



# NEC3 Engineering and Construction Contract (ECC)

entered into by and between

**Transnet SOC Ltd**

Registration Number 1990/000900/30  
(hereinafter referred to as the "Employer")

and .....

Registration Number .....  
(hereinafter referred to as the "Contractor")

<b>Enquiry Number</b>	EFT -020/2014
<b>Description</b>	SUPPLY AND CONSTRUCTION OF CIVIL WORKS FOR THE UPGRADE OF GERMISTON FUEL DEPOT
<b>Start Date</b>	01 April 2015
<b>Completion Date</b>	30 June 2015

**"PREVIEW COPY ONLY"**

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## T1.1 Tender Notice and Invitation to Tender

Transnet SOC Ltd invites tenders for the refurbishment of the depot civil infrastructure to ensure compliance with relevant legislation and petroleum industry standard codes at Germiston Fuel Depot for a period of 3 (Three) months .

It is estimated that tenderers should have a CIDB contractor grading of **3CE** or higher. Potentially emerging enterprises who satisfy criteria stated in the Tender Data may submit tender offers. Only those respondents who are registered with the Construction Industry Development Board, or are capable of being so registered within 21 working days from the closing date for submission of tenders, in a contractor grading designation of **3CE** or higher, are eligible to have their submissions evaluated.

Preferences are offered to tenderers who are in possession of a valid SANAS or IRBA B-BBEE accreditation certificate.

Only tenderers who meet the minimum prequalification criteria of **10%** in terms of quality "functionality" will be eligible for further evaluation.

The physical address for collection of tender documents is

TFR RME  
Cnr Jetpark & North Reef Roads  
Elandsfontein  
Johannesburg

Documents may be collected during working hours after 08:00hrs on Wednesday, 25<sup>th</sup> February 2015, to 15:00hrs on Tuesday, 3<sup>rd</sup> February 2015.

Queries relating to the issue of these documents may be addressed to

Ms Mosale Legwete  
Tel No. 011 878 7082/ 060 539 6826  
Email [mosale.legwete@transnet.net](mailto:mosale.legwete@transnet.net)

A **compulsory clarification** meeting with representatives of the Employer will take place at:

Germiston Scrap Yard

Keswick Road (Latitude S: 26° 12' 29.77" or Longitude E: 28°10' 19.96")

on **Wednesday, 04<sup>th</sup> March 2015** starting at 10hrs.

**Failure to attend the clarification meeting will lead to Bidders being disqualified. RFPs need to be brought with to the Clarification meeting.**

The closing time for receipt of tenders is **12:00hrs** on **Thursday, 12<sup>th</sup> March 2015**. The Location for Tender Box is: Transnet Freight Rail- RME, Corner Jetpark and North Reef Road, Elandsfontein.

Telegraphic, telephonic, facsimile, e-mail and late tenders will not be accepted.

Tenders may only be submitted on the tender documentation that is issued.

Requirements for sealing, addressing, delivery, opening and assessment of tenders are stated in the Tender Data.

Transnet fully subscribes to Government's New Growth Path objectives and Supplier Development commitments by Respondents will consequently feature prominently in the evaluation and award of the business.

**Transnet urges Clients, Suppliers and Service Providers to report any acts of fraud and/or instances of corruption to Transnet's TIP-OFFS ANONYMOUS on 0800 003 056 or [Transnet@tip-offs.com](mailto:Transnet@tip-offs.com).**

**"PREVIEW COPY ONLY"**

**ACKNOWLEDGMENT OF RECEIPT OF DOCUMENTS  
AND INTENTION TO TENDER**

(To be returned within 3 days after receipt)

FAX TO: Transnet Freight Rail	Project No.:	EFT-020/2014
Vax No.	Tender No.:	EFT-020/2014
Attention: Mosale Legwete	Closing Date:	12 <sup>th</sup> March 2015

**For: SUPPLY AND CONSTRUCTION OF CIVIL WORKS FOR THE UPGRADE OF GERMISTON FUEL DEPOT**

**We:** Do wish to tender for the work and shall return our tender by the due date above Check  
Yes   
Do not wish to tender on this occasion and hereby return all your documents received No

REASON FOR NOT TENDERING:

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

COMPANY'S NAME, ADDRESS, CONTACT, PHONE AND TELEFAX NUMBERS

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

SIGNATURE : \_\_\_\_\_

TITLE: \_\_\_\_\_

## T1.2 Tender Data (Alternative Method 2)

The conditions of tender are the Standard Conditions of Tender as contained in Annex F of the CIDB Standard for Uniformity in Construction Procurement (January 2009) as published in Government Gazette No 31823, Board Notice 12 of 2009 of 30 January 2009, subsequently amended (May 2010), Board Notice 86 of 2010. (See [www.cidb.org.za](http://www.cidb.org.za))

The Standard Conditions of Tender make several references to Tender Data for details that apply specifically to this tender. This Tender Data shall have precedence in the interpretation of any ambiguity or inconsistency between it and the Standard Conditions of Tender.

Each item of data given below is cross-referenced in the left hand column to the clause in the Standard Conditions of Tender to which it mainly applies.

Clause	Data
F.1.1	The Employer is Transnet SOC Ltd (Reg No. 190/000900/30)
F.1.2	The tender documents issued by the Employer comprise:  <b>Part T: The Tender</b> <b>Part T1: Tendering procedures</b> T1.1 Tender Notice and Invitation to Tender T1.2 Tender Data T1.3 CIDB Standard Conditions of Tender  <b>Part T2 : Returnable documents</b> T2.1 List of Returnable Documents T2.2 Returnable Schedules C1.1 Form of Offer and Acceptance C1.2 Contract Data (Part 2) C2.2 Bill of Quantities  <b>Part C: The Contract</b> <b>Part C1: Agreements and contract data</b> C1.1 Form of Offer and Acceptance C1.2 Contract Data (Part 1 & 2) <b>Part C2: Pricing data</b> C2.1 Pricing Instructions C2.2 Bill of Quantities  <b>Part C3: Scope of work</b> C3 Works Information <b>Part C4: Site information</b> C4 Site Information
F.1.4	The Employer's agent is: Regional Procurement Manager/Lead  Name: Mosale Legwete Address: Cnr Jetpark & North Reef Roads, Elandsfontein Johannesburg Tel No. 011 878 7082/ 060 539 6826 Vax No. E – mail <a href="mailto:Mosale.legwete@eskom.co.za">Mosale.legwete@eskom.co.za</a>
F1.6	The competitive negotiation procedure may be applied.

- F.2.1 1. Only those tenderers who are registered with the CIDB, or are capable of being so prior to the evaluation of submissions, in a contractor grading designation equal to or higher than a contractor grading designation determined in accordance with the sum tendered or a value determined in accordance with Regulation 25 (1B) or 25(7A) of the Construction Industry Development Regulations, for a 3CE or higher class of construction work, are eligible to have their tenders evaluated.

Joint ventures are eligible to submit tenders provided that:

1. every member of the joint venture is registered with the CIDB;
2. the lead partner has a contractor grading designation in the 3CE or higher class of construction work; and
3. the combined *Contractor* grading designation calculated in accordance with the Construction Industry Development Regulations is equal to or higher than a *Contractor* grading designation determined in accordance with the sum tendered for a 3CE or higher class of construction work or a value determined in accordance with Regulation 25 (1B) or 25(7A) of the Construction Industry Development Regulations

2. Pre-Qualifying Quality (Functionality) Criteria

Only those tenderers who attain the minimum number of evaluation points for functionality will be eligible for further evaluation, failure to meet the minimum threshold will result in the tender being disqualified and removed from further consideration

The quality criteria and maximum score in respect of each of the criteria are as follows:

Quality criteria	Sub-criteria	Maximum number of points
Program		15
Health and Safety		25
Previous Experience		40
Method Statement		20
<b>Maximum possible score for quality</b>		<b>100</b>

Quality shall be scored by not less than three evaluators and averaged in accordance with the following schedules:

- T2 2-2 Programme
- T2.2-22 Health and Safety Plan
- T2.2-25 Previous Experience
- T2.2-37 Method Statement

The minimum number of evaluation points for quality is : **60**

Each evaluation criteria will be assessed in terms of Five indicators – no response, poor, satisfactory, good and very good. Scores of 0, 40, 70, 90 or 100 will be allocated to poor, satisfactory, good and very good, respectively. The scores of each of the evaluators will be averaged, weighted and then totalled to obtain the final score for quality, unless scored collectively. (See CIDB Inform Practice Note #9)

**Note: Any tender not complying with all three of the above mentioned stipulations, numbered 1 to 3, will be regarded as non-responsive and will therefore not be considered for further evaluation**

F.2.7 The arrangements for a compulsory clarification meeting are as stated in the Tender Notice and Invitation to Tender.

Tenderers must sign the attendance list in the name of the tendering entity. Addenda will be issued to and tenders will be received only from those tendering entities appearing on the attendance list.

F.2.12 No alternative tender offers will be considered

F.2.13.3 Parts of each tender offer communicated on paper shall be as an original, plus **2 (two)** copies.

F.2.13.5 The Employer's details and address for delivery of tender offers and identification details that  
 F2.15.1 are to be shown on each tender offer package are:

Location of tender box Transnet Freight Rail (RME)  
 The Chairman of the Acquisition Council

Physical address: Cnr. Jetpark and North Reef Roads  
 Elandsfontein

Identification details: The tender documents must be submitted in a sealed envelope labelled with:

- **Name of Tenderer:** -----
- **Contact person and details:** -----
- The Tender Number: **EFT-020/2014**
- The Tender Description: **Supply and Construction of Civil works for the upgrade of Germiston Fuel Depot**

Documents must be marked for the attention of: **Mosale Legwete**

Prior arrangement on the submittal of large tender documents should be made with Mosale Legwete

**NO LATE TENDERS WILL BE ACCEPTED**

F.2.13.9 Telephonic, telegraphic, facsimile or e-mailed tender offers will not be accepted.

F.2.15 The closing time for submission of tender offers is as stated in the Tender Notice and Invitation to Tender.

F.2.16 The tender offer validity period is **90 days** from closing date

F.2.18 Provide, on request by the *Employer*, any other material information that has a bearing on the tender offer, the tenderer's commercial position (including notarized joint venture agreements), preferencing arrangements, or samples of materials, considered necessary by the *Employer* for the purpose of a full and fair risk assessment. Should the tenderer not provide the material, or a satisfactory reason as to why it cannot be provided, by the time for submission stated in the *Employer's* request, the *Employer* may regard the tender offer as non-responsive.

F.2.20 If requested, submit for the *Employer's* acceptance before formation of the contract, all securities, bonds, guarantees, policies and certificates of insurance required in terms of the conditions of contract identified in the Contract Data. (The format is included in Part T2.2 of this procurement document).



F.2.23 The tenderer is required to submit with his tender:

1. an **original valid** Tax Clearance Certificate issued by the South African Revenue Services;
2. A valid SANAS or IRBA B-BBEE accreditation certificate, and
3. A letter of good standing with the compensation Commissioner

Note: Refer to Section T2.1 for List of Returnable Documents

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F.3.4 The time and location for opening of the tender offers are:  
Time **12 hrs** on Thursday, **12<sup>th</sup> March 2015**  
Location: Cnr. Jetpark & North Reef Roads,  
Elandsfontein

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F.3.11.3 The procedure for the evaluation of responsive tenders is Method 2.  
F.3.11.7

The financial offer will be scored using Formula 2 (option ) in Table F.1 where the value of  $W_1$  is:

90 where the financial value inclusive of VAT of one or more responsive tenders received have a value in excess of R 1,000 000

Up to 100 minus  $W_1$  tender evaluation points will be awarded to tenderers who complete the preferencing schedule and who are found to be eligible for the preference claimed.

Should the BBBEE rating not be provided, Transnet reserves the right to award no points and/or declare the tender void. Transnet also reserves the right to carry out an independent audit of the tenderers scorecard components at any stage from the date of close of the tenders until completion of the contract. Tenderers with no accreditation will score zero points for preferencing.

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F.3.13 Tender offers will only be accepted if:

- a) the tenderer submits an **original valid** Tax Clearance Certificate issued by the South African Revenue Services or has made arrangements to meet outstanding tax obligations;
  - b) the tenderer is registered with the Construction Industry Development Board in an appropriate contractor grading designation;
  - c) the tenderer or any of its directors/shareholders is not listed on the Register of Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the public sector;
  - d) the tenderer does not appear on Transnet list for restricted tenderers.
  - e) the tenderer has completed the Compulsory Enterprise Questionnaire and there are no conflicts of interest which may impact on the tenderer's ability to perform the contract in the best interests of the Employer or potentially compromise the tender process and persons in the employ of the state are permitted to submit tenders or participate in the contract;
  - f) the tenderer is registered and in good standing with the compensation fund or with a licensed compensation insurer;
  - g) the Employer is reasonably satisfied that the tenderer has in terms of the Construction Regulations, 2003, issued in terms of the Occupational Health and Safety Act, 1993, the necessary competencies and resources to carry out the work safely.
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F.3.17 The number of paper copies of the signed contract to be provided by the Employer is 1 (One).

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## T1.3 CIDB Standard Conditions of Tender

January 2009 Edition



As published in Annexure F of the CIDB Standard for Uniformity in Construction Procurement in Board Notice 12 of 2009 in Government Gazette No 31823 of 30 January 2009

### F.1 General

#### F.1.1 Actions

**F.1.1.1** The employer and each tenderer submitting a tender offer shall comply with these conditions of tender. In their dealings with each other, they shall discharge their duties and obligations as set out in F.2 and F.3, timeously and with integrity, and behave equitably, honestly and transparently, comply with all legal obligations and not engage in anti-competitive.

**F.1.1.2** The employer and the tenderer and all their agents and employees involved in the tender process shall avoid conflicts of interest and where a conflict of interest is perceived or known, declare any such conflict of interest, indicating the nature of such conflict. Tenderers shall declare any potential conflict of interest in their tender submissions. Employees, agents and advisors of the employer shall declare any conflict of interest to whoever is responsible for overseeing the procurement process at the start of any deliberations relating to the procurement process or as soon as they become aware of such conflict, and abstain from any decisions where such conflict exists or recuse themselves from the procurement process, as appropriate.

Note 1) A conflict of interest may arise due to a conflict of roles which might provide an incentive for improper acts in some circumstances. A conflict of interest can create an appearance of impropriety that can undermine confidence in the ability of that person to act properly in his or her position even if no improper acts result.

2) Conflicts of interest in respect of those engaged in the procurement process include direct, indirect or family interests in the tender or outcome of the procurement process and any personal bias, inclination, obligation, allegiance or loyalty which would in any way affect any decisions taken.

**F.1.1.3** The employer shall not seek and a tenderer shall not submit a tender without having a firm intention and the capacity to proceed with the contract.

#### F.1.2 Tender Documents

The documents issued by the employer for the purpose of a tender offer are listed in the tender data.

#### F.1.3 Interpretation

**F.1.3.1** The tender data and additional requirements contained in the tender schedules that are included in the returnable documents are deemed to be part of these conditions of tender.

**F.1.3.2** These conditions of tender, the tender data and tender schedules which are only required for tender evaluation purposes, shall not form part of any contract arising from the invitation to tender.

**F.1.3.3** For the purposes of these conditions of tender, the following definitions apply:

- a) **conflict of interest** means any situation in which:
  - i) someone in a position of trust has competing professional or personal interests which make it difficult to fulfill his or her duties impartially;
  - ii) an individual or organisation is in a position to exploit a professional or official capacity in some way for their personal or corporate benefit; or
  - iii) incompatibility or contradictory interests exist between an employee and the organisation which employs that employee.
- b) **comparative offer** means the tenderer's financial offer after all tendered parameters that will affect the value of the financial offer have been taken into consideration in order to enable comparisons to be made between offers on a comparative basis
- c) **corrupt practice** means the offering, giving, receiving or soliciting of anything of value to influence the action of the employer or his staff or agents in the tender process; and
- d) **fraudulent practice** means the misrepresentation of the facts in order to influence the tender process or the award of a contract arising from a tender offer to the detriment of the employer, including collusive practices intended to establish prices at artificial levels
- e) **organisation** means a company, firm, enterprise, association or other legal entity, whether incorporated or not, or a public body
- f) **quality (functionality)** means the totality of features and characteristics of a product or service that bear on its ability to satisfy stated or implied needs

**F.1.4 Communication and employer's agent**

Each communication between the employer and a tenderer shall be to or from the employer's agent only, and in a form that can be readily read, copied and recorded. Communications shall be in the English language. The employer shall not take any responsibility for non-receipt of communications from or by a tenderer. The name and contact details of the employer's agent are stated in the tender data.

**F.1.5 The employer's right to accept or reject any tender offer**

**F.1.5.1** The employer may accept or reject any variation, deviation, tender offer, or alternative tender offer, and may cancel the tender process and reject all tender offers at any time before the formation of a contract. The employer shall not accept or incur any liability to a tenderer for such cancellation and rejection, but will give written reasons for such action upon written request to do so.

**F.1.5.2** The employer may not subsequent to the cancellation or abandonment of a tender process or the rejection of all responsive tender offers re-issue a tender covering substantially the same scope of work within a period of six months unless only one tender was received and such tender was returned unopened to the tenderer.

**F.1.6 Procurement procedures**

**F.1.6.1 General**

Unless otherwise stated in the tender data, a contract will, subject to F.3.13, be concluded with the tenderer who in terms of F.3.11 is the highest ranked or the tenderer scoring the highest number of tender evaluation points, as relevant, based on the tender submissions that are received at the closing time for tenders.

**F.1.6.2 Competitive negotiation procedure**

**F.1.6.2.1** Where the tender data require that the competitive negotiation procedure is to be followed, tenderers shall submit tender offers in response to the proposed contract in the first round of submissions. Notwithstanding the requirements of F.3.4, the employer shall announce only the names of the tenderers who make a submission. The requirements of F.3.8 relating to the material deviations or qualifications which affect the competitive position of tenderers shall not apply.

**F.1.6.2.2** All responsive tenderers, or not less than three responsive tenderers that are highest ranked in terms of the evaluation method and evaluation criteria stated in the tender data, shall be invited in each round to enter into competitive negotiations, based on the principle of equal treatment and keeping confidential the proposed solutions and associated information. Notwithstanding the provisions of F.2.17, the employer may request that tenders be clarified, specified and fine-tuned in order to improve a tenderer's competitive position provided that such clarification, specification, fine-tuning or additional information does not alter any fundamental aspects of the offers or impose substantial new requirements which restrict or distort competition or have a discriminatory effect.

**F.1.6.2.3** At the conclusion of each round of negotiations, tenderers shall be invited by the employer to make a fresh tender offer, based on the same evaluation criteria, with or without adjusted weightings. Tenderers shall be advised when they are to submit their best and final offer.

**F.1.6.2.4** The contract shall be awarded in accordance with the provisions of F.3.11 and F.3.13 after tenderers have been requested to submit their best and final offer.

**F.1.6.3 Proposal procedure using the two stage-system**

**F.1.6.3.1 Option 1**

Tenderers shall in the first stage submit technical proposals and, if required, cost parameters and which a contract may be negotiated. The employer shall evaluate each responsive submission in terms of the method of evaluation stated in the tender data and in the second stage negotiate a contract with the tenderer scoring the highest number of evaluation points and award the contract in terms of these conditions of tender.

**F.1.6.3.2 Option 2**

**F.1.6.3.2.1** Tenderers shall submit in the first stage only technical proposals. The employer shall invite all responsive tenderers to submit tender offers in the second stage, following the issuing of procurement documents.

**F.1.6.3.2.2** The employer shall evaluate tenders received during the second stage in terms of the method of evaluation stated in the tender data, and award the contract in terms of these conditions of tender.

**F.2 Tenderer's obligations**

**F.2.1 Eligibility**

**F.2.1.1** Submit a tender offer only if the tenderer satisfies the criteria stated in the tender data and the tenderer or any of his principals, is not under any restriction to do business with employer.

**F.2.1.2** Notify the employer of any proposed material change in the capabilities or formation of the tendering entity (or both) or any other criteria which formed part of the qualifying requirements used by the employer as the basis in a prior process to invite the tenderer to submit a tender offer and obtain the employer's written approval to do so prior to the closing time for tenders.

**F.2.2 Cost of tendering**

Accept that, unless otherwise stated in the tender data, the employer will not compensate the tenderer for any costs incurred in the preparation and submission of a tender offer, including the costs of any testing necessary to demonstrate that aspects of the offer complies with requirements.

**F.2.3 Check documents**

Check the tender documents on receipt for completeness and notify the employer of any discrepancy or omission.

**F.2.4 Confidentiality and copyright of documents**

Treat as confidential all matters arising in connection with the tender. Use and copy the documents issued by the employer only for the purpose of preparing and submitting a tender offer in response to the invitation.

**F.2.5 Reference documents**

Obtain, as necessary for submitting a tender offer, copies of the latest versions of standards, specifications, conditions of contract and other publications, which are not attached but which are incorporated into the tender documents by reference.

**F.2.6 Acknowledge addenda**

Acknowledge receipt of addenda to the tender documents, which the employer may issue, and if necessary apply for an extension to the closing time stated in the tender data, in order to take the addenda into account.

**F.2.7 Clarification meeting**

Attend, where required, a clarification meeting at which tenderers may familiarise themselves with aspects of the proposed work, services or supply and raise questions. Details of the meeting(s) are stated in the tender data.

**F.2.8 Seek clarification**

Request clarification on the tender documents, if necessary, by notifying the employer at least five working days before the closing time stated in the tender data.

**F.2.9 Insurance**

Be aware that the extent of insurance to be provided by the employer (if any) might not be for the full cover required in terms of the conditions of contract identified in the contract data. The tenderer is advised to seek qualified advice regarding insurance.

**F.2.10 Pricing the tender offer**

**F.2.10.1** Include in the rates, prices, and the tendered total of the prices (if any) all duties, taxes (except Value Added Tax (VAT), and other levies payable by the successful tenderer, such duties, taxes and levies being those applicable 14 days before the closing time stated in the tender data.

**F.2.10.2** Show VAT payable by the employer separately as an addition to the tendered total of the prices.

**F.2.10.3** Provide rates and prices that are fixed for the duration of the contract and not subject to adjustment except as provided for in the conditions of contract identified in the contract data.

**F.2.10.4** State the rates and prices in Rand unless instructed otherwise in the tender data. The conditions of contract identified in the contract data may provide for part payment in other currencies.

**F.2.11 Alterations to documents**

Do not make any alterations or additions to the tender documents, except to comply with Instructions issued by the employer, or necessary to correct errors made by the tenderer. All signatories to the tender offer shall Initial all such alterations. Erasures and the use of masking fluid are prohibited.

**F.2.12 Alternative tender offers**

**F.2.12.1** Unless otherwise stated in the tender data, submit alternative tender offers only if a main tender offer, strictly in accordance with all the requirements of the tender documents, is also submitted as well as a schedule that compares the requirements of the tender documents with the alternative requirements that are proposed.

**F.2.12.2** Accept that an alternative tender offer may be based only on the criteria stated in the tender data or criteria otherwise acceptable to the employer.

**F.2.13 Submitting a tender offer**

**F.2.13.1** Submit one tender offer only, either as a single tendering entity or as a member in a joint venture to provide the whole of the works, services or supply identified in the contract data and described in the scope of works, unless stated otherwise in the tender data.

**F.2.13.2** Return all returnable documents to the employer after completing them in their entirety, either electronically (if they were issued in electronic format) or by writing legibly in non-erasable ink.

**F.2.13.3** Submit the parts of the tender offer communicated on paper as an original plus the number of copies stated in the tender data, with an English translation of any documentation in a language other than English, and the parts communicated electronically in the same format as they were issued by the employer.

**F.2.13.4** Sign the original and all copies of the tender offer where required in terms of the tender data. The employer will hold all authorized signatories liable on behalf of the tenderer. Signatories for tenderers proposing to contract as joint ventures shall state which of the signatories is the lead partner whom the employer shall hold liable for the purpose of the tender offer.

**F.2.13.5** Seal the original and each copy of the tender offer as separate packages marking the packages as "ORIGINAL" and "COPY". Each package shall state on the outside the employer's address and identification details stated in the tender data, as well as the tenderer's name and contact address.

**F.2.13.6** Where a two-envelope system is required in terms of the tender data, place and seal the returnable documents listed in the tender data in an envelope marked "financial proposal" and place the remaining returnable documents in an envelope marked "technical proposal". Each envelope shall state on the outside the employer's address and identification details stated in the tender data, as well as the tenderer's name and contact address.

**F.2.13.7** Seal the original tender offer and copy packages together in an outer package that states on the outside only the employer's address and identification details as stated in the tender data.

**F.2.13.8** Accept that the employer will not assume any responsibility for the misplacement or premature opening of the tender offer if the outer package is not sealed and marked as stated.

**F.2.13.9** Accept that tender offers submitted by facsimile or e-mail will be rejected by the employer, unless stated otherwise in the tender data.

**F.2.14 Information and data to be completed in all respects**

Accept that tender offers, which do not provide all the data or information requested completely and in the form required, may be regarded by the employer as non-responsive.

**F.2.15 Closing time**

**F.2.15.1** Ensure that the employer receives the tender offer at the address specified in the tender data not later than the closing time stated in the tender data. Accept that proof of posting shall not be accepted as proof of delivery.

**F.2.15.2** Accept that, if the employer extends the closing time stated in the tender data for any reason, the requirements of these conditions of tender apply equally to the extended deadline.

**F.2.16 Tender offer validity**

**F.2.16.1** Hold the tender offer(s) valid for acceptance by the employer at any time during the validity period stated in the tender data after the closing time stated in the tender data.

**F.2.16.2** If requested by the employer, consider extending the validity period stated in the tender data for an agreed additional period with or without any conditions attached to such extension.

**F.2.16.3** Accept that a tender submission that has been submitted to the employer may only be withdrawn or substituted by giving the employer's agent written notice before the closing time for tenders that a tender is to be withdrawn or substituted.

**F.2.16.4** Where a tender submission is to be substituted, submit a substitute tender in accordance with the requirements of F.2.13 with the packages clearly marked as "SUBSTITUTE".

**F.2.17 Clarification of tender offer after submission**

Provide clarification of a tender offer in response to a request to do so from the employer during the evaluation of tender offers. This may include providing a breakdown of rates or prices and correction of arithmetical errors by the adjustment of certain rates or item prices (or both). No change in the competitive position of tenderers or substance of the tender offer is sought, offered, or permitted.

**Note:** Sub-clause F.2.17 does not preclude the negotiation of the final terms of the contract with a preferred tenderer following a competitive selection process, should the Employer elect to do so.

**F.2.18 Provide other material**

**F.2.18.1** Provide, on request by the employer, any other material that has a bearing on the tender offer, the tenderer's commercial position (including notarized joint venture agreements), preferencing arrangements, or samples of materials, considered necessary by the employer for the purpose of a full and fair risk assessment. Should the tenderer not provide the material, or a satisfactory reason as to why it cannot be provided, by the time for submission stated in the employer's request, the employer may regard the tender offer as non-responsive.

**F.2.18.2** Dispose of samples of materials provided for evaluation by the employer, where required.

**F.2.19 Inspections, tests and analysis**

Provide access during working hours to premises for inspections, tests and analysis as provided for in the tender data.

**F.2.20 Submit securities, bonds, policies, etc.**

If requested, submit for the employer's acceptance before formation of the contract, all securities, bonds, guarantees, policies and certificates of insurance required in terms of the conditions of contract identified in the contract data.

**F.2.21 Check final draft**

Check the final draft of the contract provided by the employer within the time available for the employer to issue the contract.

**F.2.22 Return of other tender documents**

If so instructed by the employer, return all retained tender documents within 28 days after the expiry of the validity period stated in the tender data.

**F.2.23 Certificates**

Include in the tender submission or provide the employer with any certificates as stated in the tender data.

**F.3 The employer's undertakings**

**F.3.1 Respond to requests from the tenderer**

**F.3.1.1** Unless otherwise stated in the tender Data, respond to a request for clarification received up to five working days before the tender closing time stated in the Tender Data and notify all tenderers who drew procurement documents.

**F.3.1.2** Consider any request to make a material change in the capabilities or formation of the tendering entity (or both) or any other criteria which formed part of the qualifying requirements used to prequalify a tenderer to submit a tender offer in terms of a previous procurement process and deny any such request if as a consequence:

- a) an individual firm, or a joint venture as a whole, or any individual member of the joint venture fails to meet any of the collective or individual qualifying requirements;
- b) the new partners to a joint venture were not prequalified in the first instance, either as individual firms or as another joint venture; or
- c) in the opinion of the Employer, acceptance of the material change would compromise the outcome of the prequalification process.

**F.3.2 Issue Addenda**

If necessary, issue addenda that may amend or amplify the tender documents to each tenderer during the period from the date that tender documents are available until three days before the tender closing time stated in the Tender Data. If, as a result a tenderer applies for an extension to the closing time stated in the Tender Data, the Employer may grant such extension and, shall then notify all tenderers who drew documents.

**F.3.3 Return late tender offers**

Return tender offers received after the closing time stated in the Tender Data, unopened, (unless it is necessary to open a tender submission to obtain a forwarding address), to the tenderer concerned.

**F.3.4 Opening of tender submissions**

**F.3.4.1** Unless the two-envelope system is to be followed, open valid tender submissions in the presence of tenderers' agents who choose to attend at the time and place stated in the tender data. Tender submissions for which acceptable reasons for withdrawal have been submitted will not be opened.



- F.3.4.2** Announce at the meeting held immediately after the opening of tender submissions, at a venue indicated in the tender data, the name of each tenderer whose tender offer is opened and, where applicable, the total of his prices, preferences claimed and time for completion for the main tender offer only.
- F.3.4.3** Make available the record outlined in F.3.4.2 to all interested persons upon request.
- F.3.5 Two-envelope system**
- F.3.5.1** Where stated in the tender data that a two-envelope system is to be followed, open only the technical proposal of valid tenders in the presence of tenderers' agents who choose to attend at the time and place stated in the tender data and announce the name of each tenderer whose technical proposal is opened.
- F.3.5.2** Evaluate the quality of the technical proposals offered by tenderers, then advise tenderers who remain in contention for the award of the contract of the time and place when the financial proposals will be opened. Open only the financial proposals of tenderers, who score in the quality evaluation more than the minimum number of points for quality stated in the tender data, and announce the score obtained for the technical proposals and the total price and any preferences claimed. Return unopened financial proposals to tenderers whose technical proposals failed to achieve the minimum number of points for quality.
- F.3.6 Non-disclosure**
- Not disclose to tenderers, or to any other person not officially concerned with such processes, information relating to the evaluation and comparison of tender offers, the final evaluation price and recommendations for the award of a contract, until after the award of the contract to the successful tenderer.
- F.3.7 Grounds for rejection and disqualification**
- Determine whether there has been any effort by a tenderer to influence the processing of tender offers and instantly disqualify a tenderer (and his tender offer) if it is established that he engaged in corrupt or fraudulent practices.
- F.3.8 Test for responsiveness**
- F.3.8.1** Determine, after opening and before detailed evaluation, whether each tender offer properly received:
- complies with the requirements of these Conditions of Tender,
  - has been properly and fully completed and signed, and
  - is responsive to the other requirements of the tender documents.
- F.3.8.2** A responsive tender is one that conforms to all the terms, conditions, and specifications of the tender documents without material deviation or qualification. A material deviation or qualification is one which, in the Employer's opinion, would:
- detrimentally affect the scope, quality, or performance of the works, services or supply identified in the Scope of Work,
  - significantly change the Employer's or the tenderer's risks and responsibilities under the contract, or
  - affect the competitive position of other tenderers presenting responsive tenders, if it were to be rectified.
- F.3.8.3** Reject a non-responsive tender offer, and not allow it to be subsequently made responsive by correction or withdrawal of the non-conforming deviation or reservation.

**F.3.9 Arithmetical errors, omissions and discrepancies**

**F.3.9.1** Check responsive tenders for discrepancies between amounts in words and amounts in figures. Where there is a discrepancy between the amounts in figures and the amount in words, the amount in words shall govern.

**F.3.9.2** Check the highest ranked tender or tenderer with the highest number of tender evaluation points after the evaluation of tender offers in accordance with F.3.11 for:

- a) the gross misplacement of the decimal point in any unit rate;
- b) omissions made in completing the pricing schedule or bills of quantities; or
- c) arithmetic errors in:
  - i) line item totals resulting from the product of a unit rate and a quantity in bills of quantities or schedules of prices; or
  - ii) the summation of the prices.

**F.3.9.3** Notify the tenderer of all errors or omissions that are identified in the tender offer and either confirm the tender offer as tendered or accept the corrected total of prices.

**F.3.9.4** Where the tenderer elects to confirm the tender offer as tendered, correct the errors as follows:

- a) If bills of quantities or pricing schedules apply and there is an error in the line item total resulting from the product of the unit rate and the quantity, the line item total shall govern and the rate shall be corrected. Where there is an obviously gross misplacement of the decimal point in the unit rate, the line item total as quoted shall govern, and the unit rate shall be corrected.
- b) Where there is an error in the total of the prices either as a result of other corrections required by this checking process or in the tenderer's addition of prices, the total of the prices shall govern and the tenderer will be asked to revise selected item prices (and their rates if bills of quantities apply) to achieve the tendered total of the prices.

**F.3.10 Clarification of a tender offer**

Obtain clarification from a tenderer on any matter that could give rise to ambiguity in a contract arising from the tender offer.

**F.3.11 Evaluation of tender offers**

**F.3.11.1 General**

Appoint an evaluation panel of not less than three persons. Reduce each responsive tender offer to a comparative offer and evaluate them using the tender evaluation methods and associated evaluation criteria and weightings that are specified in the tender data.

**F.3.11.2 Method 1: Financial offer**

In the case of a financial offer:

- a) Rank tender offers from the most favourable to the least favourable comparative offer.
- b) Recommend the highest ranked tenderer for the award of the contract, unless there are compelling and justifiable reasons not to do so.
- c) Re-rank all tenderers should there be compelling and justifiable reasons not to recommend the highest ranked tenderer and recommend the highest ranked tenderer, unless there are compelling and justifiable reasons not to do so and the process set out in this subclause is repeated.

**F.3.11.3 Methods 2: Financial offer and preference**

In the case of a financial offer and preferences:

- a) Score each tender in respect of the financial offer made and preferences claimed, if any, in accordance with the provisions of F.3.11.7 and F.3.11.8.
- b) Calculate the total number of tender evaluation points (*TEV*) in accordance with the following formula:

$$TEV = NFO + NP$$

where: *NFO* is the number of tender evaluation points awarded for the financial offer made in accordance with F.3.11.7;

*NP* is the number of tender evaluation points awarded for preferences claimed in accordance with F.3.11.8.

- c) Rank tender offers from the highest number of tender evaluation points to the lowest.
- d) Recommend the tenderer with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.
- e) Rescore and re-rank all tenderers should there be compelling and justifiable reasons not to recommend the tenderer with the highest number of tender evaluation points, and recommend the tenderer with the highest number of tender evaluation points, unless there are compelling and justifiable reasons not to do so and the process set out in this subclause is repeated

**F.3.11.4 Method 3: Financial offer and quality**

In the case of a financial offer and quality:

- a) Score each tender in respect of the financial offer made and the quality offered in accordance with the provisions of F.3.11.7 and F.3.11.9, rejecting all tender offers that fail to score the minimum number of points for quality stated in the tender data, if any.
- b) Calculate the total number of tender evaluation points (*TEV*) in accordance with the following formula:

$$TEV = NFO + NQ$$

where: *NFO* is the number of tender evaluation points awarded for the financial offer made in accordance with F.3.11.7;

*NQ* is the number of tender evaluation points awarded for quality offered in accordance with F.3.11.9.

- c) Rank tender offers from the highest number of tender evaluation points to the lowest.
- d) Recommend tenderer with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.
- e) Rescore and re-rank all tenderers should there be compelling and justifiable reasons not to recommend the tenderer with the highest number of tender evaluation points and recommend the tenderer with the highest number of tender evaluation points, unless there are compelling and justifiable reasons not to do so and the process set out in this subclause is repeated.

**F.3.11.5 Method 4: Financial offer, quality and preferences**

In the case of a financial offer, quality and preferences:

- a) Score each tender in respect of the financial offer made, preference claimed, if any, and the quality offered in accordance with the provisions of F.3.11.7 to

F.3.11.9, rejecting all tender offers that fail to score the minimum number of points for quality stated in the tender data, if any.

- b) Calculate the total number of tender evaluation points (*TEV*) in accordance with the following formula, unless otherwise stated in the Tender Data:

$$TEV = NFO + NP + NQ$$

where: *NFO* is the number of tender evaluation points awarded for the financial offer made in accordance with F.3.11.7;  
*NP* is the number of tender evaluation points awarded for preferences claimed in accordance with F.3.11.8;  
*NQ* is the number of tender evaluation points awarded for quality offered in accordance with F.3.11.9.

- c) Rank tender offers from the highest number of tender evaluation points to the lowest.  
 d) Recommend the tenderer with the highest number of tender evaluation points for the award of the contract, unless there are compelling and justifiable reasons not to do so.  
 e) Rescore and re-rank all tenderers should there be compelling and justifiable reasons not to recommend the tenderer with the highest number of tender evaluation points and recommend the tenderer with the highest number of tender evaluation points, unless there are compelling and justifiable reasons not to do so and the process set out in this subclause is repeated.

**F.3.11.6 Decimal places**

Score financial offers, preferences and quality, as relevant, to two decimal places.

**F.3.11.7 Scoring Financial Offers**

Score the financial offers of remaining responsive tender offers using the following formula.

$$NFO = W1 \times A$$

where: *NFO* is the number of tender evaluation points awarded for the financial offer.

*W1* is the maximum possible number of tender evaluation points awarded for the financial offer as stated in the Tender Data.

*A* is a number calculated using the formula and option described in Table F.1 as stated in the Tender Data.

**Table F.1: Formulae for calculating the value of A**

Formula	Comparison aimed at achieving	Option 1 <sup>a</sup>	Option 2 <sup>a</sup>
1	Highest price or discount	$A = (1 + \frac{P - P_m}{P_m})$	$A = P / P_m$
2	Lowest price or percentage commission / fee	$A = (1 + \frac{P - P_m}{P_m})$	$A = P_m / P$

<sup>a</sup> *P<sub>m</sub>* is the comparative offer of the most favourable comparative offer.

*P* is the comparative offer of the tender offer under consideration.

**F.3.11.8 Scoring preferences**

Confirm that tenderers are eligible for the preferences claimed in accordance with the provisions of the tender data and reject all claims for preferences where tenderers are not eligible for such preferences. Calculate the total number of tender evaluation points for preferences claimed in accordance with the provisions of the tender data.

**F.3.11.9 Scoring quality**

Score each of the criteria and subcriteria for quality in accordance with the provisions of the Tender Data.

Calculate the total number of tender evaluation points for quality using the following formula:

$$NQ = W2 \times SO / MS$$

where: *SO* is the score for quality allocated to the submission under consideration;  
*MS* is the maximum possible score for quality in respect of a submission; and  
*W2* is the maximum possible number of tender evaluation points awarded for the quality as stated in the tender data

**F.3.12 Insurance provided by the employer**

If requested by the proposed successful tenderer, submit for the tenderer's information the policies and / or certificates of insurance which the conditions of contract identified in the contract data, require the employer to provide.

**F.3.13 Acceptance of tender offer**

Accept the tender offer, if in the opinion of the employer, it does not present any unacceptable commercial risk and only if the tenderer:

- a) is not under restrictions, or has principals who are under restrictions, preventing participating in the employer's procurement,
- b) can, as necessary and in relation to the proposed contract, demonstrate that he or she possesses the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and the personnel, to perform the contract,
- c) has the legal capacity to enter into the contract,
- d) is not insolvent, in receivership, bankrupt or being wound up, has his affairs administered by a court or a judicial officer, has suspended his business activities, or is subject to legal proceedings in respect of any of the foregoing,
- e) complies with the legal requirements, if any, stated in the tender data, and
- f) is able, in the opinion of the employer, to perform the contract free of conflicts of interest.

**F.3.14 Prepare contract documents**

**F.3.14.1** If necessary, revise documents that shall form part of the contract and that were issued by the employer as part of the tender documents to take account of:

- a) addenda issued during the tender period,
- b) inclusion of some of the returnable documents, and
- c) other revisions agreed between the employer and the successful tenderer.

F.3.14.2 Complete the schedule of deviations attached to the form of offer and acceptance, if any.

**F.3.15 Complete adjudicator's contract**

Unless alternative arrangements have been agreed or otherwise provided for in the contract, arrange for both parties to complete formalities for appointing the selected adjudicator at the same time as the main contract is signed.

**F.3.16 Notice to unsuccessful tenderers**

F.3.16.1 Notify the successful tenderer of the employer's acceptance of his tender offer by completing and returning one copy of the form of offer and acceptance before the expiry of the validity period stated in the tender data, or agreed additional period.

F.3.16.2 After the successful tenderer has been notified of the employer's acceptance of the tender, notify other tenderers that their tender offers have not been accepted.

**F.3.17 Provide copies of the contracts**

Provide to the successful tenderer the number of copies stated in the Tender Data of the signed copy of the contract as soon as possible after completion and signing of the form of offer and acceptance.

**F.3.18 Provide written reasons for actions taken**

Provide upon request written reasons to tenderers for any action that is taken in applying these conditions of tender, but withhold information which is not in the public interest to be divulged, which is considered to prejudice the legitimate commercial interests of tenderers or might prejudice fair competition between tenderers.

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## T2.1 List of Returnable Documents

### 1. Returnable Schedules

T2.2-2	Programme
T2.2-3	Risk Elements
T2.2-8	Schedule of proposed Subcontractors/consultants
T2.2-9	Insurance provided by the Contractor
T2.2-10	Site Establishment requirements
T2.2-14	Authority to submit tender
T2.2-15	Certificate of attendance at tender clarification meeting
T2.2-16	Record of addenda to tender documents
T2.2-17	Compulsory Enterprise Questionnaire
T2.2-20	Quality Plan
T2.2-22	Health and Safety Plan
T2.2-25	Previous experience
T2.2-27	Broad-Based Black Economic Empowerment (BBBEE)
T2.2-31	Supplier Code of Conduct
T2.2-33	Mutual Non-Disclosure Agreement
T2.2-36	RFP Declaration Form
T2.2-37	Method Statement
T2.2-43	RFP – Breach of Law

**This schedule is required for payment purposes only:**

T2.2-34 Supplier Declaration Form

2. C1.1 Offer portion of Form of Offer & Acceptance
3. C1.2 Contract Data Part 2: Data by *Contractor*
4. C2.2 Bill of Quantities

## T2.2 Returnable Schedules

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## T2.2-2: Evaluation Schedule: Programme: Pre – Qualifying Quality (Functionality) Criteria

The Tenderer details the proposed programme below or makes reference to his proposed programme and attaches it to this schedule. If the Tenderer is awarded the contract this document will become the Accepted Programme, subject to Clarifications issued by the Employer. The Tenderer's attention is drawn to core clause 31 of the NEC3 Engineering and Construction contract regarding the items to be shown on a programme.

For clarity the tenderer shall also note the following:-

- Key milestones and sectional completion dates as listed in contract data Part One - "Data provided by the Employer" and be logically linked to activities in the schedule.
- To be "sorted" by activities.
- All activities to be logically tied using critical path method (CPM).
- All activity durations to be realistic and based on quantities and activities that can be measured in days. The calendar on the schedule should represent the actual work week/month used. e.g. weekends as non-working periods.
- A Level 4 Programme is developed electronically and an electronic copy to be supplied with the Tender document. This should be in a Primavera P6 format.
- Against each activity or grouping of activities (i.e. by CWP) the Tenderer indicates its "time risk allowances". These allowances are NOT float, are owned by the Tenderer, can be included in the activity duration and illustrated in the schedule (i.e. in a code field) or as an attachment.
- Float is shown

The Programme to indicate the following as a minimum:

Activity No / Bill of Quantity No	Activity description	Start date	Finish date	Preceding activities	Time risk allowances (TRA)
-----------------------------------	----------------------	------------	-------------	----------------------	----------------------------

The undersigned, who warrants that he / she is duly authorised to do so on behalf of the Tenderer, confirms that the contents of this schedule are within my personal knowledge and are to the best of my belief both true and correct.

Signed	_____	Date	_____
Name	_____	Position	_____
Tenderer	_____		

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### T2.2-3 : Risk Elements

Tenderers to review the potential risk elements associated with the Project. The risk elements are to be priced separately in this Schedule. *If No Risks are identified "No Risks" must be stated on this schedule.*


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Signed \_\_\_\_\_ Date \_\_\_\_\_  
Name \_\_\_\_\_ Position \_\_\_\_\_  
Tenderer \_\_\_\_\_

## T2.2-8: Schedule of Proposed Subcontractors

We notify you that it is our intention to employ the following subcontractors / sub consultants for work in this contract.

If we are awarded a contract we agree that this notification does not change the requirement for us to submit the names of proposed Subcontractors in accordance with requirements in the contract for such appointments. If there are no such requirements in the contract, then your written acceptance of this list shall be binding between us.

	Name and address of proposed Subcontractor /Consultant	Nature and extent of work	Previous experience with Subcontractor/ Consultant.	B-BBEEE Level Certificates to be attached	Value of subcontracted Work (incl 14% Vat)	% Ownership Black Ownership
1.						
2.						
3.						
4.						
5.						
6.						

Signed

Date

Name

Position

Tenderer

**T2.2-9 : Insurance provided by the Contractor**

Clause 84.1 in NEC3 Engineering & Construction Contract (June 2005)(amended June 2006 and April 2013) requires that the Contractor provides the insurance stated in the insurance table except any insurance which the Employer is to provide as stated in the Contract Data.

Please provide the following details for insurance which the Contractor is still to provide. Notwithstanding this information all costs related to insurance are deemed included in the tenderer's rates and prices.

Insurance against (See clause 84.2 of the ECC)	Name of Insurance Company	Cover	Premium
Loss of or damage to the works, Plant and Materials			
Loss of or damage to Equipment			
Liability for loss of or damage to property (except the works, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the Contractor) caused by activity in connection with this contract.			
Liability for death of or bodily injury to employees of the Contractor arising out of and in the course of their employment in connection with this contract			
(Other)			

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Signed \_\_\_\_\_ Date \_\_\_\_\_

Name \_\_\_\_\_ Position \_\_\_\_\_

Tenderer \_\_\_\_\_

## T2.2-10 : Site Establishment / Laydown Area

Tenderers to indicate their Site establishment and/or laydown area requirements:



Signed	_____	Date	_____
Name	_____	Position	_____
Tenderer	_____		

## T2.2-14 : Authority to submit a Tender

Indicate the status of the tenderer by ticking the appropriate box hereunder. The tenderer must complete the certificate set out below for his category of organisation or alternatively attach a certified copy of a company / organisation document which provides the same information for the relevant category as requested here.

<b>A - COMPANY</b>	<b>B - PARTNERSHIP</b>	<b>C - JOINT VENTURE</b>	<b>D - SOLE PROPRIETOR</b>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### A. Certificate for Company

I, \_\_\_\_\_, chairperson of the board of directors of \_\_\_\_\_  
 \_\_\_\_\_ hereby confirm that by resolution of the  
 board taken on \_\_\_\_\_ (date), Mr/Ms \_\_\_\_\_, acting in  
 the capacity of \_\_\_\_\_, was authorised to sign all documents in  
 connection with this tender offer and any contract resulting from it on behalf of the company.

Signed

Date

Name

Position

Chairman of the Board of Directors

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## B. Certificate for Partnership

We, the undersigned, being the **key partners** in the business trading as \_\_\_\_\_  
\_\_\_\_\_ hereby authorise Mr/Ms \_\_\_\_\_, acting in the  
capacity of \_\_\_\_\_, to sign all documents in connection with the tender  
offer for Contract \_\_\_\_\_ and any contract resulting from it on our behalf.

Name	Address	Signature	Date

NOTE: This certificate is to be completed and signed by the **all** number of Partners necessary to commit the Partnership. Attach additional pages if more space is required.

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### C. Certificate for Joint Venture

We, the undersigned, are submitting this tender offer in Joint Venture and hereby authorise Mr/Ms \_\_\_\_\_, an authorised signatory of the company \_\_\_\_\_, acting in the capacity of lead partner, to sign all documents in connection with the tender offer for Contract \_\_\_\_\_ and any contract resulting from it on our behalf.

This authorisation is evidenced by the attached power of attorney signed by legally authorised signatories of all the partners to the Joint Venture.

Furthermore we attach to this Schedule a copy of the joint venture agreement which incorporates a statement that all partners are liable jointly and severally for the execution of the contract and that the lead partner is authorised to incur liabilities, receive instructions and payments and be responsible for the entire execution of the contract for and on behalf of any and all the partners.

Name of firm	Address	Authorising signature, name (in caps) and capacity

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### D. Certificate for Sole Proprietor

I, \_\_\_\_\_, hereby confirm that I am the sole owner of the business trading as \_\_\_\_\_.

Signed	_____	Date	_____
Name	_____	Position	Sole Proprietor

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## T2.2-15 : Certificate of Attendance at Tender Clarification Meeting

This is to certify that

..... (Tenderer)  
 of ..... (address)

was represented by the person(s) named below at the compulsory tender clarification meeting

Held at:	.....	
On (date)	.....	Starting time: .....

As the tenderer we undertake that by said persons attending the clarification meeting we have made it our business to familiarise ourselves with all aspects of the works / service / supply specified in the tender documents in order for us to take account of everything necessary to provide a responsive tender offer and to compile our rates and prices included in the tender offer.

We further understand that in addition to any queries raised on behalf of us at the meeting we may still approach the *Employer / Purchaser's Representative* to request clarification of the tender documents until no later than five working days before the tender closing time stated in the Tender Data.

**Particulars of person(s) attending the meeting:**

Name	.....	Signature	.....
Capacity	.....		
Name	.....	Signature	.....
Capacity	.....		

**Attendance of the above persons at the meeting was confirmed by the procuring organisation's representative as follows:**

Name	.....	Signature	.....
Capacity	.....	Date & time	.....

## T2.2-16 : Record of Addenda to Tender Documents

We confirm that the following communications received from the Employer before the submission of this tender offer, amending the tender documents, have been taken into account in this tender offer:

	Date	Title or Details
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		

Attach additional pages if more space is required.

Signed

Date

Name

Position

Tenderer

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## T2.2-17 : Compulsory Enterprise Questionnaire

The following particulars must be furnished. In the case of a joint venture, separate enterprise questionnaires in respect of each partner must be completed and submitted.

**Section 1: Name of enterprise:** . . . . .

**Section 2: VAT registration number, if any:** . . . . .

**Section 3: CIDB registration number, if any:** . . . . .

**Section 4: Particulars of sole proprietors and partners in partnerships**

Name	Identity number	Personal income tax number

\* Complete only if sole proprietor or partnership and attach separate page if more than 3 partners

**Section 5: Particulars of companies and close corporations**

Company registration number . . . . .

Close corporation number . . . . .

Tax reference number . . . . .

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**Section 6: Record in the service of the state**

Indicate by marking the relevant boxes with a cross, if any sole proprietor, partner in a partnership or director, manager, principal shareholder or stakeholder in a company or close corporation is currently or has been within the last 12 months in the service of any of the following:

- a member of any municipal council
- a member of any provincial legislature
- a member of the National Assembly or the National Council of Province
- a member of the board of directors of any municipal entity
- an official of any municipality or municipal entity
- an employee of any provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act 1 of 1999)
- a member of an accounting authority of any national or provincial public entity
- an employee of Parliament or a provincial legislature

If any of the above boxes are marked, disclose the following:

Name of sole proprietor, partner, director, manager, principal shareholder or stakeholder	Name of institution, public office, board or organ of state and position held	Status of service (tick appropriate column)	
		Current	Within last 12 months

\*insert separate page if necessary

**Section 7: Record of spouses, children and parents in the service of the state**

Indicate by marking the relevant boxes with a cross, if any spouse, child or parent of a sole proprietor, partner in a partnership or director, manager, principal shareholder or stakeholder in a company or close corporation is currently or has been within the last 12 months been in the service of any of the following:

- a member of any municipal council
- a member of any provincial legislature
- a member of the National Assembly or the National Council of Province
- a member of the board of directors of any municipal entity
- an official of any municipality or municipal entity
- an employee of any provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act 1 of 1999)
- a member of an accounting authority of any national or provincial public entity
- an employee of Parliament or a provincial legislature

Name of spouse, child or parent	Name of institution, public office, board or organ of state and position held	Status of service (tick appropriate column)	
		Current	Within last 12 months

\*insert separate page if necessary

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The undersigned, who warrants that he / she is duly authorised to do so on behalf of the enterprise:

- i) authorizes the Employer to obtain a tax clearance certificate from the South African Revenue Services that my / our tax matters are in order;
- ii) confirms that the neither the name of the enterprise or the name of any partner, manager, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears on the Register of Tender Defaulters established in terms of the Prevention and Combating of Corrupt Activities Act of 2004;
- iii) confirms that no partner, member, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears, has within the last five years been convicted of fraud or corruption;
- iv) confirms that I / we are not associated, linked or involved with any other tendering entities submitting tender offers and have no other relationship with any of the tenderers or those responsible for compiling the scope of work that could cause or be interpreted as a conflict of interest; and
- v) confirms that the contents of this questionnaire are within my personal knowledge and are to the best of my belief both true and correct.

Signed \_\_\_\_\_ Date \_\_\_\_\_  
Name \_\_\_\_\_ Position \_\_\_\_\_  
Enterprise name \_\_\_\_\_

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### Evaluation Schedule

#### T2.2-20 : Quality Plan: Pre – Qualifying Quality (Functionality)

##### Criteria

Due consideration must be given to the deliverables required to execute and complete the contract as per the Quality Management Standard stated in the Works Information and should include but not be limited to:

- 1. Project Quality Plan for the contract.
- 2. The Contractor's Quality Policy.
- 3. Index of procedures to be used during the contract.

Attached submissions to this schedule:

.....

.....

.....

.....

.....

.....

.....

.....

.....

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**“PREVIEW COPY ONLY”**

Signed \_\_\_\_\_ Date \_\_\_\_\_

Name \_\_\_\_\_ Position \_\_\_\_\_

Tenderer \_\_\_\_\_

## Evaluation Schedule

### T2.2-22 : Health and Safety Plan: Pre – Qualifying Quality (Functionality) Criteria

Submit the following documents as a minimum with your tender:

1. Valid letter of good standing
2. Roles and responsibilities of legal appointees.
3. Health and Safety Plan for the Project.
4. Health and Safety representative appointment.
5. Safety File (Index)

Attached submissions to this schedule:

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

Signed \_\_\_\_\_

Date \_\_\_\_\_

Name \_\_\_\_\_

Position \_\_\_\_\_

Tenderer \_\_\_\_\_

## Evaluation Schedule

### T2.2-25 : - Previous Experience: Pre – Qualifying Quality

#### (Functionality) Criteria

**Note to tenderers:**

Tenderers are required to demonstrate their experience in the delivery of similar works, and to this end shall supply a sufficiently detailed reference list with contact details of existing customers and also indicate their previous experience of, their design, installation and commissioning capability.

<b>Index of documentation attached to this schedule:</b> ..... ..... .....
---

Signed	_____	Date	_____
Name	_____	Position	_____
Tenderer	_____		

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## T2.2-27: Broad-Based Black Economic Empowerment (B-BBEE)

### B-BBEE and preferencing scheme:

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 tender responses. Transnet will accordingly allow a "preference" in accordance with the 90/10 preference system, as per the Preferential Procurement Policy Framework Act 5 of 2000 (as amended), to companies who provide a valid B-BBEE verification Certificate. All procurement and disposal transactions will be evaluated accordingly.

Consequently, when Transnet invites prospective suppliers to submit tenders for its various capital expenditure programmes, it urges tenderers (Large Enterprises and QSE's - see below) to have themselves accredited by any one of the various Accreditation Agencies approved by SANAS (the South African National Accreditation Systems, under the auspices of the Department of Trade and Industry) and IRBA (Independent Regulatory Board for Auditors).

In terms of Government Gazette No 31612, Notice No. 754 dated 23 September 2011, as from 1 October 2011 only B-BBEE Accreditation Certificates issued by SANAS approved Verification Agencies or Registered Auditors approved by IRBA will be valid.

**All certificates are to display the B-BBEE Verification Agency Body Name and BVA Body number or a Registered Auditor's Body Name and IRBA number.**

Enterprises will be rated by such agencies based on the following:

Scorecard Types	Exempted Micro Enterprise	Qualifying Small Enterprise	Generic Construction
<b>Discipline</b>	Parameters are based on annual turnover of the Measured Entity		
<b>Contractor</b>	Annual turnover < R 5 million	Annual turnover > R 5 million and equal to or , < R 35 million	Annual turnover > R 35 million
<b>Built Environment Professionals (BEP)</b>	Annual turnover < R 1,5 million	Annual turnover > R 1,5 million and equal to or , < R 11,5 million	Annual turnover > R 11,5 million

a) **Large Enterprises**

- Rating level based on all seven elements of the B-BBEE scorecard

b) **Qualifying Small Enterprises – QSE**

- Rating level based on any four of the elements of the B-BBEE scorecard

c) **Exempted Micro Enterprises –**

- EMEs are exempted from B-BBEE verification as indicated in the DTI Codes, Statement 000 (Page 9)
- Automatic rating of Level 4 B-BBEE irrespective of race of ownership, i.e. 100% B-BBEE recognition
- Black ownership >50% or Black Women ownership >50% automatically qualify as Level 3 B-BBEE, i.e. 110% B-BBEE recognition
- Tenderers who qualify as EMEs in terms of the B-BBEE Act must submit a certificate (Which may be in the form of a letter) issued by an Accounting Officer as contemplated in the CCA or a Verification Agency accredited by SANAS or a Registered Auditor. The certificate must confirm the company turnover Black Ownership and Black Woman Ownership and B-BBEE status level.

In addition to the above, a trust, consortium or joint venture will qualify for its B-BBEE status level **only** if such consortium or joint venture submits a **consolidated** B-BBEE status certificate which covers the consortium or joint venture as if it were a single enterprise. Tenderers anticipating tendering in consortium or joint venture must allow sufficient time for obtaining such level verification.

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 Tender.

Respondents must furnish B-BBEE certificates for all proposed subcontractors / sub-consulting. A bidder will not be awarded the points claimed for B-BBEE status level of contribution if it is indicated in the bid documents that such a bidder intends subcontracting / sub-consulting more than 25% of the contract value to any other enterprise that does not qualify for at least the same number of points that the bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract. A contractor is not allowed to sub-contract more than 25% of the contract value to another enterprise that does not have equal or higher B-BBEE status level, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.

Respondents will be required to furnish proof to Transnet (i.e. a detailed scorecard as stipulated above in respect of Large Enterprises and QSEs, or proof of turnover in respect of EMEs). Failure to do so will result in a score of zero being allocated for B-BBEE.

When confirming the validity of a certificate in respect of an EME, the following should be detailed on the face of the certificate:

1. The Accounting Officer's or Registered Auditor's letter head with full contact details;
2. The Accounting Officer's or Registered Auditor's practice numbers;
3. The name and the physical location of the measured entity;
4. The registration number and, where applicable, the VAT number of the measured entity;
5. The date of issue and date of expiry;
6. The B-BBEE Status Level of Contribution obtained by the measured entity; and
7. The total black shareholding and total black female shareholding.

Turnover:

Kindly indicate your company's annual turnover for the past year

ZAR.....

- For Contractors:
  - If annual turnover >R5m, please attach an accreditation certificate issued by an Accreditation Agency or Registered Auditor, together with all the relevant score sheets pertaining thereto;
  - If annual turnover <R5m, please attach an accreditation certificate issued by an Accreditation Agency or Registered Auditor; or an Auditor's certificate or similar certificate issued by an Accounting Officer or Verification Agency which meets the definition for EME certificates mentioned above.
- For BEPs:
  - If annual turnover >R1.5m, please attach an accreditation certificate issued by an Accreditation Agency, together with all the relevant score sheets pertaining thereto;
  - If annual turnover < R 1,5 million, please attach an accreditation certificate issued by an Accreditation Agency or Registered Auditor; or an Auditor's certificate or similar certificate issued by an Accounting Officer or Verification Agency which meets the definition for EME certificates mentioned above.

In addition to the accreditation certificate, Transnet also requires that tenderers register their B-BBEE compliance and supporting documentation on the Department of Trade and Industry's ("DTI") 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 will use the DTI B-BBEE IT Portal as a single data source for its B-BBEE supplier selection criteria and procurement improvement programme by tracking compliance, understanding spend and by sourcing future procurement opportunities.

**1. Instructions for registration and obtaining a DTI B-BBEE Profile:**

1. Go to <http://bee.thedti.gov.za>;
2. Click on B-BBEE Registry;
3. Click on *Register or Login*;
4. Click on *Click Here to Register*;
5. Complete the registration page;
6. Once registered, click on *List on Registry*;
7. Follow all 'on-screen' and e-mailed instructions to submit your documentation and obtain your Profile.

Signed \_\_\_\_\_ Date \_\_\_\_\_  
Name \_\_\_\_\_ Position \_\_\_\_\_  
Tenderer \_\_\_\_\_

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- 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).
2. ***Transnet SOC Limited 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 practices.
  - Transnet does not engage with non-value adding agents or representatives solely for the purpose of increasing BBBEE spend (fronting).
3. ***Transnet's relationship with suppliers requires us to clearly define requirements, to 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 (origin of manufacture, specifications, intellectual property rights, etc);
    - Collusion;
    - Failure to disclose accurate information required during the sourcing activity (ownership, financial situation, BBBEE status, etc.);
    - 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.



## T2.2-31 : Supplier Code of Conduct

Transnet SOC Limited 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 Procurement Policy – A guide for Tenderers.
- 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 (BBBEE)
- The Prevention and Combating of Corrupt Activities Act (PRECCA), and
- The Construction Industry Development Board Act (CIDB Act).

This code of conduct has been included in this contract to formally appraise Transnet Suppliers of Transnet's expectations regarding 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 Enterprise, 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.

#### ***1. Transnet SOC Limited will not participate in corrupt practices. Therefore, it 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, from suppliers.
- Employees may not receive anything that is calculated 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 person involved in sourcing decisions; or
  - Gain an improper advantage.

**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 SOC Limited.

- Doing business with family members.
- Having a financial interest in another company in our industry

Where possible, contracts will be negotiated to include the above in the terms of such contracts. To the extent such terms are not included in contractual obligations and any of the above code is breached, then Transnet reserves its right to review doing business with these suppliers.

I, \_\_\_\_\_ of \_\_\_\_\_  
*(insert name of Director or as per Authority Resolution from Board of Directors)* *(insert name of Company)*

hereby acknowledge having read, understood and agree to the terms and conditions set out in the "Transnet Supplier Code of Conduct."

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

\_\_\_\_\_  
Signature

## T2.2-33 : Mutual Non-Disclosure Agreement

**Note to tenderers: This Non-Disclosure Agreement is to be completed and signed by an authorised signatory:**

**THIS AGREEMENT** is made effective as of ..... day of ..... 20..... by and between:

**Transnet SOC Ltd** (Registration No. 1990/000900/30), a company incorporated and existing under the laws of South Africa, having its principal place of business at Carlton Centre, 150 Commissioner Street, Johannesburg, 2001, South Africa,

and

..... (Registration No. ....), a private company incorporated and existing under the laws of South Africa having its principal place of business at .....

.....

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## 1. Purpose

The parties to this Agreement have a business relationship under which each party may disclose its Confidential Information to the other for the purpose of supplying, laying and compacting of continuously graded medium grade asphalt at Kascon Container Terminal ("the Purpose"). Each party ("the receiving party") shall treat as confidential all information and know-how which it may receive from the other party ("the disclosing party") in terms of this Agreement (hereinafter referred to as "confidential information"), and shall not divulge to any other party in any circumstances any such confidential information, and, in particular, any such confidential information as is covered by the National Key Points Act (Act No. 102 of 1980), whether during the currency of this Agreement or at any time thereafter, without the prior written consent of the disclosing party.

## 2. Definition

"**Confidential Information**" means any information, technical data, or know-how, including, but not limited to, that which relates to research, product plans, products, services, customers, markets, software, developments, inventions, processes, designs, drawings, engineering, hardware configuration information, marketing or finances.

## 3. Exclusions

Confidential Information does not include information, technical data or know-how which:

- 3.1. is in the possession of the receiving party at the time of disclosure as shown by the receiving party's files and records immediately prior to the time of disclosure;
- 3.2. prior or after the time of disclosure becomes part of the public knowledge or literature, not as a result of any inaction or action of the receiving party;
- 3.3. is developed by the receiving party through its independent resources without reference to the disclosing party's Confidential Information;
- 3.4. is disclosed to the receiving party by a third party without restriction and, to the knowledge of the receiving party, without violation of any obligation of confidentiality; or
- 3.5. is approved for release by the disclosing party in writing.

## 4. Non-Disclosure of Confidential Information

- 4.1. The parties to this Agreement agree not to use the Confidential Information disclosed to it by the other party for its own use or for any purpose except to carry out the Purpose as contained in this Agreement. Neither party will disclose any Confidential Information of the other party to third parties except those directors, officers, employees, consultants and agents who are required to have the information in order to carry out the discussions of the contemplated Purpose. Each party will notify those directors, officers, employees, consultants and agents to whom Confidential Information of the other party is disclosed or who have access to Confidential Information of the other party that they are bound by the obligations of this Non-Disclosure Agreement.
- 4.2. Each party agrees that it will take all reasonable measures to protect the secrecy of and avoid disclosure or use of Confidential Information of the other party in order to prevent it from falling into the public domain or the possession of persons other than those persons authorised hereunder to have any such information, which measures shall include the highest degree of care that either party utilises to protect its own Confidential Information of a similar nature. Each party agrees to notify the other party in writing of any misuse or misappropriation of such Confidential Information of the other party which may come to its attention.

## 5. Promotion of Access to Information Act, No.2 of 2000

- 5.1. All information relating to the disclosing party and which the disclosing party has indicated to the receiving party in writing to be confidential information shall be deemed to be confidential information.

- 5.2. No provision of this Agreement shall be construed in such a way that the disclosing party is deemed to have granted its consent to the receiving party to disclose the whole or any part of the confidential information in the event that the receiving party receives a request for the whole or any part of the confidential information in terms of the provisions of the Promotion of Access to Information Act, No.2 of 2000, as may be amended from time to time ("the Act").
- 5.3. Subject to the provisions of sub-clause 5.3 below, the disclosure of confidential information by the receiving party otherwise than in accordance with the provisions of this Agreement will entitle the disclosing party to institute action for breach of confidence against the receiving party, as envisaged by Section 65 of Act No.2 of 2000.
- 5.4. The receiving party acknowledges that the provisions of sub-clause 5.2 above shall not be construed in such a manner as to exclude the applicability of any other grounds of refusal contained in Act No.2 of 2000 which may be applicable in the event that the receiving party receives a request for the whole or any part of the confidential information in terms of Act No.2 of 2000.

#### **6. Non-Solicitation**

During the two-year period following the execution of this Agreement, neither party will solicit for employment, on its own behalf or that of any other person, any officer, director or employee of the other party at the level of director, vice-president or higher with whom the soliciting party became acquainted during the course of the discussions contemplated by this Agreement; provided, that the foregoing shall not be deemed to prohibit either party or a subsidiary of such party from making a general, public solicitation of employment in the ordinary course of such party or subsidiary's business, provided that such solicitation is not directed specifically to employees of the other party.

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## **7. Mandatory Disclosure**

In the event that either party or their respective directors, officers, employees, consultants or agents are requested or required by legal process to disclose any of the Confidential Information of the other party, the party required to make such disclosure shall give prompt notice so that the other party may seek a protective order or other appropriate relief. In the event that such protective order is not obtained, the party required to make such disclosure shall disclose only that portion of the Confidential Information, which its counsel advises that it is legally required to disclose.

## **8. Variation, Addition or Cancellation**

No variation of, addition to, cancellation or novation of this Agreement in its entirety or of any term or condition thereof shall be of any force or effect unless such amendment or cancellation is reduced to writing and signed by both parties.

## **9. No License Granted**

Nothing in this Agreement is intended to grant any rights to either party under any patent, copyright, trade secret or other intellectual property right nor shall this Agreement grant either party any rights in or to the other party's Confidential Information, except the limited right to review such Confidential Information solely for the purposes of the contemplated business relationship between the parties.

## **10. No Representations**

No party makes any representation or warranty as to the accurateness or completeness of any Confidential Information provided hereunder. Neither party shall have any liability to the other arising from, or related to, the other party's use of Confidential Information provided hereunder.

## **11. Term**

The foregoing commitments of either party in this Agreement shall survive any termination of the business relationship under the contemplated Purpose between the parties, and shall continue relative to any Confidential Information disclosed hereunder for a period of 10 (ten) years following the disclosure of such Confidential Information.

## **12. Miscellaneous**

This Agreement shall be binding upon and for the benefit of the undersigned parties, their successors and assigns, provided that Confidential Information of either party may not be assigned without the prior written consent of the disclosing party. Failure to enforce any provision of this Agreement shall not constitute a waiver of any term hereof.

**13. Governing Law and Jurisdiction**

This Agreement shall be governed by and construed and enforced in accordance with the laws of the Republic of South Africa, and shall be binding upon the parties hereto in South Africa and worldwide.

**14. Disputes**

Any dispute or difference arising out of or relating to this Confidentiality Agreement shall be referred to arbitration and settled by arbitration according to the rules then in effect of the Arbitration Foundation of Southern Africa. Such arbitration shall be held in Johannesburg and conducted in the English language before 1 (one) arbitrator appointed in accordance with the said rules. The arbitrator shall apply the law chosen by the parties elsewhere in this Agreement to the merits of the dispute. This Agreement to arbitrate shall be enforceable in, and judgment upon any award may be entered in any court of any country having appropriate jurisdiction.

**15. Remedies**

Each party agrees that its obligations hereunder are necessary and reasonable in order to protect the other party and the other party's business, and expressly agrees that monetary damages may be inadequate to compensate the other party for any breach by either party of any covenants and agreements set forth herein. Accordingly, each party agrees and acknowledges that any such violation or threatened violation may cause irreparable injury to the other party and that, in addition to any other remedies that may be available, in law, in equity or otherwise, the other party shall be entitled to obtain injunctive relief against the threatened breach of this Agreement or the continuation of any such breach, without the necessity of proving actual damages.

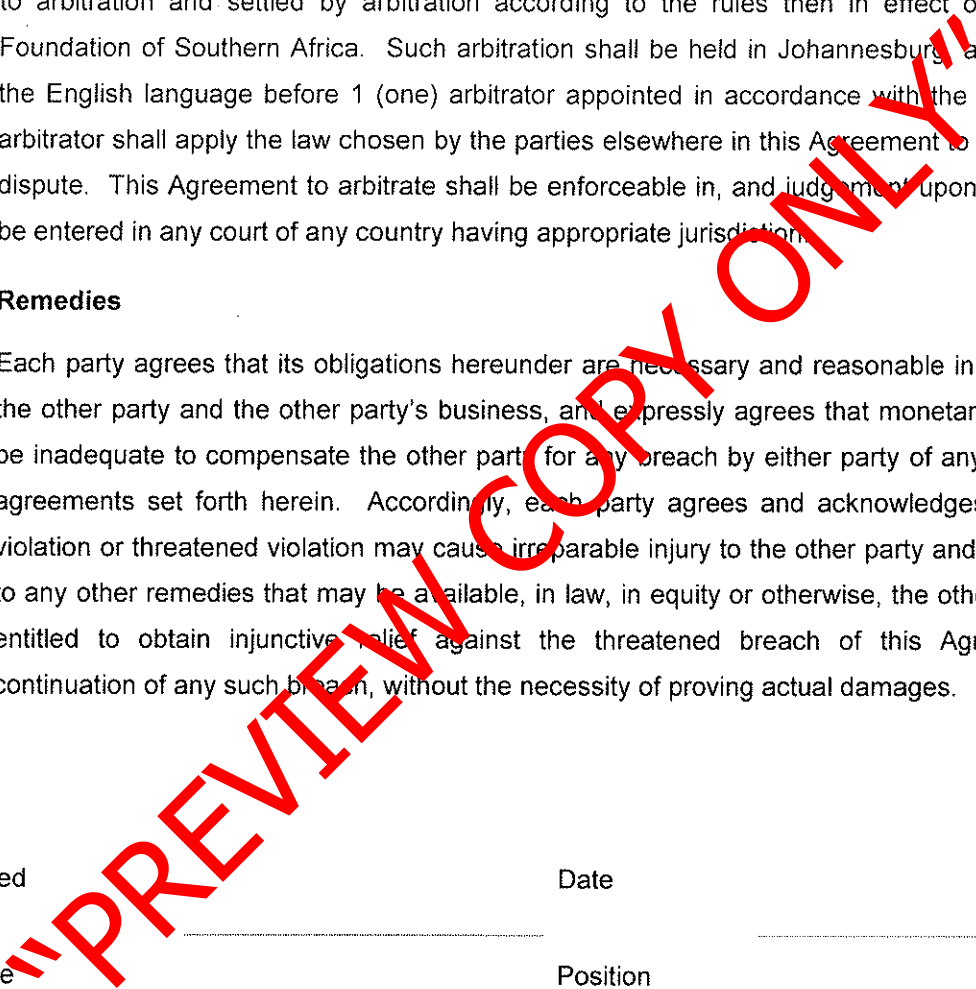
Signed

Date

Name

Position

Tenderer



## T2.2-36 : RFP DECLARATION FORM

NAME OF COMPANY: \_\_\_\_\_

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 bid 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 company 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 acknowledge that a direct relationship exists between a family member and/or an owner / member / director / partner / shareholder (unlisted companies) of our company and an employee or board member of the Transnet Group as indicated below: *[Respondent to indicate if this section is not applicable]*

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 your response and may preclude a Respondent from doing future business with Transnet]*



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 company in the forthcoming adjudication process, we shall notify Transnet immediately in writing of such circumstances.

6. 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).
7. We further accept that Transnet reserves the right to reverse a tender award 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 thereto	AS WITNESS:
Name:	Name:
Position:	Position:
Signature:	Signature:
Date:	
Place:	

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## T2.2-37 : Method Statement

Note to tenderers:

### Method statement

In addition to general methodology for the project please provide specific information for the following points:

1. Execution Sequence
2. Equipment List

Signed

Date

Name

Position

Tenderer

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## T2.2-43 : REQUEST FOR PROPOSAL – BREACH OF LAW

NAME OF COMPANY: \_\_\_\_\_

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 company 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



## T2.2-34: Supplier Declaration Form

### Transnet Supplier Declaration / Application

#### THE FINANCIAL DIRECTOR OR COMPANY SECRETARY:

Transnet Vendor Management has received a request to load your company on to the Transnet vendor database. Please furnish us with the following to enable us to process this request:

- a) Complete the "Supplier Declaration Form" (SDF) on all pages of this letter
- b) Original cancelled cheque OR certified letter from the bank verifying banking details (with bank stamp and on bank letterhead)
- c) **Certified** copy of Identity document of Shareholders / Directors / Members (where applicable)
- d) **Certified** copy of certificate of incorporation, CM29 / CM9 (name change)
- e) **Certified** copy of share Certificates of Shareholders, CK1 / CK2 (if CC)
- f) A letter with the company's letterhead confirming physical and postal addresses
- g) **Original** or **certified** copy of SARS Tax Clearance certificate and VAT registration certificate
- h) A **certified** signed letter from the Auditor / Accountant confirming most recent annual turnover and percentage black ownership in the company **AND / OR** BBBEE certificate and detailed scorecard from a SANAS or IRBA accredited rating agency.
- i) Complete the Transnet Supplier Code of Conduct form on the following website: [www.transnet-supplier.net](http://www.transnet-supplier.net)
- j) **Certified** (valid) IRP 30 exemption certificate
- k) A **certified** copy of a recent months EMP 201 form
- l) A **Certified** declaration that at least 3 employees are on a full time basis
- m) An affidavit or solemn declaration duly signed in terms of 80% of income

**NB: Failure to submit the above documentation will delay the vendor creation process.**

Where applicable, the respective Transnet Operating Division processing your application may request further information from you.

The Service Provider warrants that the details of its bank account ("the nominated account") provided herein, are correct and acknowledges that payments due to the Supplier will be made into the nominated account. If details of the nominated account should change, the Service Provider must notify Transnet in writing of such change, failing which any payments made by Transnet into the nominated account will constitute a full discharge of the indebtedness of Transnet to the Supplier in respect of the payment so made. Transnet will incur no liability for any payments made to the incorrect account or any costs associated therewith. In such event, the Service Provider indemnifies and holds Transnet harmless in respect of any payments made to an incorrect bank account and will, on demand, pay Transnet any costs associated herewith.

#### IMPORTANT NOTES:

1. **If your annual turnover is less than R5 million**, then in terms of the DTI codes, you are classified as an Exempted Micro Enterprise (EME). If your company is classified as an EME, please include in your submission, a certified signed letter from your Auditor / Accountant confirming your company's most recent annual turnover is less than R5 million and percentage of black ownership and black female ownership in the company **AND / OR** BBBEE certificate and detailed scorecard from a SANAS or IRBA accredited rating agency, should you feel you will be able to attain a better BBBEE score.
2. **If your annual turnover is between R5 million and R35million**, then in terms of the DTI codes, you are classified as a Qualifying Small Enterprise (QSE) and you claim a specific BBBEE level based on any 4 of the 7 elements of the BBBEE score-card, please include your BEE certificate in your submission as confirmation of your status.  
NB: BBBEE certificate and detailed scorecard should be obtained from an accredited rating agency (e.g. permanent SANAS Member).
3. **If your annual turnover is in excess of R35million**, then in terms of the DTI codes, you are classified as a Large Enterprise and you claim a specific BEE level based on all seven elements of the BBBEE generic score-card. Please include your BEE certificate in your submission as confirmation of your status.  
NB: BBBEE certificate and detailed scorecard should be obtained from an accredited rating agency (permanent SANAS Member).
4. **The supplier to furnish proof to the procurement department as required in the Fourth Schedule of the Income Tax Act. 58 of 1962** whether a supplier of service is to be classified as an "employee", "personal service provider" or "labour broker". Failure to do so will result in the supplier being subject to employee's tax.
5. **No payments can be made to a vendor until the** vendor has been registered, and no vendor can be registered until the vendor application form, together with its supporting documentation, has been received and processed.
6. From 1 February 2011 only BBBEE certificates issued by SANAS or IRBA accredited verification agencies will be valid.

Please return the completed Supplier Declaration Form (SDF) together with the required supporting documents and annexure mentioned above to the Transnet Official who is intending to procure your company's services / products

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**1) Supplier Declaration Form**

Company Trading Name	
Company Registered Name	

Did your company previously operate under another name?	Yes	No
---	-----	----

If **YES** state the previous name below

Trading Name	
Registered Name	
Company Registration Number Or ID Number If A Sole Proprietor	
Form of entity	CC    Trust    Pty Ltd    Limited    Partnership    Sole Proprietor

Is your company VAT Registered?	Yes	No	Exempt
---------------------------------	-----	----	--------

If <b>Yes</b> , state VAT Registration Number	
If <b>No or Exempt</b> , state reason	

Bank Name	Bank Account Number
-----------	---------------------

Company Physical Address	Code
Company Postal Address	Code
Company Telephone number	
Company Fax Number	
Company E-Mail Address	
Company Website Address	

Contact Person	
Designation	
Telephone	
Email	

Last Financial Year Annual Turnover	<R1Million	R1-R5Million	R5-R35Million	>R35Million
-------------------------------------	------------	--------------	---------------	-------------

Indicate using a 'X' the business sector in which your company is involved / operating	
Agriculture	
Manufacturing	
Electricity, Gas and Water	
Retail, Motor Trade and Repair Services	
Catering, accommodation and Other Trade	
Community, Social and Personal Services	
Mining and Quarrying	
Construction	
Finance and Business Services	
Wholesale Trade, Commercial Agents and Allied Services	
Transport, Storage and Communications	
Other (Specify)	



### ii) Category of Supplier

The following information needs to be completed by the supplier to determine which category of supply to follow.

Company Trading Name	
Company Registered Name	

A. Are you a supplier of goods and / or products?	Yes		No	
If yes, what goods and / or products are being supplied?				

B. Are you a supplier of service and / or labour?	Yes		No	
If yes, what service and / or labour are being supplied?				

**NB:** If your answer to Question A is "YES", the supplier is not subject to Employees' Tax. The supplier is to be captured as a **TRADE VENDOR** via the **PROCUREMENT OFFICE** and referred to the Accounts Payable Department for payment. You will be required to attach supporting documents 1 -12 from the checklist.

If your answer to Question B is "YES", please answer the questions below:

	Yes	No
1.1. Is the service provider a natural person (i.e. labour broker) who supplies Transnet with other persons to render services, or perform work for Transnet; and who is remunerated by the service provider?		
1.2. Is the service provider a natural person (i.e. contractor) who supplies services to Transnet?		
1.3. Is the service provider a company, close corporation or trust who supplies Transnet with services or labour?		

- If the answer to question 1.1 is "YES" the service provider has to complete **ANNEXURE A** of the Supplier Declaration Form. Please attach supporting documents 1-13 from the checklist
- If the answer to question 1.2 is "YES" the service provider has to complete **ANNEXURE B** of the Supplier Declaration Form. Please attach supporting documents 1, 12, 14 -15 from checklist
- If the answer to question 1.3 is "YES" the service provider has to complete **ANNEXURE C** of the Supplier Declaration Form. Please attach supporting documents 1-12, 14-16 from checklist

### BBBEE Ownership Details

Does your company have a valid BBBEE certificate?	Yes		No	
What is your broad based BEE status (Level 1 to 9 / Unknown)				
Majority Race of Ownership				
% Black Ownership		% Black women ownership		% Disabled person(s) ownership

Transnet Contact Person	
Contact number	
Transnet operating division	

### Duly Authorised To Sign For And On Behalf Of Firm / Organisation

Name		Designation	
Signature		Date	

### Stamp And Signature Of Commissioner Of Oath

Name		Date	
Signature		Telephone No	

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**Internal Transnet Departmental Questionnaire**

Company Trading Name	
Company Registered Name	

**To be completed by the Transnet Requesting / Supporting Department**

TFR		TRE		TPT		TPL		TNPA		TRN	
Create		Amend		Block		Unblock		Once-Off / Emergency Request			
Extend		Delete		Undelete							

**Internal Sign-Off if Vendor is exempt or not Registered for VAT (Group Tax Department)**

Name		Designation	
Signature		Date	

Service Provider	Deduct Tax	No Tax	Department Responsible for Payment
Labour broker without IRP30 exemption certificate			
Labour broker with IRP30 exemption certificate			
Personal Service Provider			
Independent Contractor			
None of the above apply, state reason			

**Internal Document Checklist**

Document List	Yes / No
1) Complete Supplier Declaration Form (SDF)	
2) Verification of banking details	
3) Original cancelled cheque or	
4) Letter from the bank (with bank stamp)	
5) Certified copy of identity document of Shareholders / Directors / Members	
6) Certified copy of certificate of incorporation	
7) Certified copy of share certificates of Shareholders	
8) A letter with the company's letterhead confirming physical and postal addresses	
9) Original or certified copy of SARS Tax Clearance certificate and VAT registration certificate	
10) Confirmation of most recent annual turnover and percentage black ownership	
11) Signed letter from the Auditor / Accountant ; AND / OR BBBEE certificate and detailed scorecard from Accrediting agency (ABVA Member)	
12) Completed Transnet Supplier Code of Conduct form and proof of submission (www.transnet-suppliers.net)	
13) Valid IRP 30 exemption certificate (Annexure A)	
14) A copy of a recent months EMP 201 form (Annexure B & C)	
15) Declaration that at least 3 employees are on a full time basis (Annexure B & C)	
16) Declaration in terms of 80% of income (Annexure C)	

Make a difference, if you aware of any corruption and fraudulent activities in Transnet please contact Tipp-Off Anonymous

Hotline: 0800 003 056  
 Fax: 0800 007 788  
 Email: [Transnet@tip-offs.com](mailto:Transnet@tip-offs.com)  
 Website: [www.transnet.net](http://www.transnet.net) and click on the Tip – offs Anonymous link  
 Post: Tip-offs Anonymous, Freepost DN 298, Umhlanga Rocks, 4320

**Annexure A**

Company Trading Name	
Company Registered Name	

In order for Transnet not to classify you as a "labour broker" as defined in the Fourth Schedule to the Act, you need to provide Transnet with a valid IRP 30 exemption certificate.

	Yes	No
<p>I. Do you have a valid IRP 30 exemption certificate?</p> <p>If "yes", you will not be regarded as an "employee" for employees' tax purposes. Payments made to you will not be subjected to PAYE, UIF or SDL.</p> <p>If "no", you will be regarded as an "employee" for employees' tax purposes. Payments made to you will be subject PAYE, UIF and SDL. Normal tax tables will apply</p>		

**For admin purposes only:**

	Yes	No
Labour broker exempt therefore not an employee and no PAYE to be deducted ( Accounts Payable)		
Labour broker without an IRP 30 exemption certificate therefore regarded as an employee and PAYE must be withheld (HR / Payroll)		
Certified copy of IRP30 exemption certificate received?		
Name		Signature
Position		Date

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## Annexure B

Company Trading Name	
Company Registered Name	

In order for Transnet to determine whether you are an "independent contractor" as defined in the Fourth Schedule to the Act, you are required to answer the following questions by marking the appropriate column with an X. The answers supplied will be used to determine whether Transnet is obliged to deduct employees' tax from any payment due to you.

	Yes	No
<p>1.) Do you employ three or more full-time employees (excluding "connected persons" in relation to yourself)?</p> <p>If "yes", please provide the following documentation;</p> <ul style="list-style-type: none"> <li>– A copy of a recent months EMP 201 form;</li> <li>– A declaration that at least 3 employees are on a full time basis engaged in the business of rendering the services and are not connected persons.</li> </ul> <p>If the above documentation is provided, payments made to you will not be subject to PAYE, UIF or SDL. No need to proceed to questions 2 and 3. If "no", please proceed to question 2.</p>		
<p>2.) Will you render your services mainly at the premises of Transnet?</p> <p>If "no", you will be regarded as an independent contractor for employees' tax purposes. Payments made to you will not be subject to PAYE, UIF or SDL. No need to proceed to question 3. If "yes", please proceed to question 3.</p>		
<p>3.) Will you be working under the supervision and control of Transnet as to the manner in which your duties are performed or as to the hours you are required to work?</p> <p>If "no", you will be regarded as an independent contractor for employees' tax purposes. Payments made to you will not be subject to PAYE, UIF or SDL.</p> <p>If "yes", you will not be regarded as an independent contractor for employees' tax purposes and payments to you will be subject to employees' tax. Normal tax tables will apply.</p>		
<p>4.) Is the contractor required to work for a period of 22 hours or more per week?</p> <p>If the answer is "yes" the person will be regarded as being in standard employment and payments made to employee will be subject to employees' tax in accordance with the tax tables for natural persons.</p>		
<p>5.) Is the contractor required to work at least 5 hours a day, but Transnet will not pay the contractor more than R208 for that day? If the answer is "yes" employees' tax should not be withheld.</p>		
<p>6.) Will the contractor be working for less than 22 hours for Transnet, but Transnet will be their only employer?</p> <p>If the answer is "yes" a written declaration should be supplied to Transnet to the effect that Transnet will be the only employer of the contractor. The contractor is in standard employment and employees' tax needs to be withheld in accordance with the tax tables for natural persons.</p>		
<p>7.) Will Transnet expects the contractor to work for a period of less than 22 hours per week? If the answer is "yes" the contractor is in non-standard employment and employees' tax needs to be withheld at a flat rate of 25%.</p>		
<p>8.) Will the contractor be allowed to work for any other employer while performing duties for Transnet? If the answer is "no" the contractor needs to provide Transnet with a written declaration to the effect that Transnet is its only employer. If contractor can supply such declaration it will be regarded as being in standard employment and employees' tax must be calculated in accordance with the tax tables for natural persons.</p>		

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**For admin purposes only:**

Company Trading Name				
Company Registered Name				
			Yes	No
Independent contract – Not a employee, therefore no PAYE to be deducted (Accounts Payable)				
Not an independent contractor – Regarded as an employee, therefore PAYE must be withheld (HR / Payroll)				
Declaration in term of 3 or more employee's received?				
If not an independent contractor determine whether in standard employment or non-standard employment				
Name		Signature		
Position		Date		

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## Annexure C

Company Trading Name	
Company Registered Name	

In order for Transnet to evaluate whether the supplier is a "Personal Service Provider" as defined in the Fourth Schedule to the Act, the supplier must answer the following questions by marking the appropriate column with an X. The answers supplied will be used to determine whether Transnet is obliged to deduct employees' tax from any payment due to the supplier.

	Yes	No
<p>1.) Does your company / close corporation or trust employ three or more full-time employees (other than shareholders, members or connected persons) on a full time basis?</p> <p>If "yes" please provide the following documentation;</p> <ul style="list-style-type: none"> <li>- A copy of a recent months EMP 201 form;</li> <li>- A declaration that at least 3 employees are on a full time basis engaged in the business of rendering the services and are not connected persons).</li> </ul> <p>If the above documentation is provided, payments to be made will not be subject to PAYE, UIF or SDL. No need to complete questions 2 – 7.</p> <p>If the above documentation cannot be provided, please continue in completing this form. If the answer is "no", please proceed to the next question.</p>		
<p>2.) Where your organisation is a company, will a shareholder (10% or more) or a "connected person" in relation to such shareholder(s) provide the services to Transnet?</p> <p>Where your organisation is a close corporation, will a member or a "connected person" in relation to such member(s) provide the services to Transnet?</p> <p>Where your organisation is a trust, will a beneficiary or a "connected person" in relation to such trust provide the services to Transnet?</p> <p>If your answer is "yes" to any one of the above questions, you need to complete each of the remaining questions.</p> <p>If your answer is "no", the payments made to the company will not be subject to PAYE, UIF or SDL.</p>		
<p>3.) Would the person supplying the services to Transnet be regarded as an employee of Transnet if the services were rendered directly to Transnet, notwithstanding that the services are rendered via a company, close corporation or trust?</p> <p>If the answer is "yes", the company / close corporation or trust is a "personal service provider" and payments made to the company, close corporation or trust are subject to PAYE and SDL. If the answer is "no", please continue in completing this form.</p>		
<p>4.) Will the person rendering the services to Transnet render such services mainly at the premises of Transnet and will such person be working under the supervision and control of Transnet as to the manner in which such person's duties are performed?</p> <p>If the answer is "yes", the company / close corporation or trust is a "personal service provider" and payments made to the company / close corporation or trust are subject to PAYE and SDL.</p> <p>If the answer is "no" please continue in completing this form.</p>		
<p>5.) Will your company / close corporation or trust derive more than 80% of its income during the year of assessment from any one client?</p> <p>If the answer is "yes" the company / close corporation or trust is a "personal service provider" and payments to the company / close corporation or trust will be subject to PAYE and SDL. If the answer is "no", you should provide Transnet with a written declaration. If a written declaration is provided, no employees' tax will be deducted from payments to be made the company / close corporation or trust.</p>		

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For Admin purpose only:

Company Trading Name			
Company Registered Name			
Personal Service Provider – Not regarded as an employee, therefore no PAYE to be deducted (Accounts Payable)			
Personal Service Provider regarded as an employee, therefore PAYE must be withheld (HR / Payroll)			
Declaration in terms of 3 or more employee's received?			
Declaration in terms of 80% of income?			
Name		Signature	
Position		Date	

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### 1.1 Supporting Documents Required

The table below contains a list of compulsory documentation in relation to the each type of Trade Vendor:

Vendor Documents required									
	Company Registration	Proof of Ownership	Proof of banking details	Income Tax	Vat registration	Company Name Change	Proof of Address	Proof of communication	Proof of BBBEE
<b>Sole Proprietor</b>	ID document of Individual	Clear copy of Owner's Identity document	Original Certified letter from Bank with bank stamp and / or original cancelled cheque	A valid certified original Tax Clearance Certificate	If registered for VAT – Vat 103 certificate	N/A	Letterhead confirming physical and postal addresses	Letterhead confirming telephone, fax and e-mail	A signed letter from the Auditor / Accountant confirming most recent annual turnover and percentage black ownership and / or BBBEE certificate
<b>Close Corporation – CC</b>	CK 1 (Close Corporation Founding Statement)	Shareholdings Identity documents	Original Certified letter from Bank with bank stamp and / or original cancelled cheque	A valid certified original Tax Clearance Certificate	If registered for VAT – Vat 103 certificate	CK2 (Amended Founding Statement)	Letterhead confirming physical and postal addresses	Letterhead confirming telephone, fax and e-mail	A signed letter from the Auditor / Accountant confirming most recent annual turnover and percentage black ownership and / or BBBEE certificate
<b>Partnership</b>	Letters stating Partners with ID numbers	Partnership agreement	Original Certified letter from Bank with bank stamp and / or original cancelled cheque	A valid certified original Tax Clearance Certificate	If registered for VAT – Vat 103 certificate	N/A	Letterhead confirming physical and postal addresses	Letterhead confirming telephone, fax and e-mail	A signed letter from the Auditor / Accountant confirming most recent annual turnover and percentage black ownership and / or BBBEE certificate
<b>Public Company – LTD</b>	CK documents (CM1 & CM29)	Shareholders Identity documents	Original Certified letter from Bank with bank stamp and / or original cancelled cheque	A valid certified original Tax Clearance Certificate	If registered for VAT – Vat 103 certificate	CK documents (CM1, CM9, CM29)	Letterhead confirming physical and postal addresses	Letterhead confirming telephone, fax and e-mail	A signed letter from the Auditor / Accountant confirming most recent annual turnover and percentage black ownership and / or BBBEE certificate
<b>Private Companies – (PTY) LTD</b>	CK documents (CM1 & CM29)	Shareholders Identity documents	Original Certified letter from Bank with bank stamp and / or original cancelled cheque	A valid certified original Tax Clearance Certificate	If registered for VAT – Vat 103 certificate	CK documents (CM1, CM9, CM29)	Letterhead confirming physical and postal addresses	Letterhead confirming telephone, fax and e-mail	A signed letter from the Auditor / Accountant confirming most recent annual turnover and percentage black ownership and / or BBBEE certificate

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Business Trust	Deed of Trust – Trust agreement	Clear copy of Trustees Identity document	Original Certified letter from Bank with bank stamp and / or original cancelled cheque	A valid certified original Tax Clearance Certificate	If registered for VAT – Vat 103 certificate	N/A	Letterhead confirming physical and postal addresses	Letterhead confirming telephonic, fax and e-mail	A signed letter from the Auditor / Accountant confirming most recent annual turnover and percentage black ownership and / or BBBEE certificate
Non Profit Organizations (NPO)	CK documents (CM1 & CM29)	Clear copy of Owner's Identity document	Original Certified letter from Bank with bank stamp and / or original cancelled cheque	A valid certified original Tax Clearance Certificate	If registered for VAT – Vat 103 certificate	CK documents (CMI, CM9, CM29)	Letterhead confirming physical and postal addresses	Letterhead confirming telephonic, fax and e-mail	A signed letter from the Auditor / Accountant confirming most recent annual turnover and percentage black ownership and / or BBBEE certificate
Incorporated company – INC	CK documents (CM1 & CM29)	Clear copy of Owner's Identity document	Original Certified letter from Bank with bank stamp and / or original cancelled cheque	A valid certified original Tax Clearance Certificate	If registered for VAT – Vat 103 certificate	CK documents (CMI, CM9, CM29)	Letterhead confirming physical and postal addresses	Letterhead confirming telephonic, fax and e-mail	A signed letter from the Auditor / Accountant confirming most recent annual turnover and percentage black ownership and / or BBBEE certificate
Parastatels / Government Institutions (E.g. Municipalities, Eskom, etc.)	Certified Letter head / Certified invoice	N/A	Original Certified letter from Bank with bank stamp and / or original cancelled cheque Certified Letterhead / Certified invoice	A valid certified original Tax Clearance Certificate / letterhead / Certified invoice	If registered for VAT – Vat 103 certificate / certified letterhead	N/A	Letterhead confirming physical and postal addresses	Letterhead confirming telephonic, fax and e-mail	A signed letter from the Auditor / Accountant confirming most recent annual turnover and percentage black ownership and / or BBBEE certificate
Educational Institution (e.g. Universities / colleges / schools)	CK documents / Certified Letter head	N/A	Original Certified letter from Bank with bank stamp and / or original cancelled cheque / Certified Letterhead	A valid certified original Tax Clearance Certificate / letterhead	If registered for VAT – Vat 103 certificate	N/A	Letterhead confirming physical and postal addresses	Letterhead confirming telephonic, fax and e-mail	A signed letter from the Auditor / Accountant confirming most recent annual turnover and percentage black ownership and / or BBBEE certificate

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Specialised Professions (E.g. Professional speakers, Doctors, Specialists etc.)	CK documents / Certified Letter head	N/A	Original Certified letter from Bank with bank stamp and / or original cancelled cheque / Certified Letterhead	A valid certified original Tax Clearance / Certificate / Letterhead	If registered for VAT – Vat 103 certificate / certified letterhead	N/A	Letterhead confirming physical and postal addresses	Letterhead confirming telephonic, fax and e-mail	A signed letter from the Auditor / Accountant confirming most recent annual turnover and percentage black ownership and / or BBBEE certificate
Financial Institutions (e.g. banks)	CK documents / Certified Letter head	N/A	Original Certified letter from Bank with bank stamp and / or original cancelled cheque / Certified Letterhead	A valid certified original Tax Clearance / Certificate / Letterhead	If registered for VAT – Vat 103 certificate / certified letterhead	N/A	Letterhead confirming physical and postal addresses	Letterhead confirming telephonic, fax and e-mail	A signed letter from the Auditor / Accountant confirming most recent annual turnover and percentage black ownership and / or BBBEE certificate

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# C1.1 Form of Offer & Acceptance

## Offer

The Employer, identified in the Acceptance signature block, has solicited offers to enter into a contract for the procurement of:

**SUPPLY AND CONSTRUCTION OF CIVIL WORKS FOR THE UPGRADE OF GERMISTON FUEL DEPOT**

The tenderer, identified in the Offer signature block, has examined the documents listed in the Tender Data and addenda thereto as listed in the Returnable Schedules, and by submitting this Offer has accepted the Conditions of Tender.

By the representative of the tenderer, deemed to be duly authorised, signing this part of this Form of Offer and Acceptance the tenderer offers to perform all of the obligations and liabilities of the *Contractor* under the contract including compliance with all its terms and conditions according to their true intent and meaning for an amount to be determined in accordance with the *conditions of contract* identified in the Contract Data.

The offered total of the Prices exclusive of VAT is	R
Value Added Tax @ 14% is	R
The offered total of the Prices inclusive of VAT is	R
(in words)	

This Offer may be accepted by the Employer by signing the Acceptance part of this Form of Offer and Acceptance and returning one copy of this document including the Schedule of Deviations (if any) to the tenderer before the end of the period of validity stated in the Tender Data, or other period as agreed, whereupon the tenderer becomes the party named as the *Contractor* in the *conditions of contract* identified in the Contract Data.

Signature(s) \_\_\_\_\_

Name(s) \_\_\_\_\_

Capacity \_\_\_\_\_

**For the tenderer:**

\_\_\_\_\_  
*(insert name and address of organisation)*

Name & signature of witness

Date

Tenderer's CIDB registration number: \_\_\_\_\_



## Acceptance

By signing this part of this Form of Offer and Acceptance, the Employer identified below accepts the tenderer's Offer. In consideration thereof, the Employer shall pay the Contractor the amount due in accordance with the *conditions of contract* identified in the Contract Data. Acceptance of the tenderer's Offer shall form an agreement between the Employer and the tenderer upon the terms and conditions contained in this agreement and in the contract that is the subject of this agreement.

The terms of the contract, are contained in:

Part C1	Agreements and Contract Data, (which includes this Form of Offer and Acceptance)
Part C2	Pricing Data
Part C3	Scope of Work: Works Information
Part C4	Site Information

and drawings and documents (or parts thereof), which may be incorporated by reference into the above listed Parts.

Deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Returnable Schedules as well as any changes to the terms of the Offer agreed by the tenderer and the Employer during this process of offer and acceptance, are contained in the Schedule of Deviations attached to and forming part of this Form of Offer and Acceptance. No amendments to or deviations from said documents are valid unless contained in this Schedule.

The tenderer shall within two weeks of receiving a completed copy of this agreement, including the Schedule of Deviations (if any), contact the Employer's agent (whose details are given in the Contract Data) to arrange the delivery of any securities, bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the *conditions of contract* identified in the Contract Data at, or just after, the date this agreement comes into effect. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this agreement.

Notwithstanding anything contained herein, this agreement comes into effect on the date when the tenderer receives one fully completed original copy of this document, including the Schedule of Deviations (if any).

Unless the tenderer (now Contractor) within five working days of the date of such receipt notifies the Employer in writing of any reason why he cannot accept the contents of this agreement, this agreement shall constitute a binding contract between the Parties.

Signature(s) \_\_\_\_\_

Name(s) \_\_\_\_\_

Capacity \_\_\_\_\_

**for the Employer** Transnet SOC Ltd

(Insert name and address of organisation)

Name & signature of witness \_\_\_\_\_ Date \_\_\_\_\_

Note: If a tenderer wishes to submit alternative tenders, use another copy of this Form of Offer and Acceptance.

**Schedule of Deviations**

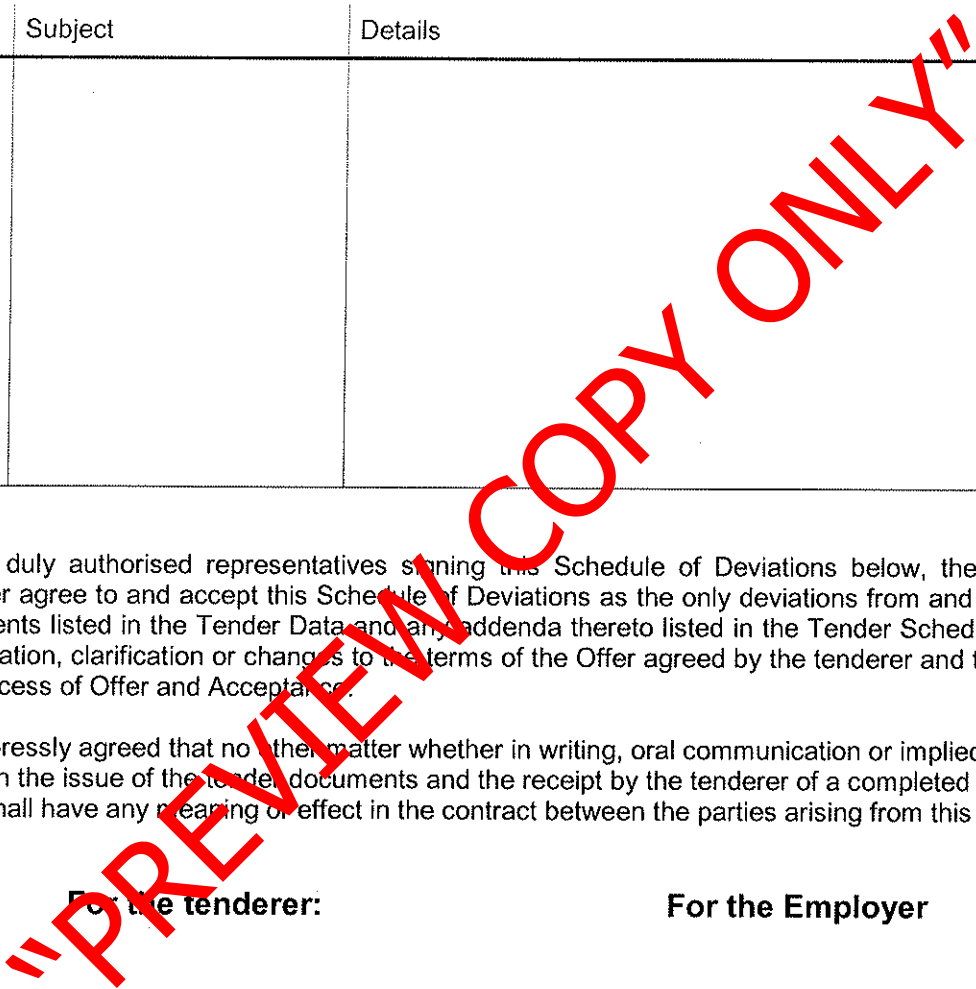
Note:

1. To be completed by the Employer prior to award of contract. This part of the Offer & Acceptance would not be required if the contract has been developed by negotiation between the Parties and is not the result of a process of competitive tendering.
2. The extent of deviations from the tender documents issued by the Employer prior to the tender closing date is limited to those permitted in terms of the Conditions of Tender.
3. A tenderer's covering letter must not be included in the final contract document. Should any matter in such letter, which constitutes a deviation as aforesaid be the subject of agreement reached during the process of Offer and Acceptance, the outcome of such agreement shall be recorded here and the final draft of the contract documents shall be revised to incorporate the effect of it.

No.	Subject	Details
1		
2		
3		
4		
5		
6		
7		

By the duly authorised representatives signing this Schedule of Deviations below, the Employer and the tenderer agree to and accept this Schedule of Deviations as the only deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Tender Schedules, as well as any confirmation, clarification or changes to the terms of the Offer agreed by the tenderer and the Employer during this process of Offer and Acceptance.

It is expressly agreed that no other matter whether in writing, oral communication or implied during the period between the issue of the tender documents and the receipt by the tenderer of a completed signed copy of this Form shall have any meaning or effect in the contract between the parties arising from this Agreement.



**For the tenderer:**

**For the Employer**

Signature \_\_\_\_\_

\_\_\_\_\_

Name \_\_\_\_\_

\_\_\_\_\_

Capacity \_\_\_\_\_  
 On behalf of *(Insert name and address of organisation)*

Transnet SOC Ltd

Name & signature of witness \_\_\_\_\_

\_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_

# C1.2 Contract Data

## Part one - Data provided by the Employer

Clause	Statement	Data
1	<b>General</b>	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option	
	dispute resolution Option	B: Priced contract with bill of quantities
	and secondary Options	W1: Dispute resolution procedure
		X2: Changes in the law
		X7: Delay damages
		X16: Retention
	of the NEC3 Engineering and Construction Contract June 2005 (amended June 2005 and April 2013) <sup>1</sup>	
10.1	The <i>Employer</i> is:	Transnet SOC Ltd (Registration No. 1990/000900/30)
	Address	Registered address: Carlton Centre 150 Commissioner Street Johannesburg 2001
	Having elected its Contractual Address for the purposes of this contract as:	Transnet Freight Rail-RME Cnr Jetpark & North Reed Roads Elandsfontein Johannesburg 2001
		Postal Address:  P O Box 8205 Elandsfontein 1406
	Tel No.	011 878 7082
	Vax No.	
10.1	The <i>Project Manager</i> is: (Name)	Thabo Sekhonyana
	Address	Number 01, Anvil Road, Isando

<sup>1</sup> Available from Engineering Contract Strategies Tel 011 803 3008, Fax 011 803 3009

	Tel	011 570 7440				
	e-mail	<a href="mailto:Thabo.Sekhonyana@transnet.net">Thabo.Sekhonyana@transnet.net</a>				
10.1	The <i>Supervisor</i> is: (Name)	Nomfusi Ndzane				
	Address	Number 01, Anvil Road, Isando				
	Tel No.	082 548 1043				
	e-mail	<a href="mailto:Nomfusi.Ndzane@transnet.net">Nomfusi.Ndzane@transnet.net</a>				
11.2(13)	The <i>works</i> are	Supply and Construction of civil works for the upgrade of Germiston Fuel Depot				
11.2(14)	The following matters will be included in the Risk Register	<ul style="list-style-type: none"> <li>• Limited pipelines tie-ins as the depot will be operational during construction downtime.</li> <li>• Slippiness from spillages</li> <li>• Movement of Locomotives</li> </ul>				
11.2(15)	The <i>boundaries of the site</i> are	Within the boundaries of Germiston Fuel Depot				
11.2(16)	The Site Information is in	Part C4				
11.2(19)	The Works Information is in	Part C3				
12.2	The <i>law of the contract</i> is the law of	the Republic of South Africa subject to the jurisdiction of the Courts of South Africa.				
13.1	The <i>language of this contract</i> is	English				
13.3	The <i>period for reply</i> is	2 weeks				
<b>2</b>	<b>The Contractor's main responsibilities</b>	No additional data is required for this section of the <i>conditions of contract</i> .				
<b>3</b>	<b>Time</b>					
11.2(3)	The <i>completion date</i> for the whole of the <i>works</i> is					
30.1	The <i>access dates</i> are	<table border="1"> <thead> <tr> <th>Part of the Site</th> <th>Date</th> </tr> </thead> <tbody> <tr> <td>1 The Site</td> <td>01 April 2014</td> </tr> </tbody> </table>	Part of the Site	Date	1 The Site	01 April 2014
Part of the Site	Date					
1 The Site	01 April 2014					
31.1	The <i>Contractor</i> is to submit a first programme for acceptance within	With the tender submission.				
31.2	The <i>starting date</i> is.	01 April 2014				
32.2	The <i>Contractor</i> submits revised programmes at intervals no longer than	1 Week.				
35.1	The <i>Employer</i> is not willing to take over the <i>works</i> before the Completion Date.					

**4 Testing and Defects**

42.2	The <i>defects date</i> is	52 weeks after Completion of the whole of the works.
43.2	The <i>defect correction period</i> is	2 weeks

**5 Payment**

50.1	The <i>assessment interval</i> is monthly on the	25 <sup>th</sup> (twenty fifth) day of each successive month.
51.1	The <i>currency of this contract</i> is the	South African Rand.
51.2	The period within which payments are made is	Payment will be effected on or before the last day of the month following the month during which a valid Tax Invoice and Statement were received.
51.4	The <i>interest rate</i> is	the prime lending rate of the Standard Bank of South Africa.

**6 Compensation events**

60.1(13)	The <i>weather measurements</i> to be recorded for each calendar month are,	the cumulative rainfall (mm) the number of days with rainfall more than 10 mm the number of days with minimum air temperature less than 0 degrees Celsius the number of days with snow lying at 08:00 hours South African Time
	The place where weather is to be recorded (on the Site) is:	At the site office
	and which are available from:	South African Weather Service 012 367 6023 or <a href="mailto:info3@weathersa.co.za">info3@weathersa.co.za</a> .

7	<i>Title</i>	No additional data is required for this section of the <i>conditions of contract</i> .
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**8 Risks and insurance**

84.2	The minimum limit of indemnity for insurance in respect of loss of or damage to property (except the <i>works</i> , Plant, Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the <i>Contractor</i> ) caused by activity in connection with this contract for any one event is	Whatever the <i>Contractor</i> requires in addition to the amount of insurance taken out by the <i>Employer</i> for the same risk.
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84.2	<p>The insurance against loss of or damage to the <i>works</i>, Plant and Materials as stated in the insurance policy for contract works and public liability selected from:          Blanket Principal Controlled Insurance (BPCI),          Principal Controlled Insurance (PCI),          Principal Controlled Contractors Liability Insurance,          Principal Controlled Insurance One-off; and          Project Specific Insurance</p>	PCI
84.1	<p>The <i>Employer</i> provides these insurances from the Insurance Table</p>	
	1 Insurance against:	<p>Loss of or damage to the <i>works</i>, Plant and Materials is as stated in the PCI insurance policy for Contract Works/ Public Liability.</p>
	Cover / indemnity:	<p>to the extent as stated in the PCI insurance policy for Contract Works / Public Liability</p>
	The deductibles are:	<p>as stated in the PCI insurance policy for Contract Works / Public Liability (Principal Controlled Insurance)</p>
	2 Insurance against:	<p>Loss of or damage to property (except the <i>works</i>, plant, materials &amp; equipment) and liability for bodily injury to or death of a person (not an employee of the <i>Contractor</i>) arising out of or in connection with the PCI performance of the Contract as stated in the insurance policy for Contract Works / Public Liability</p>
	Cover / indemnity:	<p>Is to the extent as stated in the PCI insurance policy for Contract Works / Public Liability</p>
	The deductibles are:	<p>as stated in the PCI insurance policy for Contract Works / Public Liability</p>
84.1	2 Insurance against:	<p>Loss of or damage to Equipment (Temporary Works only) as stated in the PCI insurance policy for contract Works and Public Liability</p>
	Cover / indemnity:	<p>Is to the extent as stated in the PCI insurance policy for Contract Works / Public Liability</p>
	The deductibles are:	<p>As stated in the PCI insurance policy for Contract Works / Public Liability</p>
	4 Insurance against:	<p>Contract Works SASRIA insurance subject to the terms, exceptions and conditions of the SASRIA coupon</p>
	Cover / indemnity:	<p>Cover / indemnity is to the extent provided by the SASRIA coupon</p>
	The deductibles are:	<p>As stated in the PCI insurance policy for Contract Works / Public Liability</p>

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84.1

The minimum limit of indemnity for insurance in respect of death of or bodily injury to employees of the *Contractor* arising out of and in the course of their employment in connection with this contract for any one event is

The *Contractor* provides these additional Insurances

The *Contractor* must comply at a minimum with the provisions of the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993 as amended.

1. Where the contract requires that the design of any part of the *works* shall be provided by the *Contractor* he shall satisfy the Employer that professional indemnity insurance cover in connection therewith has been affected
2. Where the contract involves manufacture, and/or fabrication of Plant & Materials, components or other goods to be incorporated into the *works* at premises other than the site, the *Contractor* shall satisfy the Employer that such plant & materials, components or other goods for incorporation in the *works* are adequately insured during manufacture and/or fabrication and transportation to the site.
3. Should the Employer have an insurable interest in such items during manufacture, and/or fabrication, such interest shall be noted by endorsement to the *Contractor's* policies of insurance as well as those of any subcontractor
4. Motor Vehicle Liability Insurance comprising (as a minimum) "Balance of Third Party" Risks including Passenger and Unauthorised Passenger Liability indemnity with a minimum indemnity limit of R5,000,000
5. The insurance coverage referred to in 1, 2, 3 and 4 above shall be obtained from an insurer(s) in terms of an insurance policy approved by the Employer. The *Contractor* shall arrange with the insurer to submit to the *Project Manager* the original and the duplicate original of the policy or policies of insurance and the receipts for payment of current premiums, together with a certificate from the insurer or insurance broker concerned, confirming that the policy or policies provide the full coverage as required. The original policy will be returned to the *Contractor*

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9 Termination

There is no additional Contract Data required for this section of the *conditions of contract*.

10 Data for main Option clause

B Priced contract with bill of quantities

60.6	The <i>method of measurement</i> is	The Standard System of Measuring Builder's Work (6 <sup>th</sup> Edition) and Model Preambles for Trades (2008 Edition) as published by The Association of South African Quantity Surveyors
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**11 Data for Option W1**

W1.1	The <i>Adjudicator</i> is	Both parties will agree as and when a dispute arises. If the parties cannot reach an agreement on the <i>Adjudicator</i> , the chairman of the Association of Arbitrators will appoint an <i>Adjudicator</i> .
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W1.2(3)	The <i>Adjudicator nominating body</i> is:	The Chairman of the Association of Arbitrators (Southern Africa)
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W1.4(2)	The <i>tribunal</i> is:	Arbitration
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W1.4(5)	The <i>arbitration procedure</i> is	The Rules for the Conduct of Arbitrations of the Association of Arbitrators (Southern Africa)
	The place where arbitration is to be held is	Johannesburg
	The person or organisation who will choose an arbitrator	
	- if the Parties cannot agree a choice or	
	- if the arbitration procedure does not state who selects an arbitrator,	The Chairman of the Association of Arbitrators (Southern Africa)

**12 Data for secondary Option clauses**

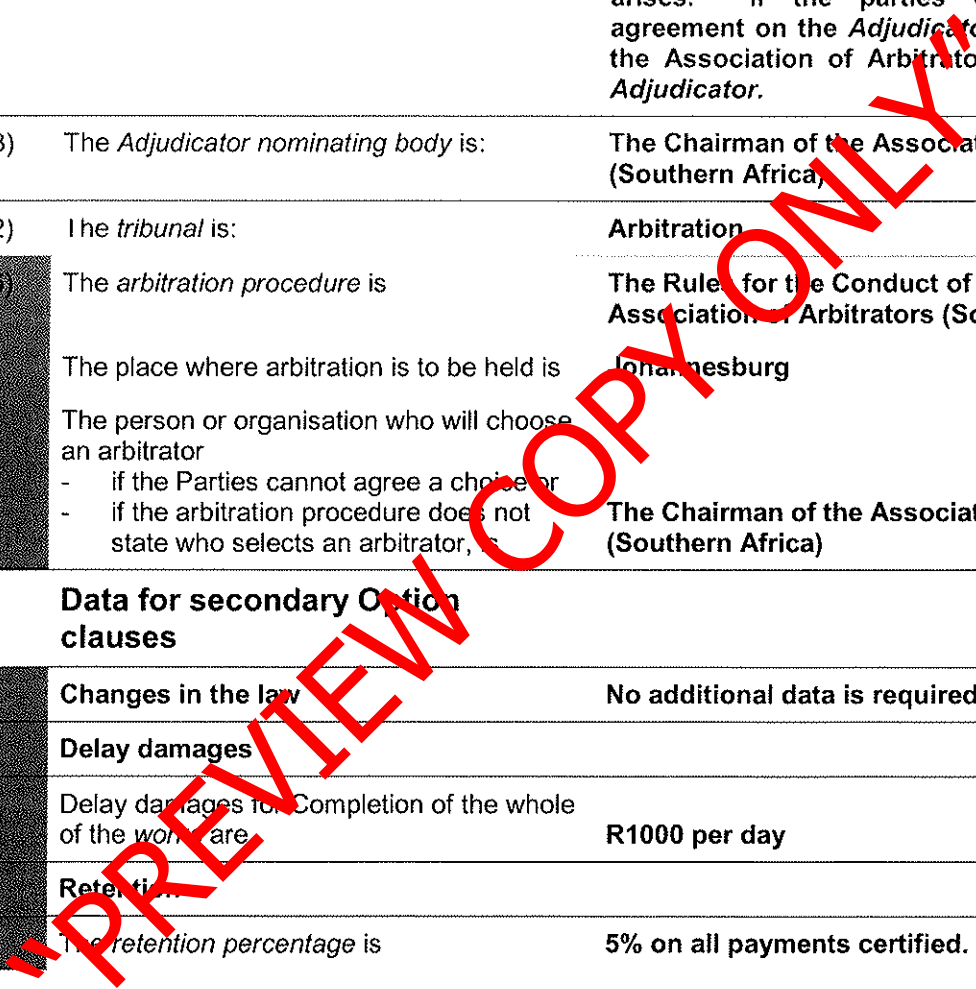
X2	Changes in the law	No additional data is required for this Option
----	--------------------	--

X7	Delay damages	
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X7.1	Delay damages for Completion of the whole of the work are	R1000 per day
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X16	Retention	
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X16.1	The retention percentage is	5% on all payments certified.
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## C1.2 Contract Data

### Part two - Data provided by the Contractor

The tendering contractor is advised to read both the NEC3 Engineering and Construction Contract - June 2005 (with amendments June 2006) and the relevant parts of its Guidance Notes (ECC3-GN)<sup>2</sup> in order to understand the implications of this Data which the tenderer is required to complete. An example of the completed Data is provided on pages 152 to 154 of the ECC3 Guidance Notes.

Completion of the data in full, according to Options chosen, is essential to create a complete contract.

Clause	Statement	Data
10.1	The Contractor is (Name): Address Tel No. Fax No.	
11.2(8)	The direct fee percentage is The subcontracted fee percentage is	% %
11.2(18)	The working areas are the Site and	
24.1	The Contractor's key persons are: 1 Name: Job: Responsibilities: Qualifications: Experience: 2 Name: Job: Responsibilities: Qualifications: Experience:	
		CV's (and further key persons data including CVs) are appended to Tender Schedule entitled
11.2(3)	The completion date for the whole of the works is	
11.2(14)	The following matters will be included in the Risk Register	

<sup>2</sup> Available from Engineering Contract Strategies Tel 011 803 3008, Fax 011 803 3009

## PART 2: PRICING DATA

Document reference	Title	No of pages
C2.1	Pricing instructions: Option B	3
C2.2	The bill of quantities	4

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## C2.1 Pricing instructions: Option B

### 1. The conditions of contract

#### 1.1. How the contract prices work and assesses it for progress payments

Clause 11 in NEC3 Engineering and Construction Contract, June 2005 (ECC) Option B states:

Identified and defined terms	11	
	11.2	(21) The Bill of Quantities is the <i>bill of quantities</i> as changed in accordance with this contract to accommodate implemented compensation events and for accepted quotations for acceleration. (22) Defined Cost is the cost of the components in the Shorter Schedule of Cost Components whether work is sub-contracted or not excluding the cost of preparing quotations for compensation events. (28) The Price for Work Done to Date is the total of <ul style="list-style-type: none"><li>the quantity of the work which the <i>Contractor</i> has completed for each item in the Bill of Quantities multiplied by the rate and</li><li>a proportion of each lump sum which is the proportion of the work covered by the item which the <i>Contractor</i> has completed.</li></ul> <p>Completed work is work without Defects which would either delay or be covered by immediately following work.</p> <p>(31) The Prices are the lump sums and the amounts obtained by multiplying the rates by the quantities for the items in the Bill of Quantities.</p>

This confirms that Option B is a re-measurement contract and the bill comprises only items measured using quantities and rates or stated as lump sums. Value related items are not used. Time related items are items measured using rates where the rate is a unit of time.

#### 1.2. Function of the Bill of Quantities

Clause 55.1 in Option B states, "Information in the Bill of Quantities is not Works Information or Site Information". This confirms that instructions to do work or how it is to be done are not included in the Bill, but in the Works Information. This is further confirmed by Clause 20.1 which states, "The *Contractor* Provides the Works in accordance with the Works Information". Hence the *Contractor* does **not** Provide the Works in accordance with the Bill of Quantities. The Bill of Quantities is only a pricing document.

#### 1.3. Guidance before pricing and measuring

Employers preparing tenders or contract documents, and tendering contractors are advised to consult the sections dealing with the bill of quantities in the NEC3 Engineering and Construction Contract (June 2005) Guidance Notes before preparing the *bill of quantities* or before entering rates and lump sums into the *bill*.

Historically bill of quantities based contracts in South Africa have been influenced by the different approaches of the civil engineering and building sectors of the industry through their respective discipline based standard forms of contract and methods of measurement. This is particularly apparent in the approach to the Preliminary and General bill. On the other hand, because ECC caters for a number of disciplines in the same contract, including electrical works, a different approach not currently found in local methods of measurement to the Preliminary & General bill items may have been used.

The NEC approach to the P & G bill assumes use will be made of method related charges for Equipment applied to Providing the Works based on durations shown in the Accepted Programme, fixed charges for the use of Equipment that is required throughout the construction phase, time related charges for people

working in a supervisory capacity for the period required, and lump sum charges for other facilities or services not directly related to performing work items typically included in other parts of the bill.

## 2. Measurement and payment

### 2.1. Symbols

The units of measurement described in the Bill of Quantities are metric units abbreviated as follows:

Abbreviation	Unit
%	percent
h	hour
ha	hectare
kg	kilogram
kl	kilolitre
km	kilometre
km-pass	kilometre-pass
kPa	kilopascal
kW	kilowatt
l	litre
m	metre
mm	millimetre
m <sup>2</sup>	square metre
m <sup>2</sup> -pass	square metre pass
m <sup>3</sup>	cubic metre
m <sup>3</sup> -km	cubic metre kilometre
MN	meganeutron
MN.m	meganeutron-metre
MPa	megapascal
No.	number
Prov sum <sup>1</sup>	provisional sum
PC-sum	prime cost sum
R/only	Rate only
sum	Lump sum
t	ton (1000kg)
W/day	Work day

### 2.2. General assumptions

- 2.2.1. Unless otherwise stated, items are measured net in accordance with the drawings, and no allowance has been made in the quantities for waste.

<sup>1</sup> Provisional Sums should not be used unless absolutely unavoidable. Rather include specifications and associated bill items for the most likely scope of work, and then change later using the compensation event procedure if necessary. This is because tenderers cannot programme effectively for unknown scopes of work

- 2.2.2. The Prices and rates stated for each item in the Bill of Quantities shall be treated as being fully inclusive of all work, risks, liabilities, obligations, overheads, profit and everything necessary as incurred or required by the *Contractor* in carrying out or providing that item.
- 2.2.3. Clause 63.13 in Option B provides that these rates and Prices may be used as a basis for assessment of compensation events instead of Defined Cost.
- 2.2.4. Where this contract requires detailed drawings, designs or other information to be provided, and no rates or prices are included in the *bill* specifically for such matters, then the *Contractor* is deemed to have allowed for all costs associated with such requirements within the tendered rates and Prices in the Bill of Quantities.
- 2.2.5. An item against which no Price is entered will be treated as covered by other Prices or rates in the *bill of quantities*. If a number of items are grouped together for pricing purposes, this will be treated as a single lump sum.
- 2.2.6. The quantities contained in the Bill of Quantities may not be final and do not necessarily represent the actual amount of work to be done. The quantities of work assessed and certified for payment by the *Project Manager* at each assessment date will be used for determining payments due and not the quantities given in the Bill of Quantities.
- 2.2.7. The short descriptions of the items of payment given in the *bill of quantities* are only for the purposes of identifying the items. More detail regarding the extent of the work entailed under each item is provided in the Works Information.

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## C2.2 the bill of quantities

Item no.	Description	Unit	Quantity	Rate	Price
A	SECTION A: PRELIMINARY & GENERAL				
	<b>FIXED CHARGE ITEMS</b>				
A1	<b>Contractual requirements</b>				
A1.1	Site Supervision staff.	Sum	1		
A1.2	Construction Programme.	Sum	1		
A1.3	Construction EMP.	Sum	1		
A1.4	Provision of site specific PPE for contractors.	Sum	1		
A2	Establish facilities on site for the contractor.	Sum	1		
A3	Remove site establishment on completion.	Sum	1		
A4	Provision of QA and As-Built data pack.	Sum	1		
	<b>The total of the Prices (excluding VAT):</b>				

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Item no.	Description	Unit	Quantity	Rate	Price
<b>B</b>	<b>SECTION B: TANK FARM</b>				
B1	Remove 19mm stones and cart away from site.	m <sup>3</sup>	123		
B2	Remove 100mm of insitu material and cart away from site.	m <sup>3</sup>	123		
B3	Rip 100mm and re compact of existing material to 93% Mod AASHTO.	m <sup>3</sup>	123		
B4	Import G5 material from commercial source and compact to 95% Mod AASHTO.	m <sup>3</sup>	100		
B5	Supply and lay 250 micron polythene sheeting to underside of bund surfacebed.	m <sup>2</sup>	1,218		
B6	Cast 25 Mpa concrete to floor slab c/w Mesh Ref 395.	m <sup>3</sup>	123		
B7	Provide 6 mm saw cut joints in 100mm thick bund surface bed complete with backing chord and DOW 888 sealant.	m	58		
B8	Plaster and paint bund wall façade both internally and externally.	m <sup>2</sup>	326		
B9	Construct 3x 3-way and 1x2-way concrete stair case including formwork, reinforcement finishing's and steel guard rails.	no	3		
B10	Supply and install 150mm diameter stormwater pipe.	m	10		
B12	Supply and install steel gate valve with rising spindle with 900mm high extension to bund sump drainage lines.	no	1		
B13	Reduce existing intermediate wall height of 0.92m to 0.7m high	no	1		
B14	Replace and install existing concrete stair guard rails with SANS 10089-1 compliant one.	no	1		
<b>The total of the Prices (excluding VAT):</b>					

Item no.	Description	Unit	Quantity	Rate	Price
<b>C</b>	<b>SECTION C: RAIL DECANTING AREA</b>				
C1	Extend existing spill containment slab with reinforcement. Must be graded to incorporate to the existing drainage system	m <sup>2</sup>	4		
C2	Install valve to provide measure of control in case of a spill.	Sum	1		
C3	Lay 250 micron polyethylene sheeting on the surface prior concrete casting.	Sum	1		
C4	Supply and install precast kerbs on stabilised bedding, concrete haunching and jointing.	m			
C5	Construct an open zinc shed with flame proof light (10mx2.5m).	Sum	1		
C6	Construct plinths to accommodate Gorman Rupp Series 83B and 15kW WEG motor	sum	2		
	<b>The total of the Prices (excluding VAT):</b>				

Item no.	Description	Unit	Quantity	Rate	Price
<b>D</b>	<b>SECTION D: LOCOMOTIVE REFUELLING AREA</b>				
D1	Demolish the existing concrete spill containment slab. (20m x 3m in front of the station and 2m x 3m at the Separator pit).	m <sup>2</sup>	66		
D2	Construct new spill containment with reinforcement as per Item D1. Must be graded to incorporate to the existing drainage system and install valve to provide measure of control in case of a spill.	m <sup>2</sup>	66		
D3	Lay 250 micron polyethylene sheeting on the surface prior concrete casting.	Sum	1		
D4	Provide 6 mm saw cut joints in 100mm thick bund surface bed complete with backing chord and DOW 888 sealant.	m	150		
	<b>The total of the Prices (excluding VAT):</b>				



Item no.	Description	Unit	Quantity	Rate	Price
<b>E</b>	<b>SECTION E: PUMP HOUSE</b>				
E1	Construct drainage channel c/w mentis type grating cover directing spillage to oil separator - (150mm wide x 300mm x 5m long).	sum	3		
E2	Construct 600 x 600 x 1000mm deep valved chamber c/w with cover and drainage pipe connecting to oil separator.	sum	1		
E3	Supply and install steel gate valves with rising spindle with 900mm high extension from pump house drainage lines.	no	1		
E4	Supply and install Ø150mm drainage pipe on E3 above connecting to oil separator.	m			
E5	Extra over items E4 for excavation in hard rock.	m <sup>3</sup>	1		
E6	Paint pump house internal walls	m <sup>2</sup>	70		
<b>The total of the Prices (excluding VAT):</b>					

	TENDER SUMMARY	AMOUNT
A	PRELIMINARY & GENERAL	
B	TANK FARM	
C	RAIL DECONTAMINATING AREA	
D	LOCOMOTIVE REFUELLING AREA	
E	PUMP HOUSE	
	<b>TOTAL</b>	
	<b>VAT @ 14 %</b>	
	<b>TENDER TOTAL</b>	

## C3: Scope of Work

### C3.1 Works Information

1. Germiston depot is located at Ekurhuleni Metropolitan Municipality , East Rand District in Gauteng Province at the following locations:
  - Latitude S: 26° 12' 29.77"
  - Longitude E: 28° 10' 19.96"
- a) Germiston depot has two off 454m<sup>3</sup> and one off 810m<sup>3</sup> above grounds, vertical diesel storage tanks in which one is operational and the other two are non- operational, these tanks are constructed within a bund area.
- b) The calculated capacity of the bund area is 1428m<sup>3</sup> - but the construction will mainly focus on the calculated capacity of 1218m<sup>3</sup> where two non-operational tanks are situated and the area is big enough to contain 110% of the biggest tank within the bund in accordance with SANS 10089-1: 2008.
- c) Bund has gravel stones (ballast stones) and insitu material which shall be removed and the surface prepared so as to cast a 25mPa reinforced concrete slab graded to direct bund contents to a sump that shall allow controlled outflow to an oil separator.

### 1. Description of the works

The following summarizes the fuel depot upgrade project scope of work:

#### 1.1 TANK FARM (BUNDS AND TANKS)

- a) Remove ballast/ gravel stones, Remove 100mm in-situ material and cart away from site.
- b) Construct 2 external valve chambers and tie into the existing drainage system.
- c) Construct a suitably sized drainage system with 4 pits at the four corners of the bund area that will channel the potential spillage inside the bund area to site oil separator, with a valve installed to provide measure of control in the event of a spill.
- d) Compact natural ground to 93% Mod AASHTO.
- e) Lay 250 micron polyethylene sheeting in bund area surface bed – 1,218m<sup>2</sup>.
- f) Lay reinforcement (Re: 395) to covers the bund area.
- g) Cast concrete (25mPa) graded to fall to channel runoff to drainage system.
- h) Demolish and remove metal handrails on the existing 3-way stair case and construct 2x3-way stair cases and a 2-way stair case with guard rails on both sides that are SANS 10089-1 compliant to and from the bund area, and located in opposite ends to facilitate safe entry and exit from the area in case of emergency.
- i) Reduce the intermediate bund wall between Tank 1 and 2 to 0.2m and construct 9 regular brick size hole.
- j) Seal the bund wall where the product pipes penetrate to the fuel pump house.
- k) Provide the SABS approved signage 2 x No smoking and 2 No cell phone and mount or paste visible next to the bund access staircase

#### 1.2 ROAD DECANTING AREA

- a) Extend the existing concrete spill slab area by 2m x 2m on the SW direction.
- b) Demolish the existing pump plinth and Construct new separate concrete pump plinths to suit two new pump set - (Gorman Rupp Series 83B – B and 15kw WEG motor).
- c) Lay 250 micron polyethylene sheeting in surface area prior concrete casting.
- d) Rebuild the concrete kerbing around spill containment slab so as to channel potential spillage to an oil separator with a valve installed to provide measure of control in the event of a spill.
- e) The new containment spill slab is to be graded to incorporate to the existing drainage facility.
- f) Construct an open shed by approximately (10 m x 2.5m) with flame proof light.

**1.3 LOCOMOTIVE REFUELLING AREA**

- a) Demolish the existing concrete spill containment slab area of approximately 66m<sup>2</sup>, (20mx3m) directly of the refuelling pumps and (2mx3m) at the Separator pit.
- b) Construct a new concrete spill containment slab as per above requirement to provide adequate spill containment with a valve installed to provide measure of control in the event of a spill.
- c) Lay 250 micron polyethylene sheeting in surface area prior concrete casting.
- d) The new reinforced containment spill slab must be graded to incorporate to the existing drainage facility.
- e) Provide 6mm saw cut joints in 100mm thick bund surface bed complete with backing chord and DOW 888 sealant.

**1.4 PUMP HOUSE**

- a) Construct a drainage channels around the pumps with mentis type grating (150mm x 300mm deep), 2x 5 m long and 1x12m long.
- b) Construct concrete 600x600x1000mm deep valve chamber on the outside of the pump house complete with cover and drainage pipes and connected into the oil separator.
- c) Paint pump house floor and demarcate walking areas.
- d) Paint pumps house internal walls (70m<sup>2</sup>).
- e) Supply and install ø150mm drainage pipe connecting to oil separator.
- f) Demolish the two existing pump plinth
- g) Construct two pump plinth and size to accommodate new pump sets

**2. Drawings**

Drawing number	Revision	Title
AO GER500-010-00-02 of 2		Germiston Depot Civil Schematic Details
A2 GER500-010-00-01-01 of 2		Germiston Depot Civil Schematic Details

**3. Specifications**

Title	Date or revision	Tick if publicly available
Not Applicable		

**4. Constraints on how the Contractor Provides the Works**

Limited pipelines tie-ins as the depot will be operational.

## 5. Requirements for the programme

- The programme is required for this works, in a form of MS Project
- Work streams progress needs to be shown
- Programme to be updated daily and submitted to Project Manager

## 6. Services and other things provided by the Employer

Item	Date by which it will be provided
Water, Electricity, Ablution facilities and Site Office	

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## 7. Procurement

### 7.1 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 Detailed Procurement Procedure (DPP);
- 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 (BBBEE); and
- The Anti Corruption Act.

This code of conduct has been included in this contract to formally apprise Transnet Suppliers of Transnet's expectations regarding behaviour and conduct of it's 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 Enterprise, 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.

#### ***1 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. (800 003 056).

#### ***2. 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 BBBEE spend (fronting)

#### ***3. 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 (origin of manufacture, specifications, intellectual property rights, etc);
  - Collusion;
  - Failure to disclose accurate information required during the sourcing activity (ownership, financial situation, BBBEE status, etc.);
  - 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*

1. *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.*
  - Doing business with family members
  - Having a financial interest in another company in our industry

### **8.1 The Contractor's Invoices**

- 8.1.1 When the *Project Manager* certifies payment (see ECSC Clause 50) following an assessment date, the *Contractor* complies with the *Employer's* procedure for invoice submission.
- 8.1.2 The invoice must correspond to the *Project Manager's* assessment of the amount due to the *Contractor* as stated in the payment certificate.
- 8.1.3 The invoice states the following:
  - Invoice addressed to Transnet Limited;
  - Transnet Limited's VAT No: 4720103177;
  - Invoice number;
  - The *Contractor's* VAT Number; and
  - The Contract number
- 8.1.4 The invoice contains the supporting detail
- 8.1.5 The invoice is presented either by post or by hand delivery.
- 8.1.6 Invoices submitted by post are addressed to:

Transnet Freight Rail  
PO Box 3053  
Kempton Park  
1620  
For the attention of the Project Manager
- 8.1.7 Invoices submitted by hand are presented to:

Transnet Freight Rail  
1 ANVIL ROAD  
ISANDO  
1601  
For the attention of the Project Manager
- 8.1.8 The invoice is presented as an original.

## C4: Site Information

### C4.1: Information about the *site* at time of tender which may affect the work in this contract

#### 1.1 SITE DETAILS

Street Address Keswick Road  
Town Germiston  
Municipality Ekurhuleni Metropolitan Municipality  
Province Gauteng  
Position Germiston, Gauteng  
Latitude S: 26° 12' 29.77"  
Longitude E: 28° 10' 19.96"

#### 1.2 Existing buildings, structures, and plant & machinery on the Site

Main Site Activity: Locomotive movement facility  
Main Infrastructure: · Road Tanker Decanting Area  
· Spill Containment Area  
· Tankage  
· Tank Bund  
· Locomotive Refuelling Area  
· Fuel Pump House  
· Drainage System  
· One separators  
· Rail Gantry  
· Workshop  
· Offices  
Tankage: Two 454m<sup>3</sup> and one 10m<sup>3</sup> above ground (A/G) storage tanks.  
Product Diesel  
Monthly Throughput: 100m<sup>3</sup> (unconfirmed)

#### 1.3 Sub soil information

##### Topography, Geology and Hydrology

The site is approximately 1 669 m above sea level, with a regional slope to the south.

Drainage would most likely also be in a south-eastern direction.

According to the hydrogeological map of Johannesburg (Sheet 2526, 1:500 000

Hydrogeological Map Series of Republic of South Africa), the underlying aquifer is fractured, with a median borehole yield of between 0.5 – 2.0 l/s.

The surface Lithology is predominantly arenaceous rocks, such as sandstone. According to the DWA (Department of Water Affairs) Aquifer Classification of South Africa map, the aquifer, east of the site, is classified as a minor aquifers system with least vulnerability<sup>4</sup> and low susceptibility.

## 1.4 Nearby Receptors

The TFR Germiston site is located on the Keswick Road, in the northern parts of Germiston, approximately 4.6 km north-east of Rand Airport. The site is very large, with warehouses, manufacturing facilities, workshops, and multiple administrative buildings. The depot is at the end of Stores Road on the TFR Germiston site.

North : TFR warehouses and workshops, with the Keswick Road approximately 480 m from the site; beyond is open land with large mine dumps (Witwatersrand Gold Mine Company) approximately 820 m from the site.

South : Number of TFR railway tracks with railroad tankers and wagons, with a low density commercial and recreational area approximately 320 m from the site and the residential area of Pirowville 780 m.

East : TFR administrative buildings and warehouses for another 480 m east of the site, with the effluent treatment plant, 200 m from the site; beyond is open land with some mining activities and what appears to be a slimes dam, 1.2 km from the site.

West : Mostly TFR administrative buildings for another 900 m west of the site, with the commercial area of North Germiston beyond that and a large piece of land with mining activity, approximately 830 m to the north-west.

The site is completely surrounded by TFR buildings, warehouses and railway tracks; the only receptor of concern is the recreational area south of the site.

There were no large surface water bodies within a 1 km radius of the site. The closest surface water body is a slimes dam, approximately 1.3 km east of the site. This receptor could be considered irrelevant.

## 2. Ground conditions in areas affected by work in this contract

Soil/gravel staining was observed on the east side of the containment area

Staining was observed adjacent to the concrete spill slab of the road decanting area. The slab does not have a bund wall (or upstands) and is surrounded by interlocked brick paving. Spillages or leakages might seep through the interlocked brick paving and contaminate the subsurface soil

Between the depot and the effluent treatment plant an area was observed with heavy oil staining. The one (1) tank was refurbished recently and the bunded floor is surfaced with concrete; however, the bunded floor of the other two (2) decommissioned tanks, is only gravel. A bund wall was built between the refurbished and the decommissioned tanks, separating the two areas.

The two dispenser points at the locomotive refuelling area are decommissioned and not in use. However, the rail decanting area is now also used to refuel locomotives. Severe concrete staining was observed around the old and decommissioned dispenser points.

## 3. Hidden and other services within the site

None

## 4. Details of existing buildings / facilities which Contractor is required to work on

- The fuel facilities are within the fenced TFR depot and are easily accessible.
- Access to the fuel facilities are through manned security gates.
- Access to the fuel facilities are via reasonable paved roads.
- The workshop and storage sheds related to the fuel facilities