

## NEC3 Professional Services Contract

entered into by and between

### Transnet SOC Ltd

Registration Number 1990/000900/30

(hereinafter referred to as the "*Employer*")

and

**PENDING**

**Tender Number**

**CPT 3414262.001**

**Description**

**Provision of Consultancy Services during the design and construction of the Grootvlei Station Coal Offloading Terminal**

"PREVIEW COPY ONLY"

## CONTRACT DOCUMENTS

**Form of Offer and Acceptance**

**Contract Data**

**Part One – Data provided by the *Employer***

**Part Two – Data provided by the *Consultant***

**Conditions of Contract** (3<sup>rd</sup> Edition – available separately)

**Pricing Data**

**Scope of Work / Scope of Services**

**Site Information**

**Appendices**

"PREVIEW COPY ONLY"

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## T1.1 Tender Notice and Invitation to Tender

Transnet SOC Ltd invites tenders for **PROVISION OF CONSULTANCY SERVICES DURING THE DESIGN AND CONSTRUCTION OF THE GROOTVLEI STATION COAL OFFLOADING TERMINAL**

Potentially emerging enterprises who satisfy criteria stated in the Tender Data may submit tender offers.

Preferences are offered to tenderers who have a valid SANAS accredited BBBEE Certificate.

The physical address for collection of tender documents is Transnet Freight Rail RME, Cnr. Jet Park and North Reef Road, Elandsfontein

Documents may be collected during working hours after 10:00 from Thursday, 11 July 2013.

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

Mr/Ms Estelle van Wyk  
Tel No (021) 940 1901  
Fax No. 021 940 1940  
Vax No. 086 646 4092  
Email [estelle.vanwyk@transnet.net](mailto:estelle.vanwyk@transnet.net)

A **compulsory clarification** meeting with representatives of the Employer will take place at Grootvlei, RME Office on Thursday, 18 July 2013 starting at 14:00hrs.

The closing time for receipt of tenders is 10:00hrs on Friday, 02 August 2013. Telegraphic, telephonic, facsimile, e-mail and late tenders will not be accepted.

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

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

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

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

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

(To be returned within 3 days after receipt)

FAX TO: Transnet Freight Rail RME	Project No.: 3414262
Fax No. 086 646 4092	Tender No.: CPT 3414262.001
Attention: Estelle van Wyk	Closing Date: Friday, 02 August 2013

**For: PROVISION OF CONSULTANCY SERVICES DURING THE DESIGN AND CONSTRUCTION OF  
THE GROOTVLEI STATION COAL OFFLOADING TERMINAL**

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

REASON FOR NOT TENDERING:

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

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

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

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

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

## T1.2 Tender Data

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

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

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

Clause	Data
F.1.1 The Employer is	Transnet SOC Ltd (Reg No. 1990/000900/30)
F.1.2 The tender documents issued by the Employer comprise:	
<b>Part T: The Tender</b>	
<b>Part T1: Tendering procedures</b>	T1.1 Tender notice and invitation to tender T1.2 Tender data
<b>Part T2 : Returnable documents</b>	T2.1 List of returnable documents T2.2 Returnable schedules
<b>Part C: The contract</b>	
<b>Part C1: Agreements and contract data</b>	C1.1 Form of offer and acceptance C1.2 Contract data (Part 1 & 2)
<b>Part C2: Pricing data</b>	C2.1 Pricing instructions C2.2 Activity Schedule
<b>Part C3: Scope of Service</b>	C3 Scope of Services
F.1.4 The Employer's agent is:	Transnet Freight Rail RME
Name:	Estelle van Wyk
Address:	Bellville Square, off Robert Sobukwe Road, behind Transnet Park, Bellville South
Tel No.	(021) 940 1901
Fax No.	086 646 4092
E – mail	estelle.vanwyk@transnet.net
F1.6 The competitive negotiation procedure may be applied.	

F.2.1 Only those tenderers who satisfy the following eligibility criteria are eligible to submit tenders:

1. Pre-Qualifying Quality (Functionality) Criteria

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

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

Quality criteria	Maximum number
Program	40
Management and CV's of Key People	30
Previous Experience	30
<b>Maximum possible score for quality (W<sub>Q</sub>)</b>	<b>100</b>

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

- T2.2-2 Program
- T2.2-7 Management and CV's of key people
- T2.2-25 Previous Experience

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

The persons named in the Schedule of Key Persons of tenderers who satisfy the minimum quality criteria may be invited to an interview. Tenderers who attain a score of less than 50% of the points allocated to the interview will be declared ineligible to tender.

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

**Note: Any tender not complying with the above mentioned stipulation, numbered 1 will be regarded as non-responsive and will therefore not be considered for further evaluation**

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

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

F.2.12 No alternative tender offers will be considered

F.2.13.3 Parts of each tender offer communicated on paper shall be as an original.

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

Location of tender box	The Foyer of Bellville Square (TRANSNET FREIGHT RAIL RME)
Physical address:	Bellville Square, off Robert Sobukwe Road, Bellville South
Identification details:	<p>The tender documents must be submitted in a sealed envelope labelled with:</p> <ul style="list-style-type: none"> <li>▪ Name of Tenderer: (insert company name)</li> <li>▪ Contact person and details: (Insert details)</li> <li>▪ The Tender Number: CPT 3414262.001</li> <li>▪ The Tender Description: PROVISION OF CONSULTANCY SERVICES DURING THE DESIGN AND CONSTRUCTION OF THE GROOTVLEI STATION COAL OFFLOADING TERMINAL</li> </ul>

Documents must be marked for the attention of: The Contract Specialist: Mrs Estelle van Wyk

Prior arrangement on the submittal of large tender documents should be made with the Procurement Manager.

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

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

F.2.16 The tender offer validity period is 8 weeks

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

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

1. an **original** or a **certified copy** of a **valid** Tax Clearance Certificate issued by the South African Revenue Services;
2. A valid SANAS B-BBEE accreditation certificate,
3. All Returnable Documents listed in Section T2.1.

F.3.4 The time and location for opening of the tender offers are:  
 Time 10:00 on Friday, 02 August 2013  
 Location: Transnet Freight Rail RME, Bellville Square Foyer, off Robert Sobukwe Road, behind Transnet Park, Bellville South



F.3.11.3 The procedure for the evaluation of responsive tenders is Method 2.  
F.3.13.7

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

90 where the financial value inclusive of VAT of one or more responsive tender offers have a value that equals or is higher than R 1,000 000

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

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

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F.3.13 Tender offers will only be accepted if:

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

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F.3.17 The number of paper copies of the signed contract to be provided by the Employer is 1 (one).

## T1.3 CIDB Standard Conditions of Tender

January 2009 Edition



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

### F.1 General

#### F.1.1 Actions

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

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

- Note:**
- 1) A conflict of interest may arise due to a conflict of roles which might provide an incentive for improper acts in some circumstances. A conflict of interest can create an appearance of impropriety that can undermine confidence in the ability of that person to act properly in his or her position even if no improper acts result.
  - 2) Conflicts of interest in respect of those engaged in the procurement process include direct, indirect or family interests in the tender or outcome of the procurement process and any personal bias, inclination, obligation, allegiance or loyalty which would in any way affect any decisions taken.

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

#### F.1.2 Tender Documents

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

#### F.1.3 Interpretation

- F.1.3.1** The tender data and additional requirements contained in the tender schedules that are included in the returnable documents are deemed to be part of these conditions of tender.
- F.1.3.2** These conditions of tender, the tender data and tender schedules which are only required for tender evaluation purposes, shall not form part of any contract arising from the invitation to tender.
- F.1.3.3** For the purposes of these conditions of tender, the following definitions apply:
- a) **conflict of interest** means any situation in which:
    - i) someone in a position of trust has competing professional or personal interests which make it difficult to fulfill his or her duties impartially;
    - ii) an individual or organisation is in a position to exploit a professional or official capacity in some way for their personal or corporate benefit; or
    - iii) incompatibility or contradictory interests exist between an employee and the organisation which employs that employee.
  - b) **comparative offer** means the tenderer's financial offer after all tendered parameters that will affect the value of the financial offer have been taken into consideration in order to enable comparisons to be made between offers on a comparative basis
  - c) **corrupt practice** means the offering, giving, receiving or soliciting of anything of value to influence the action of the employer or his staff or agents in the tender process; and
  - d) **fraudulent practice** means the misrepresentation of the facts in order to influence the tender process or the award of a contract arising from a tender offer to the detriment of the employer, including collusive practices intended to establish prices at artificial levels
  - e) **organisation** means a company, firm, enterprise, association or other legal entity, whether incorporated or not, or a public body
  - f) **quality (functionality)** means the totality of features and characteristics of a product or service that bear on its ability to satisfy stated or implied needs

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

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

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

- F.1.5.1** The employer may accept or reject any variation, deviation, tender offer, or alternative tender offer, and may cancel the tender process and reject all tender offers at any time before the formation of a contract. The employer shall not accept or incur any liability to a tenderer for such cancellation and rejection, but will give written reasons for such action upon written request to do so.
- F.1.5.2** The employer may not subsequent to the cancellation or abandonment of a tender process or the rejection of all responsive tender offers re-issue a tender covering substantially the same scope of work within a period of six months unless only one tender was received and such tender was returned unopened to the tenderer.

**F.1.6 Procurement procedures**

**F.1.6.1 General**

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

**F.1.6.2 Competitive negotiation procedure**

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

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

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

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

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

**F.1.6.3.1 Option 1**

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

**F.1.6.3.2 Option 2**

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

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

**F.2 Tenderer's obligations**

**F.2.1 Eligibility**

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

**F.2.1.2** Notify the employer of any proposed material change in the capabilities or formation of the tendering entity (or both) or any other criteria which formed part

of the qualifying requirements used by the employer as the basis in a prior process to invite the tenderer to submit a tender offer and obtain the employer's written approval to do so prior to the closing time for tenders.

**F.2.2 Cost of tendering**

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

**F.2.3 Check documents**

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

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

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

**F.2.5 Reference documents**

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

**F.2.6 Acknowledge addenda**

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

**F.2.7 Clarification meeting**

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

**F.2.8 Seek clarification**

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

**F.2.9 Insurance**

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

**F.2.10 Pricing the tender offer**

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

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

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



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

**F.2.11 Alterations to documents**

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

**F.2.12 Alternative tender offers**

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

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

**F.2.13 Submitting a tender offer**

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

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

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

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

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

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

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

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

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

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

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

**F.2.15 Closing time**

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

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

**F.2.16 Tender offer validity**

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

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

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

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

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

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

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

**F.2.18 Provide other material**

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

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

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

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

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

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

**F.2.21 Check final draft**

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

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

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

**F.2.23 Certificates**

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

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

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

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

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

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

**F.3.2 Issue Addenda**

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

**F.3.3 Return late tender offers**

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

**F.3.4 Opening of tender submissions**

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



**F.3.4.2** Announce at the meeting held immediately after the opening of tender submissions, at a venue indicated in the tender data, the name of each tenderer whose tender offer is opened and, where applicable, the total of his prices, preferences claimed and time for completion for the main tender offer only.

**F.3.4.3** Make available the record outlined in F.3.4.2 to all interested persons upon request.

**F.3.5 Two-envelope system**

**F.3.5.1** Where stated in the tender data that a two-envelope system is to be followed, open only the technical proposal of valid tenders in the presence of tenderers' agents who choose to attend at the time and place stated in the tender data and announce the name of each tenderer whose technical proposal is opened.

**F.3.5.2** Evaluate the quality of the technical proposals offered by tenderers, then advise tenderers who remain in contention for the award of the contract of the time and place when the financial proposals will be opened. Open only the financial proposals of tenderers, who score in the quality evaluation more than the minimum number of points for quality stated in the tender data, and announce the score obtained for the technical proposals and the total price and any preferences claimed. Return unopened financial proposals to tenderers whose technical proposals failed to achieve the minimum number of points for quality.

**F.3.6 Non-disclosure**

Not disclose to tenderers, or to any other person not officially concerned with such processes, information relating to the evaluation and comparison of tender offers, the final evaluation price and recommendations for the award of a contract, until after the award of the contract to the successful tenderer.

**F.3.7 Grounds for rejection and disqualification**

Determine whether there has been any effort by a tenderer to influence the processing of tender offers and instantly disqualify a tenderer (and his tender offer) if it is established that he engaged in corrupt or fraudulent practices.

**F.3.8 Test for responsiveness**

**F.3.8.1** Determine, after opening and before detailed evaluation, whether each tender offer properly received:

- a) complies with the requirements of these Conditions of Tender,
- b) has been properly and fully completed and signed, and
- c) is responsive to the other requirements of the tender documents.

**F.3.8.2** A responsive tender is one that conforms to all the terms, conditions, and specifications of the tender documents without material deviation or qualification. A material deviation or qualification is one which, in the Employer's opinion, would:

- a) detrimentally affect the scope, quality, or performance of the works, services or supply identified in the Scope of Work,
- b) significantly change the Employer's or the tenderer's risks and responsibilities under the contract, or
- c) affect the competitive position of other tenderers presenting responsive tenders, if it were to be rectified.

**F.3.8.3** Reject a non-responsive tender offer, and not allow it to be subsequently made responsive by correction or withdrawal of the non-conforming deviation or reservation.

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

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

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

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

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

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

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

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

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

### **F.3.11    Evaluation of tender offers**

#### **F.3.11.1   General**

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

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

In the case of a financial offer:

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

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

In the case of a financial offer and preferences:

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

$$TEV = NFO + NP$$

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

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

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

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

In the case of a financial offer and quality:

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

$$TEV = NFO + NQ$$

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

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

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

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

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

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

$$TEV = NFO + NP + NQ$$

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

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

#### **F.3.11.6 Decimal places**

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

#### **F.3.11.7 Scoring Financial Offers**

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

$$NFO = W1 \times A$$

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

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

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

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

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

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

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

**F.3.11.8 Scoring preferences**

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

**F.3.11.9 Scoring quality**

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

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

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

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

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

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

**F.3.13 Acceptance of tender offer**

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

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

**F.3.14 Prepare contract documents**

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

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



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

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

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

**F.3.16 Notice to unsuccessful tenderers**

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

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

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

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

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

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

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## T2.1 List of Returnable Documents

### 1. Returnable Schedules

T2.2-1	Changes to tender documents
T2.2-2	Programme
T2.2-3	Risk Elements
T2.2-7	Management and CV's of key persons
T2.2-8	Schedule of proposed Sub-consultants
T2.2-9	Insurance provided by the Consultant
T2.2-14	Authority to submit tender
T2.2-15	Certificate of attendance at tender clarification meeting
T2.2-16	Record of addenda to tender documents
T2.2-17	Compulsory Enterprise Questionnaire
T2.2-20	Quality Plan
T2.2-25	Previous experience
T2.2-27	Broad-Based Black Economic Empowerment (BBBEE)
T2.2-31	Supplier Code of Conduct
T2.2-33	Mutual Non-Disclosure Agreement
T2.2-36	RFP Declaration Form
T2.2-43	RFP – Breach of Law
T2.2-50	Preference Points Claim Form

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

T2.2-34	Supplier Declaration Form
---------	---------------------------

### 2. C1.1 Offer portion of Form of Offer & Acceptance

### 3. C1.2 Contract Data Part 2: Data by *Consultant*

### 4. C2.2 Activity Schedule

## T2.2-1 : Changes to Tender Document

Changes to the tender documents are only allowed if a main tender complying fully with the tender documents has also been provided.

Do not return this schedule if no alternative tender is submitted.

The Conditions of Tender state that the tenderer may:

**F.2.12.1** Submit alternative tender offers only if a main tender offer, strictly in accordance with all the requirements of the tender documents, is also submitted. The alternative tender offer is to be submitted with the main tender offer together with a schedule that compares the requirements of the tender documents with the alternative requirements the tenderer proposes.

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

Having examined the criteria stated in the Tender Data for this tender the proposed changes to the tender documents are:

Document No.	Subject of the proposed change	Propose to change to:

Signed

Date

Name

Position

Tenderer



## T2.2-2 : Programme

### Note to tenderers:

#### Programme

Please provide your proposed programme showing the following:

- Works identification and classification
- Designs and specifications for initial works
- Complete BOQ and programme for initial works
- Initial geotechnical investigations
- Initial geotechnical investigations – laboratory testing
- Initial works survey
- Earthworks detail design and specifications
- Earthworks design – investigations and testing
- Earthworks – construction monitoring
- Detail geotechnical studies – realignments
- Detail surveys – realignments
- Perway - detail design and material specification
- Perway - procurement and quality control
- Perway - construction monitoring
- Structures - design and specifications
- Structures - investigations and testing
- Structures - construction monitoring & QA
- Structures - strengthening investigate & design
- Detail geotechnical studies
- Concept geotechnical studies- LX elimination
- Detail surveys - relignments and structures
- LX elimination - risk assessment
- LX elimination - concept designs
- Civil design - general, fencing, drainage

Signed

Date

Name

Position

Tenderer

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

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Date \_\_\_\_\_

## Position

Position

## T2.2-7 : Management & CV's of Key Persons – PSC<sup>1</sup>

Please describe the management arrangements for the *works*.

Submit the following documents as a minimum with your tender document:

1. An organisation chart showing on site and off-site management (including the key people you have identified in the Contract Data Part two and identify the required legal appointments.)
2. CV's for people proposed for all identified posts including Safety Officer and Quality Assurance Representative.
3. Details of the location (and functions) of offices from which the *works* will be managed.
4. Details of the experience of the staff who will be working on the *works* with respect to:
  - Working with the NEC3 Professional Services Contract Option chosen for this contract. If staff experience of these matters is limited, an indication of relevant training that they have attended would be helpful.
5. An explanation of how you propose to allocate adequate resources to enable you to comply with the requirements and prohibitions imposed on you by or under the statutory provisions relating to health and safety.

**Attached submissions to this schedule:**

Signed

Date

Name

Position

Tenderer

<sup>1</sup>NEC3 Professional Services Contract (June 2005)(amended June 2006).

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

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

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

	Name and address of proposed Subcontractor/Consultant	Nature and extent of work	Previous experience with Subcontractor/Consultant.
1.			
2.			
3.			
4.			

Signed

Date

Name

Position

Tenderer

## T2.2-9 : Insurance provided by the *Consultant*

Clause 84.1 in NEC3 Professional Services Contract (June 2005)(amended June 2006) requires that the *Contractor* provides the insurance stated in the insurance table except any insurance which the *Employer* is to provide as stated in the Contract Data.

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

Insurance against (See clause 81.1 of the PSC)	Minimum amount stated in the Contract Data & Name of Insurance Company	Cover	Premium
Liability of the <i>Consultant</i> for claims made against him arising out of his failure to use the skill and care normally used by professionals providing services similar to the services	The amount stated in the Contract Data		
Liability for death of or bodily injury to a person (not an employee of the <i>Consultant</i> ) or loss of or damage to property resulting from an action or failure to take action by the <i>Consultant</i>	The amount stated in the Contract Data for any one event		
Liability for death of or bodily injury to employees of the <i>Consultant</i> arising out of and in the course of their employment in connection with this contract	The greater of the amount required by the applicable law and the amount stated in the Contract Data for any one event		
(Other)			

Signed

Date

Name

Position

Tenderer

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

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

A - COMPANY	B - PARTNERSHIP	C - JOINT VENTURE	D - SOLE PROPRIETOR

### A. Certificate for Company

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

Signed

Date

Name

Position

Chairman of the Board of Directors

## B. Certificate for Partnership

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

Name	Address	Signature	Date

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

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## C. Certificate for Joint Venture

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

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

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

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

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**D. Certificate for Sole Proprietor**

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

Signed	_____	Date	_____
Name	_____	Position	Sole Proprietor

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

This is to certify that

(Tenderer)

of

(address)

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

Held at:	Grootvlei RME Office (map to site attached)	
On (date)	Thursday, 18 July 2013	Starting time: 14:00

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

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

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

Name

Signature

Capacity

Name

Signature

Capacity

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

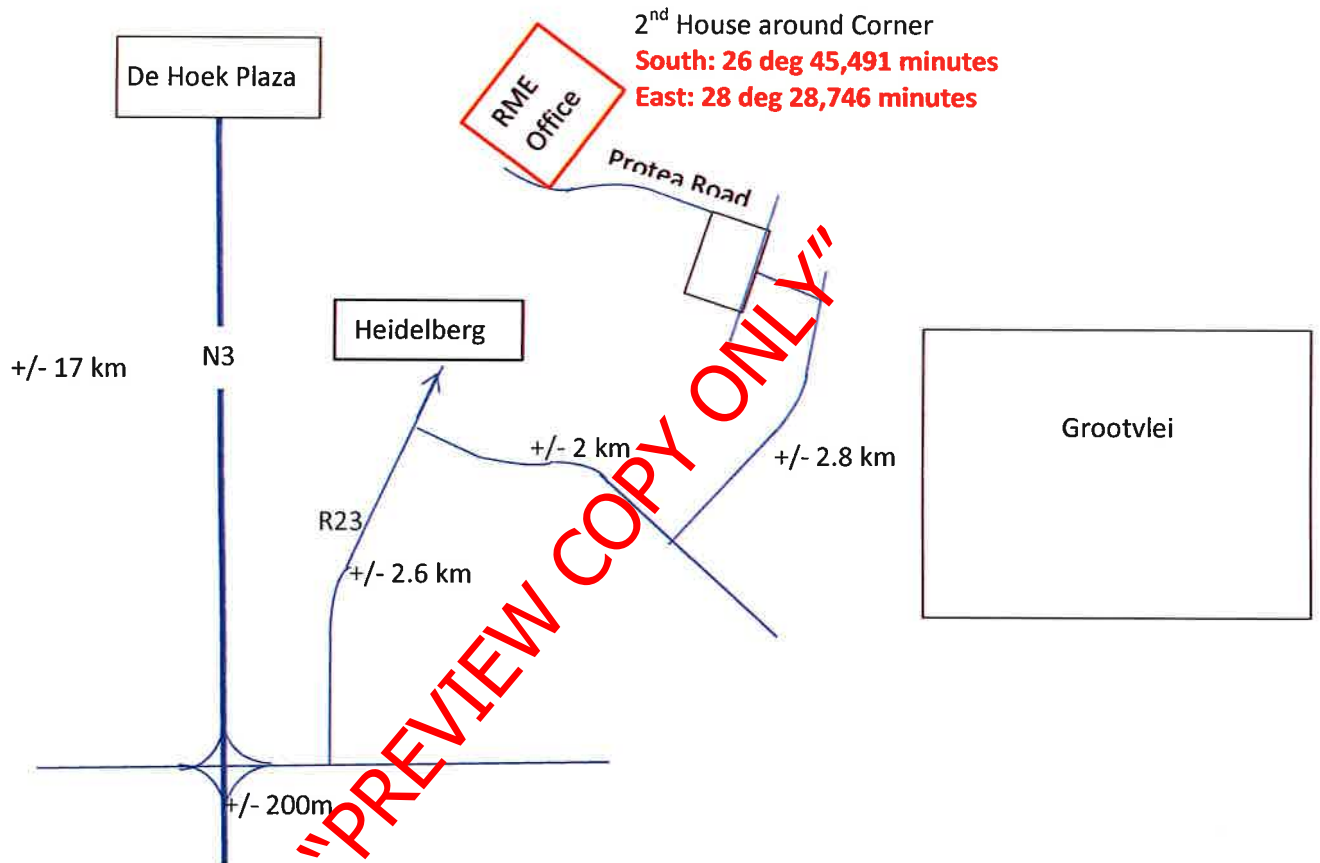
Name

Signature

Capacity

Date & time

## Directions to RME office in Grootvlei



## T2.2-17 : Compulsory Enterprise Questionnaire

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

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

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

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

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

Name	Identity number	Personal income tax number

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

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

Company registration number . . . . .

Close corporation number . . . . .

Tax reference number . . . . .

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

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

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

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

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

\*insert separate page if necessary

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

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

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

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

\*insert separate page if necessary

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

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

Signed

Date

Name

Position

Enterprise  
name



## T2.2-20 : Quality Plan

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

1. Project Quality Plan for the contract.
2. The Contractor's Quality Policy.
3. Index of procedures to be used during the contract.
4. Audit Schedule for internal and external audits during the contract.
5. ISO 9001 certification.
6. Typical Quality Manual.
7. Typical Quality Control Plan.
8. Typical data book index.

**Attached submissions to this schedule:**

"PREVIEW COPY ONLY"

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Signed

Date

Name

Position

Tenderer

**Note to tenderers:**

**Index of documentation attached to this schedule:**

"PREVIEW COPY ONLY"

Date \_\_\_\_\_

Position

Tenderer

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

### B-BBEE and preferencing scheme:

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

Transnet would therefore prefer to do business with local business enterprises who share these same values and who are prepared to contribute to meaningful B-BBEE initiatives (including, but not limited to subcontracting and Joint Ventures) as part of their tender responses. Transnet will accordingly allow a "preference" in accordance with the 90/10 preference system, as per the Preferential Procurement Policy Framework Act 5 of 2000 (as amended), to companies who provide a valid B-BBEE verification Certificate. All procurement and disposal transactions will be evaluated accordingly.

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

In terms of Government Gazette No 34612, Notice No. 754 dated 23 September 2011, as from 1 October 2011 only B-BBEE Accreditation Certificates issued by SANAS approved Verification Agencies or Registered Auditors approved by IRBA will be valid.

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

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

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

**a) Large Enterprises**

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

**b) Qualifying Small Enterprises – QSE**

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

**c) Exempted Micro Enterprises –**

- EMEs are exempted from B-BBEE verification as indicated in the DTI Codes, Statement 000 (Page 9)
- Automatic rating of Level 4 B-BBEE irrespective of race of ownership, i.e. 100% B-BBEE recognition
- Black ownership >50% or Black Women ownership >30% automatically qualify as Level 3 B-BBEE, i.e. 110% B-BBEE recognition
- Tenderers who qualify as EMEs in terms of the B-BBEE Act must submit a certificate (Which may be in the form of a letter) issued by an Accounting Officer as contemplated in the CCA or a Verification Agency accredited by SANAS or a Registered Auditor. The certificate must confirm the company turnover Black Ownership and Black Woman Ownership and B-BBEE status level.

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

A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate Tender.

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

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

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

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

Turnover:

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

ZAR.....

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

In addition to the accreditation certificate, Transnet also requires that tenderers register their B-BBEE compliance and supporting documentation on the Department of Trade and Industry's ("DTI") National B-BBEE IT Portal and Opportunities Network and **provide Transnet with proof of registration in the form of an official B-BBEE Profile issued by the DTI.**

Transnet will use the DTI B-BBEE IT Portal as a single data source for its B-BBEE supplier selection criteria and procurement improvement programme by tracking compliance, understanding spend and by sourcing future procurement opportunities.

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

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

Signed

Date

Name

Position

Tenderer



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

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

- The Transnet Procurement Policy – A guide for Tenderers.
- Section 217 of the Constitution - the five pillars of Public PSCM (Procurement and Supply Chain Management): fair, equitable, transparent, competitive and cost effective;
- The Public Finance Management Act (PFMA);
- The Broad Based Black Economic Empowerment Act (BBBEE)
- The Prevention and Combating of Corrupt Activities Act (PRECCA); and
- The Construction Industry Development Board Act (CIDB Act).

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

### ***Prohibition of Bribes, Kickbacks, Unlawful Payments, and Other Corrupt Practices***

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

#### ***1. Transnet SOC Limited will not participate in corrupt practices. Therefore, it expects its suppliers to act in a similar manner.***

- Transnet and its employees will follow the laws of this country and keep accurate business records that reflect actual transactions with, and payments to, our suppliers.
- Employees must not accept or request money or anything of value, directly or indirectly, from suppliers.
- Employees may not receive anything that is calculated to:
  - Illegally influence their judgement or conduct or to ensure the desired outcome of a sourcing activity;
  - Win or retain business or to influence any act or decision of any person involved in sourcing decisions; or
  - Gain an improper advantage.

- There may be times when a supplier is confronted with fraudulent or corrupt behaviour of Transnet employees. We expect our Suppliers to use our “Tip-offs Anonymous” Hot line to report these acts. (0800 003 056).

**2. *Transnet SOC Limited is firmly committed to the ideas of free and competitive enterprise.***

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

**3. *Transnet’s relationship with suppliers requires us to clearly define requirements, to exchange information and share mutual benefits.***

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



### ***Conflicts of Interest***

A conflict of interest arises when personal interests or activities influence (or appear to influence) the ability to act in the best interests of Transnet SOC Limited.

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

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

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

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

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

\_\_\_\_\_  
Signature

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

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

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

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

and

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

### 1. Purpose

The parties to this Agreement have a business relationship under which each party may disclose its Confidential Information to the other for **the PROVISION OF CONSULTANCY SERVICES DURING THE DESIGN AND CONSTRUCTION OF THE GROOTVLEI STATION COAL OFFLOADING TERMINAL** ("the Purpose"). Each party ("the receiving party") shall treat as confidential all information and know-how which it may receive from the other party ("the disclosing party") in terms of this Agreement (hereinafter referred to as "confidential information"), and shall not divulge to any other party in any circumstances any such confidential information, and, in particular, any such confidential information as is covered by the National Key Points Act (Act No. 102 of 1980), whether during the currency of this Agreement or at any time thereafter, without the prior written consent of the disclosing party.

### 2. Definition

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

### 3. Exclusions

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

- 3.1. is in the possession of the receiving party at the time of disclosure as shown by the receiving party's files and records immediately prior to the time of disclosure;

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

#### **4. Non-Disclosure of Confidential Information**

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

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

- 5.1. All information relating to the disclosing party and which the disclosing party has indicated to the receiving party in writing to be confidential information, shall be deemed to be confidential information.
- 5.2. No provision of this Agreement shall be construed in such a way that the disclosing party is deemed to have granted its consent to the receiving party to disclose the whole or any part of the confidential information in the event that the receiving party receives a request for the whole or any part of the confidential information in terms of the provisions of the Promotion of Access to Information Act, No.2 of 2000, as may be amended from time to time ("the Act").
- 5.3. Subject to the provisions of sub-clause 5.3 below, the disclosure of confidential information by the receiving party otherwise than in accordance with the provisions of this Agreement will

entitle the disclosing party to institute action for breach of confidence against the receiving party, as envisaged by Section 65 of Act No.2 of 2000.

- 5.4. The receiving party acknowledges that the provisions of sub-clause 5.2 above shall not be construed in such a manner as to exclude the applicability of any other grounds of refusal contained in Act No.2 of 2000 which may be applicable in the event that the receiving party receives a request for the whole or any part of the confidential information in terms of Act No.2 of 2000.

## **6. Non-Solicitation**

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

## **7. Mandatory Disclosure**

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

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

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

## **9. No License Granted**

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

## **10. No Representations**

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

## **11. Term**

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

## **12. Miscellaneous**

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

## **13. Governing Law and Jurisdiction**

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

## **14. Disputes**

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

## **15. Remedies**

Each party agrees that its obligations hereunder are necessary and reasonable in order to protect the other party and the other party's business, and expressly agrees that monetary damages may be inadequate to compensate the other party for any breach by either party of any covenants and agreements set forth herein. Accordingly, each party agrees and acknowledges that any such violation or threatened violation may cause irreparable injury to the other party and that, in addition to any other remedies that may be available, in law, in equity or otherwise, the other party shall be

entitled to obtain injunctive relief against the threatened breach of this Agreement or the continuation of any such breach, without the necessity of proving actual damages.

Signed

Date

Name

Position

Tenderer

"PREVIEW COPY ONLY"



## Supplier Declaration Form

The Financial Director or Company Secretary

Transnet Vendor Management has received a request to load your company as a Transnet vendor. We would like to take this opportunity to welcome you as a potential vendor and request that you assist with the following to enable us to process this request:

1. Complete the "Supplier Declaration Form" (SDF) on page 2 of this letter
2. Original of cancelled cheque **OR** letter from the bank verifying banking details (**with bank stamp**)
3. Certified copy of Identity document of Shareholders/Directors/Members (where applicable)
4. Certified copy of certificate of incorporation, CM29/CM9 (name change)
5. Certified copy of share Certificates of Shareholders, CK1/CK2 (if CC)
6. A letter with the company's letterhead confirming physical and postal address
7. Original or certified copy of SARS Tax Clearance certificate and Vat registration certificate
8. A signed letter from the Auditor / Accountant confirming most recent annual turnover and percentage black ownership in the company **AND/OR** BBBEE certificate and detailed scorecard from a SANAS Accredited Verification Agency.

**NB:**

- **Failure to submit the above documentation will delay the vendor creation process.**
- Where applicable, the respective Transnet business unit processing your application may request further information from you. E.g. proof of an existence of a Service/Business contract between your business and the respective Transnet business unit etc.

### IMPORTANT NOTES:

- a) If your annual turnover is less than R5 million, then in terms of the DTI codes, you are classified as an Exempted Micro Enterprise (EME). If your company is classified as an EME, please include in your submission a signed letter from your Auditor / Accountant confirming your company's most recent annual turnover is less than R5 million and percentage of black ownership in the company **AND/OR** BBBEE certificate and detailed scorecard from a SANAS Accredited Verification Agency.
- b) If your annual turnover exceeds R5 million, and you claim a specific BEE level, please include your BEE certificate in your submission as confirmation of your status.
- c) To avoid PAYE tax being automatically deducted from any invoices received from you, you must also contact the Transnet person who lodged this request on your behalf, so as to be correctly classified in terms of Tax legislation.

Unfortunately, **No payments can be made to a vendor** until the vendor has been registered, and no vendor can be registered until the vendor application form, together with its supporting documentation, has been received and processed.

Regards,

Transnet Procurement Management

### SUPPLIER DECLARATION FORM

Company Trading Name							
Company Registered Name							
Company Registration Number Or ID Number If A Sole Proprietor							
Form of entity	CC	Trust	Pty Ltd	Limited	Partnership	Sole Proprietor	
VAT number (if registered)							
Company Telephone Number							
Company Fax Number							
Company E-Mail Address							
Company Website Address							
Postal Address							
Physical Address							
Contact Person							
Designation							
Telephone							
Email							
Annual Turnover Range (Last Financial Year)		< R5 Million		R5-35 million		> R35 million	
Does Your Company Provide		Products		Services		Both	
Area Of Delivery		National		Provincial		Local	
Is Your Company A Public Or Private Entity				Public		Private	
Does Your Company Have A Tax Directive Or IRP30 Certificate				Yes		No	
Main Product Or Service Supplied (E.G.: Stationery/Consulting)							

#### BEE Ownership Details

% Black Ownership		% Black women ownership		% Disabled person/s ownership	
Does your company have a BEE certificate		Yes		No	
What is your broad based BEE status (Level 1 to 8 / Unknown)					
How many personnel does the firm employ		Permanent		Part time	
Name of person procuring your services/products					
Contact number					
Transnet operating division					

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

Name		Designation	
Signature		Date	

#### Stamp And Signature Of Commissioner Of Oath

Name		Date	
Signature		Telephone No.	

**NB: Please return the completed form, with all the supporting documentation to the person procuring your services/material/goods**



## T2.2-36 : RFP DECLARATION FORM

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

We \_\_\_\_\_ do hereby certify that:

1. Transnet has supplied and we have received appropriate responses to any/all questions (as applicable) which were submitted by ourselves for bid clarification purposes;
2. we have received all information we deemed necessary for the completion of this Request for Proposal (RFP);
3. at no stage have we received additional information relating to the subject matter of this RFP from Transnet sources, other than information formally received from the designated Transnet contact(s) as nominated in the RFP documents;
4. we are satisfied, insofar as our company is concerned, that the processes and procedures adopted by Transnet in issuing this RFP and the requirements requested from bidders in responding to this RFP have been conducted in a fair and transparent manner; and
5. furthermore, we acknowledge that a direct relationship exists between a family member and/or an owner / member / director / partner / shareholder (unlisted companies) of our company and an employee or board member of the Transnet Group as indicated below: *[Respondent to indicate if this section is not applicable]*

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

ADDRESS:

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

Indicate nature of relationship with Transnet:

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

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

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

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

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

For and on behalf of ..... duly authorised thereto	AS WITNESS:
Name:	Name:
Position:	Position:
Signature:	Signature:
Date:	
Place:	

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

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

I / We \_\_\_\_\_ do hereby certify that  
***I/we have/have not been*** found guilty during the preceding 5 (five) years of a serious breach of law,  
including but not limited to a breach of the Competition Act, 89 of 1998, by a court of law, tribunal or  
other administrative body. The type of breach that the Respondent is required to disclose excludes  
relatively minor offences or misdemeanours, e.g. traffic offences.

*Where found guilty of such a serious breach, please disclose:*

NATURE OF BREACH:

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

DATE OF BREACH: \_\_\_\_\_

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

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

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

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

## **T2.2-50: B-BBEE PREFERENCE POINTS CLAIM FORM (SDB 6.1)**

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

---

### **1. INTRODUCTION**

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

### **2. GENERAL DEFINITIONS**

- 2.1 **"all applicable taxes"** include value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- 2.2 **"B-BBEE"** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- 2.3 **"B-BBEE status of contributor"** means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- 2.4 **"Bid"** means a written offer in a prescribed or stipulated form in response to an invitation by Transnet for the provision of goods, works or services;
- 2.5 **"Broad-Based Black Economic Empowerment Act"** means the Broad-Based Black Economic Empowerment Act, 2003 [Act No. 53 of 2003];
- 2.6 **"comparative price"** means the price after the factors of a non-firm price and all unconditional discounts that can utilised have been taken into consideration;
- 2.7 **"consortium or joint venture"** means an association of persons for the purpose of combining their expertise, property, capital, efforts, skills and knowledge in an activity for the execution of a contract;
- 2.8 **"contract"** means the agreement that results from the acceptance of a bid by Transnet;
- 2.9 **"EME"** means any enterprise with an annual total revenue of R5 [five] million or less;

- 2.10 **"firm price"** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs and excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- 2.11 **"functionality"** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;
- 2.12 **"non-firm prices"** means all prices other than "firm" prices;
- 2.13 **"person"** includes reference to a juristic person;
- 2.14 **"rand value"** means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties;
- 2.15 **"subcontract"** means the primary contractor's assigning or leasing or making out work to, or employing another person to support such primary contractor in the execution of part of a project in terms of the contract;
- 2.16 **"total revenue"** bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment issued in terms of section 9(1) of the Broad-Based Black Empowerment Act and promulgated in the Government Gazette on 9 February 2007;
- 2.17 **"trust"** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
- 2.18 **"trustee"** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

### 3. ADJUDICATION USING A POINT SYSTEM

- 3.1 The Bidder obtaining the highest number of total points for the evaluation criteria as enumerated in Section 2 of the RFP will be awarded the contract, unless objective criteria justifies the award to another bidder.
- 3.2 Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts.
- 3.3 Points scored will be rounded off to 2 [two] decimal places.
- 3.4 In the event of equal points scored, the Bid will be awarded to the Bidder scoring the highest number of preference points for B-BBEE.
- 3.5 However, when functionality is part of the evaluation process and two or more Bids have scored equal points including equal preference points for B-BBEE, the successful Bid will be the one scoring the highest score for functionality.
- 3.6 Should two or more Bids be equal in all respect, the award shall be decided by the drawing of lots.

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

- 4.1 In terms of Regulation 5(2) and 6(2) of the Preferential Procurement Regulations, 2011, preference points shall be awarded to a Bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

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

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

- 4.2 Bidders who qualify as EMEs in terms of the B-BBEE Act must submit a certificate issued by an Accounting Officer as contemplated in the CCA or a Verification Agency accredited by SANAS or a Registered Auditor. Registered auditors do not need to meet the prerequisite for IRBA's approval for the purpose of conducting verification and issuing EME's with B-BBEE Status Level Certificates.
- 4.3 Bidders other than EMEs must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.
- 4.4 A trust, consortium or joint venture will qualify for points for its B-BBEE status level as a legal entity, provided that the entity submits its B-BBEE status level certificate.
- 4.5 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- 4.6 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialised scorecard contained in the B-BBEE Codes of Good Practice.
- 4.7 A person will not be awarded points for B-BBEE status level if it is indicated in the Bid documents that such a Bidder intends subcontracting more than 25% [twenty-five per cent] of the value of the contract to any other enterprise that does not qualify for at least the same number of points that such a Bidder qualifies for, unless the intended subcontractor is an EME that has the capability and ability to execute the subcontract.
- 4.8 A person awarded a contract may not subcontract more than 25% [twenty-five per cent] of the

value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is subcontracted to an EME that has the capability and ability to execute the subcontract.

## 5. B-BBEE STATUS AND SUBCONTRACTING

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

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

Note: Points claimed in respect of this paragraph 5.1 must be in accordance with the table reflected in paragraph 4.1 above and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or an Accounting Officer as contemplated in the Close Corporation Act.

### 5.2 Subcontracting:

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

If YES, indicate:

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

### 5.3 Declaration with regard to Company/Firm

- (i) Name of Company/Firm.....
- (ii) VAT registration number.....
- (iii) Company registration number.....
- (iv) Type of Company / Firm
  - ☐ Partnership/Joint Venture/Consortium
  - ☐ One person business/sole propriety
  - ☐ Close Corporations
  - ☐ Company (Pty) Ltd[TICK APPLICABLE BOX]



(v) Describe Principal Business Activities

.....

.....

.....

.....

(vi) Company Classification

- ☐ Manufacturer
- ☐ Supplier
- ☐ Professional Service Provider
- ☐ Other Service Providers, e.g Transporter, etc
- [TICK APPLICABLE BOX]

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

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## BID DECLARATION

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

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

## WITNESSES:

1. ....

SIGNATURE OF BIDDER

2. ....

DATE:

COMPANY NAME: .....

ADDRESS: .....

.....

.....

## C1.1 FORM OF OFFER & ACCEPTANCE

### Offer

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

#### PROVISION OF CONSULTANCY SERVICES DURING THE DESIGN AND CONSTRUCTION OF THE GROOTVLEI STATION COAL OFFLOADING TERMINAL

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

By the representative of the tenderer, deemed to be duly authorised, signing this part of this Form of Offer and Acceptance the tenderer offers to perform all of the obligations and liabilities of the NEC3 PSC *Consultant* under the contract including compliance with all its terms and conditions according to their true intent and meaning for an amount to be determined in accordance with the *conditions of contract* identified in the Contract Data.

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

This Offer may be accepted by the Employer by signing the Acceptance part of this Form of Offer and Acceptance and returning one copy of this document including the Schedule of Deviations (if any) to the tenderer before the end of the period of validity stated in the Tender Data, or other period as agreed, whereupon the tenderer becomes the party named as the *NEC3 PSC Consultant* in the *conditions of contract* identified in the Contract Data.

Signature(s)

Name(s)

Capacity

for the  
tenderer:

(Insert name and address of organisation)

Name &  
signature of  
witness

Date

Tenderer's CIDB registration number:

## Acceptance

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

The terms of the contract, are contained in:

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

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

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

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

Notwithstanding anything contained herein, this agreement comes into effect on the date when the tenderer receives one fully completed original copy of this document, including the Schedule of Deviations (if any). Unless the tenderer (now the *NEC3 PSC Consultant*) within five working days of the date of such receipt notifies the Employer in writing of any reason why he cannot accept the contents of this agreement, this agreement shall constitute a binding contract between the Parties.

Signature(s)

Name(s)

Capacity

**for the  
Employer:**

Transnet Freight Rail RME  
Off Robert Sobukwe Rd  
Behind Transnet Park  
Bellville South

Name &  
signature of  
witness

Date

## Schedule of Deviations

No.	Subject	Details
1		
2		
3		
4		

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

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

	<b>For the tenderer:</b>	<b>For the Employer</b>
Signature	<hr/>	<hr/>
Name	<hr/>	<hr/>
Capacity	<hr/>	<hr/>
On behalf of	<hr/>	Transnet Freight Rail RME Off Robert Sobukwe Rd Behind Transnet Park Bellville South
Name & signature of witness	<hr/>	<hr/>
Date	<hr/>	<hr/>

## C1.2 Contract Data

### Part one - Data provided by the *Employer*

Please read the relevant clauses in the conditions of contract before you enter data. The number of the principal clause is shown for most statements however other clauses may also use the same data.

Rows containing the statement and data for options in the core clauses and for the main & secondary option clauses, according to the options chosen, are identified by shading in the left-hand column.

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

Clause	Statement	Data
1	<b>General</b>	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option	
	dispute resolution Option	A: <b>Priced contract with activity schedule</b>
	and secondary Options	W1: <b>Dispute resolution procedure</b>
		X7: <b>Delay damages</b>
		X10 <b>Employer's Agent</b>
	of the NEC3 Professional Services Contract (June 2005) (with amendments June 2006) <sup>1</sup>	
10.1	The <i>Employer</i> is (Name):	<b>Transnet SOC Ltd</b>
	Address	Registered address: <b>Carlton Centre 150 Commissioner Street Johannesburg</b>
	Having elected its Contractual Address for the purposes of this contract as:	<b>Transnet Freight Rail RME Off Robert Sobukwe Road Behind Transnet Park Bellville South</b>
		<b>Postal Address</b>
		<b>P.O. Box 338 Kasselsvlei 7533</b>
	Tel No.	<b>(021) 940 1800</b>
	Fax No.	<b>086 646 4092</b>

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

11.2(9)	The <i>services</i> are	Consultancy services during the design and construction of the Grootvlei Station Coal Offloading Terminal	
11.2(10)	The following matters will be included in the Risk Register	Operational Area	
11.2(11)	The Scope is in	Part C3.1: The Scope of the Contract Document	
12.2	The <i>law of the contract</i> is the law of	the Republic of South Africa subject to the jurisdiction of the Courts of South Africa.	
13.1	The <i>language of this contract</i> is	English	
13.3	The <i>period for reply</i> is	1 week	
13.6	The <i>period for retention</i> is	6 (six) months following Completion or earlier termination.	
2	The Parties' main responsibilities		
25.2	The <i>Employer</i> provides access to the following persons, places and things	access to	access date
		1 Callie Herselman	As and When required
		2 The site	As and When required
3	Time		
31.2	The <i>starting date</i> is	Contract Date	
11.2(3)	The <i>completion date</i> for the whole of the services is.	9 (nine) months from contract date	
31.1	The <i>Consultant</i> is to submit a first programme for acceptance within	1 (one) week of the Contract Date.	
32.2	The <i>Consultant</i> submits revised programmes at intervals no longer than	2 weeks.	
4	Quality		
40.2	The quality policy statement and quality plan are provided within	1 (one) week of the Contract Date.	
42.2	The <i>defects date</i> is	26 weeks after Completion of the whole of the services.	
5	Payment		
50.1	The <i>assessment interval</i> is on the	30 day of each successive month.	
50.3	The <i>expenses</i> stated by the <i>Employer</i> are	Item	Amount
		Economy air fares	Charged at proven costs



		Car hire not exceeding group B	Charged at proven costs
		Accommodation – Protea Group or Town Lodge Group or 3 Star equivalent	Charged at proven costs
51.1	The period within which payments are made is	Payment will be effected on or before the last day of the month following the month during which a valid Tax Invoice and Statement were received.	
51.2	The <i>currency of this contract</i> is the	South African Rand.	
51.5	The <i>interest rate</i> is	the prime lending rate of the Standard Bank of South Africa.	
<b>6</b>	<b>Compensation events</b>	No additional data required for this section of the <i>conditions of contract</i> .	
<b>7</b>	<b>Rights to material</b>	No additional data required for this section of the <i>conditions of contract</i> .	
<b>8</b>	<b>Indemnity, insurance and liability</b>		
81.1	The amounts of insurance and the periods for which the <i>Consultant</i> maintains insurance are		
	<b>Event</b>	<b>Cover</b>	<b>Period following Completion of the whole of the <i>services</i> or earlier termination</b>
	failure by the <i>Consultant</i> to use the skill and care normally used by professionals providing services similar to the <i>services</i>	Professional Indemnity insurance for not less than R5 000 000,00 in respect of each claim, without limit to the number of claims	52 Weeks
	death of or bodily injury to a person (not an employee of the <i>Consultant</i> ) or loss of or damage to property resulting from an action or failure to take action by the <i>Consultant</i>	General Third Party Liability Insurance for all amounts falling within the excess of the policy (currently R25 000,00 (twenty five thousand each and every claim) and/or for all amounts in excess of the policy limits as detailed in the policy document or whatever the <i>Consultant</i> deems desirable in respect of each claim, without limit to the number of claims	0 Weeks



	death of or bodily injury to employees of the <i>Consultant</i> arising out of and in the course of their employment in connection with this contract	The minimum limit of 0 Weeks indemnity for insurance in respect of death of or bodily injury to employees of the <i>Consultant</i> arising out of and in connection with this contract for any one event is that which is prescribed by the Compensation for Occupation Injuries and Diseases Act No. 130 of 1993 as amended.
	Motor Vehicle Liability Insurance	Comprising (as a minimum) "Balance of Third Party" Risks including Passenger Liability Indemnity for an amount of not less than R 5,000,000
81.1	The <i>Employer</i> provides the following insurances	Professional Indemnity insurance in respect of failure of the <i>Consultant</i> to use the skill and care normally used by Professionals providing services similar to the services  General Third Party Liability cover in respect of death of or bodily injury to a person (not an employee of the <i>Consultant</i> ) or loss of or damage to property resulting from an action or failure to take action by the <i>Consultant</i>
82.1	The <i>Consultant's</i> total liability to the <i>Employer</i> for all matters arising under or in connection with this contract, other than the excluded matters, is limited to	The excesses applicable under the Employer's Professional Indemnity and General Third Party Liability policy's as detailed in the policy wordings. The current excesses amounts to R1 000 000,00 (One Million Rand) PI and R25 000.00 (Twenty Five Thousand) General Third Party Liability, respectively each and every claim.
9	<b>Termination</b>	No additional data required for this section of the <i>conditions of contract</i> .
10	<b>Data for main Option clause</b>	
A	<b>Priced contract with activity schedule</b>	
21.3	The <i>Consultant</i> prepares forecasts of the total of the <i>expenses</i> at intervals of no longer than	4 weeks.

## 11 Data for Option W1

W1.1	The <i>Adjudicator</i> is (Name)	Both parties will agree as and when a dispute arises. If the parties cannot reach an agreement on the <i>Adjudicator</i> , the chairman of the Association of Arbitrators will appoint an <i>Adjudicator</i> .
W1.2(3)	The <i>Adjudicator nominating body</i> is:  If no <i>Adjudicator nominating body</i> is entered, it is:	the Association of Arbitrators (Southern Africa)
W1.4(2)	The <i>tribunal</i> is:	Arbitration
W1.4(5)	The <i>arbitration procedure</i> is  The place where arbitration is to be held is  The person or organisation who will choose an arbitrator <ul style="list-style-type: none"> <li>• if the Parties cannot agree a choice or</li> <li>• if the <i>arbitration procedure</i> does not state who selects an arbitrator, is</li> </ul>	The Rules for the Conduct of Arbitrations of the Association of Arbitrators (Southern Africa)  Elandsfontein  The Chairman of the Association of Arbitrators (Southern Africa)

## 12 Data for secondary Option clauses

X7	Delay damages	
X7.1	Delay damages for late Completion of the whole of the <i>services</i> are	R 500.00 per day
X10	The <i>Employer's Agent</i>	
X10.1	The <i>Employer's Agent</i> is  Name:  Address  The authority of the <i>Employer's Agent</i> is	Callie Herselman  Cnr. North Reef and Jet Park Roads, Elandsfontein, Gauteng  The <i>Employers Agent</i> is delegated to carry out all the actions of the Employer in this Contract

## C1.2 Contract Data

### Part two - Data provided by the *Consultant*

The tendering consultant is advised to read both the NEC3 Professional Services Contract (June 2005) and the relevant parts of its Guidance Notes (PSC3-GN)<sup>2</sup> in order to understand the implications of this Data which the tenderer is required to complete. An example of the completed Data is provided on pages 146 to 150 of the PSC3 Guidance Notes.

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

Clause	Statement	Data
10.1	The <i>Consultant</i> is (Name): Address Tel No. Fax No.	
22.1	The <i>Consultant's</i> key persons are: 1 Name: Job: Responsibilities: Qualifications: Experience: 2 Name: Job: Responsibilities: Qualifications: Experience:	
Info.		CV's (and further <i>key persons</i> data including CVs) are appended to Tender Schedule entitled T2.2-7.
11.2(3)	The <i>completion date</i> for the whole of the services is	9 (nine) months from Contract Date
11.2(13)	The <i>staff rates</i> are:	name/designation      rate
		Staff Rates as per Pricing Data in C2.2

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

25.2	The <i>Employer</i> provides access to the following persons, places and things	access to	access date
		1	Callie Herselman
		2	The Site
			As and When required
			As and When required
31.1	The programme identified in the Contract Data is	T2.2-2	
50.3	The <i>expenses</i> stated by the <i>Consultant</i> are	Item	amount
		Expenses as per Pricing Data in C2.2	
A	Priced contract with activity schedule		
11.2(14)	The <i>activity schedule</i> is in	C2.2	
11.2(18)	The tendered total of the Prices is	_____ (in figures)	
		_____	
		_____	
		_____ (in words), excluding VAT	

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## PART C2: PRICING DATA

Document reference	Title	No of pages
C2.1	Pricing instructions: Option A	2
C2.2	Activity Schedule	3

## C2.1 Pricing instructions: Option A

### 1.1 The *conditions of contract*

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

Clause 11 in NEC3 Professional Services Contract (PSC), June 2005 (with amendments June 2006) Option A states:

**Identified and defined terms** 11.2

(14) The Activity Schedule is the *activity schedule* unless later changed in accordance with this contract.

(15) The Price for Services Provided to Date is the total of the Prices for the activities which have been completed. A completed activity is one which is without Defects which would delay immediately following work.

(18) The Prices are the lump sums for each of the activities on the Activity Schedule unless later changed in accordance with this contract.

### 1.3 Measurement and Payment

1.3.1 The activity schedule provides the basis of all valuations of the Price for Services Provided to Date, payments in multiple currencies and general progress monitoring.

1.3.2 The amount due at each assessment date is based on activities and/or milestones completed as indicated on the activity schedule.

1.3.3 The activity schedule work breakdown structure provided by the Consultant is based on the activity schedule provided by the Employer. The activities listed by the Employer are the minimum activities acceptable and identify the specific activities which are required to achieve Completion. The activity schedule work breakdown structure is compiled to the satisfaction of the Employer with any additions and/or amendments deemed necessary.

1.3.4 The Consultant's detailed activity schedule summates back to the activity schedule provided by the Employer and is in sufficient detail to monitor completion of activities related to the Accepted Programme in order that payment of completed activities may be assessed.

1.3.5 The Prices are obtained from the activity schedule. The Prices includes for all direct and indirect costs, overheads, profits, oncosts, risks, liabilities, obligations, etc. relative to the contract.

## PART C2.2: ACTIVITY SCHEDULE

			STAGE 1 - WORKS IDENTIFICATION AND INITIAL SERVICES	LUMP SUM PER ACTIVITY
A	100	Works	Works identification and classification	
A	101		Designs and specifications for initial Works	
A	102		Complete BOQ and programme for initial Works	
A	200	Investigate	Initial geotechnical investigations	
A	201		Initial geotechnical - laboratory testing	
A	300		Initial works - survey	
A	400	Liaison	Employer, Client, Eskom liaison Stage 1	
			STAGE 2 DESIGN AND CONSTRUCTION	
B	100	Liaison	Client / Employer / Eskom liaison : Stage 2	
B	101		External liaison - Regulators / Farmers	
B	102		Contractor liaison and QA supervision	
B	200	Earthworks	Earthworks - detail design and specifications	
B	201		Earthworks design - investigations and testing	
B	202		Earthworks - construction monitoring	
B	203		Detail geotechnical studies - realignments	
B	204		Detail surveys - realignments	



			STAGE 2 DESIGN AND CONSTRUCTION	LUMP SUM PER ACTIVITY
B	300	Perway	Perway - detail design and material specification	
B	301		Perway - procurement and quality control	
B	302		Perway - construction monitoring	
B	400	Structures	Structures - design and specifications (CTS)	
B	401		Structures - investigations and testing	
B	402		Structures - construction monitoring & QA	
B	403		Structures - strengthening, investigate design	
B	404		Detail geotechnical studies	
B	405		Concept geotechnical studies	
B	406		Detail surveys - realignments and structures	
B	500	Transport	Access and roads - detail design and specifications	
B	501		Access and roads - investigations and testing	
B	502		Access and roads - construction monitoring & QA	
B	503	Environmental	Pollution control - detail design and specifications	
B	504		Pollution control - construction monitoring and QA	
B	600	Civil	Civil design - general, fencing, drainage	
B	700	Electrical	Consultant / Contractor liaison and input	

			<b>STAGE 3 - MONITORING : MAINTENANCE</b>	<b>LUMP SUM PER ACTIVITY</b>
C	101	Liaison	External liaison - Regulators / Farmers	
C	102		Design and supervision - corrective actions	
C	103		Monitoring inspections - design signoff	
			<b>Total excl. vat carried to C1.1 Form of Offer</b>	

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## PART C3 SCOPE OF SERVICES

### Contents

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"PREVIEW COPY ONLY"

## PREAMBLE

Transnet Freight Rail Rehabilitation and Construction (R&C) have been appointed by the Client - Transnet Freight Rail (Rail Network) to submit a proposal for the design and construction phases of a project to modify portions of the TFR Grootvlei Station for purposes of establishing a terminal for transferring coal in containers for use at Eskom's Grootvlei Power Station from rail wagon to road haul transport mode. R&C (the *Employer*) requires the services of a Main Design Consultant (the *Consultant*) to fulfil the functions of the design consultant during the initial works and final design phases as well as engineering supervision and engineering quality assurance during the implementation phases of the commission.

Primary functions identified for the execution of the *Consultant* include:

- ◆ The assessment and modification of the yard layout at Grootvlei Station (earthworks, drainage and track) for purposes of receiving trains in 45 wagon consists and shunting connectivity required for placing wagons of a yet to be determined number for offloading and reloading of bottom discharge coal containers.
- ◆ The modelling and design of a Coal Transfer Station (CTS) for removing bottom discharge containers from rail wagons, discharge of contained coal to road vehicles, and the return of the empty container to the rail wagon.
- ◆ The compilation of an operational plan for the Grootvlei Coal Terminal (GCT) yard as well as Coal Transfer Station (CTS) clearly indicating daily operations at both elements of the project (mainline haul in and out as well as decompilation, transfer and recompilation shunting through the CTS) and the resources required to do so.
- ◆ Design of the road access infrastructure within the GCT area for the road haul interface of the transshipping vehicles to Grootvlei Power Station and return.
- ◆ Design of any infrastructure, including pollution control and environmental engineering required to support, enable and mitigate the main project activity.
- ◆ Any civil works (earthworks, drainage, pavement, ancillary works, and geotechnical surveying) design and formation required to support the train and road transfer systems as well as construction monitoring (engineering supervision).
- ◆ Design the track layout, main line connectivity, manual signalling and points required as per the approved yard layout and operating philosophy adopted for the terminal.
- ◆ Track laying (perway) materials supply, design and construction monitoring (engineering supervision).
- ◆ Design for construction and provide construction monitoring (engineering supervision) of a new yard layout with container handling functionality suited to the train plans, operating methodology (road and rail) and yard procedures required to transfer Eskom coal from rail to road in the most effective way possible.

- ◆ Provide a concrete working surface for the operation of cranes in the coal transfer station (CTS) in order to facilitate the transferring of the contents of bottom discharge coal containers from flatbed rail wagons to side-tipping road haulers, for transport to Grootvlei Power Station.

This document has been structured to identify and describe the following components of the total *Consultant's* scope as follows:

- ◆ **Section 1 – Works Identification and Initial Services**, which contains a summary of the anticipated identifiable tasks to be performed by the *Consultant* during the phase defined by milestone 1 below.
- ◆ **Section 2 – Final Design and Supervision Services**, which contains a summary of the anticipated identifiable tasks to be performed by the *Consultant* during this phase defined by milestones 2 and 3 below.
- ◆ **Section 3 – General Specifications**, which contains a summary of the anticipated identifiable tasks to be applied by the *Consultant* in the design of the project works.
- ◆ **Section 4 – Design Standards**, which contains a guideline of the anticipated identifiable standards to be applied by the *Consultant* when designing the project works.
- ◆ **Section 5 – Consultant Remuneration Issues**, which contains the payment specifics applicable during the phase of the project determined by milestones 1, 2 and 3 to follow.
- ◆ Attachment A - A pro forma Programme to be read in conjunction with the Activity Schedule, with the intention of conversion into the Accepted Programme adopted for the Works.

#### DEFINITIONS, TERMS AND ABBREVIATIONS

TERM / ABBREVIATION	EXPLANATION / DEFINITION
NEC 3	New Engineering Contract - Professional Services Contract
NEC 3 - Option A	NEC - Priced Contract with Activity Schedule
<i>Consultant</i>	The main design Consultant (NEC)
<i>Client</i>	Transnet Freight Rail (Rail Network), in relation to R&C
<i>Bill of Quantities</i>	BOQ
<i>Contractor</i>	Transnet Freight Rail (Rehabilitation and Construction (R&C)) in relation to TFR (Rail Network)
<i>Employer</i>	Transnet Freight Rail (Rehabilitation and Construction (R&C))
CR	Client Representative (TFR - Rail Network Central Office)
CTS	Coal Transfer Station
GCT	Grootvlei Coal Terminal

LWR	Long Welded Rail
QA	Quality Assurance - engineering functions
RE	Resident Engineer (site Engineer in charge per discipline)
RFQ	Request for Quotation
R&C	TFR Rehabilitation and Construction
RSR	National Railway Safety Regulator
TFR	Transnet Freight Rail - a Division of Transnet SOC Ltd

## 1 STAGE 1- WORK IDENTIFICATION AND INITIAL SERVICES

### 1.1 Milestone condition

**Stage 1, Work identification and Initial Services**, of the total consulting engineering design services shall commence at the date of appointment and shall be completed within 4 weeks of that date. The work will be considered complete when the *Consultant* and the *Employer* - TFR (Rehabilitation and Construction - R&C) agree that sufficient investigation, design specification and quantification have been completed by the *Consultant* to enable R&C to commence work on that portion of the Works not requiring further detail design.

### 1.2 Obligations of the *Consultant* during the initial services stage

The *Consultant* will be required to carry out the following tasks during this stage:

- ◆ Function as main design consultant (the *Consultant*).
- ◆ Compile an overall identification and characterisation of the Works required for the construction of Grootvlei Station.
- ◆ Identify construction activities that may commence at an early stage of the project that do not require detail design, and specialist studies.
- ◆ Identify areas that will require further investigation, specialist studies and detail designs; and prepare a program for the works to enable early commencement of initial Works, later expanded to an overall design and construction program for the Works as a whole, updated as and when relevant or requested by the *Employer*.

The functions and outputs of the *Consultant* shall include for:-

- ◆ Train and road transfer simulations of the concept design phase applicable to the scope provided as well as the interpretation of the simulations findings into a design base. These simulations shall include mainline train arrival and departure patterns. The results of the



simulations shall be presented graphically, and shall inform the layouts of the various project elements. These simulations shall be done using recognised simulation software and shall include:

- Modelling the rail leg from Balfour North to the GCT
  - Modelling the offloading of bottom discharge containers, using a shunting loco and one or two staging lines
  - Modelling one and two offloading facilities (gantry cranes), offloading simultaneously
  - Modelling the proposed and alternate truck route from the terminal to the power station
  - Modelling the weighbridge and offloading of trucks at the power station
  - Modelling 45 wagon trains with two containers per wagon
  - Modelling the planned maintenance of equipment (CTS coal transfer) according to a fixed schedule
  - Modelling various shunting batch sizes
  - Modelling different truck fleets
  - Modelling 12 hour and 24 hour operations
  - Modelling train standing times, including coupling, de-coupling and brake tests on a probability distribution
  - Determining the optimum rail to road operating philosophy and parameters
  - Determining the maximum annual throughput of the system for the various scenarios
  - Determining the optimum number of haul trucks
  - Determining the operating parameters for 3 Mtpa and 5 Mtpa operations
  - Determining the bottleneck (constraining resource) of the system
- ◆ A train plan confirmed by the simulation.
  - ◆ Concept layout plans for the GCT as well as CTS areas.
  - ◆ Concept operating plans for the GCT yard (mainline) and CTS (shunting and road operations interface).
  - ◆ Yard infrastructure and track layout plans.
  - ◆ Geotechnical survey and assessment.
  - ◆ A Digital Terrain Model (DTM) – vertical and horizontal alignments and levels.
  - ◆ Establishment of the final design criteria for the construction of the Grootvlei Station, taking into consideration the various aspects of train dynamics, wagon consists, haulage speeds, annual tonnages etc.
  - ◆ Initial/preliminary designs for approval, specifications and input necessary for the establishment of:
    - GCT yard, CTS area, access and haul roads for the GCT area only
    - Earthworks, pavement and drainage
    - Structural (CTS cranes and concreted transfer area)
    - Rail engineering
    - Pollution control design and layout

- ◆ Design, specify and prepare documentation for the railway engineering works of the project, within the agreed *Consultant* and *Employer* Scope of Work.
- ◆ Preparation of railway materials specifications and assist with adjudication and negotiations by the *Employer* for the procurement thereof, including welding of rails.
- ◆ Preparation of specifications and quantities for design and construction for early commencement of initial work, not requiring expensive detail design services, accompanied by an appropriate BOQ.
- ◆ Tender specifications and Works information.
- ◆ Assistance with the materials planning for programming of construction in consultation with the *Employer* during the initial services phase.
- ◆ All works necessary to permit the pricing of the works by the *Employer* (R&C), including preliminary costing (confirming concept costing) to +30%, -30%.
- ◆ Confirmed Report, estimates and design base for project approval.
- ◆ The *Consultant's* design of a quality assurance plan for execution of the works.
- ◆ The preparation of programs as relevant for submission to the CR.
- ◆ The preparation of drawings, technical documentation and specifications, as well as the issue of information/drawings to the CR and other parties as may be required.
- ◆ Conducting design visits to the line, survey or geotechnical monitoring inspections.
- ◆ Preparation of a quality assurance plan for the works.
- ◆ Inclusion of other tasks required for proper completion of the initial works stage.

## 2 STAGE 2 – DESIGN SERVICES AS PART OF THE WORKS

During Stage 2 the *Consultant* will enable further progression of the Works wherein the Project design, specification and documentation will be completed, construction commenced and completed to the required design standards and quality measurement.

### 2.1 Milestone condition ending at construction completion

*Stage 2, Completing Outstanding Design Services and Supervision of Construction*, shall be deemed to have been completed at the date the CR certifies acceptance of the works by the Client, as having been commissioned and taken over by the Client, ready for operations.

## 2.2 Obligations of the *Consultant* during the final design and construction supervision phase

The *Consultant* will be required to carry out the following tasks during this stage:-

- ◆ Continue the function of the main design *Consultant*.
- ◆ Complete all design required to construct the Grootvlei Station Coal Offloading Terminal, including measures required to achieve more stringent design criteria.
- ◆ Complete design works for all civil, structural and concrete works.
- ◆ Engineering supervision to guide and assist the *Employer* with construction according to designs, specifications and quality requirements.
- ◆ Complete the design, specifications and perway material procurement and QA procedures required for bringing material to site and supervision, as well as apply QA procedures for incorporation of new and rehabilitated track into the Works.
- ◆ Arrange for and assist the *Employer* to prepare a detailed overall design completion and construction program, updated as and when relevant or requested by the CR.

The functions and outputs of the *Consultant* shall include:

- ◆ All detail design of all project elements to be Issued For Construction level (IFC) and quality.
- ◆ All design completion and supervision necessary for the supply and delivery of materials, construction of earthworks, levee works, stormwater and drainage, service and access roads, and ancillary works.
- ◆ Completion of all designs, specification and input necessary for the yard layout and establishment of a coal offloading terminal.
- ◆ All design completion and supervision necessary for the supply of materials and construction of structural/concrete and civil works.
- ◆ All design completion and supervision necessary for the supply of materials and construction of any and all support infrastructure required for project implementation per scope confirmed during the preliminary design phases.
- ◆ All design completion and supervision necessary for the supply of materials and construction of elementary pollution control or environmental engineering works on the basis that a totally pollution free transfer operation cannot be guaranteed.
- ◆ All design completion and supervision necessary for the supply of materials and construction of crane support works.
- ◆ Provision of inputs to Transnet Electrical Design Office for the design necessary for the supply of materials and establishment of area lighting for the 24 hour operation of the terminal and power supply to the cranes.

- ◆ All design completion and supervision necessary for the supply of materials and construction of access and roads in the transfer station area.
- ◆ All specialist services (geotechnical) and quality control investigations (earthworks studies, geotechnical, laboratory, survey) in the *Consultant* design and specifications.
- ◆ *The Consultant* design and supervision for all specialist services (geotechnical) and quality control (earthworks laboratory, survey and concrete cube crushing facility operated by the contractor on the site).
- ◆ Complete the design and quality assurance as well as provide supervision of design elements of the railway engineering works for the project.
- ◆ Prepare railway materials specifications for the procurement thereof, by the employer, including welding of rails.
- ◆ Assist the *Employer* with materials planning for track construction.
- ◆ Assist the Employer with the preparation and implementation of a quality assurance plan for execution of the works.
- ◆ Assist the *Employer* with the preparation and continuous updating of detailed programmes as relevant, for regular submission to the CR.
- ◆ Continue the preparation of drawings, technical documentation and specifications and the issue of information/drawings to the CR and other parties as may be required.
- ◆ Conduct *Consultant's* Supervision visits to the yard, survey, structural or geotechnical monitoring inspections at least twice a month.
- ◆ Provide an itemised Bill of Quantities (BOQ).
- ◆ Provide a budget and cost estimate, priced BOQ +10%, -10% accuracy.
- ◆ Design quality assurance reports for civil works, earthworks, roads and pavement layers.
- ◆ Design quality assurance reports for concrete and structural works.
- ◆ Non-conformance reports (design and implementation related).
- ◆ Corrective Action Report monitoring (design and implementation-related).

### **3 CONSULTANT WORK DURING THE CONTRACTUAL MAINTENANCE STAGE**

A contractual maintenance period of 12 months commences at completion of milestone 2.2, and will end when the *Consultant* certifies to the *Employer* and approved by the CR, that all the contractual maintenance conditions have been complied with and the final certificate for the contract may be issued, releasing all retention monies and/or guarantees.

### 3.1 Obligations of the *Consultant* during the final design and construction supervision phase

The *Consultant* will be required to carry out the following tasks during this stage:

- ◆ Function as main design *Consultant* during the maintenance stage.
- ◆ Quality supervision of defect repairs and corrective actions carried over after the *Completion Date*.
- ◆ Quality supervision and sign-off of corrective action for legitimate defects arising after the *Completion date* but prior to expiry of the specified maintenance period.
- ◆ Investigation and quality sign-off or corrective action for legitimate defects reported by the Client or any other responsible party, occurring within the maintenance period.
- ◆ Quarterly (3 monthly) monitoring inspection of the Works for defects or any corrective action required on the part of the *Employer* which affect the functionality of the Works provided.

### 3.2 Milestone condition ending at maintenance completion

*Completion* in respect of the *Consultants* performance means that:

- ◆ All the work stated in the Scope by the *Completion Date* and end of the 12 month maintenance period, lying within the *Consultant's* responsibility for execution and implementation has been completed.
- ◆ Corrected defects have been attended to by the *Consultant* and all required input into correction of defects has been provided, for implementation by the *Employer*.

### 3.3 Supervision of Main Contract with *Employer*

The main contract between The *Employer* (R&C) and the Client (TFR), including any number of sub-contracts to be produced in consultation with the *Employer* will be supervised by the *Consultant*, only where relevant to design, engineering quality supervision and certification. The *Consultant* will ensure that all progress and quality control processes required will be put in place and maintained for as long as required during and after construction.

*Consultant* manpower (to be determined and included in the *Activity Schedule*) and all associated costs in respect of site engineering supervision are based on the *Accepted Program* provided by R&C to the *Consultant*. Any additional costs in this regard which may result from the implementation of a different construction program will be for the account of the *Employer*.

- ◆ The *Employer* will be responsible for detailed supervision of construction work and processes, whilst the *Consultant* will perform a “normal” inspection and overall engineering quality assurance role only.
- ◆ All laboratory facilities, including staff in attendance, required for quality assurance will be provided by the *Employer*.
- ◆ Monthly measurements of completed work will be prepared by the *Employer*. Assessment of monthly progress payment certificates and contract reconciliations will be carried out by the *Consultant* site staff on a “fair assessment”<sup>1</sup> basis.
- ◆ The plate-laying site supervision will consist of one Track Construction RE only. No allowance for operating liaison officers or plate-laying inspectors should be made, since such personnel will be supplied by the *Employer* as and when required.
- ◆ The onus of proof of compliance with specifications and applicable standards rests solely with the *Employer*.
- ◆ Site supervision is based on a total construction period as determined between the consultant and employer for the complete yard construction.

Contract Claims for work outside the scope of the contract, if so ordered by the Client, or falling legitimately under the Main Contract, will be handled by the *Employer* in consultation with the *Consultant* and submitted to the CR for approval and further processing.

The monthly payment certificate and any special claims under the contract or as a result of works outside the scope of the contract, but so ordered by the Client, will be prepared by the *Employer*, certified by the *Consultant* if required and verified by the CR for payment.

### 3.4 Additional obligations by the *Consultant*

Apart from the Engineering supervision obligation under 3.3 above, a number of additional obligations or limitations to obligations are identified below:

- ◆ The planning of the transportation of materials as well as the logistics required will be the responsibility of the *Employer*. The *Consultant* will assist if required.
- ◆ The *Consultant* provides an interface on behalf of the *Employer* with other relevant TFR functions during the construction activities.
- ◆ The *Consultant* shall carry out quality checking and setting of acceptance levels in consultation with the *Employer* and CR, should second hand rails or other materials be procured. This includes quality inspections at source or origin, acceptance of the transportation loading and securing methods proposed by the *Employer* and suppliers, and further quality checking after arrival at the construction or welding destination.



- ◆ The quality control in respect of flashbutt – and thermit welding of rails is limited to control testing of approximately 5 % of the welds.
- ◆ The primary metallurgical quality control will be the responsibility of the *Employer* who will ensure that material suppliers conform to specifications, with appropriate review by the *Consultant*.
- ◆ The *Consultant* will provide all design information necessary for the relevant section in TFR to submit a notification to the Railway Safety Regulator (RSR) of a major change to their existing Network and/or Train Operating Safety Permit, if necessary.

### 3.5 Contractual monitoring data

The *Consultant* will be required to review specific contractual monitoring requirements during the implementation phase, including among others:

1. Daily rainfall and minimum, maximum temperatures.
2. Compliance with safety requirements.
3. Accident and incident statistics.
4. Complaints received from interested and affected parties (I&AP) as result of project activities.
5. Logging progress with damage to public property claims and insurance issues.
6. Strike and unrest occurrences.
7. Start-up and work-end times, especially after long weekends and pay-weekends.
8. Provision of amenities in accordance with the general and special conditions of contract.
9. Compliance with statutory laws and regulations.
10. The availability and numbers of plant items and equipment on site.
11. An ongoing assessment of the appropriateness of the *Employer's Contractors'* work methods and resources employed.

All the information required to enable the *Consultant* to review and report on the above items will be supplied by the *Employer*.

## 4 GENERAL SPECIFICATIONS

### 4.1 Scope of the Engineering Design

To be provided/fulfilled by *Consultant*.

The engineering design will contain the following elements:

- ◆ Civil engineering as applied to earth works, layer-works, drainage, pavement and ancillary works including specifications and quantities.



- ◆ Civil engineering in hydraulic design as in pipe and box culverts.
- ◆ Structural design of concrete works, including specifications and quantities.
- ◆ Railway engineering for specific railway infrastructure, including specifications and quantities.
- ◆ Geotechnical engineering in support of any of the above, including formation repair or rehabilitation, pavement and structural requirements to meet future requirements.
- ◆ Metallurgical engineering for welding application and relevant quality control.
- ◆ Environmental engineering applied in the mitigation of pollution or clean-up functionality in the coal transfer station (CTS) (rail to crane area).
- ◆ Transport engineering applied to the investigation of road access options to the facility, including existing roads and new access routes within Transnet reserve and provision of final road layout and pavement design.

## 4.2 Key considerations

The key considerations to be considered in appointing and apportioning resources to the project are summarised below:

- ◆ Time, implying expeditious completion of the Works is the Essence of the Project.
- ◆ The accountability for design and specifications remains with the *Consultant*.
- ◆ Selected designs will be tested by considering alternative options and using a process of technical and economic elimination. Successful designs will culminate in final working drawings, proper specifications and bill of quantities to the extent required by R&C.
- ◆ All Works designed, planned and constructed shall be aimed at complete integration with Eskom, planning in terms of rail traffic and infrastructure requirements. This shall include full integration of infrastructure of the reinstated Balfour North -Grootvlei line as well as open line conditions such as arrivals and departures from Balfour North.

The *Employer* will execute all procurement:

- ◆ Design parameters and all standards are to be set after consultation between the *Consultant* and the *Employer*, subject to final approval by the CR.
- ◆ No lowering of the standards adopted for pricing information will be allowed, as this measurably increases risk of after-tender cost increases.

## 4.3 Grootvlei Station Coal Offloading Terminal

The core portion of the project consists of the establishment of a coal offloading terminal (GCT) at Grootvlei Station, which requires the assessment and modification of the yard layout, the modelling and design of a Coal Transfer Station (CTS), the compilation of an operational plan for the Grootvlei Coal Terminal (GCT) yard and Coal Transfer Station (CTS), design of the road access infrastructure within the GCT area and the design of any infrastructure, including pollution control and any environmental

engineering required. This includes rehabilitation and/or rebuilding sections of bulk earthworks and layer-works to comply with S410 (26 ton per axle) design, as well as drainage and ancillary works required to support the train and road transfer systems.

The construction of a Coal Transfer Station (CTS) for removing bottom discharge containers from rail wagons includes the design and construction of a concrete working surface for the operation of cranes required for transferring the contents of bottom discharge coal containers from flatbed rail wagons to side-tipping road haulers, for transport to Grootvlei Power Station.

The track layout and manual signalling shall integrate with the Balfour North – Grootvlei railway line and the approved yard layout and operating philosophy adopted for the terminal.

The road access infrastructure shall include the investigation of road access options, including existing roads and new access routes within the Transnet reserve. The final road layout and pavement design (asphalt) shall provide access to the Terminal site for heavy road vehicles.

#### 4.4 No limitation on extent of scope

Neither claims for extra fees, nor any reduction in professional fees will be entertained for items, the scope of which has not materially altered, but the extent of which may have increased or decreased as a result of the finalisation of the scope of work.

#### 4.5 Limitation on extent of scope

##### 4.5.1 Grootvlei Station Terminal

The establishment of the coal offloading terminal will consist mainly of the construction of layer works and track components to provide a loop line and staging lines to assist the offloading facilities. The existing main line at the station shall also be upgraded to allow for 26 ton/axle haulage. The provision of concrete works and structures required for the operation of the offloading of coal is also included in the project.

Although limited investigations were carried out for this section and the respective results are available, the following are relevant to the Scope:

- **Geotechnical investigations** (by geotechnical specialists),

Engineers inspecting the yard and track will be expected to identify geotechnical trouble spots and deal with them as they would normally in a track maintenance situation.

- **Survey** (by the Consultant),

A detailed topographical survey of the Grootvlei Station yard in the vicinity of the proposed project area, including joining up to the future main line in the process of construction with the survey information, is required.

- ***Drawings in respect of minor earthworks requirements,***

Certain drawings are available but it will nevertheless be expected that any specification and instructions for the upgrading earthworks to be performed will be clear and provided to the *Employer* as such.

- ***Design and/or drawings in respect of stormwater, except strengthening of existing culverts,***

It will be expected of the Engineers inspecting the yard when determining sections to be upgraded and the work involved in each section, to deal with problem stormwater issues as they are recorded.

- ***Design and/or drawings in respect of strengthening of existing culverts and structures if required,***

Confirmation that all existing structures will be able to support the project requirement (tons/axle) is an important function of the *Consultant*.

- ***Design and/or drawings in respect of structural and concrete works***

Provision of a strengthened concrete working surface for operation of gantry crane(s) and strengthened crane beams required to support the lifting and coal transfer mechanism, as well as any other required structural works for the approved layout.

- ***Design and/or drawings in respect of road layout and pavement design***

It will be expected that any specification and instructions for the pavement construction will be clear and provided to the *Employer* as such.

- ***Design and/or drawings in respect of operating and security buildings***

Provision of drawings for operating and security buildings if required by the Client with all services to the buildings included in the overall design.

#### 4.5.2 Engineering Documentation

The following limitations are recorded in respect of standard engineering documentation:

- ◆ No allowance is made for formal tender documents. Bills of Quantities supported only by relevant specifications and references will be provided to R&C, or any other contractor as instructed by the *Employer* for pricing (Section 1).
- ◆ Drawings will be limited to the absolute minimum required by the *Employer* for construction work and any statutory or public authority requirements.

- ◆ Manpower for design and supervision will be allocated and utilised as and when needed, at the discretion of the *Consultant*.
- ◆ The sourcing of permanent way materials, i.e. ballast, sleepers, rails, fasteners and turnouts will be the responsibility of the *Employer*. Allowance must be made for *Consultant* site staff inspections of ballast quarries, sleepers and rail material.

#### 4.6 Works excluded from the *Consultant's* obligations

Only the following Works required for the project will be specifically excluded from the *Consultant's* obligations:

- ◆ ***Arranging access to properties and the acquisition of land or servitudes.***  
In this respect the *Employer* (or CR) will manage the process. The *Consultant* will be required to set out and mark such servitudes and prepare the necessary layout plans for negotiation with landowners. Once construction is finalised, the *Consultant* will indicate the relevant beacons to a registered land surveyor, to be appointed by the *Employer*, for preparation of the final registration plans.
- ◆ ***The preparation of an Environmental Assessment and related Management Plan.***  
In this respect the CR will manage the process and the *Consultant* will be expected to cooperate with, and if requested, to facilitate access to the site by environmental specialists in the course of their duties.
- ◆ ***The design and specification of a Telecommunications system for train Operations.***  
In this respect the CR will manage the process and the *Consultant* and *Employer* will have to cooperate with, and if requested, to facilitate access to the site by the telecommunications specialist contractor in the course of his duties. The design, procurement and construction of telecommunications facilities are excluded from the *Consultant's* obligations.
- ◆ ***Public relations.***  
Public relations will be handled by the CR and the Client. Personnel secondments for any length of time from the *Consultant* for the execution of Client PR obligations (e.g. ECO) will, after negotiations and agreement, be to the Client's (TFR) account. Occasional and *ad hoc* one-day assistance, e.g. accompanying a VIP visitor on the project, will be provided as part of the *Consultant* services.
- ◆ ***Electrical Design and Drawings***  
In this respect the *Employer* will manage this process and the *Consultant* will be expected to cooperate with, and if requested, to incorporate any electrical designs into the *Consultant's* design.

## 4.7 TFR and Eskom Involvement

The *Consultant* is required to create a close and effective working relationship with TFR in consultation with the Employer and CR. Eskom, as co-developer requires a similar relationship.

## 5 GUIDELINES FOR DESIGN STANDARDS

### 5.1 Earthworks

Design parameters indicative of the earthworks standards to be considered are given below. These will vary as the specific case or situation may require and *all standards are to be set after consultation between the Consultant, the Employer and the CR.*

1. A balance of cut-to-fill in excavations, minimising spoil.
2. Location of Borrow Pits to minimise overhaul or location of closest commercial sources for layer works material.
3. Stockpiling of topsoil to be reapplied later on cuts, banks and rehabilitated Borrow Pits.
4. Fill compaction to at least 90% Mod AASHTO.
5. Layer works compaction to 95% Mod AASHTO.
6. Sub-ballast layer compaction to 97% Mod AASHTO.
7. Provision of a construction road along the terminal if required, gravelled in sections as required, to be retained as a maintenance road, 4 m wide.
8. Fencing surrounding the yard as per the Client's requirements and appropriate security measures.
9. Quality Assurance as for national road standards and tender requirements.
10. Specific standards applied include:
  - a) S410 in respect of formation and pavement earthworks
  - b) SANS 1200
  - c) Any other Transnet specifications pertaining to this type of work

### 5.2 Pipe culverts

Design parameters indicative of the pipe culvert standards to be adhered to are given below:

1. Pipes to be designed for 1:25 year frequency storm

### 5.3 Concrete works design

Design parameters indicative of the concrete design standards to be considered are given below:

1. Box culverts and concrete structures are to be designed using Transnet's latest design codes, hydraulic design practices and technology.
2. Concrete Quality Assurance in accordance with SANS 1200
3. Specification in accordance with SANS 1200

### 5.4 Track design – Standards

Design parameters indicative of the track design standards to be considered are given below

- ◆ Rails: 48kg/m, 57 kg/m or 60kg/m – new or good quality second hand
- ◆ 26 t/axle load track and formation
- ◆ *Long Welded Rails*: by flash-butt process (LWR)
- ◆ *Site welding of LWR's* by thermit or other approved process
  - *Sleepers*: Pre-stressed, heavy duty precast concrete, for FIST or Pandrol fastening
  - *Fastenings*: FIST or Pandrol
  - *Ballast*: high quality, 1 250m<sup>3</sup>/km minimum
  - *Vertical alignment*: 1:800 or better
  - *Horizontal Curves*: 400 m Radius minimum, or better
  - No curves if possible

## 6 CONSULTANT REMUNERATION

The form of contract to be employed is the NEC3 Professional Services Contract.

Option A - priced contract with activity schedule shall be applicable.

The *Activity Schedule* is coupled to a provisional programme, later to form the basis of an Accepted Programme. A pro forma program to be provided as part of the *Consultant's* submission.

## 7 PROCUREMENT

7.1 When the *Employers Agent* certifies payment (see PSC Clause 50) following an assessment date, the *Consultant* complies with the *Employer's* procedure for invoice submission

7.2 The invoice must correspond to the *Employers Agent's* assessment of the amount due to the *Consultant* as stated in the payment certificate.

7.3 The invoice states the following:

- Invoice addressed to Transnet SOC Ltd;
- Transnet Limited's VAT No: 4720103177;
- Invoice number;
- The *Contractor's* VAT Number; and
- The Contract number CPT 3414262.001

7.4 The invoice contains the supporting detail.

7.5 The invoice is presented either by post or by hand delivery.

Invoices submitted by post are addressed to:

Transnet Freight Rail RME  
P.O. Box 338  
Kasselsvlei  
7535

For the attention of the *Employers Agent* – Callie Herselman, Transnet Freight Rail RME

7.6 Invoices submitted by hand are presented to:

Transnet Freight Rail RME  
Off Robert Sobukwe Road  
Behind Transnet Park  
Bellville South

For the attention of the *Employers Agent* – Callie Herselman, Transnet Freight Rail RME

7.7 The invoice is presented as an original.