

ANNEXURE A

ASSET DESCRIPTION: SIGNAL CABIN

ASSET LOCATION: STATION PLATFORM

CITY / TOWN: KLAPMUTS

WORK DESCRIPTION:

REPAIR TO SIGNAL CABIN AND FENCE

TENDER NO: BLE/51964

ASSET NO: 02YBN01C

ITEM NO. SPECIFICATIONS PER ITEM.

WALLS INTERIOR

- 74 Work description: Chip 80% of wall and provide key coat on wall for ceramic tiles
Apply Tylon Key it or Tal primer and keying agent to smooth surfaces. Surface must be firm, free of dust, wax polish and organic growth. Painted and gypsum plastered surfaces need to be chipped to remove 80% of paint or gypsum. Apply Tylon Key it or Tal keying agent as specified by the manufacturer.
BEFORE ANY TILING MAY COMMENCE, THE REPRESENTATIVE MUST FIRST APPROVE THE SURFACE.
- 79 Work description: Lay glazed wall tiles.
***BEFORE TILING COMMENCES, THE REPRESENTATIVE MUST FIRST APPROVE THE SURFACE, IN SITE BOOK. *ALL HOLLOW SOUNDING TILES SHALL BE REMOVED AND RE-FIXED. *USE ONLY TYLON CM11 OR TAL PROFESSIONAL ADHESIVE OR TYPE APPROVED BY PROJECT MANAGER. *NEVER USE SPOT OR BLOB METHODS. *NEVER BUTT JOINT TILES.**
Glazed ceramic wall tile and fittings shall comply with (SANS 22). Tiles should be even in shape and size, free from cracks, twists or blemish and uniform in colour. Tiles shall be fixed in accordance with (SANS 0107). Tiles should be fixed with a cement based adhesive. The adhesive shall be as recommended by the manufacturer of the tiles. Joints shall be level, straight, continuous and with 2mm spacers for tiles up to 250 x 200mm and 3mm for bigger sizes as recommended by the tile manufacturer. Symmetrical arrangements of tiling, with cutting along both sides of panels, to avoid cutting of tiles smaller than 50mm wide, shall be done. Cutting and fitting of tiles against walls and around doorframes, etc must be neat, with a gap between 2 and 5 mm. Tiling is to be returned into reveals of openings, onto window sills, and onto top of screen walls, etc. Do not stack tiles outside, exposed to dust, dirt and rain. Store under cover and not in direct contact with soil. Use only approved cement based tile adhesive. Follow adhesive manufacturer's instructions. Use notched trowel to apply adhesive 6mm X 6mm notches at 6mm intervals. The BLOB and SPOT method must not be used. Joint widths shall be 3mm. Tiles must be dry before being bedded. Tap tiles level with a rubber mallet. All tiles must make 100% contact with adhesive, make sure there are no voids. Allow the adhesive to cure for 2 to 3 days before grouting. Use only approved grout. Mix grout with Tylon or Tal Bond-it in shower areas. Fill joints to lower edge of bevel and not level with the top of the tile. The work must be kept very clean during grouting as dried grout is almost impossible to remove from textured tiles. **DO NOT USE ACIDS, SPIRITS OF SALTS, AMMONIA, OTHER STRONG CHEMICALS OR STEEL WOOL TO CLEAN TILES.**

FLOORS

- 349 Work description: Remove vinyl floor sheeting from floor
Remove sheeting completely and remove all debris from site.

Respondent's signature: _____ **Date:** ____ / ____ / ____

ITEM NO. SPECIFICATIONS PER ITEM.

- 360 Work description: Lay Berber point carpets tiles.
The laying of textile floor covering shall be in accordance with SANS 0186. The laying of carpets shall include all preparatory work to screened surfaces, priming and adhesives in accordance with the relevant manufacturer's instructions. Where skirting and quadrants are fixed, the quadrants must be removed and the carpets laid against skirting. The quadrants must be re-fixed at their original place with new 32mm panel pins. Where no skirting or quadrants are fixed, the carpets must be laid against the wall. After the carpets have been laid, there will be no air bubbles. The cutting at doorframes will be neat. Where necessary, doors must be cut at the bottom to have a clearance of 6mm. Glue marks on carpet tiles shall not be cleaned, tiles shall be replaced.
- 362 Work description: Fit / Replace aluminium carpet strip
Fix aluminium carpet strip with 4 counter sunk self tapping screws and Fisher plugs to floor. Fix screws 40 mm from ends and the other 3 screws to be evenly spaced between the end screws.
- 365 Work description: Chip 80% and provide key coat on floor for ceramic tiles.
Exterior Toilet:
Chip floor to 80%. Before tiling, clean floor, apply Tylon (Tylon key it mixed with Tylon plaskey) or Tal primer and keying agent for use on smooth surfaces. Mix and apply primer and keying agent as per the manufacture specifications on container on how to mix and apply the key coat)
- 366 Work description: Lay first grade ceramic tiles on floor.
Exterior Toilet:
*BEFORE TILING COMMENCES, THE REPRESENTATIVE MUST FIRST APPROVE THE SURFACE, IN SITE BOOK.*ALL TILES THAT SOUND HOLLOW SHALL BE REMOVED AND RE-FIXED. ***USE ONLY TYLON WB11, TAL PROFESSIONAL ADHESIVE OR TYPE APPROVED BY PROJECT MANAGER. ***NEVER USE SPOT OR BLOB METHODS.***NEVER BUT JOINT TILES. Thoroughly clean surfaces before any tiling commences. Smooth or painted surfaces must be chipped to 80% of area. KEY IT from TAL or TYLON must be applied over whole area. Glazed floor tiles shall comply with (SANS 1449). Tiles shall be even in shape and size, free from cracks, twists or blemishes and uniform in colour. The adhesive shall be Tylon WB11 tile adhesive for ceramic tiles and Tylon adhesive for porcelain tiles if porcelain tiles is specified. The use of any other type shall only be allowed if approved by the Project manager after adhesive was tested on site. Joints shall be straight, continuous with 5mm widths and pointed with waterproofing grout compound from TAL, Tylon or approved type. Symmetrical arrangement of tiling with cutting along both sides of panels to avoid cutting of tiles smaller than 75mm wide shall be done. Cutting and fitting of tiles against walls and around doorframes, sanitary fittings, etc must be neat, with a gap between 4 and 6mm. Tile shall be level to each other at joints. Replace one broken or cracked floor tile between existing tiles. Use notched trowel to apply adhesive 10mm X 10mm notches at 6mm intervals. The BLOB and SPOT method must not be used. All excess adhesive shall be removed from joints before drying has occurred. Tiles must be dry before being bedded. Tap tiles level with a rubber mallet. All tiles must make 100% contact with adhesive, make sure there are no voids. Any tile that sound hollow, if tapped, shall be removed. Allow the adhesive to cure for 2 to 3 days before grouting. Use only approved grout, mix grout with Tylon or Tal Bond-it in areas specified. Fill joints to lower edge of bevel and not level with the top of the tile. The work must be kept very clean during grouting as dried grout is almost impossible to remove from textured tiles. DO NOT USE ACIDS, SPIRITS OF SALTS, AMMONIA, OTHER STRONG CHEMICALS OR STEEL WOOL TO CLEAN TILES.

Respondent's signature: _____ Date: ____/____/____

ITEM NO. SPECIFICATIONS PER ITEM.

- 368 Work description:
Exterior Toilet Item is extra to tile item to use bond it in grout in place of water
- 399 Work description:
Exterior Toilet Supply and fit ceramic tile skirting 100mm wide
- 417 Work description: At Exterior Toilet Non Slip Paint floor
Item include cleaning of floor to the satisfaction of the project manager.

STAIRS EXTERIOR

- 769 Work description: Cast concrete steps on paving side;
CAST CONCRETE STEPS:
Form steps with 20MPA concrete from 150mm below ground level and 300mm wider than door openings on to the lengths shown on drawings, stepped as required to form risers and steps. National building regulation SANS 0400 specify that, the rise of any step shall not exceed 200mm. The going and width of any tread shall be not less than 250mm. Provided that where the stairway does not have solid risers, each tread shall overlap the next lower tread by not less than 25mm . The variation in the dimensions of the risers and the going of the treads in any one flight shall be not more than 6 mm. Steps shall have 3 to 5 mm fall to one side to allow all rainwater to run of steps.
- 770 Work description: Filling under new steps

PLUMBING EXTERIOR

- 782 Work description: Place of East drain Installation for 110mm Storm water Pipes;
See Annexure D for instructions to fit Easy drain Installation and connect to pipes and place in concrete. All work shall be tested and passed in accordance with the National Building Regulations and the deemed-to-satisfy rules of part of SANS 0400, before the property may be occupied and the drains put into use. Holder bats shall be used to held pipes in position.

EXCAVATIONS/BACKFILL

Respondent's signature: _____ Date: ____/____/____

ITEM NO. SPECIFICATIONS PER ITEM.

- 841 Work description: Filling under concrete slabs, paving and floors
Once the foundation walls have been built to floor level (also called the "plinth"), the inside of the building must be filled up (backfilled) to floor level. It is usually possible to use the same material that was excavated for the foundation strips, so always try to leave this material close by. In order to prevent sagging under the floors, it is important to compact this backfilled material to closely resemble the natural density before excavation. This is easily accomplished by replacing the filling in layers of 150mm, compacting each layer properly with a mechanical or hand compactor. This process will be improved if the layers are sprayed with water to dampen it. Always take care however, not to totally soak the material, as this will wash out all the fine material that is supposed to fill the smaller openings. Continue with the backfilling until the final level is one brick below the final floor level, which will also be the thickness of the concrete floor bed. The top layer must be as level as possible. Poisoning

Poisoning of soil under concrete surface beds and foundations is always a recommendation, especially in areas with known termite infestation. Rates vary according to the type of poison used, type of pest involved, size of project, and varying soaking depths.

Treatment must be effected once the footings are built and the filling has been consolidated, prior to the laying of conduits. It is also recommended that a plastic sheet with no puncture holes be laid over the treatment (Gundle USB green black). This would also eliminate rising damp if correctly applied.

Poisoning:

There are also insecticides available for use on all timber which comes in contact with the building surfaces, i.e., window frames and doors. The product is painted on with a paint brush and usually three coats are ample to impregnate the wood.

Soil treatments are used to combat termite nests encountered in the surrounds to a building. The aim is to introduce approximately 40 litres of the mixture into the nest which would gas the queen, and the nest will die.

- 842 Work description: Dig out in Sutu soil and fill with decompose dolerite
Imported decompose dolerite shall be free of weeds, litter and contaminants. Filling shall be done in layers of not more than 125mm and compact to the satisfaction of the Project manager.

MASS CONCRETE/REINFORCING

Respondent's signature: _____ Date: ____/____/____

ITEM NO. SPECIFICATIONS PER ITEM.

844 Work description: Hand mix concrete, 20MPA.

CEMENT:

Cement shall be Portland cement complying with the requirements of SANS Specification 471 or PC15 complying with SANS Specification 831. Bags of cement shall be stacked in a waterproof, solidly constructed shed with a central door and a floor rendered damp-proof with a tarpaulin. The bags of cement shall be closely stacked (but not against walls) in order to reduce air circulation in such a way that the cement is used in the order in which it was received, i.e. first in first out.

SAND (FINE AGGREGATE):

The fine aggregate shall comply with the requirements of SANS Specification 1083.

STONE (COARSE AGGREGATE):

The coarse aggregate shall comply with the requirements of SANS Specification 1083. No aggregate may be used until it has been approved.

NB: Certain fine grained sand and stone originating from the Beaufort Series and Karol Systems which are known by reputation, local experience or tests, to exhibit excessive shrinkage when used in concrete, may be deemed unacceptable by the Representative/Agent. A certificate of proof is required from the Contractor that the aggregates are not alkali reactive. The cost of testing and certification are to be borne by the Contractor. **CONCRETE:**

Concrete shall be of the classes given in the following table. The proportions of the ingredients and the nominal size of the coarse aggregate for each class shall be as laid down therein, unless otherwise specified. Class B concrete shall be used for mass concrete and Class E concrete for reinforced concrete.

CONCRETE SLABS/PAVING

858 Work description: Lay paving bricks. Item include levelling of ground.

CLEANING AREA TO BE PAVED. All grass, plants shall be removed with roots

FILLING: Fill to level area with approved filling and compact area to be paved with heavy hand operating roller

PAVING BRICKS: Class A, 25 MPA Grey Concrete Pavers, are to be used. Thickness to be 60mm. Bricks to have a chamfer on all edges.

FALL: If paving to be laid is for an apron around a building, the paving shall have a fall away from building of 40mm from the building to edge of a 1.20m wide apron.

RESTRAINING EDGES. These are to be rectangular pavers and laid on a 60mm mortar bed (1 cement and 6 sand) at right angles to the paving.

BEDDING SAND: Sand for bedding shall be free from solids and substances that may be deleterious to blocks.

JOINTING SAND: Sand shall be free of any solids and fine enough to penetrate joints.

LEVELING AND BEDDING BRICK: A Mechanical Plate Vibrator is to be used to bed the blocks and vibrate the jointing sand into the joints.

GENERAL: Bricks are to be laid in accordance with the Paving Bricks manual as supplied by The Concrete Masonry Association. Correctly graded sand to be used for bedding and jointing. Bricks are to be lightly compacted before jointing sand is applied. Excess jointing sand to be swept away and removed. Any area showing signs of "sagging" or "kicking" will be re-laid. No "ponding" will be allowed. All manhole tops are to be raised so as to be level with the block surfaces. Pavers used are to be free of any defects, cracks or breakages.

Paving to be provided with a 50mm cross fall taken from centre line of road to edge.

CLEANING SITE: The contractor will be responsible to remove all rubble and excess material from site. Site to be left clean and tidy.

FENCING

Respondent's signature: _____ Date: ____/____/____

ITEM NO. SPECIFICATIONS PER ITEM.

- 862 Work description: Clean area both sides of fence 1.0m wide, in total 2.0m wide Cutting veld grass, small shrubs, herbaceous and other undesirable or unwanted plant growth 50mm above ground level, both sides of fence 1m wide and remove from site to approved dumping site.
- 872 Work description: Remove security fence for re-use up to 2.1m high
- 896 Work description: SUPPLY AND INSTALL STEEL PALISADE FENCE
 Gate Posts: These are to be 75mm x 75mm x 2.0mm steel square tubing posts and are to be provided on each side of gate opening. Posts to be capped. Top of capped post to be 50mm above paling height. These are to be galvanised. These are to be founded in concrete footings measuring 450mm x 450mm wide x 600mm deep. Concrete strength to be 20Mpa (minimum) at 28 days. Concrete to consist of cement, sand and stone. Corner Posts: These are to be 75mm x 75mm x 2,0mm steel square tubing posts. Posts to be capped. Top of capped post to be 50mm above paling height. These are to be galvanised. These are to be founded in concrete footings measuring 400mm x 400mm wide x 500mm deep. Concrete strength to be 20Mpa (minimum) at 28 days. Concrete to consist of cement, sand and stone. Intermediate Posts: These are to be 75mm x 75mm x 2,0mm steel square tubing and provide at centres not exceeding 2,0m. Posts to be capped. Top of capped post to be 50mm above paling height. These are to be painted as per painting specifications. These are to be founded in concrete footings measuring 300mm x 300mm wide x 500mm deep. Concrete strength to be 20Mpa (minimum) at 28 days. Concrete to consist of cement, sand and stone. Fence Bearers: These are to be 40mm X 40mm x 5mm angle iron. These are to be placed 300mm from top of paling and 300mm from bottom paling. (350mm from ground level). These are to be welded flush with the back of the corner or intermediate posts. Welding flux to be removed before applying undercoat. These are to be painted as per painting specifications. Palings, "Devil's Fork" (Uprights): (16 Palings per panel) These are to be 40mm x 40mm x 2,5mm steel angle iron palings 2,40m long. These are to be placed at 150mm centres. Palings to be placed equally from centre of cross bearer. Tops to be provided with a "Devil Fork" effect. They are to be firmly welded to bearers. Flux to be removed. These are to be galvanised. All joints shall be smoothed off. Prepare Surface for galvanising. All rust, grease and loose materials to be removed from steel.
- 900 Work description: Supply and install hinge fence gate complete; 1,20m x 1,80m
 These are to be constructed as follows: 40mm x 40mm x 2,5mm angle iron palings welded to a 75mm x 50mm rectangular tubing (on edge) bearer frame. Gate frame to be 300mm from top of paling. Frame to have three cross bearers. Centre cross bearer to be placed equal-distant from top and bottom bearer. Each gate panel to be provide with 3 bullet type hinges (100mm x 40mm x 20mm). These are to be fitted 300mm from top and bottom with one hinge opposite middle crossbar. Gates to be provided with 16mm "Drop-pin" stay on both panels to assist with keeping gates in a closed or open position. 25mm Steel pipes (150mm long), to be placed in ground to accommodate pins when dropped. Gates to be provided with an eyelet to accommodate a heavy duty padlock. Gate are to open out towards from Cabin. Gates are to be Hot dip galvanised.

Respondent's signature: _____ Date: ____/____/____

ANNEXURE B
TENDER PRICE LIST PER ITEM

ASSET DESCRIPTION: SIGNAL CABIN

CITY / TOWN: KLAPMUTS

TENDER NO: BLE/51964

ASSET NO: 02YBN01C

WORK DESCRIPTION REPAIR TO SIGNAL CABIN AND FENCE

TENDER PRICE LIST TO INTERIOR AND EXTERIOR WORK TO BUILDINGS

Measurements and or quantities do not include off cuts or waste all measurements of material is measure as nett fixed. Contractor to add his own % for off cuts and waste.

The contractor is responsible to check all the measurements and quantities before ordering any material. The measurement and quantities are only a guide for tender purposes.

Value Added Tax (VAT) shall be excluded in the schedule of rates and prices.

To be supplied by the Contractor: The Contractor shall provide all labour, material, transport, consumable stores, plant, equipment, tools, services, materials and ingredients of every description required for the carrying out and completion of the WORK as per the attached work list and specification and as may be ordered by the Project Manager.

GENERAL: The Building will be occupied during renovations, The Project manager, contractor and manager of the TFR staff using the building will discuss and agree on site the maintenance plan for the building. The necessary move of furniture in the same room if necessary is included in all the items. All normal cleaning, preparations include sanding, stopping and washing of items to be painted as specified by the paint manufacturer is included in all the paint items. Where abnormal cleaning is required it will be specified as an additional item. All scaffolding and use of ladders up to 4.50m high interior and exterior if and as necessary is part of all the items. All work shall be done according to the attached specifications and shall comply with the National building regulations. Unless otherwise specified all materials must comply with SANS specifications.

Where no applicable SANS Specification exists the materials must be approved by the Transnet Freight Rail project manager.

All material shall be fitted, install or applied as specified by the manufacture. The contractor shall be liable for any damages caused by his or her staff to any Transnet Freight Rail property or equipment.

SAFETY: The contractor shall comply with the Occupational Health Safety Act, 1993 (Act 85 of 1993).

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SUB TOTAL PAGE 1

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TENDER NO: BLE/51964

ASSET NO: 02YBN01C

ITEM NO	FAULT DISCRPTION	ITEM TOTAL	MEASURE UNIT	UNIT RATE	ITEM AMOUNT
WALLS INTERIOR					
74	Chip 80% of wall area to be tiled and apply key coat to wall before laying ceramic tiles. key coat shall be apply according the manufacturer specification on container	2	M^2		
79	Lay 1st grade 200 x 250mm white ceramic glazed wall tiles. use 3mm spacers. item include walls, reveals, soffits, sills and the top of shower walls. use white grout. use only Tylon wb11 adhesive or adhesive approved by project manager	2	M^2		

Respondent's signature: _____ Date: ____ / ____ / ____

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TENDER NO: BLE/51964

ASSET NO: 02YBN01C

ITEM NO	FAULT DISCRPTION	ITEM TOTAL	MEASURE UNIT	UNIT RATE	ITEM AMOUNT
FLOORS					
349	Cabin. Remove vinyl sheeting complete and clean floor from all adhesive	25	M ²		
360	Cabin. Lay carpet tiles, 500 x 500mm, Berber point 920 Colour Silver Grey or similar, as per attached specifications.	25	M ²		
362	Cabin. Fit / replace aluminium carpet strip and fix with strip with 4 counter sunk self tapping screws and plastic plugs to floor	2	M		
365	Exterior Toilet. Chip 80 % of concrete floor area. supply and apply Tylon or tall key coat to floor for ceramic tiles (please read the manufacture specifications on container on how to mix and apply the key coat)	2	M ²		
366	Exterior Toilet. Lay 1st grade ceramic floor tiles on floor joints 5mm wide use only Tylon WB11 tile adhesive for ceramic tiles adhesive as approved by project manager. Type tile as per sample tile shown at site meeting Read specifications	2	M ²		
368	Exterior Toilet. Extra over item to floor tiles, mix tile grout in shower area or permanent wet areas with Tylon bond it and not with water	2	M ²		
399	Exterior Toilet. Lay ceramic tile skirting 100mm wide, item include the chip of 80% of wall area for the tile skirting and to apply key coat to chipped wall area 100mm wide. use tiles as specified for floor tiles	5	M		
417	At exterior Toilet. Clean floor from all oil, grease, dirt with heavy duty detergent to the satisfaction of the project manager. rinse with clean water and leave to completely dry out. apply two coats Dulux or Plascon dark grey floor paint	3	M ²		
STAIRS EXTERIOR					
769	Cast concrete steps to comply with national building regulations, finish as specified (1,8m long and +/- 3 steps)	1	JOB		
770	Supply approved filling for build or cast stairs, fill in layers of 200mm, compact each layers	3	M ³		
PLUMBING EXTERIOR					
782	Install Easy drain Installation Channel and 110 mm Storm water Pipes as per Annexure D. (see attached diagram sketch) item include all fittings necessary to complete work to national building regulations SANS 0400	2	JOB		
EXCAVATIONS/BACKFILL					
841	Supply filling to fill area under concrete slab / paving / floors with approved filling as per attached specification	4	M ³		
842	Dig out in situ unstable soil and remove from site, compact area, import decompose dolerite, fill in layers of 125mm and compact with mechanical roller of at lease 18kn to level and smooth surface, sample of dolerite to be supplied	23	M ³		
MASS CONCRETE/REINFORCING					
844	Hand mix concrete on site where a small quantity is required. concrete shall be mixed on mixing board or hard surface. cast concrete in foundations and compact. concrete shall be at least 20mpa. all work and material to comply with attached specification	2	M ³		
CONCRETE SLABS/PAVING					

Respondent's signature: _____ Date: ____/____/____

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TENDER NO: BLE/51964

ASSET NO: 02YBN01C

ITEM NO	FAULT DISCRIPTION	ITEM TOTAL	MEASURE UNIT	UNIT RATE	ITEM AMOUNT
858	Lay 25 MPA cement paving bricks. Item includes the preparation of the area, remove plants, grass, supply approved filling, levelling of ground, compaction of soil. bedding sand and restraining edges. all work and material shall comply with specifications	30	M^2		
FENCING					
862	Cut all vegetation to 50mm above ground level, both sides of fence 1m wide (in total 2.0m wide) see attached specification	48	M^2		
872	Remove Welded mesh security fence wire up to 2.1m to lay blocs and channels for rain water and place back in position as was.	16	M		
896	Manufacture and erect steel palisade fence 1,80m high x 6m long as per specification and Hot dip galvanised.	12	M		
900	Manufacture and install steel hinge palisade fence gate with locking system (1.2m x 1,80m) (Hot dip galvanised).	2	EA		

"Preview Copy Only"

Respondent's signature: _____ Date: ____/____/____

TENDER NO: BLE/51964

ASSET NO: 02YBN01C

ITEM NO	FAULT DISCRPTION	ITEM TOTAL	MEASURE UNIT	UNIT RATE	ITEM AMOUNT
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TOTAL PAGE 1 TO PAGE 4 R

PRELIMINARY AND GENERAL

P and G shall include all cost not directly relate to a specific item on the schedule of prices and rates. All items not specifically mentioned in the Schedule of Rates and prices and form part of contractor's requirements such as cost of stationery, as well as establishment of workers on site and removal of site establishment, it will also include the handing over of the site to the contractor and the handing back of the site after completion of work .

P + G

R

RISK AND SAFETY

Cost for the risk and saftey must include the risk assessment. The risk assesment is a full identification of the risks before the work starts and the necessary equipment, appropriate precautions and systems of work that must be provided and Implemented.

RISK AND SAFETY R

Cost for risk and safety include complete compliance with the current Occupational Health Safety Act.

Included in risk and safety. The standardised Transnet Freight Rail induction shall be given to all staff of all contractors at the start of each project and the contractors shall send all his staff that will work on the Transnet Freight Rail site to the induction on the date as agreed on between TFR Project manager and the contractor.

TOTAL PRICE CIVIL WORK EXLUDE VAT R

The total price for Civil work, excluding VAT, must be carried over as one total amount to the PRICE SCHEDULE, Section 2 of the RFQ. The amount must also be written in words on the Service Fees and Cost Form.

Respondent's signature: _____ Date: ____/____/____



ANNEXURE C

RFQ NUMBER BLE/51964

KLAPMUTS - REPAIRS TO SIGNAL CABIN AND FENCE AT STATION PLATFORM

FOR A PERIOD OF 30 DAYS

SPECIAL CONDITIONS

SCOPE OF WORK

Repairs to Signal Cabin and Fence at Klapmuts Station Platform (Asset No: 02YBN01C).

1. TIME TO COMPLETE THE WORK

The tenderer shall indicate at Section 2, the time he will require to complete the works, however this time should not exceed **30 days**. This period shall be exclusive of weekends, public holidays and statutory holiday periods.

Failing completion of the work within the period as stipulated above or with any shorter period offered by the contenders and accepted by Transnet, the contractor shall pay to Transnet the sum of **R100-00** for every day or part thereof during which the works remain incomplete.

Time is of the essence in completing this project.

2. GUARANTEE

Transnet Freight Rail requires a workmanship guarantee for a period of **6 months**, from the date of completion of work.



3. INSPECTION OF WORKS

- 3.1 During the progress of the contract, all materials used and all work being undertaken by the Contractor shall be subjected to periodic inspections.
- 3.2 Should at any stage in the progress of the said works, an inspection visit or test reveal any defects due to improper materials or workmanship or any other fault or neglect on the part of the Contractor, such defective materials or workmanship shall immediately be replaced or remedied by the Contractor at his own expense and to the entire satisfaction of the authorized representative.
- 3.3 No work shall be covered up or put out of view without the approval of the Project Manager. The Contractor shall afford full opportunity for the Project Manager to examine and measure any work, which is about to be covered up or put out of view before permanent work is place thereon.
- 3.4 The Contractor shall give due notice to the Project Manager whenever such work is ready or about to be ready for examination. The Project Manager shall without unreasonable delay, examine and or measure such work as required.
- 3.5 The Contractor shall uncover any part or parts of the work or make openings in or through the same as the Project Manager may from time to time direct and shall reinstate and make good such part or parts to the satisfaction of the Project Manager. If any such part of parts have been covered up or put out of view after compliance with the requirements and are found to be executed in accordance with the Contract, the expenses of uncovering, making openings in or through for the reinstating and making good shall be borne by the Contractor.

4. SITE RECORDS

4.1 Site Instruction Book

The Contractor shall provide a **site instruction book, in triplicate for the Project Manager to place all instructions** that are needed to compliment the specifications and drawings and any other instruction that may affect the cost of the work.

No work will be recognized for additional payment unless it has been recorded and signed by the Project Manager in the aforesaid book.

4.2 Site Diary

The Contractor shall provide a diary, in triplicate to record all day-to-day incidents that could occur during the contract period. This includes weather, name & numbers of workers on the site, material that has been delivered, material that has been loaded and disposed of, incidences that have occurred, nature of work to be done on that day, etc.



4.3 Programme & Planning of the work

The contractor shall provide to the Project Manager a detailed plan of how he intends to do the work and this plan must be to the requirements of the operation of Transnet Freight Rail workshop with minor disruptions as no delays must be allowed in this regard.

The programme must be agreed to (in the site instruction book) before any work will be allowed to commence. The programme can be in a form of a pert (bar) chart and will be used as a guide to measure progress of the work.

4.4 Handing over of site

No work will commence before the site has been officially handed over by the Project Manager by means of a written site hand over document and instruction in the Site Instruction Book.

5. WATER SUPPLY

Water may be made available for the purpose of construction of the works only. The water shall be used conservatively and if not, this privilege shall be removed and the water shall be metered, and the cost of the metered water shall be borne by the Contractor as well as all charges as entertained by Transnet Freight Rail. The Contractor must supply all connections, hoses and applicable equipment where necessary.

6. ELECTRICITY SUPPLY

Electricity may be made available to the Contractor. The contractor must adhere to the safety standards as per the General Safety Regulations, Electrical Machine Regulations, Electrical Installation Regulations of the **Health and Safety Act**, (Act 85 of 1993) and SANS 10142. The Contractor must supply all leads and plugs as necessary.

7. ACCESS TO SITE

The areas are restricted and the contractor must ensure he complies with the regulations of Transnet Freight Rail in every way. The Contractor and/or any sub-contractors shall be required to apply for permission to enter the restricted area in writing. A list of workmen shall be given to the Project Manager to arrange for the necessary permits, 48 hours minimum notice is necessary for processing these permits. This includes changes to staff during the contract period. The contractor shall also provide each of his workers with a laminated identification card. On the front of the card must be the contract business name and a photo of the employee. On the back of the card the following local emergency numbers shall be printed Ambulance service, Fire department and Police. The employee shall not be allowed on site if he does not have his identification card with him.



8. MATERIALS FOUND ON SITE

The Contractor shall not use on the works any materials found on the site without the prior written consent of the Project Manager. No material that is lying on the site (other than that as specified in this document) or on Transnet Freight Rail's Property may be removed (even if deemed as scrap) by the contractor.

9. CLEARING OF SITE

The Contractor shall provide for cleaning up and sorting all rubbish and debris of whatever kind, generated by this work only, throughout the duration of the contract. Upon completion the Contractor shall clear away and remove all rubbish, unused material, plant and debris and leave the site and the whole of the works clean and tidy to the satisfaction of the Project Manager.

10. WORKING OUTSIDE NORMAL WORKING HOURS

Normal working hours are between 07:30 and 16:00 Mondays to Fridays. If it is required to work outside the stated normal working hours the Contractor must obtain written permission at least 24 hours before such work needs to be undertaken. Transnet Freight Rail will not unreasonably withhold permission; however the Contractor may have to pay for Transnet Freight Rail's supervisory personnel.

11. ESCALATION

This contract does not make provision for compensation in respect of increased costs. The contenders must allow in his fixed price for any increased costs, which he may encounter during the contract period or such extended period as agreed upon by both parties.

12. RETENTION

To protect Transnet Freight Rail in case of any defective work, Transnet Freight Rail reserves the right to retain up to ten (10) percent of the value of the contract, for a period of six (6) months, (the maintenance period) or such further period beyond the maintenance period if defects have not yet been made good to the satisfaction of the Project Manager.

13. SAFETY PRECAUTIONS

13.1 Safety

The Contractor shall submit a Health and Safety Plan to cover this Project before any site will be handed over for approval. This will also cover the standard risk and Safety Plan for this project.



The Contractor will however also be responsible to do a Risk Assessment and if there is any risk that is not covered under the general Risk Assessment that is included in the Health and Safety plan the Risk Assessment will be included in the Health and Safety Plan.

The Contractor must have first aid box on site. The first aid box shall be stocked with the equipment as per general safety regulation and the location of the first aid box will be indicated with appropriate signage.

The Contractor and all his employees shall attend a Safety Induction session on safety before commencement of the project. The contractor and his employees shall certify the register that they attended the Safety Induction session and only workers who have attended the session will be allowed to work on the site.

13.2 Act 85

The contractor shall comply with the Occupational Health & Safety Act, 1993 (Act 85 of 1993).

13.3 Environment

The Contractor shall, at all times, comply with the statutes that prohibit pollution of any kind. These statutes are enacted in the following legislation.

- ◆ The National Environmental Management Act, 107/1998;
- ◆ The Environmental Conservation Act, 73/1989; and
- ◆ The National Water Act, 36/1998.

The Contractor shall appoint a responsible person to ensure that no incident shall occur on site that could cause pollution. Where the Contractor was negligent and caused any form of pollution the damage shall be rectified at the Contractor's cost.

14. STORAGE AND SAFE KEEPING

The Contractor will provide his own portable store facilities, the store appearance shall be subject to the approval of the Project Manager. The agreed location of the store will be indicated to the contractor by the Project Manager.

The contractor is responsible for the safe keeping of all his material and equipment on site.



21. ADDITIONAL WORK

No work will be recognized for additional payment unless it has been arranged with the Project Manager.

22. MEASURE OF WORK

Contractor to check all measurements provided on work and price list before submitting quote per project. The list provided by Transnet is only a guide, contractor to inform project manager of any discrepancies in measurements and quantities before submitting quote for Project. Contractor is also responsible to do all measuring work for material needed.

23. SUPERVISION

The Transnet Property Technical Manager will delegate a responsible person (Project manager) to take control of the supervision and management of the contract. The contractor shall only respond to these incumbents that have been appointed in writing, any instruction that is not given via the delegated managers will be null and void.

24. HIRE EQUIPMENT

If necessary to hire abnormal equipment to do any work, the payment for the hire equipment shall be market related priced. The approval of the Transnet Project manager is required before such equipment is hired.

25. OCCUPYING OF BUILDINGS

When the buildings are occupied during renovations by Transnet Freight Rail staff, the Project Manager, Contractor and the Manager of the Transnet staff using the building will discuss and agree, on site, the maintenance plan for the building and on how to accommodate the staff during the project.

26. PRODUCTS & TRADE NAMES

26.1 Where trade names and catalogue references have been used in these Specifications to specify a product, Tenderers must tender on that particular or similar product. In addition, Tenderers must tender on the design specified. The accepted tenderer (i.e. Contractor) may, after obtaining written authority from the Project Manager, use an alternative product or design.

26.2 Where such written authority is given by the Project Manager at the request of the Contractor, for the contractor's convenience, all additional costs involved will be done for the Contractor's account. In the event of a less expensive product or design being used, a variation order reflecting the saving in cost will be issued.



26.3 All Materials used in the contract will apply to the SANS standards.

27. PRELIMINARY AND GENERAL (P & G)

The P & G shall be as per General & Special Conditions and will include all costs not directly related to the execution of the work as stated. All items not specifically mentioned in the Annexure B must form part of P & G's

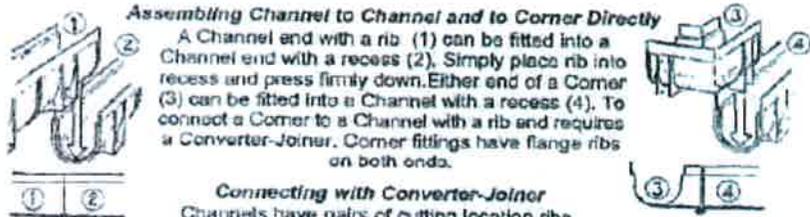
"Preview Copy Only"

Respondent's Signature

Date and Company Stamp

EASYDRAIN INSTALLATION

for ø100mm Stormwater Pipes



Assembling Channel to Channel and to Corner Directly

A Channel end with a rib (1) can be fitted into a Channel end with a recess (2). Simply place rib into recess and press firmly down. Either end of a Corner (3) can be fitted into a Channel with a recess (4). To connect a Corner to a Channel with a rib and requires a Converter-Joiner. Corner fittings have flange ribs on both ends.

Connecting with Converter-Joiner

Channels have pairs of cutting location ribs. When a Channel is shortened by sawing between these ribs, the new end of the Channel will have a flange rib similar to the original moulded rib end. Channels with ribs (5) and (6) can be connected with a Converter-Joiner (7). Simply hold the Channel and Corner and flange ribs together and press fully down into the recess in the Joiner. A Corner can also be attached with a Converter-Joiner in the same way.

Fitting the End Cap

An End Cap (8) can be pressed into a Channel end with a recess (9). End Caps close off a Channel or Corner. A Corner (10) or Channel with a cut or rib end (11) can be fitted with an End Cap (12) using a Converter-Joiner (13).

Connecting with an End Cap

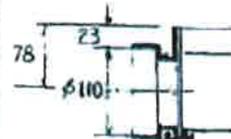
The boss moulded on an End Cap can be cut open with a jig-saw or key-hole saw to accept 110mm PVC stormwater pipe. This permits connection from a closed end of Channel to an underground drain or to other drainage components, such as Pits. The pipe can be pushed straight into the boss and sealed with a suitable waterproof silicone.

Channel Bottom Entry

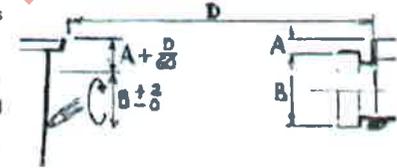
Pipe entry ports are moulded into the bottom of Channels. These can be opened with a jig-saw or key-hole saw to accept 110mm PVC stormwater pipe.



Connecting to Rainwater and Stormwater Pits

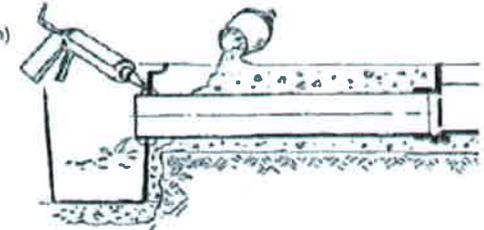


The centre of the 110mm pipe boss moulded on an EASYDRAIN End Cap is 78mm below the Channel rim. This means that a Pit immediately adjacent to the End Cap can be marked accordingly and a short connecting pipe fitted between the End Cap and the Pit.



When the Pit is to be some distance from the End Cap, and the Pit Rim is to be at same level as Channel Rim -

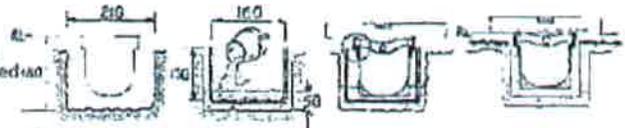
1. Measure depth from Channel rim to pipe (A or 23mm)
2. Measure diameter of pipe (B or 110mm)
3. Measure distance from Channel to Pit (D)
4. Divide (D) by 60. Add answer to (A).
5. Mark Pit wall at that depth with diameter (B).
6. Cut hole to accept pipe.
7. Fit pipe from hole in Pit wall to End Cap.
8. Apply full bead of suitable silicone sealant.
9. Pour concrete around pipe and Pit.
10. Trowel to required level and finish.



EASYDRAIN Channel will drain freely through correctly installed connections without retaining water. Note that concrete should be poured into any drainage Pit to bring the floor up to the level of the lowest pipe connection. This reduces the possibility of water stagnation and vermin such as mosquitoes breeding.

Installing EASYDRAIN Channel

1. Excavate trench to minimum 180mm below the required level for the finished surface. Trench should be at least 210mm wide.
2. Pour 50mm deep concrete slurry along trench.
3. Place steel bar "U" stirrups every 250 - 300mm along trench. Stirrups should be not less than 4mm bar, about 160mm wide and 130mm high. Top tie bars should be added if vehicles will frequently travel across Channel.
4. Position assembled EASYDRAIN Channel into trench and press Channel down into concrete slurry until Channel rim is at required level. Hold down with weights if necessary. GRATES MUST BE FITTED. Ensure Channel rim is correctly levelled.
5. Attach compression/expansion strip (40 x 8 minimum) along both sides of Channel.
6. Pour concrete around Channel and compact down then trowel to suit required level and finish.





TRANSNET SOC LIMITED

E7/1 (July 1998)

SPECIFICATION FOR WORKS ON, OVER, UNDER OR ADJACENT TO RAILWAY LINES AND NEAR
HIGH VOLTAGE EQUIPMENT

(This Specification shall be used in Transnet Contracts)

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1 **DEFINITIONS**

The following definitions shall apply :

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

Barrier. Any device designed to restrict access to "live" high-voltage electrical equipment.

Bond. A short conductor installed to provide electrical continuity.

Contractor. Any person or organisation appointed by Transnet to carry out work on its behalf.

Dead. Isolated and earthed.

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

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

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

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

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

Occupation. An authorisation granted by Transnet for work to be carried out under specified conditions on, over under or adjacent to railway lines.

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

Project Manager. The person or juristic person appointed by Transnet from time to time as the Project Manager, to administer the Contract according to the powers and rights held by and obligations placed upon him in terms of the Contract.

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

Technical Officer. The person or juristic person appointed by Transnet from time to time as the Technical Officer, to administer the Contractor's performance and execution of the Works according to the powers and rights held by and obligations placed upon the Technical Officer in terms of the Contract.

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

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

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

PART A - GENERAL SPECIFICATION**2. AUTHORITY OF OFFICERS OF TRANSNET**

- 2.1 The Contractor shall co-operate with the officers of Transnet and shall comply with all instructions issued and restrictions imposed with respect to the Works which bear on the existence and operation of Transnet's railway lines and high-voltage equipment.
- 2.2 Without limiting the generality of the provisions of 2.1, any duly authorised representative of Transnet, having identified himself, may stop the work if, in his opinion, the safe passage of trains or the safety of Transnet assets or any person is affected. **CONSIDERATIONS OF SAFETY SHALL TAKE PRECEDENCE OVER ALL OTHER CONSIDERATIONS.**

3. CONTRACTOR'S REPRESENTATIVES

- 3.1 The Contractor shall nominate Responsible Representatives of whom at least one shall be available at any hour for call-out in cases of emergency. The Contractor shall provide the Technical Officer with the names, addresses and telephone numbers of the representatives.
- 3.2 The Contractor guarantees that he has satisfied himself that the Responsible Representative is fully conversant with this specification and that he shall comply with all his obligations in respect thereof.

4. OCCUPATIONS AND WORK PERMITS

- 4.1 Work to be done during total occupation or during an occupation between trains or under a work permit shall be done in a manner decided by the Technical Officer and at times to suit Transnet requirements.
- 4.2 The Contractor shall organise the Works in a manner, which will minimise the number and duration of occupations and work permits required.
- 4.3 Transnet will not be liable for any financial or other loss suffered by the Contractor arising from his failure to complete any work scheduled during the period of an occupation or work permit.
- 4.4 The Contractor shall submit to the Technical Officer, in writing, requests for occupations or work permits together with details of the work to be undertaken, at least 14 days before they are required. Transnet does not undertake to grant an occupation or work permit for any particular date, time or duration.
- 4.5 Transnet reserves the right to cancel any occupation or work permit at any time before or during the period of occupation or work permit. If, due to cancellation or change in date or time, the Contractor is not permitted to start work under conditions of total occupation or work permit at the time arranged, all costs caused by the cancellation shall be born by the Contractor except as provided for in clauses 4.6 to 4.8.
- 4.6 When the Contractor is notified less than 2 hours before the scheduled starting time that the occupation or work permit is cancelled, he may claim reimbursement of his direct financial losses caused by the loss of working time up to the time his labour and plant are employed on other work, but not exceeding the period of the cancelled occupation or work permit.
- 4.7 When the Contractor is notified less than 2 hours before the schedule starting time, or during an occupation or work permit, that the duration of the occupation or work permit is reduced, he may claim reimbursement of his direct financial losses caused by the loss of working time due to the reduced duration of the occupation or work permit.

- 4.8 Reimbursement the Contractor for any loss of working time in terms of 4.6 and 4.7, shall be subject to his claims being submitted within 14 days of the event with full details of labour and plant involved, and provided that the Technical Officer certifies that no other work on which the labour and plant could be employed was immediately available.
- 4.9 Before starting any work for which an occupation has been arranged, the Contractor shall obtain from the Technical Officer written confirmation of the date, time and duration of the occupation.
- 4.10 Before starting any work for which a work permit has been arranged, the Responsible Representative shall read and sign portion C of form No. T.1276 signifying that he is aware of the limits within which work may be undertaken. After the work for which the permit was granted has been completed, or when the work permit is due to be terminated, or if the permit is cancelled after the start, the same person who signed portion C shall sign portion D of the T.1276 form, thereby acknowledging that he is aware that the electrical equipment is to be made "live". The Contractor shall advise all his workmen accordingly.

5. SPEED RESTRICTIONS AND PROTECTION

- 5.1 When speed restrictions are imposed by Transnet because of the Contractor's activities, the Contractor shall organise and carry out his work so as to permit the removal of the restrictions as soon as possible.
- 5.2 When the Technical Officer considers protection to be necessary the Contractor shall, unless otherwise agreed, provide all protection including flagmen, other personnel and all equipment for the protection of Transnet's and the Contractor's personnel and assets, the public and including trains. Transnet will provide training free of charge of the Contractor's flagmen and other personnel performing protection duties. The Contractor shall consult with the Technical Officer, whenever he considers that protection will be necessary, taking into account the minimum permissible clearances set out in appendixes 1 to 4.
- 5.3 The Contractor shall appoint a Responsible Representative to receive and transmit any instruction, which may be given by Transnet personnel providing protection.

6. ROADS ON TRANSNET PROPERTY

The provision of clause 25 of the E.5, General Conditions of Contract, or clause 23 of the E.5 (MW), General Conditions of Contract for Maintenance Works, shall apply to the use of existing roads on Transnet's property.

7. CLEARANCES

- 7.1 No temporary works shall encroach on the appropriate minimum clearances set out in Appendixes 1 to 4.

8. STACKING OF MATERIAL

- 8.1 The Contractor shall not stack any material closer than 3 m from the centre line of any railway line without prior approval of the Technical Officer.

9. EXCAVATION, DEWATERING

- 9.1 Unless otherwise Technical Officer to a railway line shall hatched area shown

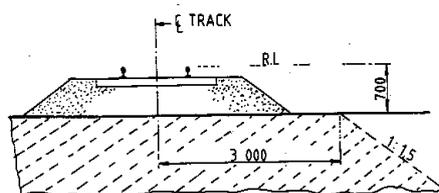


Fig. 1.

SHORING, AND DRAINAGE

approved by the any excavation adjacent not encroach on the in Figure 1.

- 9.2 The Contractor shall provide at his own cost any shoring, dewatering or drainage of any excavation unless otherwise stipulated elsewhere in the Contract.
- 9.3 Where required by the Technical Officer, drawings of shoring for any excavation under or adjacent to a railway line shall be submitted and permission to proceed obtained, before the excavation is commenced.
- 9.4 The Contractor shall prevent ingress of water to the excavation but where water does enter, he shall dispose of it as directed by the Technical Officer.
- 9.5 The Contractor shall not block, obstruct or damage any existing drains either above or below ground level unless he has made adequate prior arrangements to deal with drainage.

10. **FALSEWORK FOR STRUCTURES**

- 10.1 Drawings of falsework for the construction of any structure over, under or adjacent to any railway line shall be submitted to the Technical Officer and his permission to proceed obtained before the falsework is erected. Each drawing shall be given a title and a distinguishing number and shall be signed by a registered professional engineer certifying that he has checked the design of the falsework and that the drawings are correct and in accordance with the design.
- 10.2 After the falsework has been erected and before any load is applied, the Contractor shall submit to the Technical Officer a certificate signed by a registered professional engineer certifying that he has checked the falsework and that it has been erected in accordance with the drawings. Titles and numbers of the drawings shall be stated in the certificate. Notwithstanding permission given by the Technical Officer to proceed, the Contractor shall be entirely responsible for the safety and adequacy of the falsework.

11. **PILING**

- 11.1 The Technical Officer will specify the conditions under which piles may be installed on Transnet property.

12. **UNDERGROUND SERVICES**

- 12.1 No pegs or stakes shall be driven or any excavation made before the Contractor has established that there are no underground services, which may be damaged thereby.
- 12.2 Any damage shall be reported immediately to the Technical Officer, or to the official in charge at the nearest station, or to the traffic controller in the case of centralised traffic control.

13. **BLASTING**

- 13.1 The provisions of clause 23 of the E.5, General Conditions of Contract or clause 21 of the E.5 (MW), General Conditions of Contract for Maintenance Work, shall apply to all blasting operations undertaken in terms of the Contract.
- 13.2 The Contractor shall provide proof that he has complied with the provisions of clauses 10.17.1 to 10.17.4 of the Explosives Regulations (Act 26 of 1956 as amended).

- 13.3 Blasting within 500m of a railway line will only be permitted during intervals between trains. A person appointed by the Technical Officer, assisted by flagmen with the necessary protective equipment, will be in communication with the controlling railway station. Only this person will be authorised to give the Contractor permission to blast, and the Contractor shall obey his instructions implicitly regarding the time during which blasting may take place.
- 13.4 The flagmen described in 13.3, where provided by Transnet, are for the protection of trains and Transnet property only, and their presence does not relieve the Contractor in any manner of his responsibilities in terms of Explosives Act or Regulations, or any obligation in terms of this Contract.
- 13.5 The person described in 13.3 will record in a book provided and retained by Transnet the dates and times -
- (i) when each request is made by him to the controlling station for permission to blast;
 - (ii) when blasting may take place;
 - (iii) when blasting actually takes place; and
 - (iv) when he advises the controlling station that the line is safe for the passage of trains.
- 13.6 Before each blast the Contractor shall record in the same book, the details of the blast to be carried out. The person appointed by the Technical Officer and the person who will do the blasting shall both sign the book whenever an entry described in 13.5 is made.
- 13.7 The terms of clause 27 hereof shall be strictly adhered to.

14. **RAIL TROLLEYS**

- 14.1 The use of rail trolleys or trestle trolleys on a railway line for working on high voltage equipment will be permitted only if approved by the Technical Officer and under the conditions stipulated by him.
- 14.2 All costs in connection with such trolley working requested by the Contractor shall, unless otherwise agreed, be borne by the Contractor, excluding the costs of any train protection services normally provided free of charge by Transnet.

15. **SIGNAL TRACK CIRCUITS**

- 15.1 Where signal track circuits are installed, the Contractor shall ensure that no material capable of conducting an electrical current makes contact between rails of a railway line/lines.
- 15.2 No signal connections on track-circuited tracks shall be severed without the Technical Officer's knowledge and consent.

16. **PENALTY FOR DELAYS TO TRAINS**

- 16.1 If any trains are delayed by the Contractor and the Technical Officer is satisfied that the delay was avoidable, a penalty will be imposed on the Contractor of R5 000 per hour or part thereof for the period of delay, irrespective of the number of trains delayed.

PART B - ADDITIONAL SPECIFICATION FOR WORK NEAR HIGH-VOLTAGE ELECTRICAL EQUIPMENT**17. GENERAL**

- 17.1 This specification is based on the contents of Spoornet's publication SAFETY INSTRUCTIONS, HIGH-VOLTAGE ELECTRICAL EQUIPMENT, as amended, a copy of which will be made available on loan to the Contractor for the duration of the contract. These instructions apply to all work near live high-voltage equipment maintained and/or operated by Transnet, and the onus rests on the Contractor to ensure that he obtains a copy.
- 17.2 The Contractor's attention is drawn in particular to the contents of Part I, Sections 1 and 2 of the Safety Instructions : High-Voltage Electrical Equipment.
- 17.3 The Safety Instructions : High-Voltage Electrical Equipment cover the minimum safety precautions which must be taken to ensure safe working on or near high-voltage electrical equipment, and must be observed at all times. Should additional safety measures be considered necessary because of peculiar local conditions, these may be ordered by and at the discretion of the Electrical Officer (Contracts).
- 17.4 This specification must be read in conjunction with and not in lieu of the Safety Instructions : High-Voltage Electrical Equipment.
- 17.5 The Contractor shall obtain the approval of the Electrical Officer (Contracts) before any work is done which causes or could cause any portion of a person's body or the tools he is using or any equipment he is handling, to come within 3 metres of any live high-voltage equipment.
- 17.6 The Contractor shall regard all high-voltage equipment as live unless a work permit is in force.
- 17.7 Safety precautions taken or barriers erected shall comply with the requirements of the Electrical Officer (Contracts), and shall be approved by him before the work to be protected is undertaken by the Contractor. The Contractor shall, unless otherwise agreed, bear the cost of the provision of the barriers and other safety precautions required, including the attendance of Transnet staff where this is necessary.
- 17.8 No barrier shall be removed unless authorised by the Electrical Officer (Contracts).

18. WORK ON BUILDINGS OR FIXED STRUCTURES

Before any work is carried out or measurements are taken on any part of a building, fixed structure or earthworks of any kind above ground level situated within 3 metres of live high-voltage equipment, the Electrical Officer (Contracts) shall be consulted to ascertain the conditions under which the work may be carried out.

- 18.2 No barrier erected to comply with the requirements of the Electrical Officer (Contracts) shall be used as temporary staging or shuttering for any part of the Works.
- 18.3 The shuttering for bridge piers, abutments, retaining walls or parapets adjacent to or over any track may be permitted to serve as a barrier, provided that it extends at least 2,5 metres above any working level in the case of piers, abutments and retaining walls and 1,5 metres above any working level in the case of parapets.

19. WORK DONE ON OR OUTSIDE OF ROLLING STOCK, INCLUDING LOADING OR UNLOADING

- 19.1 No person shall stand, climb or work whilst on any platform, surface or foothold higher than the normal unrestricted places of access, namely -

- (i) the floor level of trucks;
- (ii) external walkways on diesel, steam and electric locomotives, steam heat vans, etc. and
- (iii) walkways between coaches and locomotives.

When in these positions, no person may raise his hands or any equipment or material he is handling above his head.

- 19.2 In cases where the Contractor operates his own rail mounted equipment, he shall arrange for the walkways on this plant to be inspected by the Electrical Officer (Contracts) and approved, before commencement of work.
- 19.3 The handling of long lengths of material such as metal pipes, reinforcing bars, etc should be avoided, but if essential they shall be handled as nearly as possible in a horizontal position below head height.
- 19.4 The Responsible Representative shall warn all persons under his control of the danger of being near live high-voltage equipment, and shall ensure that the warning is fully understood.
- 19.5 Where the conditions in 19.1 to 19.3 cannot be observed the Electrical Officer (Contracts), shall be notified. He will arrange for suitable Safety measures to be taken. The Electrical Officer (Contracts), may in his discretion and in appropriate circumstances, arrange for a suitable employee of the Contractor to be specially trained by Spoornet and at its costs, as an Authorised Person to work closer than 3 metres from live overhead conductors and under such conditions as may be imposed by the Senior responsible Electrical Engineer in Transnet.

20. USE OF EQUIPMENT

20.1 Measuring Tapes and Devices

- 20.1.1 Measuring tapes may be used near live high-voltage equipment provided that no part of any tape or a person's body comes within 3 metres of the live equipment.
- 20.1.2 In windy conditions the distance shall be increased to ensure that if the tape should fall it will not be blown nearer than 3 metres from the live high-voltage equipment.
- 20.1.3 Special measuring devices longer than 2 metres such as survey staves and rods may be used if these are of non-conducting material and approved by the responsible Electrical Engineer in Transnet, but these devices must not be used within 3 metres of live high-voltage equipment in rainy or wet conditions.
- 20.1.4 The assistance of the Electrical Officer (Contracts) shall be requested when measurements within the limits defined in 20.1.1 to 20.1.3 are required.
- 20.1.5 The restrictions described in 20.1.1 to 20.1.3 do not apply on a bridge deck between permanent parapets nor in other situations where a barrier effectively prevents contact with the live high-voltage equipment.

20.2 Portable Ladders

- 20.2.1 Any type of portable ladder longer than 2 metres may only be used near live high-voltage equipment under the direct supervision of the Responsible Representative. He shall ensure that the ladder is always used in such a manner that the distance from the base of the ladder to any live high-voltage equipment is greater than the fully extended length of the ladder plus 3 metres. Where these conditions cannot be observed, the Electrical Officer (Contracts) shall be advised,

and he will arrange for suitable safety measures to be taken.

21. **CARRYING AND HANDLING MATERIAL AND EQUIPMENT**

21.1 Pipes, scaffolding, iron sheets, reinforcing bars and other material, which exceeds 2 metres in length, shall be carried completely below head height near live high-voltage equipment. For maximum safety two or more persons so as to maintain it as nearly as possible in a horizontal position should carry such material. The utmost care must be taken to ensure that no part of the material comes within 3 metres of any live high-voltage equipment.

21.2 Long lengths of wire or cable shall never be run out in conditions where a part of a wire or cable can come within 3 metres of any live high-voltage equipment unless the Electrical Officer (Contracts) has been advised and has approved appropriate safety precautions.

21.3 The presence of overhead power lines shall always be taken account of especially when communications lines or cables or aerial cables, stay wires, etc. are being erected above ground level.

22. **PRECAUTIONS TO BE TAKEN WHEN ERECTING OR REMOVING POLES, ANTENNAE, TREES ETC.**

22.1 A pole may be handled for the purpose of erection or removal near high-voltage equipment under the following conditions:

- (i) If the distance between the point at which the pole is to be erected or removed and the nearest live high-voltage equipment is more than the length of the pole plus 3 metres, the work shall be supervised by the Responsible Representative.
- (ii) If the distance described in (i) is less than the length of the pole plus 3 metres, the Electrical Officer (Contracts) shall be consulted to arrange for an Authorised Person to supervise the work and to ensure that the pole is earthed where possible. The pole shall be kept in contact with the point of erection, and adequate precautions shall be taken to prevent contact with live high-voltage equipment.

22.2 The cost of supervision by an Authorised Person and the provision of earthing shall, unless otherwise agreed, be borne by the Contractor.

22.3 The provisions of clauses 22.1 and 22.2 shall also apply to the erection or removal of columns, antennae, trees, posts, etc.

23. **USE OF WATER**

23.1 No water shall be used in the form of a jet if it can make contact with any live high-voltage equipment or with any person working on such equipment.

24. **USE OF CONSTRUCTION PLANT**

24.1 "Construction plant" entails all types of plant including cranes, piling frames, boring machines, excavators, draglines, dewatering equipment and road vehicles with or without lifting equipment.

24.2 When work is being undertaken in such a position that it is possible for construction plant or its load to come within 3 metres of live high-voltage equipment, the Electrical Officer (Contracts) shall be consulted. He will arrange for an Authorised Person to supervise the work and to ensure that the plant is adequately earthed. The Electrical Officer (Contracts) will decide whether further safety measures are necessary.

- 24.3 The cost of any supervision by an Authorised Person and the provision of earthing shall, unless otherwise agreed, be borne by the Contractor.
- 24.4 When loads are handled by cranes, non-metallic rope hand lines shall be used, affixed to such loads so as to prevent their swinging and coming within 3 metres of live high-voltage equipment.
- 24.5 Clauses 24.1 to 24.4 shall apply mutatis mutandis to the use of maintenance machines of any nature.
25. **WORK PERFORMED UNDER DEAD CONDITIONS UNDER COVER OF A WORK PERMIT**
- 25.1 If the Responsible Representative finds that the work cannot be done in safety with the high-voltage electrical equipment live, he shall consult the Electrical Officer (Contracts) who will decide on the action to be taken.
- 25.2 If a work permit is issued the Responsible Representative shall -
- (i) before commencement of work ensure that the limits within which work may be carried out have been explained to him by the Authorised Person who issued the permit to him, and that he fully understands these limits.
 - (ii) sign portion C of the permit before commencement of work;
 - (iii) explain to all persons under his control the limits within which work may be carried out, and ensure that they fully understand these limits;
 - (iv) care for the safety of all persons under his control whilst work is in progress; and
 - (v) withdraw all personnel under his control from the equipment on completion of the work before he signs portion D of the work permit.
26. **TRACTION RETURN CIRCUITS IN RAILS**
- 26.1 DANGEROUS CONDITIONS CAN BE CREATED BY REMOVING OR SEVERING ANY BOND.
- 26.2 Broken rails with an air gap between the ends, and joints, at which fishplates are removed under "broken bond" conditions, are potentially lethal. The rails on either side of an air gap between rail ends on electrified lines shall not be touched simultaneously until rendered safe by Transnet personnel.
- 26.3 The Contractor shall not break any permanent bonds between rails or between rails and any structure. He shall give the Technical Officer at least 7 days written notice when removal of such bonds is necessary.
- 26.4 No work on the track which involves interference with the traction return rail circuit either by cutting or removing the rails, or by removal of bonds shall be done unless the Electrical Officer (Contracts) is consulted. He will take such precautions as may be necessary to ensure continuity of the return circuit before permitting the work to be commenced.
27. **BLASTING**
- 27.1 The Contractor shall obtain the permission of the Electrical Officer (Contracts) before blasting, and shall give at least 14 days notice of his intention to blast.

27.2 No blasting shall be done in the vicinity of electrified lines unless a member of Transnet's electrical personnel is present.

27.3 The terms of clause 13 hereof shall be strictly adhered to.

28. **HIGH-VOLTAGE ELECTRICAL EQUIPMENT NOT MAINTAINED AND/OR OPERATED BY TRANSNET**

Where the work is undertaken on or near high-voltage electrical equipment which is not maintained and/or operated by Transnet, the Occupational Health and Safety Act No. 85 of 1993, and Regulations and Instructions, or the Mines Health and Safety Act (Act 29 of 1996), shall apply.

Such equipment includes: -

- (i) Eskom and municipal equipment;
- (ii) the Contractor's own power supplies; and
- (iii) electrical equipment being installed but not yet taken over from the Contractor.



Appendix (i)

GENERAL BID CONDITIONS - SERVICES

[October 2012]

"Preview Copy Only"

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1 DEFINITIONS

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

- 1.1 **Bid** shall mean a Respondent's tendered response / proposal to a Transnet RFP or RFQ;
- 1.2 **Bid Document(s)** shall mean a reference to a Request for Proposal or Request for Quotation;
- 1.3 **Day** shall mean any day other than a Saturday, Sunday or public holiday;
- 1.4 **Respondent(s)** shall mean a respondent/bidder to a Bid Document;
- 1.5 **RFP** shall mean Request for Proposal;
- 1.6 **RFQ** shall mean Request for Quotation;
- 1.7 **RFX** shall mean RFP or RFQ, as the case may be;
- 1.8 **Services** shall mean the services required by Transnet as specified in its Bid Document;
- 1.9 **Service Provider** shall mean the successful Respondent;
- 1.10 **Tax Invoice** shall mean the document as required by Section 20 of the Value-Added Tax Act, 89 of 1991, as may be amended from time to time;
- 1.11 **Transnet** shall mean Transnet SOC Ltd, a State Owned Company; and
- 1.12 **VAT** shall mean Value-Added Tax in terms of the Value-Added Tax Act, 89 of 1991, as may be amended from time to time.

2 GENERAL

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

3 SUBMISSION OF BID DOCUMENTS

- 3.1 A Bid, which shall hereinafter include reference to an RFP or RFQ, shall be submitted to Transnet no later than the closing date and time specified in accordance with the directions issued in the Bid Documents. Late Bids will not be considered.
- 3.2 Bids shall be delivered in a sealed envelope in accordance with the instructions indicated in the Bid Documents with the Bid number and subject marked on the front of the envelope.
- 3.3 The Respondent's return address must be stated on the reverse side of the sealed envelope.

4 USE OF BID FORMS

- 4.1 Where special forms are issued by Transnet for the submission of Bids, Respondents are required to submit their Bids by completion of the appropriate sections on such official forms and not in other forms or documents bearing their own terms and conditions of contract. Non-compliance with this condition may result in the rejection of a Bid.
- 4.2 Respondents must note that the original Bid forms must be completed for submission and not a reprocessed copy thereof.

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

5 BID FEES

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

6 VALIDITY PERIOD

- 6.1 Respondents must hold their Bid valid for acceptance by Transnet at any time within the requested validity period after the closing date of the RFX.
- 6.2 Respondents may be requested to extend their validity period for a specified additional period. In such instances, Respondents will not be allowed to change any aspect of their Bid, unless they are able to demonstrate that the proposed change(s) is as a direct and unavoidable consequence of Transnet's extension of the validity period.

7 SITE VISIT / BRIEFING SESSION

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

8 CLARIFICATION BEFORE THE CLOSING DATE

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

9 COMMUNICATION AFTER THE CLOSING DATE

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

10 UNAUTHORISED COMMUNICATION ABOUT BIDS

Where Bids are submitted to the Secretary of an Acquisition Council, Respondents may at any time communicate with the Secretary on any matter relating to its Bid but, in the absence of written authority from the Secretary, no communication on a question affecting the subject of a Bid shall take place between Respondents or other potential service providers or any member of the Acquisition Council or official of Transnet during the period between the closing date for the receipt of the Bid and the date of the notification of the successful Respondent(s). A Bid, in respect of which any such unauthorised communication has occurred, could be disqualified.

11 RETURNABLE DOCUMENTS

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

12 DEFAULTS BY RESPONDENTS

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

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

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

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

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

- i) has been found guilty by a court of law, tribunal or other administrative body of a serious breach of any law, during the preceding 5 [five] years;
 - j) has been included as a company or person prohibited from doing business with the public sector on National Treasury's database of Restricted Suppliers or Register of Bid Defaulters;
- then a Bid from any such Respondent shall be disqualified and the person, enterprise or company [including any directors] shall, subject to clause 12.3 below, be disqualified from bidding for any Transnet business through its "blacklisting" process.

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

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

13 CURRENCY

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

14 PRICES SUBJECT TO CONFIRMATION

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

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

15 ALTERATIONS MADE BY THE RESPONDENT TO BID PRICES

All alterations made by the Respondent to its Bid price(s) prior to the submission of its Bid Documents must be done by deleting the incorrect figures and words where required and by inserting the correct figures and words against the items concerned. All such alterations must be initialled by the person who signs the Bid Documents. Failure to observe this requirement may result in the particular item(s) concerned being excluded in the matter of the award of the business.

16 EXCHANGE AND REMITTANCE

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

16.2 In instances where an overall Rand agreement cannot be concluded Transnet would request the Respondent to give favourable consideration to obtaining forward exchange cover on the foreign currency portion of the contract at a cost that is acceptable to Transnet to protect itself against any currency rate fluctuation risks for the duration of any resulting contract or order.

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

- 16.4 The South African Reserve Bank's approval is required before any foreign currency payments can be made to or on behalf of Respondents.
- 16.5 Transnet will not recognise any claim for adjustment of the order and/or contract price if the increase in price arises after the date on which agreement on an overall Rand contract has been reached.
- 16.6 Transnet reserves the right to request a pro-forma invoice/tax invoice in order to ensure compliance with the contract and Value-Added Tax Act no. 89 of 1991 [**VAT Act**].

17 ACCEPTANCE OF BID

- 17.1 Transnet does not bind itself to accept the lowest priced or any Bid.
- 17.2 Transnet reserves the right to accept any Bid in whole or in part.
- 17.3 Upon the acceptance of a Bid by Transnet, the parties shall be bound by these General Bid Conditions and any contractual terms and/or any schedule of "Special Conditions" or otherwise which form part of the Bid Documents.
- 17.4 Where the Respondent has been informed by Transnet per fax message or email of the acceptance of its Bid, the acknowledgement of receipt transmitted shall be regarded as proof of delivery to the Respondent.

18 NOTICE TO UNSUCCESSFUL RESPONDENTS

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

19 TERMS AND CONDITIONS OF CONTRACT

- 19.1 The Service Provider shall adhere to the Terms and Conditions of Contract issued with the Bid Documents, together with any schedule of "Special Conditions" or otherwise which form part of the Bid Documents.
- 19.2 Should the Respondent find any conditions unacceptable, it should indicate which conditions are unacceptable and offer amendments/ alternatives by written submission on its company letterhead. Any such submission shall be subject to review by Transnet's Legal Counsel who shall determine whether the proposed amendments/ alternative(s) are acceptable or otherwise, as the case may be.

20 CONTRACT DOCUMENTS

- 20.1 The contract documents will comprise these General Bid Conditions, the Terms and Conditions of Contract and any schedule of "Special Conditions" which form part of the Bid Documents.
- 20.2 The abovementioned documents together with the Respondent's Bid response will constitute the contract between the parties upon receipt by the Respondent of Transnet's letter of award / intent, subject to all additional amendments and/or special conditions thereto as agreed to by the parties.
- 20.3 Should Transnet inform the Respondent that a formal contract will be signed, the abovementioned documents together with the Respondent's Bid response [and, if any, its covering letter and any subsequent exchange of correspondence] as well as Transnet's Letter of Intent, shall constitute a binding contract until the final contract is signed.

21 LAW GOVERNING CONTRACT

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

22 IDENTIFICATION

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

23 CONTRACTUAL SECURITIES

- 23.1 The successful Respondent, when called upon to do so, shall provide security to the satisfaction of Transnet for the due fulfilment of a contract or order. Such security shall be in the form of an advanced payment guarantee [APG] and/or a performance bond [Performance Bond], as the case may be, to be furnished by an approved bank, building society, insurance or guarantee corporation carrying on business in South Africa.
- 23.2 The security may be applied in whole or part at the discretion of Transnet to make good any loss or damage which Transnet may incur in consequence of a breach of the contract or any part thereof.
- 23.3 Such security, if required, shall be an amount which will be stipulated in the Bid Documents.
- 23.4 The successful Respondent shall be required to submit to Transnet or Transnet's designated official the specified security document(s) within 30 [thirty] Days from the date of signature of the contract. Failure to return the securities within the prescribed time shall, save where prior extension has been granted, entitle Transnet without notice to the Service Provider to cancel the contract with immediate effect.
- 23.5 Additional costs incurred by Transnet necessitated by reason of default on the part of the Service Provider in relation to the conditions of this clause 23 will be for the account of the Service Provider.

24 DELETION OF ITEMS TO BE EXCLUDED FROM BID

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

25 VALUE-ADDED TAX

- 25.1 In respect of local Services, i.e. Services to be rendered in the Republic of South Africa, the prices quoted by the Respondent are to be exclusive of VAT which must be shown separately at the standard rate on the Tax Invoice.
- 25.2 In respect of foreign Services rendered:
- a) the invoicing by a South African Service Provider on behalf of its foreign principal rendering such Service represents a Service rendered by the principal; and

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

26 IMPORTANT NOTICE TO RESPONDENTS REGARDING PAYMENT

26.1 Method of Payment

- a) The attention of the Respondent is directed to the Terms and Conditions of Contract which set out the conditions of payment on which Bid price(s) shall be based.
- b) However, in addition to the foregoing the Respondent is invited to submit offers based on alternative methods of payment and/or financing proposals.
- c) The Respondent is required to give full particulars of the terms that will be applicable to its alternative offer(s) and the financial merits thereof will be evaluated and taken into consideration when the Bid is adjudicated.
- d) The Respondent must, therefore, in the first instance, tender strictly in accordance with clause 26.1a) above. Failure to comply with clause 26.1a) above may preclude a Bid from further consideration.

NOTE: The successful Respondent [the **Service Provider**], where applicable, shall be required to furnish a guarantee covering any advance payments, as set out in clause 23 above [*Contractual Securities*].

26.2 Conditional Discount

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

27 DELIVERY REQUIREMENTS

27.1 Period Contracts

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

27.2 Progress Reports

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

27.3 Emergency Demands as and when required

If, due to unforeseen circumstances, the rendering of the Services covered by the Bid are required at short notice for immediate delivery, the Service Provider will be given first right of refusal for such business. If it is unable to meet the desired critical delivery period, Transnet reserves the right to purchase such services as may be required to meet the emergency outside the contract if immediate delivery can be offered from any other source. The "*Total or Partial Failure to Perform the Scope of*

Services” section in the Terms and Conditions of Contract will not be applicable in these circumstances.

28 SPECIFICATIONS AND COPYRIGHT

28.1 Specifications

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

28.2 Copyright

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

29 BIDS BY OR ON BEHALF OF FOREIGN RESPONDENTS

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

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

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

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

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

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

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

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

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

- a) funds are to be transferred to the credit of the foreign Service Provider's account at a bank in South Africa, in which case the name and branch of such bank shall be furnished; or
- b) funds are to be transferred to the credit of its South African agent or representative, in which case the name and branch of such bank shall be furnished.

30 CONFLICT WITH BID DOCUMENT

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

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Appendix (ii)

**STANDARD TERMS AND CONDITIONS OF CONTRACT
FOR THE PROVISION OF SERVICES TO TRANSNET**

[October 2012]

"Preview Copy Only"

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1 INTRODUCTION

When an Agreement is entered into between Transnet SOC Ltd [**Transnet**] and the appointed supplier of Services to Transnet [**the Service Provider**], these Standard Terms and Conditions of Contract, the technical specifications for the Services, a Work Order including such special conditions as may be applicable, and any terms in the associated Bid Documents, exclusively govern the provision of Services by the Service Provider to Transnet.

2 DEFINITIONS

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

- 2.1 **AFSA** means the Arbitration Foundation of South Africa;
- 2.2 **Agreement** means the Agreement and its associated schedules and/or annexures and/or appendices, including the Work Order(s), specifications for the Services and such special conditions as shall apply to the Agreement, together with the General Tender Conditions and any additional provisions in the associated bid documents tendered by the Service Provider [as agreed in writing between the Parties], which collectively and exclusively govern the provision of Services by the Service Provider to Transnet;
- 2.3 **Background Intellectual Property** means all Intellectual Property introduced and required by either Party to give effect to their obligations under the Agreement owned in whole or in part by or licensed to either Party or their affiliates prior to the Commencement Date or developed after the Commencement Date otherwise pursuant to the Agreement;
- 2.4 **Business Day(s)** means Mondays to Fridays between 07:30 and 16:00, excluding public holidays as proclaimed in South Africa;
- 2.5 **Commencement Date** means [●], notwithstanding the signature date of the Agreement;
- 2.6 **Confidential Information** means any information or other data, whether in written, oral, graphic or in any other form such as in documents, papers, memoranda, correspondence, notebooks, reports, drawings, diagrams, discs, articles, samples, test results, prototypes, designs, plans, formulae, patents, or inventor's certificates, which a Party discloses or provides to the other Party [intentionally or unintentionally, or as a result of one Party permitting the representative of the other Party to visit any of its premises], or which otherwise becomes known to a Party, and which is not in the public domain and includes, without limiting the generality of the term:
 - a) information relating to methods of operation, data and plans of the disclosing Party;
 - b) the contents of the Agreement;
 - c) private and personal details of employees or clients of the disclosing Party or any other person where an onus rests on the disclosing Party to maintain the confidentiality of such information;
 - d) any information disclosed by either Party and which is clearly marked as being confidential or secret;
 - e) information relating to the strategic objectives and planning of the disclosing Party relating to its existing and planned future business activities;

- f) information relating to the past, present and future research and development of the disclosing Party;
 - g) information relating to the business activities, business relationships, products, services, customers, clients and Subcontractors of the disclosing Party where an onus rests on the disclosing Party to maintain the confidentiality of such information;
 - h) information contained in the software and associated material and documentation belonging to the disclosing Party;
 - i) technical and scientific information, Know-How and trade secrets of a disclosing Party including inventions, applications and processes;
 - j) Copyright works;
 - k) commercial, financial and marketing information;
 - l) data concerning architecture, demonstrations, tools and techniques, processes, machinery and equipment of the disclosing Party;
 - m) plans, designs, concepts, drawings, functional and technical requirements and specifications of the disclosing Party;
 - n) information concerning faults or defects in goods, equipment, hardware or software or the incidence of such faults or defects; and
 - o) information concerning the charges, Fees and / or costs of the disclosing Party or its authorised Subcontractors, or their methods, practices or service performance levels actually achieved;
- 2.7 **Copyright** means the right in expressions, procedures, methods of operations or mathematical concepts, computer program codes, compilations of data or other material, literary works, musical works, artistic works, sound recordings, broadcasts, program carrying signals, published editions, photographic works, or cinematographic works of the copyright owner to do or to authorise the doing of certain acts specified in respect of the different categories of works;
- 2.8 **Default** means any breach of the obligations of either Party [including but not limited to fundamental breach or breach of a fundamental term] or any Default, act, omission, negligence or statement of either Party, its employees, agents or Subcontractors in connection with or in relation to the subject of the Agreement and in respect of which such Party is liable to the other;
- 2.9 **Deliverable(s)** means any and all works of authorship, products and materials developed, written, prepared, assembled, integrated, modified or provided by the Service Provider in relation to the Services;
- 2.10 **Designs** mean registered Designs and/or Design applications and will include the monopoly right granted for the protection of an independently created industrial design including designs dictated essentially by technical or functional considerations as well as topographies of integrated circuits and integrated circuits;
- 2.11 **Fee(s)** shall mean the agreed Fees for the Services to be purchased from the Service Provider by Transnet, as detailed in the Work Order(s), issued in accordance with the Agreement, as amended by mutual agreement between the Parties and in accordance with the provisions of the Agreement from time to time;
- 2.12 **Foreground Intellectual Property** means all Intellectual Property developed by either Party pursuant to the Agreement;

- 2.13 **Intellectual Property** means Patents, Designs, Know-How, Copyright and Trade Marks and all rights having equivalent or similar effect which may exist anywhere in the world and includes all future additions and improvements to the Intellectual Property;
- 2.14 **Know-How** means all Confidential Information of whatever nature relating to the Intellectual Property and its exploitation as well as all other Confidential Information generally relating to Transnet's field of technology, including technical information, processing or manufacturing techniques, Designs, specifications, formulae, systems, processes, information concerning materials and marketing and business information in general;
- 2.15 **Materials** means the Deliverables, the Service Provider Materials and the Third Party Materials;
- 2.16 **Parties** mean the Parties to the Agreement together with their subsidiaries, divisions, business units, successors-in-title and their assigns;
- 2.17 **Party** means either one of these Parties;
- 2.18 Patents mean registered Patents and Patent applications, once the latter have proceeded to grant, and includes a right granted for any inventions, products or processes in all fields of technology;
- 2.19 **Permitted Purpose** means any activity or process to be undertaken or supervised by Personnel or employees of one Party during the term of the Agreement, for which purpose authorised disclosure of the other Party's Confidential Information or Intellectual Property is a prerequisite in order to enable such activity or process to be accomplished;
- 2.20 **Personnel** means any partner, employee, agent, consultant, independent associate or supplier, Subcontractor and the staff of such Subcontractor, or other authorised representative of either Party;
- 2.21 **Purchase Order(s)** means official orders issued by an operating division of Transnet to the Service Provider for the provision of Services;
- 2.22 **Service(s)** means [●], the Service(s) provided to Transnet by the Service Provider, pursuant to the Work Order(s) in terms of the Agreement;
- 2.23 **Service Level Agreement** or **SLA** means the processes, deliverables, key performance indicators and performance standards relating to the Services to be provided by the Service Provider;
- 2.24 **Subcontract** means any contract or agreement or proposed contract or agreement between the Service Provider and any third party whereby that third party agrees to provide to the Service Provider the Services or any part thereof;
- 2.25 **Subcontractor** means the third party with whom the Service Provider enters into a Subcontract;
- 2.26 **Service Provider Materials** means all works of authorship, products and materials [including, but not limited to, data, diagrams, charts, reports, specifications, studies, inventions, software, software development tools, methodologies, ideas, methods, processes, concepts and techniques] owned by, or licensed to, the Service Provider prior to the Commencement Date or independently developed by the Service Provider outside the scope of the Agreement at no expense to Transnet, and used by the Service Provider in the performance of the Services;
- 2.27 **Tax Invoice** means the document as required by Section 20 of the Value-Added Tax Act, 89 of 1991, as may be amended from time to time;

- 2.28 **Third Party Material** means software, software development tools, methodologies, ideas, methods, processes, concepts and techniques owned by, or licensed to a third party and used by the Service Provider in the performance of the Services;
- 2.29 **Trade Marks** mean registered Trade Marks and trade mark applications and includes any sign or logo, or combination of signs and/or logos capable of distinguishing the goods or services of one undertaking from those of another undertaking;
- 2.30 **VAT** means Value-Added Tax chargeable in terms of the Value-Added Tax Act, 89 of 1991, as may be amended from time to time; and
- 2.31 **Work Order(s)** means a detailed scope of work for a Service required by Transnet, including timeframes, Deliverable, Fees and costs for the supply of the Service to Transnet, which may be appended to the Agreement from time to time.

3 INTERPRETATION

- 3.1 Clause headings in the Agreement are included for ease of reference only and do not form part of the Agreement for the purposes of interpretation or for any other purpose. No provision shall be construed against or interpreted to the disadvantage of either Party hereto by reason of such Party having or being deemed to have structured or drafted such provision.
- 3.2 Any term, word, acronym or phrase used in the Agreement, other than those defined under the clause heading "Definitions" shall be given its plain English meaning, and those terms, words, acronyms, and phrases used in the Agreement will be interpreted in accordance with the generally accepted meanings accorded thereto.
- 3.3 A reference to the singular incorporates a reference to the plural and *vice versa*.
- 3.4 A reference to natural persons incorporates a reference to legal persons and *vice versa*.
- 3.5 A reference to a particular gender incorporates a reference to the other gender.

4 NATURE AND SCOPE

- 4.1 The Agreement is an agreement under the terms and conditions of which the Service Provider will arrange for the provision to Transnet of the Services which meet the requirements of Transnet, the delivery of which Services is controlled by means of Purchase Orders to be issued by Transnet and executed by the Service Provider, in accordance with the Agreement.
- 4.2 Such Purchase Orders shall be agreed between the Parties from time to time, subject to the terms of the relevant Work Order(s).
- 4.3 Each properly executed Purchase Order forms an inseparable part of the Agreement as if it were fully incorporated into the body of the Agreement.
- 4.4 During the period of the Agreement, both Parties can make written suggestions for amendments to the Work Order(s), in accordance with procedures set out in clause 28 [*Amendment and Change Control*] below. A Party will advise the other Party within 14 [fourteen] Business Days, or such other period as mutually agreed, whether the amendment is acceptable.
- 4.5 Insofar as any term, provision or condition in the Work Order(s) conflicts with a like term, provision or condition in the Agreement and/or a Purchase Order, or where the Agreement is silent on the matter, the term, provision or condition in this Master Agreement shall prevail, unless such term or provision or condition in this Master Agreement has been specifically revoked or amended by mutual written agreement between the Parties.

- 4.6 Time will be of the essence and the Service Provider will perform its obligations under the Agreement in accordance with the timeframe(s) [if any] set out in the relevant schedule, save that the Service Provider will not be liable under this clause if it is unable to meet such obligation within the time required as a direct result of any act or omission by Transnet and it has used its best endeavours to advise Transnet of such act or omission. In the event of such delay, any time deadlines detailed in the relevant schedule shall be extended by a period equal to the period of that delay.

5 AUTHORITY OF PARTIES

- 5.1 Nothing in the Agreement will constitute or be deemed to constitute a partnership between the Parties, or constitute or be deemed to constitute the Parties as agents or employees of one another for any purpose or in any form whatsoever.
- 5.2 Neither Party shall be entitled to, or have the power or authority to enter into an agreement in the name of the other; or give any warranty, representation or undertaking on the other's behalf; or create any liability against the other or bind the other's credit in any way or for any purpose whatsoever.

6 WARRANTIES

- 6.1 The Service Provider warrants to Transnet that:
- a) it has full capacity and authority to enter into and to perform the Agreement and that the Agreement is executed by a duly authorised representatives of the Service Provider;
 - b) it will discharge its obligations under the Agreement and any annexure, appendix or schedule hereto with all due skill, care and diligence;
 - c) it will be solely responsible for the payment of remuneration and associated benefits, if any, of its Personnel and for withholding and remitting income tax for its Personnel in conformance with any applicable laws and regulations;
 - d) it will procure licences for Transnet in respect of all Third Party Material detailed in the Work Order(s), and will procure the right for Transnet to take such copies [in whole or in part] of such Third Party Materials as it may reasonably require for the purposes of back-up for archiving and disaster recovery; and
 - e) the use or possession by Transnet of any Materials will not subject Transnet to any claim for infringement of any Intellectual Property Rights of any third party.
- 6.2 The Service Provider warrants that it will perform its obligations under the Agreement in accordance with the Service Levels as defined in the relevant schedule. Transnet may at its discretion audit compliance with the Service Levels, provided that any such audit is carried out with reasonable prior notice and in a reasonable way so as not to have an adverse effect on the performance of the Services. Without prejudice to clause 6.3 below, in the event that the Service Provider fails to meet the Service Levels, Transnet may claim appropriate service credits or invoke a retention of Fees as detailed in the relevant schedule and/or Work Order.
- 6.3 The Service Provider warrants that for a period of 90 [ninety] days from Acceptance of the Deliverables they will, if properly used, conform in all material respects with the requirements set out in the relevant schedule. The Service Provider will at its expense remedy any such non-conformance as soon as possible but in any event within 30 [thirty] days of notification by

Transnet. In the event that the Service Provider fails or is unable to remedy such non-conformance within such time-scale, Transnet will be entitled to employ a third party to do so in place of the Service Provider and any excess charges or costs incurred by Transnet as a result shall be paid by the Service Provider.

- 6.4 The Service Provider will remedy any defect within 30 [thirty] days of being notified of that defect by Transnet in writing.
- 6.5 The Service Provider will not be liable to remedy any problem arising from or caused by any modification made by Transnet to the Deliverables, or any part thereof, without the prior approval of the Service Provider.
- 6.6 The Service Provider shall advise Transnet of the effects of any steps proposed by Transnet pursuant to clause 6.5 above, including but not limited to any cost implications or any disruption or delay in the performance of the Services. The Parties agree that any changes to the Services, including the charges for the Services or any timetables for delivery of the Services, will be agreed in accordance with the change control procedure, as set out in clause 28 [*Amendment and Change Control*].
- 6.7 The Service Provider warrants that:
- a) it has, using the most up-to-date software available, tested for [and deleted] all commonly known viruses in the Materials and for all viruses known by the Service Provider at the date of the relevant Work Order; and
 - b) at the time of delivery to Transnet, the Materials do not contain any trojan horse, worm, logic bomb, time bomb, back door, trap door, keys or other harmful components.
- The Service Provider agrees that, in the event that a virus is found, it will at its own expense use its best endeavours to assist Transnet in reducing the effect of the virus and, particularly in the event that a virus causes loss of operational efficiency or loss of data, to assist Transnet to the same extent to mitigate such losses and to restore Transnet to its original operating efficiency.
- 6.8 The Service Provider undertakes to comply with South Africa's general privacy protection in terms of Section 14 of the Bill of Rights in connection with the Agreement and shall procure that its Personnel shall observe the provisions of Section 14 [as applicable] or any amendments and re-enactments thereof and any regulations made pursuant thereto.
- 6.9 The Service Provider warrants that it has taken all reasonable precautions to ensure that, in the event of a disaster, the impact of such disaster on the ability of the Service Provider to comply with its obligations under the Agreement will be reduced to the greatest extent possible, and that the Service Provider shall ensure that it has appropriate, tested and documented recovery arrangements in place.
- 6.10 In compliance with the National Railway Safety Regulator Act, 16 of 2002, the Service Provider shall ensure that the Services, to be supplied to Transnet under the terms and conditions of the Agreement, comply fully with the specifications as set forth in Schedule 1 hereto, and shall thereby adhere [as applicable] to railway safety requirements and/or regulations. Permission for the engagement of a Subcontractor by the Service Provider [as applicable] shall be subject to a review of the capability of the proposed Subcontractor to comply with the specified railway safety requirements and/or regulations. The Service Provider and/or its Subcontractor shall grant Transnet access, during the term of the Agreement, to review any safety-related activities, including the coordination of such activities across all parts of its organisation.

7 TRANSNET'S OBLIGATIONS

- 7.1 Transnet undertakes to promptly comply with any reasonable request by the Service Provider for information, including information concerning Transnet's operations and activities, that relates to the Services as may be necessary for the Service Provider to perform the Services, but for no other purpose. However, Transnet's compliance with any request for information is subject to any internal security rules and requirements and subject to the observance by the Service Provider of its confidentiality obligations under the Agreement.
- 7.2 The Service Provider shall give Transnet reasonable notice of any information it requires in accordance with clause 7.1 above.
- 7.3 Subject to clause 13 [*Service Provider's Personnel*], Transnet agrees to provide the Service Provider or its Personnel such access to and use of its facilities as is necessary to allow the Service Provider to perform its obligations under the Agreement.

8 GENERAL OBLIGATIONS OF THE SERVICE PROVIDER

- 8.1 The Service Provider shall:
- a) respond promptly to all complaints and enquiries from Transnet;
 - b) inform Transnet immediately of any dispute or complaint arising in relation to the provision of the Services;
 - c) conduct its business in a professional manner that will reflect positively upon the Service Provider and the Service Provider's Services;
 - d) keep full records clearly indicating all transactions concluded by the Service Provider relating to the performance of the Services and keep such records for at least 5 [five] years from the date of each such transaction;
 - e) obtain, and at all times maintain in full force and effect, any and all licences, permits and the like required under applicable laws for the provision of the Services and the conduct of the business and activities of the Service Provider;
 - f) observe and ensure compliance with all requirements and obligations as set out in the labour and related legislation of South Africa, including the Occupational Health and Safety Act, 85 of 1993;
 - g) comply with all applicable environmental legislation and regulations, and demonstrate sound environmental policies, management and performance; and
 - h) ensure the validity of all renewable certifications, including but not limited to its Tax Clearance Certificate and B-BBEE Verification Certificate, for the duration of the Agreement. Should the Service Provider fail to present Transnet with such renewals as they become due, Transnet shall be entitled, in addition to any other rights and remedies that it may have in terms of the Agreement, to terminate the Agreement forthwith without any liability and without prejudice to any claims which Transnet may have for damages against the Service Provider.
- 8.2 The Service Provider acknowledges and agrees that it shall at all times:
- a) render the Services and perform all its duties with honesty and integrity;
 - b) communicate openly and honestly with Transnet and demonstrate a commitment to performing the Services timeously, efficiently and to the required standards;

- c) endeavour to provide the highest possible standards of service and professionalism, with a reasonable degree of care and diligence;
- d) use its best endeavours and make every diligent effort to meet agreed deadlines;
- e) treat its own Personnel, as well as all Transnet's officers, employees, agents and consultants, with fairness and courtesy and respect for their human rights;
- f) practice and promote its own internal policies aimed at prohibiting and preventing unfair discrimination [as further referred to in clause 22 – *Equality and Diversity*];
- g) treat all enquiries from Transnet in connection with the Services with courtesy and respond to all enquiries promptly and efficiently. Where the Service Provider is unable to comply with the provisions of this clause, the Service Provider will advise Transnet of the delay and the reasons therefor and will keep Transnet informed of progress made regarding the enquiry;
- h) when requested by Transnet, provide clear and accurate information regarding the Service Provider's own policies and procedures, excluding Know-How and other Confidential Information, except where a non-disclosure undertaking has been entered into between the Parties;
- i) not allow a conflict of interest to develop between its own interests [or the interests of any of its other customers] and the interests of Transnet;
- j) not accept or offer, nor allow, induce or promote the acceptance or offering of any gratuity, enticement, incentive or gift that could reasonably be regarded as bribery or an attempt to otherwise exert undue influence over the recipient;
- k) not mislead Transnet or its officers, employees and stakeholders, whether by act or omission;
- l) not otherwise act in an unethical manner or do anything which could reasonably be expected to damage or tarnish Transnet's reputation or business image; and
- m) immediately report to Transnet any unethical, fraudulent or otherwise unlawful conduct of which it becomes aware in connection with Transnet or the provision of Services.

9 FEES AND EXPENSES

- 9.1 In consideration of the provision of the Services, Transnet will pay to the Service Provider the Fees detailed in the relevant schedule or Work Order.
- 9.2 Transnet will not be invoiced for materials used in the provision of the Services save for those materials [if any] set out in the Work Order and accepted by Transnet or in any relevant Work Order [which will be invoiced to Transnet at cost].
- 9.3 Unless otherwise agreed in a schedule or Work Order, Transnet will reimburse to the Service Provider all reasonable and proper expenses incurred directly and solely in connection with the provision of the Services, provided that all such expenses:
 - a) are agreed by Transnet in advance;
 - b) are incurred in accordance with Transnet's standard travel and expenses policies;
 - c) are passed on to Transnet at cost with no administration fee; and
 - d) will only be reimbursed if supported by relevant receipts.

- 9.4 All Tax Invoices relating to Fees, out of pocket expenses and, if applicable, travel and accommodation costs, will provide the detail for each of the Personnel carrying out the Services and incurring the expenses, and the Tax Invoice will, where appropriate, include VAT as a separate item.

10 INVOICING AND PAYMENT

- 10.1 Transnet shall pay the Service Provider the amounts stipulated in the relevant schedule or Work Order, subject to the terms and conditions of the Agreement.
- 10.2 Transnet shall pay such amounts to the Service Provider, upon receipt of a valid and undisputed Tax Invoice together with the supporting documentation as specified in the Work Order appended hereto, once the undisputed Tax Invoices, or such portion of the Tax Invoices which are undisputed become due and payable to the Service Provider for the provision of the Services, in terms of clause 10.4 below.
- 10.3 All Fees and other sums payable under the Agreement are exclusive of VAT, which will be payable at the applicable rate.
- 10.4 Unless otherwise provided for in the Work Order(s) appended to the Agreement, Tax Invoices shall be submitted together with a month-end statement. Payment against such month-end statement shall be made by Transnet within 30 [thirty] days after date of receipt by Transnet of the statement together with all undisputed Tax Invoices and supporting documentation.
- 10.5 Where the payment of any Tax Invoice, or any part thereof which is not in dispute, is not made in accordance with this clause 10, the Service Provider shall be entitled to charge interest on the outstanding amount, at The Standard Bank of South Africa's prime rate of interest in force, for the period from the due date of payment until the outstanding amount is paid.

11 FEE ADJUSTMENTS

- 11.1 Fees for Services rendered in terms of the Agreement shall be subject to review as indicated in the Work Order(s) annexed hereto from time to time.
- 11.2 No less than 2 [two] months prior to any proposed Fee adjustment, the Parties shall commence negotiations for Fees for the next period or as otherwise indicated and appended hereto.
- 11.3 Should Transnet and the Service Provider fail to reach an agreement on Fees for the successive period, either Party shall be entitled to submit this matter to dispute resolution in accordance with clause 25 of this Master Agreement [*Dispute Resolution*].

12 INTELLECTUAL PROPERTY RIGHTS

12.1 Title to Confidential Information

- a) Transnet will retain all right, title and interest in and to its Confidential Information and Background Intellectual Property and the Service Provider acknowledges that it has no claim of any nature in and to the Confidential Information and Background Intellectual Property that is proprietary to Transnet. For the avoidance of doubt, all the Service Provider's Background Intellectual Property shall remain vested in the Service Provider.
- b) Transnet shall grant to the Service Provider an irrevocable, royalty free, non-exclusive licence to use Transnet's Background Intellectual Property only for the Permitted Purpose. This license shall not permit the Service Provider to sub-license to other parties.

- c) The Service Provider shall grant to Transnet an irrevocable, royalty free, non-exclusive licence to use the Service Provider's Background Intellectual Property for the Permitted Purpose. This licence shall not permit Transnet to sub-license to other parties.
- d) The Service Provider shall grant Transnet access to the Service Provider's Background Intellectual Property on terms which shall be *bona fide* negotiated between the Parties for the purpose of commercially exploiting the Foreground Intellectual Property, to the extent that such access is required.

12.2 **Title to Intellectual Property**

- a) All right, title and interest in and to Foreground Intellectual Property prepared, conceived or developed by the Service Provider, its researchers, agents and employees shall vest in Transnet and the Service Provider acknowledges that it has no claim of any nature in and to the Foreground Intellectual Property. The Service Provider shall not at any time during or after the termination or cancellation of the Agreement dispute the validity or enforceability of such Foreground Intellectual Property, or cause to be done any act or anything contesting or in any way impairing or tending to impair any part of that right, title and interest to any of the Foreground Intellectual Property and shall not counsel or assist any person to do so.
- b) Transnet shall be entitled to seek protection in respect of the Foreground Intellectual Property anywhere in the world as it shall decide in its own absolute discretion and the Service Provider shall reasonably assist Transnet in attaining and maintaining protection of the Foreground Intellectual Property.
- c) Where the Foreground Intellectual Property was created by the Service Provider or its researchers, agents and employees and where Transnet elects not to exercise its option to seek protection or decides to discontinue the financial support of the prosecution or maintenance of any such protection, Transnet shall notify the Service Provider who shall have the right of first refusal to file or continue prosecution or maintain any such applications and to maintain any protection issuing on the Foreground Intellectual Property.
- d) No consideration shall be paid by Transnet to the Service Provider for the assignment of any Foreground Intellectual Property from the Service Provider to Transnet, over and above the sums payable in terms of the Agreement. The Service Provider undertakes to sign all documents and do all things as may be necessary to effect, record and perfect the assignment of the Foreground Intellectual Property to Transnet.
- e) Subject to anything contrary contained in the Agreement and/or the prior written consent of Transnet [which consent shall not be unreasonably be withheld or delayed], the Service Provider shall under no circumstances be entitled as of right, or to claim the right, to use Transnet's Background Intellectual Property and/or Foreground Intellectual Property.

12.3 **Title to Improvements**

Any improvements, developments, adaptations and/or modifications to the Foreground Intellectual Property, and any and all new inventions or discoveries, based on or resulting from the use of Transnet's Background Intellectual Property and/or Confidential Information shall be exclusively owned by Transnet. The Service Provider shall disclose promptly to Transnet all such improvements, developments, adaptations and/or modifications, inventions or discoveries. The

Service Provider hereby undertakes to sign all documents and do all things as may be necessary to effect, record and perfect the assignment of such improvements, developments, adaptations and/or modifications, inventions or discoveries to Transnet and the Service Provider shall reasonably assist Transnet in attaining, maintaining or documenting ownership and/or protection of the improved Foreground Intellectual Property.

12.4 **Unauthorised Use of Confidential Information**

The Service Provider shall not authorise any party to act on or use in any way any Confidential Information belonging to Transnet whether or not such party is aware of such Confidential Information, and shall promptly notify Transnet of the information if it becomes aware of any party so acting, and shall provide Transnet the information with such assistance as Transnet reasonably requires, at Transnet's cost and expense, to prevent such third party from so acting.

12.5 **Unauthorised Use of Intellectual Property**

- a) The Service Provider agrees to notify Transnet in writing of any conflicting uses of, and applications of registrations of Patents, Designs and Trade Marks or any act of infringement, unfair competition or passing off involving the Intellectual Property of Transnet of which the Service Provider acquires knowledge and Transnet shall have the right, as its own option, to proceed against any party infringing its Intellectual Property.
- b) It shall be within the sole and absolute discretion of Transnet to determine what steps shall be taken against the infringer and the Service Provider shall co-operate fully with Transnet, at Transnet's cost, in whatever measure including legal action to bring any infringement of illegal use to an end.
- c) The Service Provider shall cooperate to provide Transnet promptly with all relevant ascertainable facts.
- d) If proceedings are commenced by Transnet alone, Transnet shall be responsible for all expenses but shall be entitled to all damages or other awards arising out of such proceedings. If proceedings are commenced by both Parties, both Parties will be responsible for the expenses and both Parties shall be entitled to damages or other awards arising out of proceedings.

13 SERVICE PROVIDER'S PERSONNEL

13.1 The Service Provider's Personnel shall be regarded at all times as employees, agents or Subcontractors of the Service Provider and no relationship of employer and employee shall arise between Transnet and any Service Provider Personnel under any circumstances regardless of the degree of supervision that may be exercised over the Personnel by Transnet.

13.2 The Service Provider warrants that all its Personnel will be entitled to work in South Africa or any other country in which the Services are to be performed.

13.3 The Service Provider will ensure that its Personnel comply with all reasonable requirements made known to the Service Provider by Transnet concerning conduct at any Transnet premises or any other premises upon which the Services are to be performed [including but not limited to security regulations, policy standards and codes of practice and health and safety requirements]. The Service Provider will ensure that such Personnel at all times act in a lawful and proper manner in accordance with these requirements.

- 13.4 Transnet reserves the right to refuse to admit or to remove from any premises occupied by or on behalf of it, any Service Provider Personnel whose admission or presence would, in the reasonable opinion of Transnet, be undesirable or who represents a threat to confidentiality or security or whose presence would be in breach of any rules and regulations governing Transnet's Personnel, provided that Transnet notifies the Service Provider of any such refusal [with reasons why]. The reasonable exclusion of any such individual from such premises shall not relieve the Service Provider from the performance of its obligations under the Agreement.
- 13.5 The Service Provider agrees to use all reasonable endeavours to ensure the continuity of its Personnel assigned to perform the Services. If any re-assignment by the Service Provider of those Personnel is necessary, or if Transnet advises that any such Personnel assigned are in any respect unsatisfactory, including where any such Personnel are, or are expected to be or have been absent for any period, then the Service Provider will promptly supply a replacement of equivalent calibre and experience, and any such replacement shall be approved by Transnet prior to commencing provision of the Services, such approval not to be unreasonably withheld or delayed.

14 LIMITATION OF LIABILITY

- 14.1 Neither Party excludes or limits liability to the other Party for:
- a) death or personal injury due to negligence; or
 - b) fraud.
- 14.2 The Service Provider shall indemnify and keep Transnet indemnified from and against liability for damage to any Transnet property [whether tangible or intangible] or any other loss, costs or damage suffered by Transnet to the extent that it results from any act of or omission by the Service Provider or its Personnel in connection with the Agreement. The Service Provider's liability arising out of this clause 14.2 shall be limited to a maximum amount payable in respect of any one occurrence or a series of related occurrences in a single calendar year, such amount to be agreed in writing by the Parties.
- 14.3 Subject always to clauses 14.1 and 14.2 above, the liability of either the Service Provider or Transnet under or in connection with the Agreement, whether for negligence, misrepresentation, breach of contract or otherwise, for direct loss or damage arising out of each Default or series of related Defaults shall not exceed 100% [one hundred per cent] of the Fees paid under the schedule or Work Order to which the Default(s) relates.
- 14.4 Subject to clause 14.1 above, and except as provided in clauses 14.2 and 14.3 above, in no event shall either Party be liable to the other for indirect or consequential loss or damage or including indirect or consequential loss of profits, business, revenue, goodwill or anticipated savings of an indirect nature or loss or damage incurred by the other Party as a result of third party claims.
- 14.5 If for any reason the exclusion of liability in clause 14.4 above is void or unenforceable, either Party's total liability for all loss or damage under the Agreement shall be as provided in clause 14.3 above.
- 14.6 Nothing in this clause 14 shall be taken as limiting the liability of the Service Provider in respect of clause 12 [*Intellectual Property Rights*] or clause 16 [*Confidentiality*].

15 INSURANCES

- 15.1 Without limiting the liability of the Service Provider under the Agreement, the Service Provider shall take out insurance in respect of all risks for which it is prudent for the Service Provider to insure against, including any liability it may have as a result of its activities under the Agreement for theft, destruction, death or injury to any person and damage to property. The level of insurance will be kept under review by Transnet, on an annual basis, to ensure its adequacy, provided that any variation to the level of such insurance shall be entirely at the discretion of the Service Provider.
- 15.2 The Service Provider shall arrange insurance with reputable insurers and will produce to Transnet evidence of the existence of the policies on an annual basis within 30 [thirty] days after date of policy renewals.
- 15.3 Subject to clause 15.4 below, if the Service Provider fails to effect adequate insurance under this clause 15, it shall notify Transnet in writing as soon as it becomes aware of the reduction or inadequate cover and Transnet may arrange or purchase such insurance. The Service Provider shall promptly reimburse Transnet for any premiums paid provided such insurance protects the Service Provider's liability. Transnet assumes no responsibility for such insurance being adequate to protect all of the Service Provider's liability.
- 15.4 In the event that the Service Provider receives written notice from its insurers advising of the termination of its insurance cover referred to in clause 15.1 above or if the insurance ceases to be available upon commercially reasonable terms, the Service Provider shall immediately notify Transnet in writing of such termination and/or unavailability, whereafter either the Service Provider or Transnet may terminate the Agreement on giving the other Party not less than 30 [thirty] days prior written notice to that effect.

16 CONFIDENTIALITY

- 16.1 The Parties hereby undertake the following, with regard to Confidential Information:
- a) not to divulge or disclose to any person whomsoever in any form or manner whatsoever, either directly or indirectly, any Confidential Information of the other, without the prior written consent of such other Party, other than when called upon to do so in accordance with a statute, or by a court having jurisdiction, or by any other duly authorised and empowered authority or official, in which event the Party concerned shall do what is reasonably possible to inform the other of such a demand and each shall assist the other in seeking appropriate relief or the instituting of a defensive action to protect the Confidential Information concerned;
 - b) not to use, exploit, permit the use of, directly or indirectly, or in any other manner whatsoever apply the Confidential Information, disclosed to it as a result of the Agreement, for any purpose whatsoever other than for the purpose for which it is disclosed or otherwise than in strict compliance with the provisions in the Agreement;
 - c) not to make any notes, sketches, drawings, photographs or copies of any kind of any part of the disclosed Confidential Information, without the prior written consent of such other Party, except when reasonably necessary for the purpose of the Agreement, in which case such copies shall be regarded as Confidential Information;

- d) not to de-compile, disassemble or reverse engineer any composition, compilation, concept application, item, component de-compilation, including software or hardware disclosed and shall not analyse any sample provided by Transnet, or otherwise determine the composition or structure or cause to permit these tasks to be carried out except in the performance of its obligations pursuant to the Agreement;
- e) not to exercise less care to safeguard Transnet Confidential Information than the Party exercises in safeguarding its own competitive, sensitive or Confidential Information;
- f) Confidential Information disclosed by either Party to the other or by either Party to any other party used by such Party in the performance of the Agreement, shall be dealt with as "restricted" or shall be dealt with according to any other appropriate level of confidentiality relevant to the nature of the information concerned, agreed between the Parties concerned and stipulated in writing for such information in such cases;
- g) the Parties shall not make or permit to be made by any other person subject to their control, any public statements or issue press releases or disclose Confidential Information with regard to any matter related to the Agreement, unless written authorisation to do so has first been obtained from the Party first disclosing such information;
- h) each Party shall be entitled to disclose such aspects of Confidential Information as may be relevant to one or more technically qualified employees or consultants of the Party who are required in the course of their duties to receive the Confidential Information for the Permitted Purpose provided that the employee or consultant concerned has a legitimate interest therein, and then only to the extent necessary for the Permitted Purpose, and is informed by the Party of the confidential nature of the Confidential Information and the obligations of the confidentiality to which such disclosure is subject and the Party shall ensure such employees or consultants honour such obligations;
- i) each Party shall notify the other Party of the name of each person or entity to whom any Confidential Information has been disclosed as soon as practicable after such disclosure;
- j) each Party shall ensure that any person or entity to which it discloses Confidential Information shall observe and perform all of the covenants the Party has accepted in the Agreement as if such person or entity has signed the Agreement. The Party disclosing the Confidential Information shall be responsible for any breach of the provisions of the Agreement by the person or entity; and
- k) each Party may by written notice to the other Party specify which of the Party's employees, officers or agents are required to sign a non-disclosure undertaking.

16.2 The duties and obligations with regard to Confidential Information in this clause 16 shall not apply where:

- a) a Party can demonstrate that such information is already in the public domain or becomes available to the public through no breach of the Agreement by that Party, or its Personnel; or
- b) was rightfully in a Party's possession prior to receipt from the other Party, as proven by the first-mentioned Party's written records, without an infringement of an obligation or duty of confidentiality; or
- c) can be proved to have been rightfully received by a Party from a third party without a breach of a duty or obligation of confidentiality; or

d) is independently developed by a Party as proven by its written records.

16.3 This clause 16 shall survive termination for any reason of the Agreement and shall remain in force and effect from the Commencement Date of the Agreement and 5 [five] years after the termination of the Agreement. Upon termination of the Agreement, all documentation furnished to the Service Provider by Transnet pursuant to the Agreement shall be returned to Transnet including, without limitation all corporate identity equipment including dyes, blocks, labels, advertising matter, printing matter and the like.

17 TOTAL OR PARTIAL FAILURE TO PERFORM THE SCOPE OF SERVICES

Should the Service Provider fail or neglect to execute the work or to deliver any portion of the Service, as required by the terms of the Agreement or Work Order, Transnet may cancel the Agreement or Work Order in so far as it relates to the unexecuted work or rejected portion of the Service, and, in such event, the provision of any remaining commitment shall remain subject in all respects to these conditions.

18 TERM AND TERMINATION

18.1 Notwithstanding the date of signature hereof, the Commencement Date if the Agreement is [●] and the duration shall be for a [●] [[●]] year period, expiring on [●], unless:

- a) the Agreement is terminated by either Party in accordance with the provisions incorporated herein or in any schedules or annexures appended hereto, or otherwise in accordance with law or equity; or
- b) the Agreement is extended at Transnet's option for a further period to be agreed by the Parties.

18.2 Either Party may terminate the Agreement forthwith by notice in writing to the other Party where the other Party has committed a material Default and, where such Default is capable of remedy, has failed to remedy such Default within 30 [thirty] days of receiving notice specifying the Default and requiring its remedy.

18.3 Either Party may terminate the Agreement forthwith by notice in writing to the other Party when the other Party is unable to pay its debts as they fall due or commits any act or omission which would be an act of insolvency in terms of the Insolvency Act, 24 of 1936 [as may be amended from time to time], or if any action, application or proceeding is made with regard to it for:

- a) a voluntary arrangement or composition or reconstruction of its debts;
- b) its winding-up or dissolution;
- c) the appointment of a liquidator, trustee, receiver, administrative receiver or similar officer; or
- d) any similar action, application or proceeding in any jurisdiction to which it is subject.

18.4 Transnet may terminate the Agreement at any time within 2 [two] months of becoming aware of a change of control of the Service Provider by notice in writing to the Service Provider. For the purposes of this clause, "control" means the right to direct the affairs of a company whether by ownership of shares, membership of the board of directors, agreement or otherwise.

18.5 Transnet may cancel any schedule or Work Order hereto at any time on giving the Service Provider 30 [thirty] days' written notice.

18.6 Notwithstanding this clause 18, either Party may cancel the Agreement without cause by giving 30 [thirty] days prior written notice thereof to the other Party.

19 CONSEQUENCE OF TERMINATION

19.1 Termination in accordance with clause 18 [*Term and Termination*] shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to either Party and all provisions which are to survive the Agreement or impliedly do so shall remain in force and in effect.

19.2 On termination of the Agreement or a Work Order, the Service Provider will immediately deliver up, and procure that its Personnel will immediately deliver up to Transnet, all Deliverables and property belonging to Transnet [or, in the event of termination of a Work Order, such as is relevant to that Work Order] which may be in the possession of, or under the control of the Service Provider, and certify to Transnet in writing that this has been done.

19.3 To the extent that any of the Deliverables and property referred to in clause 19.2 above are in electronic form and contained on non-detachable storage devices, the Service Provider will provide Transnet with unencrypted copies of the same on magnetic media and will irretrievably destroy and delete copies so held.

19.4 In the event that the Agreement is terminated by the Service Provider under clause 18.2 [*Term and Termination*], or in the event that a Work Order is terminated by Transnet under clause 18.5 [*Term and Termination*], Transnet will pay to the Service Provider all outstanding Fees [apportioned on a *pro rata* basis] relating to the work undertaken by the Service Provider up until the date of such termination. Transnet will also pay the costs of any goods and materials ordered by the Service Provider in relation to the such work for which the Service Provider has paid or is legally obliged to pay, in which case, on delivery of such goods or materials, the Service Provider will promptly deliver such goods and materials to Transnet or as it may direct.

19.5 The provisions of clauses 1 [*Definitions*], 6 [*Warranties*], 12 [*Intellectual Property Rights*], 14 [*Limitation of Liability*], 16 [*Confidentiality*], 19 [*Consequence of Termination*], 25 [*Dispute Resolution*] and 29 [*Governing Law*] shall survive termination or expiry of the Agreement.

19.6 If either Party [**the Defaulting Party**] commits a material breach of the Agreement and fails to remedy such breach within 30 [thirty] Business Days of written notice thereof, the other Party [hereinafter **the Aggrieved Party**], shall be entitled, in addition to any other rights and remedies that it may have in terms of the Agreement, to terminate the Agreement forthwith without any liability and without prejudice to any claims which the Aggrieved Party may have for damages against the Defaulting Party.

19.7 Should:

- a) the Service Provider effect or attempt to effect a compromise or composition with its creditors; or
- b) either Party be provisionally or finally liquidated or placed under judicial management, whether provisionally or finally; or
- c) either Party cease or threaten to cease to carry on its normal line of business or default or threaten to default in the payment of its liabilities generally, or commit any act or omission which would be an act of insolvency in terms of the Insolvency Act, 24 of 1936 [as may be amended from time to time];

then the other Party shall be entitled, but not obliged, to terminate the Agreement on written notice, in which event such termination shall be without any liability and without prejudice to any claims which either Party may have for damages against the other.

20 ASSIGNMENT

Neither Party may assign the benefit of the Agreement or any interest hereunder except with the prior written consent of the other. Further, in the event that Transnet wishes to assign or novate the Agreement to any third party, the Service Provider agrees that it shall not unreasonably withhold or delay its consent to such assignment or novation and that it shall only be entitled to recover from Transnet any reasonable legal costs incurred by it as a direct result of such assignment or novation.

21 FORCE MAJEURE

21.1 Neither Party shall have any claim against the other Party arising from any failure or delay in the performance of any obligation of either Party under the Agreement caused by an act of *force majeure* such as acts of God, fire, flood, war, strike, lockout, industrial dispute, government action, laws or regulations, riots, terrorism or civil disturbance, defaults, delays or discontinuance on the part of independent contractors, suppliers, or other circumstances or factors beyond the reasonable control of either Party, and to the extent that the performance of obligations of either Party hereunder is delayed by virtue of the foregoing, any period stipulated for any such performance shall be reasonably extended.

21.2 Each Party will take all reasonable steps by whatever lawful means that are available, to resume full performance as soon as practicable and will seek agreement to modification of the relevant provisions of the Agreement in order to accommodate the new circumstances caused by the act of *force majeure*. If a Party fails to agree to such modifications proposed by the other Party within 90 [ninety] days of the act of *force majeure* first occurring, either Party may thereafter terminate the Agreement with immediate notice.

22 EQUALITY AND DIVERSITY

22.1 The Service Provider will not victimise, harass or discriminate against any employee of either Party to the Agreement or any applicant for employment with either Party to the Agreement due to their gender, race, disability, age, religious belief, sexual orientation or part-time status. This provision applies, but is not limited to employment, upgrading, work environment, demotion, transfer, recruitment, recruitment advertising, termination of employment, rates of pay or other forms of compensation and selection for training.

22.2 Both Parties to the Agreement undertake that they will not, and shall procure that its employees, agents and Subcontractors will not breach any applicable discrimination legislation and any amendments and re-enactments thereof.

23 NON-WAIVER

23.1 Failure or neglect by either Party, at any time, to enforce any of the provisions of the Agreement, shall not, in any manner, be construed to be a waiver of any of that Party's rights in that regard and in terms of the Agreement.

23.2 Such failure or neglect shall not, in any manner, affect the continued, unaltered validity of the Agreement, or prejudice the right of that Party to institute subsequent action.

24 PARTIAL INVALIDITY

If any provision of the Agreement shall be held to be invalid, illegal or unenforceable, or shall be required to be modified, the validity, legality and enforceability of the remaining provisions shall not be affected thereby.

25 DISPUTE RESOLUTION

25.1 Should any dispute of whatsoever nature arise between the Parties concerning the Agreement, the Parties shall try to resolve the dispute by negotiation within 10 [ten] Business Days of such dispute arising.

25.2 If the dispute has not been resolved by such negotiation, either of the Parties may refer the dispute to AFSA and notify the other Party accordingly, which proceedings shall be held in Johannesburg.

25.3 Such dispute shall be finally resolved in accordance with the rules of AFSA by an arbitrator or arbitrators appointed by AFSA.

25.4 This clause constitutes an irrevocable consent by the Parties to any proceedings in terms hereof, and neither of the Parties shall be entitled to withdraw from the provisions of this clause or claim at any such proceedings that it is not bound by this clause 25.

25.5 This clause 25 is severable from the rest of the Agreement and shall remain in effect even if the Agreement is terminated for any reason.

25.6 This clause 25 shall not preclude either Party from seeking urgent relief in a court of appropriate jurisdiction, where grounds for urgency exist.

26 ADDRESSES FOR NOTICES

26.1 The Parties to the Agreement select the physical addresses and facsimile numbers, as detailed hereafter, as their respective addresses for giving or sending any notice provided for or required in terms of the Agreement, provided that either Party shall be entitled to substitute such other address or facsimile number, as may be, by written notice to the other:

a) **Transnet**

(i) For legal notices: [●]
Fax No. [●]
Attention: Legal Counsel

(ii) For commercial matters: [●]
Fax No. [●]
Attention: [●]

b) **The Service Provider**

(i) For legal notices: [●]
Fax No. [●]
Attention: [●]

(ii) For commercial matters: [●]

Fax No. [●]

Attention: [●]

26.2 Any notice shall be addressed to a Party at its physical address or delivered by hand, or sent by facsimile.

26.3 Any notice shall be deemed to have been given:

- a) if hand delivered, on the day of delivery; or
- b) if posted by prepaid registered post, 10 [ten] days after the date of posting thereof; or
- c) if faxed, on the date and time of sending of such fax, as evidenced by a fax confirmation printout, provided that such notice shall be confirmed by prepaid registered post on the date of dispatch of such fax, or, should no postal facilities be available on that date, on the next Business Day.

27 WHOLE AND ONLY AGREEMENT

27.1 The Parties hereby confirm that the Agreement constitutes the whole and only agreement between them with regard to the subject matter of the Agreement.

27.2 The Parties hereby confirm that the Agreement replaces all other agreements which exist or may have existed in any form whatever between them, with regard to the subject matter dealt with in the Agreement, including any annexures, appendices, schedules or Work Order(s) appended hereto.

28 AMENDMENT AND CHANGE CONTROL

28.1 Any requirement for an amendment or change to the Agreement or to a Work Order shall only be valid if it is in writing, signed by both Parties and added to the Agreement as an addendum hereto.

28.2 In the event the Parties cannot agree upon changes, the Parties shall in good faith seek to agree any proposed changes using the dispute resolution procedures in clause 25 [*Dispute Resolution*].

29 GOVERNING LAW

The Agreement is exclusively governed by and construed in accordance with the laws of the Republic of South Africa and is subject to the jurisdiction of the courts of the Republic of South Africa.

29.1 Change of Law

In the Agreement, unless the context otherwise requires, references to a statutory provision include references to that statutory provision as from time to time amended, extended or re-enacted and any regulations made under it, provided that in the event that the amendment, extension or re-enactment of any statutory provision or introduction of any new statutory provision has a material impact on the obligations of either Party, the Parties will negotiate in good faith to agree such amendments to the Agreement as may be appropriate in the circumstances. If, within a reasonable period of time, the Service Provider and Transnet cannot reach agreement on the nature of the changes required or on modification of Fees, Deliverables, warranties, or other terms and conditions, either Party may seek to have the matter determined in accordance with clause 25 [*Dispute Resolution*] above.

30 COUNTERPARTS

The Agreement may be signed in any number of counterparts, all of which taken together shall constitute one and the same instrument. Either Party may enter into the Agreement by signing any such counterpart.

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"Preview Copy Only"