

Transnet will limit (set aside) participation in this RFP by awarding a contract to EMEs and/or QSEs with black ownership of more than 51%.

## 6 BROAD-BASED BLACK ECONOMIC EMPOWERMENT AND SOCIO-ECONOMIC OBLIGATIONS

Transnet fully endorses and supports the Government's Broad-Based Black Economic Empowerment Programme and it is strongly of the opinion that all South African business enterprises have an equal obligation to redress the imbalances of the past.

Transnet would therefore prefer to do business with local business enterprises who share these same values and who are prepared to contribute to meaningful B-BBEE initiatives [including, but not limited to subcontracting and Joint Ventures] as part of their tendered responses. Transnet will accordingly allow "preference" points to companies who provide a valid B-BBEE Verification Certificate. All procurement transactions will be evaluated accordingly.

With respect to B-BBEE, this RFP will be evaluated as follows:

EVALUATION CRITERIA	Section 1 Reference	Final Weighted Points
Evaluation Criteria	Section 1 Reference	Final Weighted Points
B-BBEE:		
- Scorecard	Paragraph 6.1	10
- Further Recognition Criteria (Current Status)	Paragraph 6.4 (a)	15
- Further Recognition Criteria (Future Status)	Paragraph 6.4 (b)	5
Supplier Development [SD] Initiatives & Values	Paragraph 6.5	10
<b>Maximum points allocated for B-BBEE and SD:</b>		<b>40</b>

Transnet will accordingly allocate a maximum of **10 [Ten] points** to the Respondent's final score based on an entity's B-BBEE scorecard rating. [Refer **Annexure A** for further details].

Consequently, when Transnet invites prospective service providers to submit Proposals for its various expenditure programmes, it requires Respondents [Large Enterprises and QSE's - see below] to have their B-BBEE status verified in compliance with the Government Gazette No 34612, Notice No. 754 dated 23 September 2011. Valid B-BBEE Verification Certificates must be issued by:

- Verification Agencies accredited by the South African National Accreditation System [SANAS]; or
- Registered Auditors approved by the Independent Regulatory Board of Auditors [IRBA], in accordance with the approval granted by the DTI.

A Verification Certificate issued must reflect the weighted points attained by the measured entity for each element of the scorecard as well as the overall B-BBEE rating.

#### 6.1 B-BBEE Rating

Enterprises will be rated by Verification Agencies or Registered Auditors based on the following:

- Large Enterprises** [i.e. annual turnover greater than R35 million]:
  - Rating level based on all seven elements of the B-BBEE scorecard
- Qualifying Small Enterprises – QSE** [i.e. annual turnover between R5 million and R35 million]:
  - Rating based on any four of the elements of the B-BBEE scorecard
- Exempted Micro Enterprises – EME** [i.e. annual turnover less than R5 million]:
 

In accordance with B-BBEE Codes of Good Practice [Statement 000, Section 4], any enterprise with an annual total revenue of R 5 million or less qualifies as an EME.

  - Automatic rating of B-BBEE Level 4 irrespective of race or ownership



- Black<sup>1</sup> ownership greater than 51% or Black Women ownership greater than 51% automatically qualify as B-BBEE Level 3

Sufficient evidence to qualify as an EME would be a certificate (which may be in the form of a letter) from an auditor or, accounting officer or certificate from a Verification Agency accredited by SANAS. The certificate must confirm the company's turnover, Black ownership / Black female ownership and B-BBEE status level.

*Respondents are required to furnish proof of the above to Transnet. [i.e. a detailed scorecard as stipulated above in respect of Large Enterprises and QSEs, or a certificate in respect of EMEs].*

N.B. Failure to submit a B-BBEE certificate, which is valid as at the Closing Date of this RFP, will result in a score of zero being allocated for B-BBEE.

**Turnover:** Kindly indicate your entity's annual turnover for the past year:

R \_\_\_\_\_

*All Respondents must complete and return the B-BBEE Preference Points Claim Form attached hereto as **Annexure A**.*

## 6.2 B-BBEE Joint Ventures and/or Subcontractors

In addition to the above, Respondents who would wish to enter into a JV with or subcontract portions of the contract to B-BBEE entities must state in their RFPs the percentage of the total contract value that would be allocated to such B-BBEE entities, should they be successful in being awarded any business. A valid B-BBEE Verification Certificate in respect of such B-BBEE JV-partners and/or subcontractor(s), as well as a breakdown of the distribution of the aforementioned percentage must also be furnished with the RFP Bid to enable Transnet to evaluate in accordance with the processes outlined in the B-BBEE Preference Points Claim Form appended hereto as Annexure A.

### a) Incorporated JVs/Consortiums

As part of an incorporated JV/Consortium's bid response, the incorporated JV/Consortium must submit a valid B-BBEE certificate in its registered name.

### b) Unincorporated JVs/Consortiums

As part of an unincorporated JV/Consortium's tendered response, the unincorporated JV/Consortium must submit a consolidated valid B-BBEE certificate as if it was a group structure and provided that that such a consolidated B-BBEE scorecard is prepared for every separate tender.

It is a further requirement that a signed Memorandum of Agreement [MoA] or JV agreement between the parties clearly stating the percentage [%] split of business and the associated roles, responsibilities, contribution etc of each party be submitted. If such a JV agreement is unavailable, the JV partners must submit confirmation in writing of their intention to enter into a JV agreement/partnership should they be awarded business by Transnet through this RFP process. This written confirmation must clearly indicate the percentage [%] split of business

<sup>1</sup> **Black** means South African Blacks , Coloureds and Indians, as defined in the B-BBEE Act, 53 of 2003

and the responsibilities of each party. In such cases, award of business will only take place once a signed copy of a JV agreement is submitted to Transnet.

- c) Please note that a Respondent will not be awarded points for B-BBEE if it is indicated in its Proposal that such Respondent intends subcontracting more than 25% [twenty-five per cent] of the value of the contract to an entity that does not qualify for at least the same points that the Respondent qualifies for, unless the intended subcontractor is an EME with the capability to execute the contract.

### 6.3 B-BBEE Registration

In addition to the Verification Certificate, Transnet recommends that Respondents register their B-BBEE compliance and supporting documentation on the DTI's National B-BBEE IT Portal and Opportunities Network and provide Transnet with proof of registration in the form of an official B-BBEE Profile issued by the DTI.

Transnet would wish to use the DTI B-BBEE IT Portal as a data source for tracking B-BBEE compliance.

*For instructions to register and obtain a DTI B-BBEE Profile go to <http://bee.thedti.gov.za>*

### 6.4 Further Recognition Criteria

- a) Further Recognition Criteria (Current)

Points will be allocated in respect of preference to measure the Respondent's CURRENT B-BBEE status at the time of submission of their bid. These points are allocated based on the extent to which the Respondent's current ownership, management control and employment equity meets or exceeds certain minimum targets. Please note that a Respondent's ownership, management control and employment equity at the time of the submission of the bid, may differ from that which is reflected in the B-BBEE scorecard. When claiming points for FRC (Current) the Respondent must reflect his B-BBEE status at the time of submitting the bid. Supporting documentation may be requested in this regard.

- b) Further Recognition Criteria (Future)

Transnet encourages its suppliers to constantly strive to improve their B-BBEE rating. Therefore, further points will be allocated to a Respondent's score based on the "Further Recognition Criteria (Future)" [**FRC (Future)**] on an ascending scale. This will be calculated based on the extent to which Respondents propose to maintain, meet or exceed Transnet's compliance targets over the contract period.

Respondents are required to submit their Further Recognition Criteria [Current & Future] with their Proposals. *[Refer to Annexure C for further instructions]*

*N.B. Failure to submit an FRC Claim Form for FRC (Current) and/or FRC (Future) at the closing date of this tender will result in disqualification.*

***All Respondents must complete and return the FRC Claim Form for FRC (Current) &/or FRC (Future) attached hereto as Annexure C respectively.***

## 6.5 Supplier Development Initiatives

Historically in South Africa there has been a lack of investment in infrastructure, skills and capability development and inequality in the income distribution and wealth of a significant portion of the population. There have been a number of Government initiatives developed to address these challenges. In particular, the New Growth Path [NGP] developed in 2010 aligns and builds on previous policies to ensure the achievement of Government's development objectives for South Africa.

Transnet fully endorses and supports Government's New Growth Path policy through its facilitation of Supplier Development [SD] initiatives. Hence Supplier Development Initiatives are a prerequisite for this RFP and are included in the Evaluation Criteria. (Refer Section 1 Paragraph 10.3 for Instruction)

EVALUATION CRITERIA	Section 1 Reference	Final Weighted Points
Supplier Development [SD] initiatives	Paragraph 5.6	10
<ul style="list-style-type: none"> <li>- Job creation and preservation</li> <li>- Rural integration</li> </ul>		
<b>Maximum points allocated for SD:</b>		<b>10</b>

Respondents are to submit a signed SD Bid Document and a completed **Annexure D** – Supplier Development Value Summary [for further instructions refer to **Appendix (iii)** – Guidelines for the Completion of a Supplier Development Bid Document].

Note: Should a JV be envisaged, the principal Respondent is required to submit the required responses as indicated above.

## 7 COMMUNICATION

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

- 7.1 For specific queries relating to this RFP, an RFP Clarification Request Form should be submitted before **12:00 on 05 February 2013**, substantially in the form set out in Section 12 hereto. In the interest of fairness and transparency Transnet's response to such a query will then be made available to the other Respondents who have collected RFP documents. For this purpose all Respondents are required to indicate by email their intention to respond to this RFP by informing Transnet of their contact details as soon as possible but on or before **31 January 2013** to [Sarah.Assegaai@transnet.net](mailto:Sarah.Assegaai@transnet.net).
- 7.2 After the closing date of the RFP, a Respondent may only communicate with Sarah Assegaai of the Transnet Freight Rail Acquisition Council, at telephone number 011 584 9231, email [Sarah.Assegaai@transnet.net](mailto:Sarah.Assegaai@transnet.net) or facsimile number 011 584 9231 on any matter relating to its RFP Proposal.

Respondents found to be in collusion with one another will be automatically disqualified and blacklisted from doing business with Transnet in the future.

## 8 INSTRUCTIONS FOR COMPLETING THE RFP

- 8.1 Sign one set of original documents [sign, stamp and date the bottom of each page]. This set will serve as the legal and binding copy. A duplicate set of documents is required. This second set must be a copy of the original signed Proposal.
- 8.2 Both sets of documents are to be submitted to the address specified in paragraph 4 above.
- 8.3 A CD copy of the RFP Proposal must be submitted. Please provide files in MS Word / Excel format, not PDF versions, noting that the signed original set will be legally binding.
- 8.4 All returnable documents tabled in the Proposal Form [Section 4] must be returned with your Proposal.

## 9 COMPLIANCE

The successful Respondent [hereinafter referred to as the **Service Provider**] shall be in full and complete compliance with any and all applicable laws and regulations.

## 10 ADDITIONAL NOTES

- 10.1 Changes by the Respondent to its submission will not be considered after the closing date.
- 10.2 The person or persons signing the Proposal must be legally authorised by the Respondent to do so [Refer Section 6 – Signing Power, Resolution of the Board of Directors]. A list of those person(s) authorised to negotiate on behalf of the Respondent [if not the authorised signatories] must also be submitted along with the Proposal together with their contact details.
- 10.3 Transnet will not do business with companies involved in B-BBEE fronting practices.
- 10.4 Transnet may wish to visit the Respondent's place of business during this RFP process.
- 10.5 Transnet reserves the right to undertake post-tender negotiations [PTN] with selected Respondents or any number of short-listed Respondents, such PTN to include, at Transnet's option, any evaluation criteria listed in this RFP document.
- 10.6 Unless otherwise expressly stated, all Proposals furnished pursuant to this RFP shall be deemed to be offers. Any exceptions to this statement must be clearly and specifically indicated.

**FAILURE TO OBSERVE ANY OF THE AFOREMENTIONED REQUIREMENTS  
MAY RESULT IN A PROPOSAL BEING REJECTED**

## 11 DISCLAIMERS

Respondents are hereby advised that Transnet is not committed to any course of action as a result of its issuance of this RFP and/or its receipt of Proposals. In particular, please note that Transnet reserves the right to:

- 11.1 modify the RFP's Services and request Respondents to re-bid on any such changes;
- 11.2 reject any Proposal which does not conform to instructions and specifications which are detailed herein;
- 11.3 disqualify Proposals submitted after the stated submission deadline [Closing Date];

- 11.4 not necessarily accept the lowest priced Proposal;
- 11.5 reject all Proposals, if it so decides;
- 11.6 withdraw the RFP on good cause shown;
- 11.7 award a contract in connection with this Proposal at any time after the RFP's closing date;
- 11.8 award a contract for only a portion of the proposed Services which are reflected in the scope of this RFP;
- 11.9 split the award of the contract between more than one Service Provider; or
- 11.10 award a contract on the required segregation of duties with regard to the handling, storage, transportation, processing and purchasing of the scrap metals; or
- 11.11 make no award of a contract.

In addition, Transnet reserves the right to exclude any Respondent from the bidding process who has been convicted of a serious breach of law during the preceding 5 [five] years, including but not limited to breaches of the Competition Act 89 of 1998. Respondents are required to indicate in Section 11 *[Breach of Law]* whether or not they have been found guilty of a serious breach of law during the past 5 [five] years.

In order to further the advancement of certain targeted groups e.g. Black-owned companies, Black women-owned companies, Exempted Micro Enterprises, persons with disabilities and persons in rural areas, Transnet reserves the right to apply "set asides" in the evaluation of this RFP, as indicated in the RFP advertisement.

Kindly note that Transnet will not reimburse any Respondent for any preparatory costs or other work performed in connection with its Proposal, whether or not the Respondent is awarded a contract.

## 12 LEGAL REVIEW

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

**Transnet urges its clients, suppliers and the general public  
to report any fraud or corruption to  
TIP-OFFS ANONYMOUS : 0800 003 056**

**FOR PROCESSING – HANDLING, CUTTING, SORTING, WEIGHING AND STACKING OF FERROUS SCRAP METALS AS AND WHERE AVAILABLE FROM VARIOUS TRANSNET HUBS FOR A PERIOD OF 3 YEARS**

**Section 2: EXECUTIVE OVERVIEW AND SCOPE OF REQUIREMENTS**

**1 BACKGROUND**

Transnet Freight Rail [TFR], and Transnet Rail Engineering [TRE] are operating divisions of Transnet and generate scrap through maintenance and refurbishment operations as well as asset disposal programmes. The TFR and TRE scrap will be transported to various mini and main scrap yards where it will be required to be received and processed as specified by Transnet. Transnet reserves the right to use its own vehicles and/or rail wagons to transport scrap to the site/s. Annexure E – Hub Information reflects the list of mini and main scrap yards where processing will be required as per the Scope of Requirements below.

**2 EXECUTIVE OVERVIEW**

The selected service provider (s) will share in the mission and business objectives of Transnet. These mutual goals will be met by meeting contract requirements and new challenges in an environment of teamwork, joint participation, flexibility, innovation and open communication. In this spirit of partnership, Transnet and its supplier (s) will study the current ways of doing business to enhance current practices and support processes and systems, such a partnership will allow Transnet to reach higher levels of quality, service and profitability.

**3 SCOPE OF REQUIREMENTS**

The scope of requirements for this projects is as follows:

- 3.1 Receiving material at the scrap yard
- 3.2 Off-loading in the case of Transnet's own vehicles and/or rail trucks when applicable
- 3.3 Sorting material into appropriate stock items
- 3.4 Cutting in terms item descriptions/specifications or as directed by Transnet personnel
- 3.5 Present the processed materials for weighing by the Transnet personnel
- 3.6 Cleaning up working area on a regular basis (Environmental requirements)
- 3.7 Stacking processed materials into stock allocation areas as designated by the Transnet personnel
- 3.8 Materials not requiring processing must be stacked as per 7 above at no extra cost to Transnet

Transnet will supply the following basic equipment to enable the contractor to process in terms of Transnet item specifications:

- One 12 ton forklift
- One 15 ton mechanical grab – the capacity is negotiable in terms of the type of materials to be handled
- Two sets of cutting torches, and gas bottles (6) and appropriate PPE for 5 persons (one issue per year after which the contractor must provide his own PPE). The contractor will also be required to fill the gas bottles at its expense once the initial gas has been consumed.



#### 4 GENERAL CONDITIONS

4.1 Ferrous scrap metal is currently being accumulated at 6 regional Transnet hubs. These hubs receive scrap metal from sub-depots via mini scrap yards. The 6 hubs are located in the following areas:

- Koedoespoort
- Germiston
- Bloemfontein
- Durban
- Uitenhage
- Salt River

4.2 Respondents will be required to indicate, dependent upon their capacity and capability in servicing one or more of these hub/s, which hub/s they intend on submitting a response for. Relevant information concerning hubs and the selection thereof will be detailed in Annexure E.

#### 5 GREEN ECONOMY / CARBON FOOTPRINT

Whereas Transnet cannot prescribe a Respondent's commitment to environmental issues, Transnet would wish to have an understanding of your company's position in this regard, including key environmental characteristics such as waste disposal, recycling and energy conservation. *Please submit details of your entity's policies in this regard.*

#### 6 GENERAL SERVICE PROVIDER OBLIGATIONS

- 6.1 The Service Provider(s) shall be fully responsible to Transnet for the acts and omissions of persons directly or indirectly employed by them.
- 6.2 The Service Provider(s) must comply with the requirements stated in this RFP.

#### 7 EXCHANGE AND REMITTANCE

The attention of the Respondents is directed to clause 16 *[Exchange and Remittance]* of the General Bid Conditions appended hereto. If Transnet is requested by the Respondent to effect payment overseas direct to the Respondent's principal or service provider, which is not a registered South African Company please complete the details below:

7.1 ZAR 1.00 [South African currency] being equal to \_\_\_\_\_ *[foreign currency]*

7.2 \_\_\_\_\_ % in relation to tendered price(s) to be remitted overseas by Transnet

7.3 \_\_\_\_\_ *[Name of country to which payment is to be made]*

7.4 Beneficiary details:

Name *[Account holder]*

Bank *[Name and branch code]*

Swift code

Country

7.5 \_\_\_\_\_ [Applicable base date of Exchange Rate used]

Respondents should note that Transnet would prefer to receive fixed price offers expressed in South African Rand [ZAR].

## 8 SERVICE LEVELS

- 8.1 An experienced national account representative(s) is required to work with Transnet's procurement department. [No sales representatives are needed for individual department or locations]. Additionally, there shall be a minimal number of people, fully informed and accountable for this agreement.
- 8.2 Transnet will have quarterly reviews with the Service Provider's account representative on an on-going basis.
- 8.3 Transnet reserves the right to request that any member of the Service Provider's team involved on the Transnet account be replaced if deemed not to be adding value for Transnet.
- 8.4 The Service Provider guarantees that it will achieve a 95% service level on the following measures:
- Random checks on compliance with scope of work or terms of reference
  - On-time deliverables
- 8.5 The Service Provider must provide a telephone number for customer service calls.
- 8.6 Failure of the Service Provider to comply with stated service level requirements will give Transnet the right to cancel the contract in whole, without penalty to Transnet, giving 30 [thirty] days' notice to the Service Provider of its intention to do so.

### Acceptance of Service Levels:

YES		NO	
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## 9 RISK

Respondents must elaborate on the control measures put in place by their entity, which would mitigate the risk to Transnet pertaining to potential non-performance by a Service Provider, in relation to:

### 9.1 Quality of Services delivered:

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### 9.2 Continuity of the provision of Services:

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**9.3 Compliance with the Occupational Health and Safety Act, 85 of 1993:**

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**10 REFERENCES**

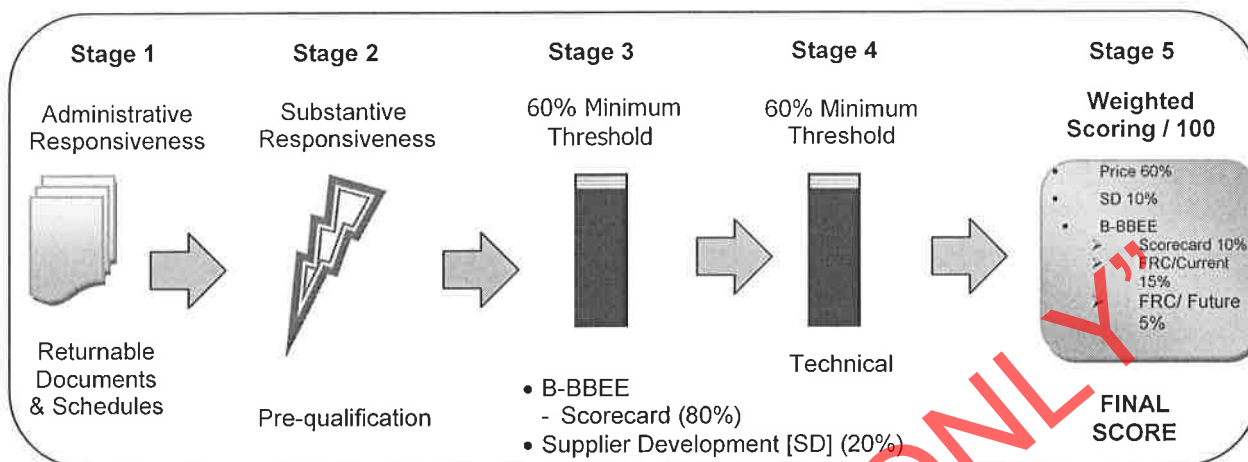
Please indicate below the company names and contact details of previous and existing customers whom Transnet may contact to seek third party evaluations of your current service levels:

NAME OF COMPANY	CONTACT PERSON	TELEPHONE

“PREVIEW COPY ONLY”

## 11 PRE-QUALIFICATION AND EVALUATION METHODOLOGY AND CRITERIA

Transnet will utilise the following methodology and criteria in selecting a preferred Service Provider, if so required:



### 11.1 STAGE ONE: Test for Administrative Responsiveness

The test for administrative responsiveness will include the following:

Pre-Qualification Criteria	RFP Reference
• Whether the Bid has been lodged on time	Section 1 paragraph 3
• Whether all returnable documents and/or schedules [where applicable] were completed and returned by the closing date and time	Section 4

**The test for administrative responsiveness [Stage One] must be passed for a Respondent's Proposal to progress to Stage Two for further pre-qualification**

### 11.2 STAGE TWO: Test for Substantive Responsiveness to RFP

The test for substantive responsiveness to this RFP will include the following:

Pre-Qualification Criteria	RFP Reference
<ul style="list-style-type: none"> <li>Whether any pre-qualification criteria set by Transnet, have been met <ul style="list-style-type: none"> <li>The respondents must be an EME or QSE with greater than 51% black ownership</li> </ul> </li> </ul>	Section 1 paragraphs 2.2, 6, 10.3 Section 1 Paragraph 5 Section 4 – validity period Appendix (i), General Bid Conditions clause 19 Sections 10 & 11
• Whether the Bid contains a priced offer	Section 3
• Whether the Bid materially complies with the scope and/or specification given	All Sections

***The test for substantive responsiveness [Stage Two] must be passed for a Respondent's Proposal to progress to Stage Three for further pre-qualification***

**11.3 STAGE THREE: Test Minimum Threshold 60% (for B-BBEE and Supplier Development Initiatives)**

**a) B-BBEE Scorecard:**

Pre-Qualification Criterion	RFP Reference
<ul style="list-style-type: none"> <li>Current status evaluated according to the valid B-BBEE Accreditation scorecard</li> </ul>	Section 1, paragraph 5 & Preferential Points Claim Form, Annexure A

**b) Supplier Development Bid Document and SD Value Summary:**

*[Refer Section 16, plus Annexures F & G & H:*

Pre-Qualification Criteria	RFP Reference
Supplier Development Bid Document: <ul style="list-style-type: none"> <li>Job Creation and preservation</li> <li>Rural integration</li> </ul>	Appendix (iii)
Supplier Development Value Summary	Annexure D

***The test for meeting the B-BBEE and SD threshold [Stage Three] must be passed for a Respondent's Proposal to progress to Stage Four for further pre-qualification***

***Transnet reserves the right to lower the threshold percentage.***

**11.4 STAGE FOUR: Test Minimum Threshold of 60% for Technical / Functional Criteria**

The test for the Technical / Functional threshold will include the following:

Pre-Qualification Criteria	Weighting (%)
Number and level of staff to be deployed on site	40%
Knowledge and experience of working with the Occupational health and Safety Act	60%

***The minimum threshold for Stage Four pre-qualification criteria must be met or exceeded for a Respondent's Proposal to progress to Stage Five for final evaluation***

### 11.5 STAGE FIVE: Evaluation and Final Weighted Scoring

#### a) Price Criteria: (Weighted 60%)

Evaluation Criteria	RFP Reference
• Commercial offer	Section 3
• Entity's financial stability	Section 3

Transnet will utilise the following formula in its evaluation of price

$$P_s = \frac{P_{bm}}{P_t} \times W_1$$

**Where:** Ps = Score for Bid under consideration

Pt = Comparative price of Bid under consideration

Pbm = Benchmarked price calculated using average price of bids received less 10%

W1 = The percentage score given to price

Bidders with a price lower than the benchmark will be given an automatic score equal to the full points allocated to price.

#### b) Broad-Based Black Economic Empowerment criteria (Weighted 10%)

- **B-BBEE - current scorecard** [Refer paragraph 11.3 (a) above]
- **Further Recognition Criteria – current status and/or future targets**

Evaluation Criteria [Current Status] (Weighted 15%)	RFP Reference
<ul style="list-style-type: none"> <li>• Ownership</li> <li>• Management control</li> <li>• Employment equity</li> </ul>	Annexure C

Evaluation Criteria [Future Targets] (Weighted 5%)	RFP Reference
<ul style="list-style-type: none"> <li>• Ownership</li> <li>• Management control</li> <li>• Employment equity</li> <li>• Enterprise Development</li> <li>• Preferential Procurement</li> </ul>	Annexure C

#### c) Supplier Development Bid Document [Refer paragraph 11.3 (b) above] (Weighted 10%)

PRE-QUALIFICATION CRITERIA	Weighting
Supplier Development Bid Document:	10%
• Job Creation and preservation	6
• Rural development	4



## 11.6 SUMMARY: Pre-Qualification Thresholds and Final Evaluated Weightings

PRE-QUALIFICATION CRITERIA	MINIMUM THRESHOLD [%]
B-BBEE and Supplier Development	60%
Technical / Functionality	60%

EVALUATION CRITERIA	FINAL WEIGHTED SCORES
Price	60%
B-BBEE - Scorecard	10%
- Further Recognition Criteria (Current)	15%
- Further Recognition Criteria (Future)	5%
Supplier Development Initiatives	10%
<b>TOTAL SCORE:</b>	<b>100</b>

*Note: Transnet reserves the right to conduct post-tender negotiations with the preferred Respondent(s)*

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**FOR PROCESSING – HANDLING, CUTTING, SORTING, WEIGHING AND STACKING OF FERROUS  
SCRAP METALS AS AND WHERE AVAILABLE FROM VARIOUS TRANSNET HUBS FOR A PERIOD OF  
3 YEARS**

**Section 3 : PRICING AND DELIVERY SCHEDULE**

*Respondents are required to complete the table below:*

Ref No	Description of Service	Rand per ton	TOTAL PRICE [ZAR]
1	Off-loading in the case of Transnet's own vehicles and/or rail trucks when applicable		
2	Sorting material into appropriate stock items		
3	Cutting in terms item descriptions/specifications or as directed by Transnet personnel		
4	Cleaning up working area on a regular basis (Environmental requirements)		
5	Stacking processed materials into stock allocation areas as designated by the Transnet personnel		
	<b>Grand Total Price for total of services above per ton</b>		<b>R</b>

**Notes to Pricing:**

- a) Prices must be quoted in South African Rand, exclusive of VAT
- b) Prices quoted must be held valid for a period of 120 days from closing date of this RFP
- c) Currency rate of exchange utilised: \_\_\_\_\_ [as applicable]
- d) Respondents are to indicate whether prices quoted would be subject to adjustment after a period of 12 months, and if so which proposed adjustment factor(s) would be utilised

***Respondents are required to submit their 3-year audited financial statements for large enterprises and QSE's and or individual statements of assets, liabilities and guarantees with their Proposal in order to enable Transnet to establish financial stability. A Bidder deemed financially unstable will be disqualified.***

**FOR PROCESSING – HANDLING, CUTTING, SORTING, WEIGHING AND STACKING OF FERROUS  
SCRAP METALS AS AND WHERE AVAILABLE FROM VARIOUS TRANSNET HUBS FOR A PERIOD OF  
3 YEARS**

**Section 4: PROPOSAL FORM**

I/We \_\_\_\_\_

*[name of entity, company, close corporation or partnership]*

of *[full address]*

\_\_\_\_\_

\_\_\_\_\_

carrying on business trading/operating as \_\_\_\_\_

represented by \_\_\_\_\_

in my capacity as \_\_\_\_\_

being duly authorised thereto by a Resolution of the Board of Directors or Members or Certificate of Partners, as the case may be, dated \_\_\_\_\_ a certified copy of which is annexed hereto, hereby offer to provide the above-mentioned Services at the prices quoted in the schedule of prices in accordance with the terms set forth in the accompanying letter(s) reference \_\_\_\_\_ and dated \_\_\_\_\_ *[if any]* and the documents listed in the accompanying schedule of RFP documents.

I/We agree to be bound by those conditions in Transnet's:

- (i) Terms and Conditions of Contract;
- (ii) General Bid Conditions – Services; and
- (iii) any other standard or special conditions mentioned and/or embodied in this Request for Proposal.

I/We accept that unless Transnet should otherwise decide and so inform me/us in the letter of award, this Proposal [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.

Should Transnet decide that a formal contract should be signed and so inform me/us in a letter of intent [the **Letter of Intent**], this Proposal [and, if any, its covering letter and any subsequent exchange of correspondence] together with Transnet's Letter of Intent, shall constitute a binding contract between Transnet and me/us until the formal contract is signed.

I/We further agree that if, after I/we have been notified of the acceptance of my/our Proposal, I/we fail to enter into a formal contract if called upon to do so, or fail to commence the provision of Services within 4 [four] weeks thereafter, Transnet may, without prejudice to any other legal remedy which it may have, recover from me/us any expense to which it may have been put in calling for Proposals afresh and/or having to accept any less favourable Proposal.

I/We accept that any contract resulting from this offer will be for a period of 3 years only; and agree to a penalty clause to be negotiated with Transnet, which will allow Transnet to invoke a penalty against us should the delivery of the Services be delayed due to non-performance by ourselves.

\_\_\_\_\_  
Respondent's Signature

\_\_\_\_\_  
Date & Company Stamp

**ADDRESS FOR NOTICES**

The law of the Republic of South Africa shall govern any contract created by the acceptance of this RFP. The *domicilium citandi et executandi* shall be a place in the Republic of South Africa to be specified by the Respondent hereunder, 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. Foreign Respondents shall, therefore, state hereunder the name of their authorised representative in the Republic of South Africa who has the power of attorney to sign any contract which may have to be entered into in the event of their Proposal being accepted and to act on their behalf in all matters relating to such contract.

Respondent to indicate the details of its *domicilium citandi et executandi* hereunder:

Name of Entity: \_\_\_\_\_  
 Facsimile: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**NOTIFICATION OF AWARD OF RFP**

As soon as possible after approval to award the contract(s), the successful Respondent [the Service Provider] will be informed of the acceptance of its Proposal. Unsuccessful Respondents will be advised in writing of the name of the successful Service Provider and the reason as to why their Proposals have been unsuccessful, for example, in the category of price, delivery period, quality, B-BBEE status or for any other reason.

**VALIDITY PERIOD**

Transnet requires a validity period of 120 [ninety] days [from closing date] of this RFP.

**NAME(S) AND ADDRESS / ADDRESSES OF DIRECTOR(S) OR MEMBER(S)**

The Respondent must disclose hereunder the full name(s) and address(s) of the director(s) or members of the company or close corporation [C.C.] on whose behalf the RFP is submitted.

- (i) Registration number of company / C.C. \_\_\_\_\_  
 (ii) Registered name of company / C.C. \_\_\_\_\_  
 (iii) Full name(s) of director/member(s)      Address/Addresses      ID Number(s)

**CONFIDENTIALITY**

All information related to this RFP, a subsequent contract or Purchase Order is to be treated with strict confidence. In this regard Respondents are required to complete and return a signed copy of the Non-Disclosure Agreement appended hereto as **Annexure B**. All information related to a subsequent contract, both during and after completion thereof, will be treated with strict confidence. Should the need however arise to divulge any information

gleaned from provision of the Services, which is either directly or indirectly related to Transnet's business, written approval to divulge such information must be obtained from Transnet.

#### DISCLOSURE OF PRICES TENDERED

Respondents must indicate below whether Transnet may disclose their tendered prices and conditions to other Respondents:

<b>YES</b>		<b>NO</b>	
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#### PRICE REVIEW

The successful Respondent(s) [the Service Provider] will be obliged to submit to an annual price review. Transnet will be benchmarking this price offering(s) against the lowest price received as per a benchmarking exercise. If the Service Provider's price(s) is/are found to be higher than the benchmarked price(s), then the Service Provider shall match or better such price(s) within 30 [thirty] days, failing which the contract may be terminated at Transnet's discretion or the particular service(s) purchased outside the contract.

#### RETURNABLE DOCUMENTS, SCHEDULES AND ANNEXURES

##### Mandatory Returnable Documents and Schedules

Respondents are required to submit the following returnable documents and schedules with their responses. All Sections, as indicated in the footer of each page, must be signed, stamped and dated by the Respondent. Please confirm submission of these mandatory Returnable Documents, Schedules and Annexures by so indicating [Yes or No] in the table below:

MANDATORY RETURNABLE DOCUMENTS & SCHEDULES	SUBMITTED [Yes or No]
SECTION 3 : Pricing & Delivery Schedule	
SECTION 5 : Original valid Tax Clearance Certificate (Consortia / Joint Ventures / Sub-contractors must submit a separate Tax Clearance Certificate for each party)	
Bidder's technical response	
Valid B-BBEE certificate from auditor, accounting officer or SANAS accredited Verification Agency [EMEs and QSEs] Note: failure to provide a valid B-BBEE Verification Certificate at the closing date and time of the tender will result in an automatic score of zero being allocated for B-BBEE scorecard	
Annexure C : Further Recognition Criteria Current & Future	
Annexure D: Supplier Development Initiatives - Supplier Development Bid Document	
- Supplier Development Value Summary	
ANNEXURE E: Hub Information and Selection template	

***Failure to provide all the above-referenced mandatory returnable documents at the closing date and time of this tender will result in a Respondent's disqualification. Bidders are therefore urged to ensure that all these documents are returned with their Proposals.***

#### **Essential Returnable Documents and Schedules**

Respondents are required to submit the following essential returnable documents and schedules with their responses. All Sections, as indicated in the footer of each page, must be signed, stamped and dated by the Respondent. Please confirm submission of these essential Returnable Documents, Schedules and Annexures by so indicating [Yes or No] in the table below:

<b>ESSENTIAL RETURNABLE DOCUMENTS &amp; SCHEDULES</b>	<b>SUBMITTED [Yes or No]</b>
SECTION 1 : Notice to Bidders	
- ANNEXURE A : B-BBEE Preference Points Claim Form	
SECTION 2 : Background, Overview and Scope of Requirements	
SECTION 4 : Proposal Form	
SECTION 5 : Vendor Application Form	
- Original cancelled cheque or bank verification of banking details	
- Certified copies of IDs of shareholder/directors/members [as applicable]	
- Certified copy of Certificate of Incorporation [CM29/CM9 name change]	
- Certified copy of share certificates [CK1/CK2 if CC]	
- Entity's letterhead	
- Certified copy of valid VAT Registration Certificate	
- In the case of Joint Ventures, a copy of the Joint Venture Agreement or written confirmation of the intention to enter into a Joint Venture Agreement	
- Certified copy of valid VAT Registration Certificate	
- Audited Financial Statements for previous 3 years [Large Enterprises and QSEs] and or individual statements of assets, liabilities and guarantees	
SECTION 6 : Signing Power - Resolution of Board of Directors	
SECTION 7 : Certificate of Acquaintance with RFP Documents	
SECTION 8 : Certificate of Acquaintance with General Bid Conditions – Services	
SECTION 9 : Certificate of Acquaintance with Terms and Conditions of Contract	
SECTION 10 : RFP Declaration Form	
SECTION 11 : Breach of Law Form	
SECTION 13 : Supplier Code of Conduct	
SECTION 14: Certificate of Acquaintance with Specifications	
SECTION 16 : Non-Disclosure Agreement	



***Failure to provide all the above-referenced returnable documents may result in a Respondent's disqualification at Transnet's sole discretion. Bidders are therefore urged to ensure that all these documents are returned with their Proposals.***

#### **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 RFP. 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.

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Respondent's Signature

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Date & Company Stamp

Transnet iSCM Services: RFP October 2012

**By signing these RFP documents, the Respondent is deemed to acknowledge that he/she has made himself/herself thoroughly familiar with all the conditions governing this RFP, including those contained in any printed form stated to form part hereof, 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.**

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

SIGNATURE OF WITNESSES

ADDRESS OF WITNESSES

1 \_\_\_\_\_

Name \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

2 \_\_\_\_\_

Name \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

SIGNATURE OF RESPONDENT'S AUTHORISED REPRESENTATIVE:

\_\_\_\_\_

NAME: \_\_\_\_\_

DESIGNATION: \_\_\_\_\_

**FOR PROCESSING – HANDLING, CUTTING, SORTING, WEIGHING AND STACKING OF  
FERROUS SCRAP METALS AS AND WHERE AVAILABLE FROM VARIOUS TRANSNET HUBS FOR  
A PERIOD OF 3 YEARS**

**Section 5: VENDOR APPLICATION FORM**

*Respondents are to furnish the following documentation and complete the Vendor Application Form below:*

1. **Original** cancelled cheque **OR** letter from the Respondent's bank verifying banking details [**with bank stamp**]
2. **Certified copy** of Identity Document(s) of Shareholders/Directors/Members [*where applicable*]
3. **Certified copy** of Certificate of Incorporation, CM29 / CM9 [*name change*]
4. **Certified copy** of Share Certificates [CK1/CK2 if CC]
5. **Original** letterhead confirming physical and postal addresses
6. **Original** valid SARS Tax Clearance Certificate [RSA entities only] and **certified copy** of VAT Registration Certificate
7. A signed letter from your entity's auditor or accountant confirming most recent annual turnover figures
8. **Certified copy** of valid Company Registration Certificate [*if applicable*]

**Note:** *No contract shall be awarded to any South African Respondent whose tax matters have not been declared by SARS to be in order.*

## Vendor Application Form

Entity's trading name						
Entity's registered name						
Entity's Registration Number or ID Number if a Sole Proprietor						
Form of entity [V]	<input type="checkbox"/> CC	<input type="checkbox"/> Trust	<input type="checkbox"/> Pty Ltd	<input type="checkbox"/> Limited	<input type="checkbox"/> Partnership	<input type="checkbox"/> Sole Proprietor
How many years has your entity been in business?						
VAT number [if registered]						
Entity's telephone number						
Entity's fax number						
Entity's email address						
Entity's website address						
Bank name			Branch & Branch code			

Respondent's Signature

Date & Company Stamp

Transnet Request for proposal No CRAC/JHB/9737

Account holder				Bank account number			
Postal address							
							Code
Physical address							
							Code
Contact person							
Designation							
Telephone							
Email							
Annual turnover range [last financial year]	< R5 m		R5 - 35 m		> R35 m		
Does your entity provide	Products		Services		Both		
Area of delivery	National		Provincial		Local		
Is your entity a public or private entity	Public			Private			
Does your entity have a Tax Directive or IRP30 Certificate	Yes			No			
Main product or services [e.g. Stationery/Consulting]							

**Complete B-BBEE Ownership Details:**

% Black ownership		% Black women ownership		% Disabled Black ownership	
Does your entity have a B-BBEE certificate	Yes		No		
What is your B-BBEE status [Level 1 to 9 / Unknown]					
How many personnel does the entity employ	Permanent		Part time		

*If you are an existing Vendor with Transnet please complete the following:*

Transnet contact person			
Contact number			
Transnet Operating Division			

**Duly authorised to sign for and on behalf of Entity / Organisation:**

Name		Designation	
Signature		Date	

Respondent's Signature

 Date & Company Stamp  
 Transnet ISCM Services: RFP October 2012

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**FOR PROCESSING – HANDLING, CUTTING, SORTING, WEIGHING AND STACKING OF FERROUS  
SCRAP METALS AS AND WHERE AVAILABLE FROM VARIOUS TRANSNET HUBS FOR A PERIOD OF  
3 YEARS**

**Section 6: SIGNING POWER – RESOLUTION OF BOARD OF DIRECTORS**

NAME OF ENTITY: \_\_\_\_\_

It was resolved at a meeting of the Board of Directors held on \_\_\_\_\_ that

FULL NAME(S)

CAPACITY

SIGNATURE

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

in his/her capacity as indicated above is/are hereby authorised to enter into, sign, execute and complete any documents relating to this Proposal and any subsequent Agreement for the provision of Services.

FULL NAME \_\_\_\_\_

SIGNATURE CHAIRMAN

FULL NAME \_\_\_\_\_

SIGNATURE SECRETARY

Respondent's Signature

Date &amp; Company Stamp

Transnet ISCM Services: RFP October 2012

**FOR PROCESSING – HANDLING, CUTTING, SORTING, WEIGHING AND STACKING OF FERROUS  
SCRAP METALS AS AND WHERE AVAILABLE FROM VARIOUS TRANSNET HUBS FOR A PERIOD OF  
3 YEARS**

**Section 7: CERTIFICATE OF ACQUAINTANCE WITH RFP DOCUMENTS**

NAME OF ENTITY:

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1. I/we \_\_\_\_\_ do hereby certify that i/we acquainted myself/ourselves with all the documentation comprising this RFP and all conditions contained therein, as laid down by Transnet SOC Ltd for the carrying out of the proposed supply/service/works for which I/we submitted my/our Proposal.
2. I/we furthermore agree that Transnet SOC Ltd shall recognise no claim from me/us for relief based on an allegation that I/we overlooked any RFP/contract condition or failed to take it into account for the purpose of calculating my/our offered prices or otherwise.
3. I/we understand that the accompanying Bid will be disqualified if this Certificate is found not to be true and complete in every respect.
4. For the purposes of this Certificate and the accompanying Bid, I/we 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 Services as the Bidder and/or is in the same line of business as the Bidder
5. The Bidder has arrived at the accompanying 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.
6. 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 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 RFP; or



- f) bidding with the intention not winning the Bid.
7. 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 Services to which this RFP relates.
8. The terms of the accompanying Bid 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.
9. I/We am/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.

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

\_\_\_\_\_  
SIGNATURE OF WITNESS

\_\_\_\_\_  
SIGNATURE OF RESPONDENT

Transnet Request for proposal No CRAC/JHB/9737

**FOR PROCESSING – HANDLING, CUTTING, SORTING, WEIGHING AND STACKING OF FERROUS  
SCRAP METALS AS AND WHERE AVAILABLE FROM VARIOUS TRANSNET HUBS FOR A PERIOD OF  
3 YEARS**

**Section 8: CERTIFICATE OF ACQUAINTANCE WITH THE GENERAL BID CONDITIONS - SERVICES**

*[appended hereto as Appendix (i)]*

NAME OF ENTITY:

\_\_\_\_\_

I/We \_\_\_\_\_

do hereby certify that I/we acquainted myself/ourselves with all the documentation comprising the General Bid Conditions - Services as received on \_\_\_\_\_ *[insert date]* from Transnet SOC Ltd for the carrying out of the proposed Services for which I/we submitted my/our Proposal.

I/We furthermore agree that Transnet SOC Ltd shall recognise no claim from me/us for relief based on an allegation that I/we overlooked any terms and conditions of the General Bid Conditions or failed to take it into account for the purpose of calculating my/our offered prices or otherwise.

I/We confirm having been advised that a signed copy of this Schedule can be submitted in lieu of the entire General Bid Conditions as confirmation in terms of the Returnable Schedule.

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

\_\_\_\_\_

SIGNATURE OF WITNESS

\_\_\_\_\_

SIGNATURE OF RESPONDENT

**Respondents should also note the obligations as set out in**

**Clause 19 [Terms and Conditions of Contract]**

**of the General Bid Conditions [Appendix (i)] which reads as follows:**

- 19.1 *The Supplier 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.*
- 19.2 *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.*

**“PREVIEW COPY ONLY”**

Transnet Request for proposal No CRAC/JHB/9737

**FOR PROCESSING – HANDLING, CUTTING, SORTING, WEIGHING AND STACKING OF FERROUS  
SCRAP METALS AS AND WHERE AVAILABLE FROM VARIOUS TRANSNET HUBS FOR A PERIOD OF  
3 YEARS**

**Section 9: CERTIFICATE OF ACQUAINTANCE WITH THE TERMS AND CONDITIONS OF  
CONTRACT FOR THE PROVISION OF SERVICES TO TRANSNET**

*[appended hereto as Appendix (ii)]*

NAME OF ENTITY:

\_\_\_\_\_

I/We \_\_\_\_\_

do hereby certify that I/we acquainted myself/ourselves with all the documentation comprising the Terms and Conditions of Contract as received on \_\_\_\_\_ *[insert date]* from Transnet SOC Ltd for the carrying out of the proposed Services for which I/we submitted my/our Proposal.

I/We furthermore agree that Transnet SOC Ltd shall recognise no claim from me/us for relief based on an allegation that I/we overlooked any Terms and Conditions of Contract or failed to take it into account for the purpose of calculating my/our offered prices or otherwise.

I/We confirm having been advised that a signed copy of this Schedule can be submitted in lieu of the entire Terms and Conditions of Contract as confirmation in terms of the Returnable Schedule.

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

\_\_\_\_\_  
SIGNATURE OF WITNESS

\_\_\_\_\_  
SIGNATURE OF RESPONDENT

**FOR PROCESSING – HANDLING, CUTTING, SORTING, WEIGHING AND STACKING OF FERROUS  
SCRAP METALS AS AND WHERE AVAILABLE FROM VARIOUS TRANSNET HUBS FOR A PERIOD OF  
3 YEARS**

**Section 10 : RFP DECLARATION 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 RFP Clarification purposes;
2. we have received all information we deemed necessary for the completion of this Request for Proposal [RFP];
3. at no stage have we received additional information relating to the subject matter of this RFP from Transnet sources, other than information formally received from the designated Transnet contact(s) as nominated in the RFP documents;
4. we are satisfied, insofar as our entity is concerned, that the processes and procedures adopted by Transnet in issuing this RFP and the requirements requested from Bidders in responding to this RFP have been conducted in a fair and transparent manner; and
5. 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.
6. If such a relationship exists, Respondent is to complete the following section:

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

ADDRESS:

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

Indicate nature of relationship with Transnet:

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

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

7. 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.
8. We accept that any dispute pertaining to this Bid will be resolved through the Ombudsman process and will be subject to the Terms of Reference of the Ombudsman. The Ombudsman process must first be exhausted before judicial review of a decision is sought. [Refer "Important Notice to Respondents" overleaf].
9. We further accept that Transnet reserves the right to reverse an award of business or decision based on the recommendations of the Ombudsman without having to follow a formal court process to have such award or decision set aside.

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

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



**IMPORTANT NOTICE TO RESPONDENTS**

- Transnet has appointed a Procurement Ombudsman to investigate any material complaint in respect of RFPs exceeding R5,000,000.00 [five million S.A. Rand] in value. Should a Respondent have any material concern regarding an RFP process which meets this value threshold, a complaint may be lodged with Transnet's Procurement Ombudsman for further investigation.
- It is incumbent on the Respondent to familiarise himself/herself with the Terms of Reference for the Transnet Procurement Ombudsman, details of which are available for review at Transnet's website [www.transnet.net](http://www.transnet.net).
- An official complaint form may be downloaded from this website and submitted, together with any supporting documentation, within the prescribed period, to [procurement.ombud@transnet.net](mailto:procurement.ombud@transnet.net)
- For transactions below the R5,000,000.00 [five million S.A. Rand] threshold, a complaint may be lodged with the Chief Procurement Officer of the relevant Transnet Operating Division.
- All Respondents should note that a complaint must be made in good faith. If a complaint is made in bad faith, Transnet reserves the right to place such a Bidder on its List of Excluded Bidders.

- **FOR PROCESSING – HANDLING, CUTTING, SORTING, WEIGHING AND STACKING OF FERROUS SCRAP METALS AS AND WHERE AVAILABLE FROM VARIOUS TRANSNET HUBS FOR A PERIOD OF 3 YEARS**

### Section 11 : BREACH OF LAW FORM

NAME OF ENTITY: \_\_\_\_\_

I/We \_\_\_\_\_

do hereby certify that I/we **have/have not been** 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.

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\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF WITNESS

\_\_\_\_\_  
SIGNATURE OF RESPONDENT

Transnet Request for proposal No CRAC/JHB/9737

**FOR PROCESSING – HANDLING, CUTTING, SORTING, WEIGHING AND STACKING OF FERROUS  
SCRAP METALS AS AND WHERE AVAILABLE FROM VARIOUS TRANSNET HUBS FOR A PERIOD OF  
3 YEARS**

**Section 12 : RFP CLARIFICATION REQUEST FORM**

RFP No: CRAC/JHB/9737

RFP deadline for questions / RFP Clarifications: Before 12:00 on 05 February 2013

TO: Transnet Freight Rail  
ATTENTION: The Secretariat, Transnet Acquisition Council [TAC]  
EMAIL: [Sarah.Assegai@transnet.net](mailto:Sarah.Assegai@transnet.net)  
DATE: \_\_\_\_\_  
FROM: \_\_\_\_\_

RFP Clarification No [to be inserted by Transnet]

**REQUEST FOR RFP CLARIFICATION**

“PREVIEW COPY ONLY”

Respondent's Signature

Date &amp; Company Stamp

**FOR PROCESSING – HANDLING, CUTTING, SORTING, WEIGHING AND STACKING OF FERROUS  
SCRAP METALS AS AND WHERE AVAILABLE FROM VARIOUS TRANSNET HUBS FOR A PERIOD OF  
3 YEARS**

**Section 13: SUPPLIER CODE OF CONDUCT**

Transnet aims to achieve the best value for money when buying or selling goods and obtaining services. This however must be done in an open and fair manner that supports and drives a competitive economy. Underpinning our process are several acts and policies that any supplier dealing with Transnet must understand and support. These are:

- The Transnet Supply Chain Policy [**SCP**];
- Section 217 of the Constitution - the five pillars of Public PSCM [Procurement and Supply Chain Management]: fair, equitable, transparent, competitive and cost effective;
- The Public Finance Management Act [**PFMA**];
- The Broad-Based Black Economic Empowerment Act [**B-BBEE**]; and
- The Prevention and Combating of Corrupt Activities Act.

This Code of Conduct has been included in this RFP to formally apprise prospective Transnet Suppliers of Transnet's expectations regarding the behaviour and conduct of its Suppliers.

**Prohibition of bribes, kickbacks, unlawful payments, and other corrupt practices**

Transnet is in the process of transforming itself into a self-sustaining State Owned Company [**SOC**], actively competing in the logistics industry. Our aim is to become a world class, profitable, logistics organisation. As such, our transformation is focused on adopting a performance culture and to adopt behaviours that will enable this transformation.

a) *Transnet will not participate in corrupt practices and therefore expects its Suppliers to act in a similar manner.*

- Transnet and its employees will follow the laws of this country and keep accurate business records that reflect actual transactions with and payments to our Suppliers.
- Employees must not accept or request money or anything of value, directly or indirectly, to:
  - illegally influence their judgement or conduct or to ensure the desired outcome of a sourcing activity;
  - win or retain business or to influence any act or decision of any decision stakeholders involved in sourcing decisions; or
  - gain an improper advantage.
- There may be times when a Supplier is confronted with fraudulent or corrupt behaviour of Transnet employees. We expect our Suppliers to use our "Tip-offs Anonymous" Hot line to report these acts [0800 003 056].

b) *Transnet is firmly committed to the ideas of free and competitive enterprise.*

- Suppliers are expected to comply with all applicable laws and regulations regarding fair competition and antitrust.
- Transnet does not engage with non-value adding agents or representatives solely for the purpose of increasing B-BBEE spend [fronting].

c) *Transnet's relationship with Suppliers requires us to clearly define requirements, exchange information and share mutual benefits.*

- Generally, Suppliers have their own business standards and regulations. Although Transnet cannot control the actions of our Suppliers, we will not tolerate any illegal activities. These include, but are not limited to:
  - misrepresentation of their product [e.g. origin of manufacture, specifications, intellectual property rights];
  - collusion;
  - failure to disclose accurate information required during the sourcing activity [e.g. ownership, financial situation, B-BBEE status];
  - corrupt activities listed above; and
  - harassment, intimidation or other aggressive actions towards Transnet employees.
- Suppliers must be evaluated and approved before any materials, components, products or services are purchased from them. Rigorous due diligence is conducted and the Supplier is expected to participate in an honest and straight forward manner.
- Suppliers must record and report facts accurately, honestly and objectively. Financial records must be accurate in all material respects.

### **Conflicts of interest**

A conflict of interest arises when personal interests or activities influence [or appear to influence] the ability to act in the best interests of Transnet. Examples include, but are not limited to:

- Transnet employees awarding business to entities in which their family members or associates have an interest
- Transnet employees having a financial interest in a bidding entity

Bidding entities are required to disclose any interest which exists between themselves and any employee and/or Transnet Board member.

**FOR PROCESSING – HANDLING, CUTTING, SORTING, WEIGHING AND STACKING OF FERROUS  
SCRAP METALS AS AND WHERE AVAILABLE FROM VARIOUS TRANSNET HUBS FOR A PERIOD OF  
3 YEARS**

**Section 14: CERTIFICATE OF ACQUAINTANCE WITH SPECIFICATIONS**

*[appended hereto as Appendix (iv)]*

I/We \_\_\_\_\_  
do hereby certify that I/we acquainted myself/ourselves with all the documentation comprising the Specifications for the carrying out of the proposed Services for which I/we submitted my/our Proposal.

I/We furthermore agree that Transnet SOC Ltd shall recognise no claim from me/us for relief based on an allegation that I/we overlooked any provisions of the Specifications or failed to take it into account for the purpose of calculating my/our offered prices or otherwise.

I/We confirm having been advised that a signed copy of this Schedule can be submitted in lieu of the Specifications as confirmation in terms of the Returnable Schedule.

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

\_\_\_\_\_  
SIGNATURE OF WITNESS

\_\_\_\_\_  
SIGNATURE OF RESPONDENT



**FOR PROCESSING – HANDLING, CUTTING, SORTING, WEIGHING AND STACKING OF FERROUS  
SCRAP METALS AS AND WHERE AVAILABLE FROM VARIOUS TRANSNET HUBS FOR A PERIOD OF  
3 YEARS**

**Section 15: SUPPLIER DEVELOPMENT INITIATIVES**

**1. Aim and Objectives**

Historically in South Africa there has been a lack of investment in infrastructure, skills and capability development and an inequality in the income distribution and wealth of a significant portion of the population. There have been a number of Government initiatives developed to address these challenges. In particular, the New Growth Path [NGP] developed in 2010 aligns and builds on previous policies to ensure the achievement of Government's development objectives for South Africa. Transnet fully endorses and supports Government's New Growth Path policy.

The key focuses of the NGP include:

- increasing employment intensity of the economy
- addressing competitiveness
- balancing spatial development of rural areas and poorer provinces
- reducing the carbon intensity of the economy
- creating opportunities in improving regional and global cooperation
- enabling transformation that benefits a wider range of social actors in society e.g. workers, rural communities, youth and women

Transnet, as a State Owned Company [SOC], plays an important role to ensure these objectives are achieved. Therefore, the purchasing of goods and services needs to be aligned to Government's objectives for developing and transforming the local supply base. Transnet's mission is to transform its supplier base by engaging in targeted supplier development initiatives to support localisation and industrialisation whilst providing meaningful opportunities for Black<sup>2</sup> South Africans with a particular emphasis on:

- Youth [16 to 35 year olds]
- Black women
- People with disabilities
- Small businesses
- Rural integration

**2. Supplier Development [SD]**

To facilitate the implementation of Supplier Development initiatives, Transnet has adapted an existing framework from the Department of Public Enterprises [DPE]. This framework allows for a basic set of principles to be applied to appropriately targeted SD initiatives. Supplier development initiatives aim to build local suppliers who are competitive through building capability and capacity. Hence the framework has been termed the Increased Competitiveness, Capability and Capacity Supplier Development Classification Matrix [IC<sup>3</sup> Matrix]. Currently there are four quadrants of SD initiatives which Transnet considers according to the

<sup>2</sup> "Black" means South African Blacks, Coloureds and Indians, as defined in the B-BBEE Act, 53 of 2003

IC<sup>3</sup> Matrix. This RFP has been identified as **strategic**, involving high commercial leverage and high value. Transnet's expectation is that a minimum SD target of 20% [twenty per cent] of the Respondent's tendered value is offered as part of its SD initiatives to be submitted [the SD Bid Document].

Accordingly, Transnet requests all Respondents to submit a **Supplier Development Bid Document** demonstrating their commitment and support for the New Growth Path Policy and how an appointment in terms of this RFP would assist in achieving the NGP objectives.

- a) For a detailed understanding of the IC<sup>3</sup> Matrix, the respective SD initiatives and their objectives, please refer to the "Guidelines for the Completion of a Supplier Development Bid Document" appended hereto as **Appendix (iii)**.
- b) The following Supplier Development [SD] focus areas have been identified and are included in the prescribed evaluation criteria, namely:

Category	Description
Job Creation & Preservation	Number of jobs created and preserved resulting from the award of contract
Rural Integration	Incorporation of the use of rural labour and regional businesses which will contribute to NGP objectives

*Green economy / carbon footprint: The potential reduction of the economy's carbon intensity [i.e. creation of a greener economy] should be regarded as a key priority within all the above SD Categories and for all proposed SD initiatives*

- c) The Supplier Development Bid Document is to be submitted as a separate document, developed in line with the criteria set out in **Annexure D** [Supplier Development Value Summary] appended hereto. The Supplier Development Bid Document is a detailed narrative document explaining the Respondent's Bid value as explained in Appendix (iii). There is no prescribed format for this document. This SD Bid Document will represent a binding commitment on the part of the successful Respondent. The SD Bid Document should outline the type of activities you intend to embark upon should you be awarded the contract. This Bid Document should also provide an overview of what you intend to achieve, when, and the mechanisms whereby you will achieve those objectives.

- d) Annexure D must also be completed, indicating by cross-reference the detailed areas which have been addressed in your SD Bid Document for each of the evaluation criteria listed in paragraph 1.2 (b) above, together with the Value Indicators therefor.

**Notes for completion of SD Bid Document:**

- (i) Respondents are urged to pay careful attention to the compilation of the SD Bid Document [including Annexure D] since this will form an essential component of the evaluation of your Proposal.
- (ii) Respondents are required to address each of the aspects under the detailed SD Description as a minimum for submission. This is not an exhaustive list however, and Respondents must not be limited to these choices when compiling each section.

- (iii) *Please provide detailed calculations to illustrate how your estimated Rand values provided in Annexure D have been derived.*
- (iv) *Respondents are required to provide an electronic copy [CD] of the completed Annexure D as part of your SD Bid Document submission.*

### 3. **Additional contractual requirements**

Should a contract be awarded through this RFP process, the successful Respondent(s) [hereinafter referred to as **the Service Provider**] will be contractually committed, *inter alia*, to the following conditions:

- a) The Service Provider will be required to submit a Supplier Development Plan within 45 [forty-five] days from the signature date of a Letter of Award [**LOA**]. This SD Plan represents additional detail in relation to the SD Bid Document providing an explicit breakdown of the nature, extent, timelines and monetary value of the SD commitments which the Service Provider proposes to undertake and deliver during the term of the contract. Specific milestones, timelines and targets will be recorded to ensure that the SD Plan is in line with Transnet's SD objectives and that implementation thereof is completed within the term of the contract.
- b) The SD Plan may require certain additions or updates to the initial SD Bid Document in order to ensure that Transnet is satisfied that development objectives will be met.
- c) The Service Provider will need to ensure that the relevant mechanisms and procedures are in place to allow for access to information to measure and verify the Service Provider's compliance with its stated SD commitments.
- d) The Service Provider will be required to provide:
  - (i) monthly status updates to Transnet for each SD initiative. [Detailed requirements will be provided by Transnet];
  - (ii) quarterly status reports for Transnet and the DPE. [Detailed reporting requirements will be provided by Transnet]; and
  - (iii) a final Supplier Development report, to be submitted to Transnet prior to the expiry date of the contract, detailing delivery, implementation and completion of all SD components plus auditable confirmation of the Rand value contribution associated with each such SD commitment.
- e) All information provided by the Service Provider in order to measure its progress against its stated targets will be auditable.
- f) The Service Provider will be required to submit this SD Plan to Transnet in writing, within 45 [forty-five] days after signature of a Letter of Award [**LOA**], where after both parties must reach an agreement [signed by both parties] within 20 [twenty] days. Transnet will reserve the right to reduce or increase the number of days in which the Service Provider must submit its SD Plan if it is deemed reasonable, based on the degree of complexity of the SD initiative.
- g) The contract will be conditional on agreement being reached by the parties on the SD Plan submitted by the Service Provider. Therefore failure to submit or thereafter to agree to the SD Plan within the stipulated timelines will result in the non-award of such a contract or termination thereof.
- h) Failure to adhere to the milestones and targets defined in an SD Plan may result in the invocation of financial penalties, to be determined at Transnet's discretion, which shall equate to the monetary value

of any such SD initiative which the Service Provider fails to deliver, as well as providing Transnet cause to terminate the contract in certain cases where material milestones are not being achieved.

4. **Supplier Development Documentation**

Your **SD Bid Document** [including Annexure D], to be submitted as part of your RFP Proposal, will represent a binding commitment on the part of the successful Respondent.

Appended herewith is the following documentation:

- **SD Guideline Document – Appendix (iii)**

*This document must be used as a guideline to complete the SD Bid Document.*

- **SD Value Summary – Annexure D**

*This template must be completed as part of the Bid which will represent a binding financial commitment on the part of the successful Respondent.*

***Failure to submit a Supplier Development Bid Document which includes all the required Annexures, to be completed as indicated in this Section, will result in disqualification of your Proposal.***

“PREVIEW COPY ONLY”

**FOR PROCESSING – HANDLING, CUTTING, SORTING, WEIGHING AND STACKING OF FERROUS  
SCRAP METALS AS AND WHERE AVAILABLE FROM VARIOUS TRANSNET HUBS FOR A PERIOD OF  
3 YEARS**

**Section 16: NON-DISCLOSURE AGREEMENT [NDA]**

**Complete and sign the Non-Disclosure Agreement attached hereto**

**“PREVIEW COPY ONLY”**

Respondent's Signature

Date & Company Stamp

**FOR PROCESSING – HANDLING, CUTTING, SORTING, WEIGHING AND STACKING OF FERROUS  
SCRAP METALS AS AND WHERE AVAILABLE FROM VARIOUS TRANSNET HUBS FOR A PERIOD OF  
3 YEARS**

**Section 17 : FURTHER RECOGNITION CRITERIA [FRC]**

Transnet encourages its Service Providers to constantly strive to improve their B-BBEE rating. Whereas Respondents will be allocated points in terms of a preference point system based on its B-BBEE scorecard to be assessed as detailed in Section 1, paragraph in addition to such scoring, further points will be allocated to Respondents score based on "Further Recognition Criteria" on an ascending scale. Points for FRC (Current) will be allocated based on the extent to which the Respondent's current ownership, management control and employment equity meets or exceeds certain minimum targets. FRC (Future) will be calculated based on the extent to which the Respondent commits to meet, sustain and/or exceed Transnet's minimum compliance targets over the contract period.

***All Respondents must complete and return the FRC Claim Form for FRC (Current) &/or FRC (Future) attached hereto as Annexure c respectively.***

**“PREVIEW COPY ONLY”**





## 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. The bidder's claim for preference points in respect of its compliance targets for Further Recognition Criteria [FRC] will be evaluated in accordance with the FRC table incorporated in the RFP documents.

### 1. INTRODUCTION

- 1.1 A total of 20 preference points shall be awarded as follows:

	POINTS
B-BBEE STATUS LEVEL OF CONTRIBUTION	10
FURTHER RECOGNITION CRITERIA [FRC]	20
Total points for B-BBEE and FRC shall not exceed	30

- 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 **"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;
- 2.7 **"contract"** means the agreement that results from the acceptance of a bid by Transnet;

- 2.8 **"control"** means the possession and exercise of legal authority and power to manage the assets, goodwill and daily operations of a business and the active and continuous exercise of appropriate managerial authority and power in determining the policies and directing the operations of the business;
- 2.9 **"EME"** means any enterprise with an annual total revenue of R5 [five] million or less;
- 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 **"person"** includes reference to a juristic person;
- 2.13 **"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;
- 2.14 **"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;
- 2.15 **"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
- 2.16 **"trustee"** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

### 3. ADJUDICATION USING A POINT SYSTEM

- 3.1 The bidder obtaining the highest number of total points for the evaluation criteria as enumerated in Section 2 of the RFP will be awarded the contract.
- 3.2 Points scored will be rounded off to 2 [two] decimal places.
- 3.3 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.
- 3.4 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.
- 3.5 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 Preference points shall be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of Points [Maximum 10]
1	10
2	9
3	8
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

*Note: Refer to Section 1 of the RFP document for further information in terms of B-BBEE ratings.*

- 4.2 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.
- 4.3 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.
- 4.4 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.
- 4.5 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.
- 4.6 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends 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.
- 4.7 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.

## 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 an Accounting Officer as contemplated in the Close Corporation Act.

### 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

“PREVIEW COPY ONLY”

## 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 6 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;
  - (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: .....

.....

**BID REFERENCE NO: CRAC/JHB/9737**

**Annexure B**

**NON-DISCLOSURE AGREEMENT**

entered into by and between

**TRANSNET FREIGHT RAIL**

an Operating Division of **TRANSNET SOC LTD**

Registration Number 1990/000900/30

and

\_\_\_\_\_  
Registration Number \_\_\_\_\_

**RFP Number CRAC/JHB/9737**



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**THIS AGREEMENT is made between**

**Transnet Freight Rail [Transnet]** [Registration No. 1990/000900/30]

whose registered office is at Inyanda House 1, 21 Wellington Road. Park Town, Johannesburg 2001,

**and**

\_\_\_\_\_ **[the Company]** [Registration No \_\_\_\_\_]

whose registered office is at \_\_\_\_\_

**WHEREAS**

Transnet and the Company wish to exchange Information [as defined below] and it is envisaged that each party may from time to time receive Information relating to the other in respect thereof. In consideration of each party making available to the other such Information, the parties jointly agree that any dealings between them shall be subject to the terms and conditions of this Agreement which themselves will be subject to the parameters of the Bid Document.

**IT IS HEREBY AGREED**

**1 INTERPRETATION**

In this Agreement:

- 1.1 **Agents** mean directors, officers, employees, agents, professional advisers, contractors or sub-contractors, or any Group member;
- 1.2 **Bid** or **Bid Document** means Transnet's Request for Information [**RFI**] Request for Proposal [**RFP**] or Request for Quotation [**RFQ**], as the case may be;
- 1.3 **Confidential Information** means any information or other data relating to one party (the **Disclosing Party**) and/or the business carried on or proposed or intended to be carried on by that party and which is made available for the purposes of the Bid to the other party (the **Receiving Party**) or its Agents by the Disclosing Party or its Agents or recorded in agreed minutes following oral disclosure and any other information otherwise made available by the Disclosing Party or its Agents to the Receiving Party or its Agents, whether before, on or after the date of this Agreement, and whether in writing or otherwise, including any information, analysis or specifications derived from, containing or reflecting such information but excluding information which:
  - a) is publicly available at the time of its disclosure or becomes publicly available (other than as a result of disclosure by the Receiving Party or any of its Agents contrary to the terms of this Agreement); or
  - b) was lawfully in the possession of the Receiving Party or its Agents (as can be demonstrated by its written records or other reasonable evidence) free of any restriction as to its use or disclosure prior to its being so disclosed; or

- c) following such disclosure, becomes available to the Receiving Party or its Agents (as can be demonstrated by its written records or other reasonable evidence) from a source other than the Disclosing Party or its Agents, which source is not bound by any duty of confidentiality owed, directly or indirectly, to the Disclosing Party in relation to such information;
- 1.4 **Group** means any subsidiary, any holding company and any subsidiary of any holding company of either party; and
- 1.5 **Information** means all information in whatever form including, without limitation, any information relating to systems, operations, plans, intentions, market opportunities, know-how, trade secrets and business affairs whether in writing, conveyed orally or by computer-readable medium.

## 2 CONFIDENTIAL INFORMATION

- 2.1 All Confidential Information given by one party to this Agreement (the **Disclosing Party**) to the other party (the **Receiving Party**) will be treated by the Receiving Party as secret and confidential and such Receiving Party will not, without the Disclosing Party's written consent, directly or indirectly communicate or disclose (whether in writing or orally or in any other manner) Confidential Information to any other person other than in accordance with the terms of this Agreement.
- 2.2 The Receiving Party will only use the Confidential Information for the sole purpose of technical and commercial discussions between the parties in relation to the Bid or for the subsequent performance of any contract between the parties in relation to the Bid.
- 2.3 Notwithstanding clause 2.1 above, the Receiving Party may disclose Confidential Information:
  - a) to those of its Agents who strictly need to know the Confidential Information for the sole purpose set out in clause 2.2 above, provided that the Receiving Party shall ensure that such Agents are made aware prior to the disclosure of any part of the Confidential Information that the same is confidential and that they owe a duty of confidence to the Disclosing Party. The Receiving Party shall at all times remain liable for any actions of such Agents that would constitute a breach of this Agreement; or
  - b) to the extent required by law or the rules of any applicable regulatory authority, subject to clause 2.4 below.
- 2.4 In the event that the Receiving Party is required to disclose any Confidential Information in accordance with clause 2.3b) above, it shall promptly notify the Disclosing Party and cooperate with the Disclosing Party regarding the form, nature, content and purpose of such disclosure or any action which the Disclosing Party may reasonably take to challenge the validity of such requirement.
- 2.5 In the event that any Confidential Information shall be copied, disclosed or used otherwise than as permitted under this Agreement then, upon becoming aware of the same, without prejudice to any rights or remedies of the Disclosing Party, the Receiving Party shall as soon as practicable notify the Disclosing Party of such event and if requested take such steps (including the institution

of legal proceedings) as shall be necessary to remedy (if capable of remedy) the default and/or to prevent further unauthorised copying, disclosure or use.

- 2.6 All Confidential Information shall remain the property of the Disclosing Party and its disclosure shall not confer on the Receiving Party any rights, including intellectual property rights over the Confidential Information whatsoever, beyond those contained in this Agreement.

### **3 RECORDS AND RETURN OF INFORMATION**

- 3.1 The Receiving Party agrees to ensure proper and secure storage of all Information and any copies thereof.
- 3.2 The Receiving Party shall keep a written record, to be supplied to the Disclosing Party upon request, of the Confidential Information provided and any copies made thereof and, so far as is reasonably practicable, of the location of such Confidential Information and any copies thereof.
- 3.3 The Company shall, within 7 (seven) days of receipt of a written demand from Transnet:
- a) return all written Confidential Information (including all copies); and
  - b) expunge or destroy any Confidential Information from any computer, word processor or other device whatsoever into which it was copied, read or programmed by the Company or on its behalf.
- 3.4 The Company shall on request supply a certificate signed by a director as to its full compliance with the requirements of clause 3.3b) above.

### **4 ANNOUNCEMENTS**

- 4.1 Neither party will make or permit to be made any announcement or disclosure of its prospective interest in the Bid without the prior written consent of the other party.
- 4.2 Neither party shall make use of the other party's name or any information acquired through its dealings with the other party for publicity or marketing purposes without the prior written consent of the other party.

### **5 DURATION**

The obligations of each party and its Agents under this Agreement shall survive the termination of any discussions or negotiations between the parties regarding the Bid and continue thereafter for a period of 5 (five) years.

### **6 PRINCIPAL**

Each party confirms that it is acting as principal and not as nominee, agent or broker for any other person and that it will be responsible for any costs incurred by it or its advisers in considering or pursuing the Bid and in complying with the terms of this Agreement.

### **7 ADEQUACY OF DAMAGES**

Nothing contained in this Agreement shall be construed as prohibiting the Disclosing Party from pursuing any other remedies available to it, either at law or in equity, for any such threatened or actual breach of this Agreement, including specific performance, recovery of damages or otherwise.

## **8 PRIVACY AND DATA PROTECTION**

- 8.1 The Receiving Party undertakes to comply with South Africa's general privacy protection in terms of the Bill of Rights (Section 14) in connection with this Bid and shall procure that its personnel shall observe the provisions of such Act (as applicable) or any amendments and re-enactments thereof and any regulations made pursuant thereto.
- 8.2 The Receiving Party warrants that it and its Agents have the appropriate technical and organisational measures in place against unauthorised or unlawful processing of data relating to the Bid and against accidental loss or destruction of, or damage to such data held or processed by them.

## **9 GENERAL**

- 9.1 Neither party may assign the benefit of this Agreement, or any interest hereunder, except with the prior written consent of the other, save that Transnet may assign this Agreement at any time to any member of the Transnet Group.
- 9.2 No failure or delay in exercising any right, power or privilege under this Agreement will operate as a waiver of it, nor will any single or partial exercise of it preclude any further exercise or the exercise of any right, power or privilege under this Agreement or otherwise.
- 9.3 The provisions of this Agreement shall be severable in the event that any of its provisions are held by a court of competent jurisdiction or other applicable authority to be invalid, void or otherwise unenforceable, and the remaining provisions shall remain enforceable to the fullest extent permitted by law.
- 9.4 This Agreement may only be modified by a written agreement duly signed by persons authorised on behalf of each party.
- 9.5 Nothing in this Agreement shall constitute the creation of a partnership, joint venture or agency between the parties.
- 9.6 This Agreement will be governed by and construed in accordance with South African law and the parties irrevocably submit to the exclusive jurisdiction of the South African courts.

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## ANNEXURE C1: FURTHER RECOGNITION CRITERIA (CURRENT)

Transnet encourages its suppliers to constantly strive to improve their B-BBEE rating. Whereas Respondents will be allocated points in terms of a preference point system based on its B-BBEE scorecard to be assessed as detailed in Section 1, paragraph 5.1, in addition to such scoring, a further **15% [fifteen per cent]** will be allocated to Respondents score based on the following Further Recognition Criteria [FRC] This will be calculated on an ascending scale. Will be allocated based on the extent to which the Respondent's current ownership, management control and employment equity meets or exceeds certain minimum targets.

*Respondents are to insert their current FRC score in the table below.*

*If a Respondents fails to complete the "Current Status Percentage %" column, this will result in a "nil" score being allocated for its FRC Current Status.*

Ownership Indicator	Required Responses	Compliance Target	Current Status (%)
1. The percentage of the business owned by Black <sup>1</sup> persons	<i>Provide a commitment based on the extent to which ownership in the hands of Black persons as a percentage of total ownership of the organisation would be sustained or increased over the contract period.</i>	Points will be allocated for any score $\geq 51\%$ to 100%, on a sliding scale	
2. The percentage of the business owned by Black women	<i>Provide a commitment based on the extent to which ownership in the hands of Black women as a percentage of total ownership of the organisation would be sustained or increased over the contract period.</i>	Points will be allocated for any score $\geq 30\%$ to 100%, on a sliding scale	
3. The percentage of the business owned by Black youth <sup>2</sup>	<i>Provide a commitment based on the extent to which ownership in the hands of Black youth as a percentage of total ownership of the organisation would be sustained or increased over the contract period.</i>	Points will be allocated for any score $\geq 5\%$ to 100%, on a sliding scale	
4. The percentage of the business owned by Black persons living with disabilities	<i>Provide a commitment based on the extent to which ownership in the hands of Black disabled persons as a percentage of total ownership of the organisation would be sustained or increased over the contract period.</i>	Points will be allocated for any score $\geq 3\%$ to 100%, on a sliding scale	

<sup>1</sup> "Black" means South African Blacks, Coloureds and Indians, as defined in the B-BBEE Act, 53 of 2003

<sup>2</sup> "Black youth" means Black persons from the age of 16 to 35



Management Control Indicator	Required Responses	Compliance Target	Current Status (%)
5. The percentage of Black senior managers involved in day to day management of the organisation, in relation to the total senior management cadre	<i>Provide the percentage of Blacks that would be appointed or retained by the Board and would be operationally involved in the day to day <b>senior management</b> of the business, with individual responsibility for overall and/or financial management of the business and actively involved in the development and implementation of <b>overall strategy</b>, over the contract period.</i>	Points will be allocated for any score $\geq 40\%$ to 100%, on a sliding scale	
6. The percentage of Black middle managers involved in day to day management of the organisation, in relation to the total middle management cadre.	<i>Provide the percentage of Blacks that would be retained or appointed by the organisation in the <b>middle management</b> cadre and would be operationally involved in the day to day management of the business, with individual responsibility for a particular area within the business and actively involved in the <b>day to day management</b> of the organisation, over the contract period.</i>	Points will be allocated for any score $\geq 63\%$ to 100%, on a sliding scale	
7. The percentage of Black junior managers involved in day to day management of the organisation, in relation to the total junior management cadre.	<i>Provide the percentage of Blacks that would be retained or appointed by the organisation in the <b>junior management</b> cadre and would be operationally involved in the day to day running of the business, with individual responsibility for a particular area within the business and actively involved in a <b>supervisory role</b> with regards to the day to day management of the organisation, over the contract period.</i>	Points will be allocated for any score $\geq 68\%$ to 100%, on a sliding scale	



Employment Equity Indicator	Required Responses	Compliance Target	Current Status (%)
8. The percentage of Black employees as a percentage of the total number of employees in the organisation.	<i>Provide a commitment based on the extent to which the number of Black employees would be sustained or increased as a percentage of the organisation's total workforce, over the contract period.</i>	Points will be allocated for any score $\geq 65\%$ to 100%, on a sliding scale	
9. The percentage of Black women employees as a percentage of the total workforce.	<i>Provide a commitment based on the increase in the number of Black women employees as a percentage of the organisation's total workforce, or sustained over the contract period.</i>	Points will be allocated for any score $\geq 40\%$ to 100%, on a sliding scale	
10. The percentage of Black youth employed in relation to the total number of employees in the organisation.	<i>Provide a commitment based on the extent to which the percentage of Black youth employed, in relation to the total of all employees in the organisation, would be sustained or increased over the contract period.</i>	Points will be allocated for any score $\geq 40\%$ to 100%, on a sliding scale	
11. The percentage of Black disabled employees in relation to the total number of employees in the organisation.	<i>Provide a commitment based on the extent to which the percentage of Black disabled employees, in relation to the total of all employees in the organisation, would be sustained or increased over the contract period.</i>	Points will be allocated for any score $\geq 2\%$ to 10%, on a sliding scale	



## ANNEXURE C2: FURTHER RECOGNITION CRITERIA [FUTURE TARGETS]

Transnet encourages its suppliers to constantly strive to improve their B-BBEE rating.

Whereas Respondents will be allocated points in terms of a preference point system based on its B-BBEE scorecard to be assessed as detailed in Section 1, paragraph 5.1, in addition to such scoring, a further **5% [five per cent]** for will be allocated to Respondents score based on the following Further Recognition Criteria [**Future Targets**] on an ascending scale.

**5 [five] points** for FRC [**Future Targets**] will be allocated based on the extent to which the Respondent's current ownership, management control and employment equity meets or exceeds certain minimum targets. .

*Respondents are to insert their future targets (%) for the Further Recognition Criteria indicators [i.e. not the % change but the end-state quantum expressed as a percentage] in the table below. This will indicate how you would intend to sustain or improve your FRC compliance rating over the contract period, which will represent a binding commitment to the successful Respondent.*

Ownership Indicator	Required Responses	Compliance Target	Future Target (%)
1. The percentage of the business owned by Black <sup>1</sup> persons.	<i>Provide a commitment based on the extent to which ownership in the hands of Black persons as a percentage of total ownership of the organisation would be sustained or increased over the contract period.</i>	Points will be allocated for any score $\geq 51\%$ to 100%, on a sliding scale	
2. The percentage of your business owned by Black women.	<i>Provide a commitment based on the extent to which ownership in the hands of Black women as a percentage of total ownership of the organisation would be sustained or increased over the contract period.</i>	Points will be allocated for any score $\geq 30\%$ to 100%, on a sliding scale	
3. The percentage of the business owned by Black youth <sup>2</sup>	<i>Provide a commitment based on the extent to which ownership in the hands of Black youth as a percentage of total ownership of the organisation would be sustained or increased over the contract period.</i>	Points will be allocated for any score $\geq 5\%$ to 100%, on a sliding scale	
4. The percentage of the business owned by Black persons living with disabilities	<i>Provide a commitment based on the extent to which ownership in the hands of Black disabled persons as a percentage of total ownership of the organisation would be sustained or increased over the contract period.</i>	Points will be allocated for any score $\geq 3\%$ to 100%, on a sliding scale	
5. The percentage of the business owned by Employment Schemes or Co-Operatives	<i>Provide a commitment based on the extent to which ownership in the hands of Employment Schemes or Co-Operatives as a percentage of total ownership of the organisation would be sustained or increased over the contract period.</i>	Points will be allocated for any score $\geq 10\%$ to 100%, on a sliding scale	

<sup>1</sup> "Black" means South African Blacks, Coloureds and Indians, as defined in the B-BBEE Act, 53 of 2003

<sup>2</sup> "Black youth" means Black persons from the age of 16 to 35

Management Control Indicator	Required Responses	Compliance Target	Future Targets (%)
6. The percentage of Black senior managers involved in day to day management of the organisation, in relation to the total senior management cadre	<i>Provide the percentage of Blacks that would be appointed or retained by the Board and would be operationally involved in the day to day <b>senior management</b> of the business, with individual responsibility for overall and/or financial management of the business and actively involved in the development and implementation of <b>overall strategy</b>, over the contract period.</i>	Points will be allocated for any score $\geq 40\%$ to 100%, on a sliding scale	
7. The percentage of Black middle managers involved in day to day management of the organisation, in relation to the total middle management cadre.	<i>Provide the percentage of Blacks that would be retained or appointed by the organisation in the <b>middle management</b> cadre and would be operationally involved in the day to day management of the business, with individual responsibility for a particular area within the business and actively involved in the <b>day to day management</b> of the organisation, over the contract period.</i>	Points will be allocated for any score $\geq 63\%$ to 100%, on a sliding scale	
8. The percentage of Black junior managers involved in day to day management of the organisation, in relation to the total junior management cadre.	<i>Provide the percentage of Blacks that would be retained or appointed by the organisation in the <b>junior management</b> cadre and would be operationally involved in the day to day running of the business, with individual responsibility for a particular area within the business and actively involved in a <b>supervisory role</b> with regards to the day to day management of the organisation, over the contract period.</i>	Points will be allocated for any score $\geq 68\%$ to 100%, on a sliding scale	
Employment Equity Indicator	Required Responses	Compliance Target	Future Targets (%)
9. The percentage of Black employees as a percentage of the total number of employees in the organisation.	<i>Provide a commitment based on the extent to which the number of Black employees would be sustained or increased as a percentage of the organisation's total workforce, over the contract period.</i>	Points will be allocated for any score $\geq 65\%$ to 100%, on a sliding scale	
10. The percentage of Black women employees as a percentage of the total workforce.	<i>Provide a commitment based on the increase in the number of Black women employees as a percentage of the organisation's total workforce, or sustained over the contract period.</i>	Points will be allocated for any score $\geq 40\%$ to 100%, on a sliding scale	
11. The percentage of Black youth employed in relation to the total number of employees in the organisation.	<i>Provide a commitment based on the extent to which the percentage of Black youth employed, in relation to the total of all employees in the organisation, would be sustained or increased over</i>	Points will be allocated for any score $\geq 40\%$ to 100%, on a	

	<i>the contract period.</i>	sliding scale	
12. The percentage of Black disabled employees in relation to the total number of employees in the organisation.	<i>Provide a commitment based on the extent to which the percentage of Black disabled employees, in relation to the total of all employees in the organisation, would be sustained or increased over the contract period.</i>	Points will be allocated for any score $\geq 2\%$ to 10%, on a sliding scale	
<b>Preferential Procurement Indicator</b>	<b>Required Responses</b>	<b>Compliance Target</b>	<b>Future Targets (%)</b>
13. B-BBEE procurement spend from all suppliers based on the B-BBEE procurement recognition level as a percentage of total measured procurement spend	<i>Provide a commitment based on the extent to which B-BBEE spend would be sustained or increased over the contract period.</i>	Score will be allocated for any score $\geq 50\%$ to 100%, on a sliding scale	
14. B-BBEE procurement spend from QSEs based on the applicable B-BBEE procurement recognition levels as a percentage of total measured procurement spend	<i>Provide a commitment based on the extent to which B-BBEE spend from QSEs would be sustained or increased over the contract period</i>	Score will be allocated for any percentages $\geq 10\%$ to 100%, on a sliding scale	
15. B-BBEE procurement spend from EMEs based on the applicable B-BBEE procurement recognition levels as a percentage of total measured procurement spend	<i>Provide a commitment based on the extent to which B-BBEE spend from EMEs would be sustained or increased over the contract period</i>	Score will be allocated for any percentages $\geq 10\%$ to 100%, on a sliding scale	
<b>Preferential Procurement Indicator [continued]</b>	<b>Required Response</b>	<b>Compliance Target</b>	<b>Future Targets (%)</b>
16. B-BBEE procurement spend from any of the following suppliers as a percentage of total measured procurement spend: <ul style="list-style-type: none"> <li>Suppliers who are <math>\geq 51\%</math> Black-owned</li> <li>Suppliers who are <math>\geq 51\%</math> Black women-owned</li> </ul>	<i>Provide a commitment based on the extent to which spend from suppliers who are more than 51% Black-owned or 51% Black women-owned would be maintained or increased over the contract period.</i>	Points will be allocated for any percentages $\geq 15\%$ to 100%, on a sliding scale	
<b>Enterprise Development Indicator</b>	<b>Required Response</b>	<b>Compliance Target</b>	<b>Future Target (%)</b>
17. The organisation's annual spend on Enterprise Development as a percentage of Net Profit after Tax [NPAT]	<i>Provide a commitment based on the retention or increase in your organisation's annual spend on Enterprise Development initiatives, as a percentage of its Net Profit after Tax, over the contract period.</i>	Points will be allocated for any percentages $\geq 3\%$ of NPAT,	

**Annexure D**  
**SUPPLIER DEVELOPMENT VALUE SUMMARY**

*Respondents must complete this Annexure D which summarises your Supplier Development (SD) Bid Document and your related commitments.*

*For the purposes of completing the SD Value Indicators, where applicable Respondents must calculate their SD commitments as a percentage (%) of their estimated total value of the contract over the Contract Period<sup>1</sup>*

*Please insert the SD Value Indicators in the following table. Cross-reference, under the column heading "Respondent's SD Commitments," the Value Indicators quoted with the corresponding section in your SD Bid Document.*

\_\_\_\_\_  
Respondent's Signature

\_\_\_\_\_  
Date & Company Stamp



Supplier Development (SD) Category		Respondent's SD Bid	Supplier Development Value Indicators			
1. Job creation	The potential for job creation, directly due to the award of this business, allows for assessment of your Company's intentions in terms of the Government's objective to increase labour absorption focusing on unskilled workers and the youth	<div>Insert cross-references to SD Bid Document in this column]</div>	SD Value Measurement	Number	Percentage	Rand Value (ZAR) excluding VAT
			Number and Rand value of new skilled jobs to be created for <b>Black persons</b> due to Award of Contract  (Where "skilled" refers to jobs for people in a specialised field of work requiring a defined training path and / or a requisite level of experience in order for them to perform that role. These people could be in possession of a certificate, diploma or degree from a Higher education institution)			
			Number and Rand value of new skilled jobs to be created for <b>Black women</b> due to Award of Contract  (Where "skilled" refers to jobs for people in a specialised field of work requiring a defined training path and / or a requisite level of experience in order for them to perform that role. These people could be in possession of a certificate, diploma or degree from a Higher education institution)			
			Number and Rand value of new unskilled jobs to be created for Black persons by Award of Contract (Where "unskilled" refers to jobs for people where the field of work does not require extensive formal training or from whom no minimum level of education is required))			
			Number and Rand value of new unskilled jobs to be created for Black women by Award of Contract (Where "unskilled" refers to jobs for people where the field of work does not require extensive			

Respondent's Signature

Date & Company Stamp

		<i>formal training or from whom no minimum level of education is required</i>			
		<i>Number of jobs to be created for Black youth (where "youth" means individuals between the ages of 16 - 35 years), through Award of Contract</i>			
		<i>Number of jobs to be created for Black persons living with disabilities through Award of Contract</i>			
		<i>Number of jobs to be preserved due to Award of contract</i>			
<b>2. Job preservation</b>  The potential for job preservation, directly due to the award of this business, allows for assessment of your Company's intentions in terms of the Government's objective to increase labour absorption focusing on unskilled workers and the youth					
<b>3. Rural integration</b>  The Service Provider's planned use of regional labour and businesses will contribute to the Government's NGP objectives and result in supply chain efficiencies. Commitment to rural development will result in poverty alleviation, thereby contributing to development objectives. This development must be sustainable in order to have a long-term and meaningful impact		<i>Number of people employed from within the town/city of operation</i>			
		<i>Number and Rand value of rural businesses that the Service Provider plans to develop as a result of the contract</i>			
		<i>Number of rural or local businesses that the Service Provider plans to use over the contract period</i>			

**ESTIMATED RAND VALUE TOTAL OF SD COMMITMENT, EXCLUDING VAT : ZAR**

**SD COMMITMENT EXPRESSED AS PERCENTAGE OF ESTIMATED CONTRACT VALUE :**

	%

Respondent's Signature

Date & Company Stamp



“PREVIEW COPY ONLY”

\_\_\_\_\_  
Respondent's Signature

\_\_\_\_\_  
Date & Company Stamp



### Annexure E – Hub Information and Selection Template

TFR Sub-Depots	TRE Sub-Depots	Mini Scrap Yards	Main Regional Hub
<ul style="list-style-type: none"> <li>Deal Party</li> <li>East London</li> </ul>	<ul style="list-style-type: none"> <li>Uitenhage Workshops</li> <li>Zwartkops</li> <li>East London</li> </ul>		<b>Uitenhage</b>
<ul style="list-style-type: none"> <li>Bloemfontein</li> </ul>	<ul style="list-style-type: none"> <li>Bloemfontein Workshops</li> <li>Kroonstad</li> <li>Postmastburg</li> </ul>		<b>Bloemfontein</b>
<ul style="list-style-type: none"> <li>Beaconsfield</li> </ul>	<ul style="list-style-type: none"> <li>Kimberley</li> </ul>	<ul style="list-style-type: none"> <li>Kimberley</li> </ul>	
<ul style="list-style-type: none"> <li>Uppington</li> </ul>	<ul style="list-style-type: none"> <li>De Aar</li> </ul>	<ul style="list-style-type: none"> <li>De Aar</li> </ul>	
<ul style="list-style-type: none"> <li>Belville</li> </ul>	<ul style="list-style-type: none"> <li>Salt River Workshops</li> <li>Belville</li> </ul>		<b>Salt River</b>
	<ul style="list-style-type: none"> <li>Saldanha</li> </ul>	<ul style="list-style-type: none"> <li>Saldanha</li> </ul>	
<ul style="list-style-type: none"> <li>Bayhead</li> </ul>	<ul style="list-style-type: none"> <li>Durban Workshops</li> <li>Umbilo</li> <li>Wentworth</li> </ul>		<b>Durban</b>
<ul style="list-style-type: none"> <li>Newcastle</li> </ul>	<ul style="list-style-type: none"> <li>Ladysmith</li> </ul>	<ul style="list-style-type: none"> <li>Ladysmith</li> </ul>	
	<ul style="list-style-type: none"> <li>Germiston Workshops</li> <li>Sentra Rand</li> </ul>		<b>Germiston</b>
<ul style="list-style-type: none"> <li>Isando</li> <li>Vereeniging</li> <li>Standerton</li> </ul>		<ul style="list-style-type: none"> <li>Heidelberg</li> </ul>	
<ul style="list-style-type: none"> <li>Krugersdorp</li> <li>Potchefstroom</li> <li>Klerksdorp</li> <li>Coligny</li> </ul>	<ul style="list-style-type: none"> <li>Millsite</li> <li>Coligny</li> </ul>	<ul style="list-style-type: none"> <li>Millsite</li> </ul>	

Respondent's Signature

Date & Company Stamp



TFR Sub-Depots	TRE Sub-Depots	Mini Scrap Yards	Main Regional Hub
<ul style="list-style-type: none"> <li>➤ Koedoespoort</li> <li>➤ Capital Park</li> <li>➤ Pyramid South</li> </ul>	<ul style="list-style-type: none"> <li>➤ Koedoespoort Workshops</li> <li>➤ Pyramid South</li> <li>➤ Capital Park</li> </ul>		<b>Koedoespoort</b>
➤ Richards Bay	➤ South Dunes [RB]	➤ Empangeni	
➤ Volksrust	➤ Ermelo	➤ Ermelo	
<ul style="list-style-type: none"> <li>➤ Komatipoort</li> <li>➤ Kaapmuiden</li> <li>➤ Belfast</li> <li>➤ Lydenburg</li> </ul>	<ul style="list-style-type: none"> <li>➤ Nelspruit</li> <li>➤ Komatipoort</li> </ul>	➤ Nelspruit	
➤ Witbank	<ul style="list-style-type: none"> <li>➤ Witbank</li> <li>➤ Belfast</li> <li>➤ Waterval Onder</li> </ul>	➤ Witbank	
➤ Polokwane	➤ Polokwane	➤ Polokwane	
➤ Piet Retief	➤ Newcastle	➤ Vryheid	
➤ Newcastle			

Name of Regional Hub	Selection ( ✓ )
Koedoespoort	
Germiston	
Bloemfontein	
Durban	
Uitenhage	
Salt River	

Respondent's Signature

Date & Company Stamp



**Appendix (i)**

**GENERAL BID CONDITIONS - SERVICES**

**[October 2012]**

“PREVIEW COPY ONLY”

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## 1 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:

- 1.1 **Bid** shall mean a Respondent's tendered response / proposal to a Transnet RFP or RFQ;
- 1.2 **Bid Document(s)** shall mean a reference to a Request for Proposal or Request for Quotation;
- 1.3 **Day** shall mean any day other than a Saturday, Sunday or public holiday;
- 1.4 **Respondent(s)** shall mean a respondent/bidder to a Bid Document;
- 1.5 **RFP** shall mean Request for Proposal;
- 1.6 **RFQ** shall mean Request for Quotation;
- 1.7 **RFX** shall mean RFP or RFQ, as the case may be;
- 1.8 **Services** shall mean the services required by Transnet as specified in its Bid Document;
- 1.9 **Service Provider** shall mean the successful Respondent;
- 1.10 **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;
- 1.11 **Transnet** shall mean Transnet SOC Ltd, a State Owned Company; and
- 1.12 **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.

## 2 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.

## 3 SUBMISSION OF BID DOCUMENTS

- 3.1 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.
- 3.2 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.
- 3.3 The Respondent's return address must be stated on the reverse side of the sealed envelope.

## 4 USE OF BID FORMS

- 4.1 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.
- 4.2 Respondents must note that the original Bid forms must be completed for submission and not a reprocessed copy thereof.

- 4.3 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.

## **5 BID FEES**

- 5.1 A non-refundable fee may be charged for Bid Documents, depending on the administrative cost of preparing and issuing such Bid Documents.
- 5.2 Only Respondents that have paid the Bid fee and provided proof of payment when submitting their Bid will be considered.

## **6 VALIDITY PERIOD**

- 6.1 Respondents must hold their Bid valid for acceptance by Transnet at any time within the requested validity period after the closing date of the RFX.
- 6.2 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.

## **7 SITE VISIT / BRIEFING SESSION**

Respondents may be requested to attend (i) a site visit where it is considered necessary to view the site prior to the preparation of Bids, or (ii) an RFX briefing session when 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.

## **8 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.

## **9 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 Secretary of the relevant Acquisition Council.

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



## 11 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.

## 12 DEFAULTS BY RESPONDENTS

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

- a) enter into a formal contract when called upon to do so within such period as Transnet may specify; or
- b) accept an order in terms of the Bid;
- c) furnish satisfactory security when called upon to do so for the fulfilment of the contract; or
- d) 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.

12.2 If any Respondent, who has submitted a Bid and/or concluded a contract with Transnet [hereinafter referred to as the **Service Provider**], or in the capacity of agent or subcontractor who has been associated with such Bid or contract:

- a) has withdrawn such Bid after the advertised date and hour for the receipt of Bids; or
- b) has, after having been notified of the acceptance of its 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; or
- c) has carried out any contract resulting from such Bid in an unsatisfactory manner or has breached any condition of such contract; or
- d) has offered, promised or given a bribe in relation to the obtaining or the execution of such contract; or
- e) has acted in a fraudulent or improper manner or in bad faith towards Transnet or any government department or towards any public body, company or person; or
- f) has made any misleading or incorrect statement either
  - (i) in the affidavit or certificate referred to in clause 18 [*Notice to Unsuccessful Respondents*]; or
  - (ii) in any other document submitted as part of its Bid submissionand is unable to prove to the satisfaction of Transnet that
  - it made the statement in good faith honestly believing it to be correct; and
  - before making such statement, it took all reasonable steps to satisfy itself of its correctness; or
- g) caused Transnet damage, or to incur costs in order to meet the Service Provider's requirements which could not be recovered from the Service Provider;
- h) has litigated against Transnet in bad faith;

- i) 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 [five] years;
- j) has been included as a company or person prohibited from doing business with the public sector on National Treasury's database of Restricted Suppliers or Register of Bid Defaulters;

then a Bid from any such Respondent shall be disqualified and the person, enterprise or company [including any directors] shall, subject to clause 12.3 below, be disqualified from bidding for any Transnet business through its "blacklisting" process.

12.3 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.

12.4 Any disqualification [**Blacklisting**] imposed upon any person or enterprise or company, may also apply to any other enterprise under the same or different names of disqualified persons or enterprise or company [or associates thereof] and may also be applied to any agent or employee of the person or enterprise or company concerned.

### **13 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.

### **14 PRICES SUBJECT TO CONFIRMATION**

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

14.2 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.

### **15 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 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.

### **16 EXCHANGE AND REMITTANCE**

16.1 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.

16.2 In instances where an overall Rand agreement cannot be concluded Transnet would request the Respondent to give favourable consideration to obtaining forward exchange cover on the foreign currency portion of the contract 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.

16.3 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.

- 16.4 The South African Reserve Bank's approval is required before any foreign currency payments can be made to or on behalf of Respondents.
- 16.5 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.

## **17 ACCEPTANCE OF BID**

- 17.1 Transnet does not bind itself to accept the lowest priced or any Bid.
- 17.2 Transnet reserves the right to accept any Bid in whole or in part.
- 17.3 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.
- 17.4 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.

## **18 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.

## **19 TERMS AND CONDITIONS OF CONTRACT**

- 19.1 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.
- 19.2 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.

## **20 CONTRACT DOCUMENTS**

- 20.1 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.
- 20.2 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.
- 20.3 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 Intent, shall constitute a binding contract until the final contract is signed.

## **21 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.

## **22 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.

## **23 CONTRACTUAL SECURITIES**

- 23.1 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.
- 23.2 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.
- 23.3 Such security, if required, shall be an amount which will be stipulated in the Bid Documents.
- 23.4 The successful Respondent shall be required to submit to Transnet or Transnet's designated official the specified security document(s) within 30 [thirty] 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.
- 23.5 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 23 will be for the account of the Service Provider.

## **24 DELETION OF ITEMS TO BE EXCLUDED FROM BID**

The Respondent must delete items for which it does not wish to tender.

## **25 VALUE-ADDED TAX**

- 25.1 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.
- 25.2 In respect of foreign Services rendered:
- a) 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

- b) 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.

## **26 IMPORTANT NOTICE TO RESPONDENTS REGARDING PAYMENT**

### **26.1 Method of Payment**

- a) 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.
- b) However, in addition to the foregoing the Respondent is invited to submit offers based on alternative methods of payment and/or financing proposals.
- c) 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.
- d) The Respondent must, therefore, in the first instance, tender strictly in accordance with clause 26.1a) above. Failure to comply with clause 26.1a) 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 23 above [*Contractual Securities*].

### **26.2 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.

## **27 DELIVERY REQUIREMENTS**

### **27.1 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.

### **27.2 Progress Reports**

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

### **27.3 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.

## **28 SPECIFICATIONS AND COPYRIGHT**

### **28.1 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.

### **28.2 Copyright**

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.

## **29 BIDS BY OR ON BEHALF OF FOREIGN RESPONDENTS**

- 29.1 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.
- 29.2 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.
- 29.3 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.
- 29.4 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.
- a) 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.
  - b) The Power of Attorney must be signed by the principal under the same title as used in the Bid Documents.
  - c) 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.
  - d) 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.



29.5 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]**:

- a) 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
- b) 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.

### **30 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.

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