

Transnet Freight Rail, a division of

TRANSNET SOC LTD

Registration Number 1990/000900/30

[Hereinafter referred to as **Transnet**]

REQUEST FOR QUOTATION [RFQ]

No CRAC JHB 21786

**FOR THE SUPPLY AND DELIVERY OF BRANDED LEATHER SPINNER FOUR WHEEL
LAPTOP TROLLEY BAGS.**

FOR DELIVERY TO: Transnet Freight Rail
Inyanda House 1
21 Wellington Road, Parktown
Johannesburg

ISSUE DATE: 15 June 2016

CLOSING DATE: 23 June 2016

CLOSING TIME: 10:00 AM

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

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

For the supply and delivery of Branded Leather spinner four wheel
Laptop trolley bags.

Section 1 NOTICE TO BIDDERS

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

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

1 Responses to RFQ

Responses to this RFQ [**Quotations**] must not include documents or reference relating to any other quotation or proposal. Any additional conditions must be embodied in an accompanying letter.

2 COMPULSORY LOCAL CONTENT THRESHOLD

In terms of section 9(1) of the Preferential Procurement Regulations, 2011, and the Instruction Note issued by National Treasury on the "Invitation and Evaluation of Bids based on a stipulated minimum threshold for local content and production for the Leather Sector," Transnet is required to set a stipulated minimum threshold be set for this RFQ.

2.1 Local Content Threshold

A Local Content threshold of **100%** [one hundred percent] will be required for all Goods to be manufactured by a successful Respondent for the duration of the contract term.

For further guidance with regard to the determination of "Local Content," Respondents must refer to the following documentation:

- SABS approved technical specification number SABS 1236:2011
- Guidance on the calculation of Local Content

[Available on the DTI website: <http://www.thedti.gov.za>]

2.2 Mandatory RFQ Annexures

The regulatory and mandatory RFQ Annexures, which must be completed by all Respondents in order to declare Local Content, are as follows:

- Annexure B – Declaration Certificate for Local Production and Content [SBD 6.2]
- Annexure C – Local Content Declaration: Summary Schedule

Annexures D and E are Supporting Schedules to Annexure C. They are named as follows:

- Annexure D – Imported Content Declaration: Supporting Schedule to Annexure C
- Annexure E – Local Content Declaration: Supporting Schedule to Annexure C

For the supply and delivery of Branded Leather spinner four wheel
Laptop trolley bags.

After completing Declaration D, bidders should complete Declaration E and then consolidate the information on Declaration C. Declaration C should be submitted with the bid documentation at the Closing date and time of the bid. Declarations D and E should be kept by Respondents for verification purposes for a period of at least 5 years. The successful Respondent is required to continuously update Declarations C, D and E with the actual values for the duration of the contract. In addition to what is stated above regarding Annexures D and E, please note that these declarations are to be submitted as part of the Essential Returnable Documents - See Section 2 of RFQ.

2.3 Challenges meeting the Local Content Threshold

Should, after the award of a Bid, the Supplier experience challenges in meeting the stipulated minimum threshold for Local Content, Transnet is required to inform the DTI accordingly in order for the DTI to verify the circumstances and provide directives in this regard.

3 Broad-Based Black Economic Empowerment [B-BBEE]

Transnet fully endorses and supports the Government's Broad-Based Black Economic Empowerment Programme and it would therefore prefer to do business with local business enterprises who share these same values. As described in more detail in the attached B-BBEE Claim Form Transnet will allow a "preference" to companies who provide a valid B-BBEE Verification Certificate.

The value of this bid is estimated to be below R1 000 000 (all applicable taxes included) and therefore the **80/20** system shall be applicable.

Respondents are required to complete Annexure A [B-BBEE Preference Point Claim Form] and submit it together with proof of their B-BBEE Status as stipulated in the Claim Form in order to obtain preference points for their B-BBEE status.

Note: Failure to submit a valid and original B-BBEE certificate or a certified copy thereof at the Closing Date of this RFQ will result in a score of zero being allocated for B-BBEE.

4 Communication

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

A Respondent may, however, before the closing date and time, direct any written enquiries relating to the RFQ to the following Transnet employee:

Name: Koketso Selowa

Email: Koketso.Selowa@transnet.net

Telephone: 011 584 0688

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

For the supply and delivery of Branded Leather spinner four wheel
Laptop trolley bags.

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

5 Legal Compliance

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

6 Changes to Quotations

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

7 Pricing

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

8 Prices Subject to Confirmation

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

9 Binding Offer

Any Quotation furnished pursuant to this Request shall be deemed to be an offer. Any exceptions to this statement must be clearly and specifically indicated.

10 Disclaimers

Transnet is not committed to any course of action as a result of its issuance of this RFQ and/or its receipt of a Quotation in response to it. Please note that Transnet reserves the right to:

- modify the RFQ's goods / service(s) and request Respondents to re-bid on any changes;
- reject any Quotation which does not conform to instructions and specifications which are detailed herein;
- disqualify Quotations submitted after the stated submission deadline;
- not necessarily accept the lowest priced Quotation or an alternative bid;
- reject all Quotations, if it so decides;
- place an order in connection with this Quotation at any time after the RFQ's closing date;
- award only a portion of the proposed goods / service/s which are reflected in the scope of this RFQ;
- split the award of the order/s between more than one Supplier/Service Provider should it at Transnet's discretion be more advantageous in terms of, amongst others, cost or developmental considerations ;
or
- Make no award at all.

Should a contract be awarded on the strength of information furnished by the Respondent, which after conclusion of the contract, is proved to have been incorrect, Transnet reserves the right to cancel the contract.

For the supply and delivery of Branded Leather spinner four wheel Laptop trolley bags.

Transnet reserves the right to undertake post-tender negotiations [PTN] with selected Respondents or any number of short-listed Respondents, such PTN to include, at Transnet's option, any evaluation criteria listed in this RFQ document.

Transnet reserves the right to award business to the highest scoring bidder/s unless objective criteria justify the award to another bidder.

Should the preferred bidder fail to sign or commence with the contract within a reasonable period after being requested to do so, Transnet reserves the right to award the business to the next highest ranked bidder, provided that he/she is still prepared to provide the required goods at the quoted price.

11 Specification/Scope of Work

Item: Genuine Trolley Laptop Bag on four wheels

Material: Genuine leather

Size: 400 x w 200 x h 390mm Takes 15 .4 inch laptop

Multiple pockets, Luggage label

Padded computer compartment and carry handles

Lockable zip pullers

Battery capacity: 2750mah

Fold -away telescopic handles, Solid wheel

Front compartment organiser

Front zipper pocket, fully lined

Colour: Black

Branding: Embossing 1 position

Quantity: 50

Logo for application:



Pictures below

For the supply and delivery of Branded Leather spinner four wheel Laptop trolley bags.



Packaging: Items must be wrapped individually and clearly marked quantity per box.

12 Respondent's Samples

In this RFQ, Respondents are required to submit samples of the Goods tendered for. The sample(s) must be endorsed with the RFQ number, the company name; and the item description and forwarded on the deadline date to the following addresses:

Transnet Freight Rail Inyanda House 1 Ground Floor

21 Wellington Road, Parktown, Johannesburg

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

TIP-OFFS ANONYMOUS: 0800

Transnet Request for Quotation No CRAC JHB 21786
 For the supply and delivery of Branded Leather spinner four wheel
 Laptop trolley bags

SECTION 2

**FOR THE SUPPLY AND DELIVERY OF BRANDED LEATHER SPINNER FOUR WHEEL
 LAPTOP TROLLEY BAGS.**
CLOSING VENUE: INYANDA HOUSE 1, 21 WELLINGTON ROAD PARKTOWN JHANNESBURG
CLOSING DATE & TIME: 23 JUNE 2016 10:00 AM
VALIDITY PERIOD: 30 SEPTEMBER 2016

EVALUATION CRITERIA AND RETURNABLE DOCUMENTS

1 Evaluation Criteria

Transnet will utilise the following criteria [not necessarily in this order] in choosing a Supplier/Service Provider, if so required:

Criterion/Criteria	Explanation
Administrative responsiveness	<p>Completeness of response and returnable documents.</p> <p>Whether the Bid has been lodged on time.</p> <p>Whether all Returnable Documents and/or schedules were completed and returned by the closing date and time.</p> <p>Verify the validity of all returnable documents.</p>
Substantive responsiveness - Mandatory	<p>Submission of the sample (Bidders are expected to submit a sample of the leather spinner 4 wheel laptop trolley Bag per specification)</p> <p>Failure to submit a sample will result in disqualification.</p>
Local Content Threshold	<p>This RFQ is subject to regulation 9 (1) of the Preferential Procurement Policy Framework Act as [Leather Sector] has been designated for local production and content. As such, Respondents will be required to meet a stipulated minimum threshold for local production and content as stipulated in the relevant Instruction Note issued by National Treasury. The stipulated minimum threshold applicable is as follows:</p> <p>100%.</p> <p>Failure to complete the local content declarations forms in full will lead to bid disqualification.</p>

Transnet Request for Quotation No CRAC JHB 21786

Respondent's Signature

Date & Company Stamp

Transnet Request for Quotation No CRAC JHB 21786
 For the supply and delivery of Branded Leather spinner four wheel
 Laptop trolley bags

Final weighted evaluation based on 80/20 preference point	<ul style="list-style-type: none"> Pricing and price basis [firm] B-BBEE status of company - Preference points will be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table indicated in Annexure A: B-BBEE Claim Form.
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2 Validity Period

Transnet desires a validity period of 90 [ninety] Business Days from the closing date of this RFQ.

This RFQ is valid until 30 September 2016

3 Disclosure of Prices Quoted

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

YES ☐ NO ☐

4 Returnable Documents

Returnable Documents means all the documents, Sections and Annexures, as listed in the tables below.

All Returnable Sections, as indicated in the header and footer of the relevant pages, must be signed, stamped and dated by the Respondent.

- a) Respondents are required to submit with their Quotations the **mandatory Returnable Documents**, as detailed below.

Failure to provide all these Mandatory Returnable Documents at the Closing Date and time of this RFQ will result in a Respondent's disqualification. Respondents are therefore urged to ensure that all these Documents are returned with their Quotations.

Please confirm submission of these mandatory Returnable Documents by so indicating [Yes or No] in the tables below:

Mandatory Returnable Documents	Submitted [Yes or No]
SECTION 3 : Quotation Form	
ANNEXURE B -- Declaration Certificate for Local Production and Content [SBD6.2]	
ANNEXURE C -- Local Content Declaration: Summary Schedule	

- b) In addition to the requirements of section (a) above, Respondents are further required to submit with their Quotations the following **essential Returnable Documents** as detailed below.

Transnet Request for Quotation No CRAC JHB 21786

Respondent's Signature

Date & Company Stamp

Transnet Request for Quotation No CRAC JHB 21786
 For the supply and delivery of Branded Leather spinner four wheel
 Laptop trolley bags

Failure to provide all these Returnable Documents may result in a Respondent's disqualification. Respondents are therefore urged to ensure that all these documents are returned with their Quotations.

Essential Returnable Documents	Submitted [Yes or No]
SECTION 2 : Evaluation criteria and list of returnable documents	
- SECTION 4 : RFQ Declaration and Breach of Law Form	
- Valid and original, or a certified copy, of your entity's B-BBEE Verification Certification as per the requirements stipulated in Annexure A: B-BBEE Claims Form Note: failure to provide these required documents at the closing date and time of the RFQ will result in an automatic score of zero being allocated for preference	
- Original valid Tax Clearance Certificate [Consortia / Joint Ventures must submit a separate Tax Clearance Certificate for each party]	
ANNEXURE A – B-BBEE Preference Points Claim Form	
ANNEXURE D – Imported Content Declaration: Supporting Schedule to Annexure C	
ANNEXURE E – Local Content Declaration: Supporting Schedule to Annexure C	

CONTINUED VALIDITY OF RETURNABLE DOCUMENTS

The successful Respondent will be required to ensure the validity of all returnable documents, including but not limited to its Tax Clearance Certificate and valid B-BBEE Verification Certificate, for the duration of any contract emanating from this RFQ. Should the Respondent be awarded the contract [the Agreement] and fail to present Transnet with such renewals as and when they become due, Transnet shall be entitled, in addition to any other rights and remedies that it may have in terms of the eventual Agreement, to terminate such Agreement forthwith without any liability and without prejudice to any claims which Transnet may have for damages against the Respondent.

Transnet Request for Quotation No CRAC JHB 21786
 For the supply and delivery of Branded Leather spinner four wheel
 Laptop trolley bags

SECTION 3 QUOTATION FORM

I/We _____

hereby offer to supply the goods/services at the prices quoted in the Price Schedule below, in accordance with the conditions related thereto.

I/We agree to be bound by those terms and conditions in:

- the Standard RFQ Terms and Conditions for the Supply of Goods or Services to Transnet; and
- any other standard or special conditions mentioned and/or embodied in this Request for Quotation.

I/We accept that unless Transnet should otherwise decide and so inform me/us, this Quotation [and, if any, its covering letter and any subsequent exchange of correspondence], together with Transnet's acceptance thereof shall constitute a binding contract between Transnet and me/us.

I/We further agree that if, after I/we have been notified of the acceptance of my/our Quotation, I/we fail to deliver the said goods/service/s within the delivery lead-time quoted, Transnet may, without prejudice to any other legal remedy which it may have, cancel the order and recover from me/us any expenses incurred by Transnet in calling for Quotations and/or having to accept any less favourable offer.

Price Schedule

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

Item No	Description of Goods /Services	Quantity	Unit Price (ZAR)	Total Price (ZAR)
1	Supply delivery of branded leather spinner 4 wheel laptop trolley Bags	50		

Delivery Lead-Time from date of purchase order: _____ [days/weeks]

Notes to Pricing:

- a) All Prices must be quoted in South African Rand, exclusive of VAT
- b) To facilitate like-for-like comparison bidders must submit pricing strictly in accordance with this price schedule and not utilise a different format. Deviation from this pricing schedule could result in a bid being disqualified.

Please note that should you have offered a discounted price(s), Transnet will only consider such price discount(s) in the final evaluation stage if offered on an unconditional basis.

Transnet Request for Quotation No CRAC JHB 21786

Respondent's Signature _____

_____ Date & Company Stamp

Transnet Request for Quotation No CRAC JHB 21786
 For the supply and delivery of Branded Leather spinner four wheel
 Laptop trolley bags

By signing this Quotation Form the Respondent is deemed to acknowledge that he/she has made himself/herself thoroughly familiar, and agrees, with all the conditions governing this RFQ, including those contained in any printed form stated to form part hereof, including but not limited to the documents stated below and Transnet SOC Ltd will recognise no claim for relief based on an allegation that the Respondent overlooked any such condition or failed properly to take it into account for the purpose of calculating tendered prices or otherwise:

1. Specifications and pictures are included in this RFQ - if applicable; and
2. The following documents all of which are available on Transnet's website or upon request:
 - 2.1. General Bid Conditions;
 - 2.2. Standard RFQ Terms and Conditions for the Supply of Goods or Services to Transnet;
 - 2.3. Supplier Integrity Pact;
 - 2.4. Non-disclosure Agreement; and
 - 2.5. Vendor Application Form and all supporting documents (first time vendors only)

Alternatively, for all existing vendors, please provide vendor number(s) here:

Transnet Operating Division	Unique Vendor Number	Yes / No
Transnet Group		
TFR, etc.		

In the Yes/No column above, please confirm that all the information e.g. company address and contact details, banking details etc. are still correct as at the time of allocation of the vendor number(s). Alternatively, Respondents are required to provide the updated information with their bid submission.

SIGNED at _____ on this _____ day of _____ 20____

SIGNATURE OF WITNESSES

ADDRESS OF WITNESSES

1 _____

Name _____

2 _____

Name _____

SIGNATURE OF RESPONDENT'S AUTHORISED REPRESENTATIVE: _____

NAME: _____

DESIGNATION: _____

Transnet Request for Quotation No CRAC JHB 21786

 Respondent's Signature

 Date & Company Stamp

SECTION 4

RFQ DECLARATION AND BREACH OF LAW FORM

NAME OF ENTITY: _____

We _____ do hereby certify that:

1. Transnet has supplied and we have received appropriate responses to any/all questions [as applicable] which were submitted by ourselves for RFQ Clarification purposes;
2. we have received all information we deemed necessary for the completion of this Request for Quotation [RFQ];
3. we have been provided with sufficient access to the existing Transnet facilities/sites and any and all relevant information relevant to the Supply of the Goods as well as Transnet information and Employees, and has had sufficient time in which to conduct and perform a thorough due diligence of Transnet's operations and business requirements and assets used by Transnet. Transnet will therefore not consider or permit any pre- or post-contract verification or any related adjustment to pricing, service levels or any other provisions/conditions based on any incorrect assumptions made by the Respondent in arriving at his Bid Price.
4. at no stage have we received additional information relating to the subject matter of this RFQ from Transnet sources, other than information formally received from the designated Transnet contact(s) as nominated in the RFQ documents;
5. we are satisfied, insofar as our entity is concerned, that the processes and procedures adopted by Transnet in issuing this RFQ and the requirements requested from Bidders in responding to this RFQ have been conducted in a fair and transparent manner; and
6. furthermore, we declare that a family, business and/or social relationship **exists / does not exist** [delete as applicable] between an owner / member / director / partner / shareholder of our entity and an employee or board member of the Transnet Group including any person who may be involved in the evaluation and/or adjudication of this Bid.
7. In addition, we declare that an owner / member / director / partner / shareholder of our entity **is / is not** [delete as applicable] an employee or board member of the Transnet Group.
8. If such a relationship as indicated in paragraph 6 and/or 7 exists, the Respondent is to complete the following section:

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

ADDRESS: _____

Transnet Request for Quotation No CRAC JHB 21786
 For the supply and delivery of Branded Leather spinner four wheel
 Laptop trolley bags

Indicate nature of relationship with Transnet:

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

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

BREACH OF LAW

10. We further hereby certify that I/we **have/have not been** [delete as applicable] found guilty during the preceding 5 [five] years of a serious breach of law, including but not limited to a breach of the Competition Act, 89 of 1998, by a court of law, tribunal or other administrative body. The type of breach that the Respondent is required to disclose excludes relatively minor offences or misdemeanours, e.g. traffic offences. This includes the imposition of an administrative fine or penalty.

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

NATURE OF BREACH:

DATE OF BREACH:

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

SIGNED at _____ on this _____ day of _____ 20____

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

Transnet Request for Quotation No CRAC JHB 21786

Respondent's Signature

Date & Company Stamp

Transnet Request for Quotation No CRAC JHB 21786
 For the supply and delivery of Branded Leather spinner four wheel
 Laptop trolley bags

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

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

INTEGRITY PACT

Between

TRANSNET SOC LTD

Registration Number: 1990/000900/30

("Transnet")

and

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

Transnet Request for Quotation No CRAC JHB 21786

 Respondent's Signature

 Date & Company Stamp

Transnet Request for Quotation No CRAC JHB 21786
For the supply and delivery of Branded Leather spinner four wheel
Laptop trolley bags

PREAMBLE

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

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

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

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

1 OBJECTIVES

- 1.2 Transnet and the Bidder / Supplier agree to enter into this Integrity Pact, to avoid all forms of dishonesty, fraud and corruption including practices that are anti-competitive in nature, negotiations made in bad faith and under-pricing by following a system that is fair, transparent and free from any influence / unprejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to:
- a) Enable Transnet to obtain the desired contract at a reasonable and competitive price in conformity to the defined specifications of the works, goods and services; and
 - b) Enable Bidders / Suppliers to abstain from bribing or participating in any corrupt practice in order to secure the contract.

2 COMMITMENTS OF TRANSNET

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

- 2.2 Transnet hereby undertakes that no employee of Transnet connected directly or indirectly with the sourcing event and ensuing contract, will demand, take a promise for or accept directly or through intermediaries any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the Bidder, either for themselves or for any person, organisation or third party related to the contract in exchange for an advantage in the bidding process, bid evaluation, contracting or implementation process related to any contract.
- 2.3 Transnet will, during the registration and bidding process treat all Bidders / Suppliers with equity, transparency and fairness. Transnet will in particular, before and during the registration process, provide to all Bidders / Suppliers the same information and will not provide to any Bidders / Suppliers confidential / additional information through which the Bidders / Suppliers could obtain an advantage in relation to any bidding process.

Transnet Request for Quotation No CRAC JHB 21786
For the supply and delivery of Branded Leather spinner four wheel

Laptop trolley bags

- 2.4 Transnet further confirms that its employees will not favour any prospective bidder in any form that could afford an undue advantage to a particular bidder during the tendering stage, and will further treat all Bidders / Supplier participating in the bidding process.
- 2.5 Transnet will exclude from the bidding process such employees who have any personal interest in the Bidders / Suppliers participating in the bidding process.

3 OBLIGATIONS OF THE BIDDER / SUPPLIER

- 3.2 The Bidder / Supplier commits itself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of its bid or during any ensuing contract stage in order to secure the contract or in furtherance to secure it and in particular the Bidder / Supplier commits to the following:
 - a) The Bidder / Supplier will not, directly or through any other person or firm, offer, promise or give to Transnet or to any of Transnet's employees involved in the bidding process or to any third person any material or other benefit or payment, in order to obtain in exchange an advantage during the bidding process; and
 - b) The Bidder / Supplier will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any employee of Transnet, connected directly or indirectly with the bidding process, or to any person, organisation or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the contract.
- 3.3 The acceptance and giving of gifts may be permitted provided that:
 - a) the gift does not exceed R1 000 (one thousand Rand) in retail value;
 - b) many low retail value gifts do not exceed R1 000 within a 12 month period;
 - c) hospitality packages do not exceed R5 000 in value or many low value hospitality packages do not cumulatively exceed R5 000;
 - d) a Bidder / Supplier does not give a Transnet employee more than 2 (two) gifts within a 12 (twelve) month period, irrespective of value;
 - e) a Bidder / Supplier does not accept more than 1 (one) gift in excess of R750 (seven hundred and fifty Rand) from a Transnet employee within a 12 (twelve) month period, irrespective of value;
 - f) a Bidder / Supplier may under no circumstances, accept from or give to, a Transnet employee any gift, business courtesy, including an invitation to a business meal and /or drinks, or hospitality package, irrespective of value, during any bid evaluation process, including a period of 12 (twelve) months after such tender has been awarded, as it may be perceived as undue and improper influence on the evaluation process or reward for the contract that has been awarded; and
 - g) a Bidder / Supplier may not offer gifts, goods or services to a Transnet employee at artificially low prices, which are not available to the public at those prices.

Transnet Request for Quotation No CRAC JHB 21786

Respondent's Signature

Date & Company Stamp

Transnet Request for Quotation No CRAC JHB 21786
For the supply and delivery of Branded Leather spinner four wheel

Laptop trolley bags

- 3.4 The Bidder / Supplier will not collude with other parties interested in the contract to preclude a competitive bid price, impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract. The Bidder / Supplier further commits itself to delivering against all agreed upon conditions as stipulated within the contract.
- 3.5 The Bidder / Supplier will not enter into any illegal or dishonest agreement or understanding, whether formal or informal with other Bidders / Suppliers. This applies in particular to certifications, submissions or non-submission of documents or actions that are restrictive or to introduce cartels into the bidding process.
- 3.6 The Bidder / Supplier will not commit any criminal offence under the relevant anti-corruption laws of South Africa or any other country. Furthermore, the Bidder / Supplier will not use for illegitimate purposes or for restrictive purposes or personal gain, or pass on to others, any information provided by Transnet as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
- 3.7 A Bidder / Supplier of foreign origin shall disclose the name and address of its agents or representatives in South Africa, if any, involved directly or indirectly in the registration or bidding process. Similarly, the Bidder / Supplier of South African nationality shall furnish the name and address of the foreign principals, if any, involved directly or indirectly in the registration or bidding process.
- 3.8 The Bidder / Supplier will not misrepresent facts or furnish false or forged documents or information in order to influence the bidding process to the advantage of the Bidder / Supplier or detriment of Transnet or other competitors.
- 3.9 The Bidder / Supplier shall furnish Transnet with a copy of its code of conduct, which code of conduct shall reject the use of bribes and other dishonest and unethical conduct, as well as compliance programme for the implementation of the code of conduct.
- 3.10 The Bidder / Supplier will not instigate third persons to commit offences outlined above or be an accessory to such offences.

4 INDEPENDENT BIDDING

- 4.2 For the purposes of that Certificate in relation to any submitted Bid, the Bidder declares to fully understand that the word "competitor" shall include any individual or organisation, other than the Bidder, whether or not affiliated with the Bidder, who:
 - a) has been requested to submit a Bid in response to this Bid invitation;
 - b) could potentially submit a Bid in response to this Bid invitation, based on their qualifications, abilities or experience; and
 - c) provides the same Goods and Services as the Bidder and/or is in the same line of business as the Bidder.
- 4.3 The Bidder has arrived at his submitted Bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium will not be construed as collusive bidding.

Transnet Request for Quotation No CRAC JHB 21786

Respondent's Signature

Date & Company Stamp

Transnet Request for Quotation No CRAC JHB 21786
For the supply and delivery of Branded Leather spinner four wheel
Laptop trolley bags

- 4.4 In particular, without limiting the generality of paragraph 5 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
- a) prices;
 - b) geographical area where Goods or Services will be rendered [market allocation];
 - c) methods, factors or formulas used to calculate prices;
 - d) the intention or decision to submit or not to submit, a Bid;
 - e) the submission of a Bid which does not meet the specifications and conditions of the RFP; or
 - f) bidding with the intention of not winning the Bid.
- 4.5 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the Goods or Services to which his/her Bid relates.
- 4.6 The terms of the Bid as submitted have not been, and will not be, disclosed by the Bidder, directly or indirectly, to any competitor, prior to the date and time of the official Bid opening or of the awarding of the contract.
- 4.7 Bidders are aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, Bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and/or may be reported to the National Prosecuting Authority [NPA] for criminal investigation and/or may be restricted from conducting business with the public sector for a period not exceeding 10 [ten] years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.
- 4.8 Should the Bidder find any terms or conditions stipulated in any of the relevant documents quoted in the RFP unacceptable, it should indicate which conditions are unacceptable and offer alternatives by written submission on its company letterhead, attached to its submitted Bid. Any such submission shall be subject to review by Transnet's Legal Counsel who shall determine whether the proposed alternative(s) are acceptable or otherwise, as the case may be.

5 DISQUALIFICATION FROM BIDDING PROCESS

- 5.2 If the Bidder / Supplier has committed a transgression through a violation of section 3 of this Integrity Pact or in any other form such as to put its reliability or credibility as a Bidder / Supplier into question, Transnet may reject the Bidder's / Supplier's application from the registration or bidding process and remove the Bidder / Supplier from its database, if already registered.
- 5.3 If the Bidder / Supplier has committed a transgression through a violation of section 3, or any material violation, such as to put its reliability or credibility into question. Transnet may after following due procedures and at its own discretion also exclude the Bidder / Supplier from future bidding processes. The imposition and duration of the exclusion will be determined by the severity of the transgression. The severity will be determined by the circumstances of the case, which will include amongst others the number of transgressions, the position of the transgressors within the company hierarchy of the Bidder / Supplier and the amount of the damage. The exclusion will be

Transnet Request for Quotation No CRAC JHB 21786
 For the supply and delivery of Branded Leather spinner four wheel
 Laptop trolley bags

imposed for up to a maximum of 10 (ten) years. However, Transnet reserves the right to impose a longer period of exclusion, depending on the gravity of the misconduct.

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

6 TRANSNET'S LIST OF EXCLUDED TENDERERS (BLACKLIST)

- 6.2 All the stipulations around Transnet's blacklisting process as laid down in Transnet's Supply Chain Policy and Procurement Procedures Manual are included herein by way of reference. Below follows a condensed summary of this blacklisting procedure.
- 6.3 Blacklisting is a mechanism used to exclude a company/person from future business with Transnet for a specified period. The decision to blacklist is based on one of the grounds for blacklisting. The standard of proof to commence the blacklisting process is whether a "*prima facie*" (i.e. on the face of it) case has been established.
- 6.4 Depending on the seriousness of the misconduct and the strategic importance of the Goods/Services, in addition to blacklisting a company/person from future business, Transnet may decide to terminate some or all existing contracts with the company/person as well.
- 6.5 A supplier or contractor to Transnet may not subcontract any portion of the contract to a blacklisted company.
- 6.6 Grounds for blacklisting include: If any person/Enterprise which has submitted a Bid, concluded a contract, or, in the capacity of agent or subcontractor, has been associated with such Bid or contract:
- Has, in bad faith, withdrawn such Bid after the advertised closing date and time for the receipt of Bids;
 - has, after being notified of the acceptance of his Bid, failed or refused to sign a contract when called upon to do so in terms of any condition forming part of the bid documents;
 - has carried out any contract resulting from such bid in an unsatisfactory manner or has breached any condition of the contract;
 - has offered, promised or given a bribe in relation to the obtaining or execution of the contract;
 - has acted in a fraudulent or improper manner or in bad faith towards Transnet or any Government Department or towards any public body, Enterprise or person;
 - has made any incorrect statement in a certificate or other communication with regard to the Local Content of his Goods or his B-BBEE status and is unable to prove to the satisfaction of Transnet that:
 - he made the statement in good faith honestly believing it to be correct; and
 - before making such statement he took all reasonable steps to satisfy himself of its correctness;

Transnet Request for Quotation No CRAC JHB 21786

Respondent's Signature

Date & Company Stamp

Transnet Request for Quotation No CRAC JHB 21786
 For the supply and delivery of Branded Leather spinner four wheel
 Laptop trolley bags

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

h) has litigated against Transnet in bad faith.

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

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

7 PREVIOUS TRANSGRESSIONS

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

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

8 SANCTIONS FOR VIOLATIONS

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

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

9 CONFLICTS OF INTEREST

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

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

Transnet Request for Quotation No CRAC JHB 21786

Respondent's Signature

Date & Company Stamp

Transnet Request for Quotation No CRAC JHB 21786
For the supply and delivery of Branded Leather spinner four wheel

Laptop trolley bags

- 9.3 A Transnet employee uses his / her position, or privileges or information obtained while acting in the capacity as an employee for:
- a) Private gain or advancement; or
 - b) The expectation of private gain, or advancement, or any other advantage accruing to the employee must be declared in a prescribed form.
- Thus, conflicts of interest of any bid committee member or any person involved in the sourcing process must be declared in a prescribed form.
- 9.4 If a Bidder / Supplier has or becomes aware of a conflict of interest i.e. a family, business and / or social relationship between its owner(s) / member(s) / director(s) / partner(s) / shareholder(s) and a Transnet employee / member of Transnet's Board of Directors in respect of a bid which will be considered for the bid process, the Bidder / Supplier:
- a) must disclose the interest and its general nature, in the Request for Proposal ("RFX") declaration form; or
 - b) must notify Transnet immediately in writing once the circumstances has arisen.
- 9.5 The Bidder / Supplier shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any committee member or any person involved in the sourcing process where this is done, Transnet shall be entitled forthwith to rescind the contract and all other contracts with the Bidder / Supplier.

10 MONITORING

- 10.2 Transnet will be responsible for appointing an independent Monitor to:
- a) Conduct random monitoring of compliance to the provisions of this Integrity Pact for contracts entered into between Transnet and the Bidder / Supplier for less than R100,000.000 (one hundred million Rand) in value;
 - b) Monitor compliance to the provisions of this Integrity Pact for contracts entered into between Transnet and the Bidder / Supplier for greater than R100,000.000 (one hundred million Rand) in value; and
 - c) Investigate any allegation of violation of any provisions of this Integrity Pact for contracts entered into between Transnet and the Bidder / Supplier, irrespective of value.
- 10.3 The Monitor will be subjected to Transnet's Terms of Conditions of Contract for the Provision of Services to Transnet, as well as to Transnet's Supplier Code of conduct.

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

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

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

12 DISPUTE RESOLUTION

- 12.2 Transnet recognises that trust and good faith are pivotal to its relationship with its Bidders / Suppliers. When a dispute arises between Transnet and its Bidder / Supplier, the parties should use their best endeavours to resolve the dispute in an amicable manner, whenever possible. Litigation in bad faith negates the principles of trust and good faith on which commercial relationships are based.

Transnet Request for Quotation No CRAC JHB 21786

Respondent's Signature

Date & Company Stamp

Transnet Request for Quotation No CRAC JHB 21786
For the supply and delivery of Branded Leather spinner four wheel

Laptop trolley bags

Accordingly, following a blacklisting process as mentioned in paragraph 6 above, Transnet will not do business with a company that litigates against it in bad faith or is involved in any action that reflects bad faith on its part. Litigation in bad faith includes, but is not limited to the following instances:

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

13 GENERAL

- 13.2 This Integrity Pact is governed by and interpreted in accordance with the laws of the Republic of South Africa.
- 13.3 The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the law relating to any civil or criminal proceedings.
- 13.4 The validity of this Integrity Pact shall cover all the bidding processes and will be valid for an indefinite period unless cancelled by either Party.
- 13.5 Should one or several provisions of this Integrity Pact turn out to be invalid the remainder of this Integrity Pact remains valid.
- 13.6 Should a Bidder / Supplier be confronted with dishonest, fraudulent or corruptive behaviour of one or more Transnet employees, Transnet expects its Bidders / Suppliers to report this behaviour directly to a senior Transnet official / employee or alternatively by using Transnet's "Tip-Off Anonymous" hotline number 0800 003 056, whereby your confidentiality is guaranteed.

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

oooOOOooo

ANNEXURE A: B-BBEE PREFERENCE POINTS CLAIM FORM

Transnet Request for Quotation No CRAC JHB 21786

Respondent's Signature

Date & Company Stamp

Transnet Request for Quotation No CRAC JHB 21786
 For the supply and delivery of Branded Leather spinner four wheel
 Laptop trolley bags

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

1. INTRODUCTION

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

2. GENERAL DEFINITIONS

- 2.1 **"all applicable taxes"** include value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- 2.2 **"B-BBEE"** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- 2.3 **"B-BBEE status of contributor"** means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- 2.4 **"Bid"** means a written offer in a prescribed or stipulated form in response to an invitation by Transnet for the provision of goods, works or services;
- 2.5 **"Broad-Based Black Economic Empowerment Act"** means the Broad-Based Black Economic Empowerment Act, 2003 [Act No. 53 of 2003];
- 2.6 **"comparative price"** means the price after the factors of a non-firm price and all unconditional discounts that can utilised have been taken into consideration;
- 2.7 **"consortium or joint venture"** means an association of persons for the purpose of combining their expertise, property, capital, efforts, skills and knowledge in an activity for the execution of a contract;
- 2.8 **"contract"** means the agreement that results from the acceptance of a bid by Transnet;
- 2.9 **"EME"** means any enterprise with an annual total revenue of R5 [five] million or less as per the 2007 version of the B-BBEE Codes of Good Practice and means any enterprise with an annual total revenue of R10 [ten] million or less as per the Revised Codes of Good Practice issued on 11 October 2013 in

Transnet Request for Quotation No CRAC JHB 21786

Respondent's Signature

Date & Company Stamp

Transnet Request for Quotation No CRAC JHB 21786
 For the supply and delivery of Branded Leather spinner four wheel
 Laptop trolley bags

terms of Government Gazette No. 36928;

- 2.10 **"firm price"** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs and excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- 2.11 **"functionality"** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;
- 2.12 **"non-firm prices"** means all prices other than "firm" prices;
- 2.13 **"person"** includes reference to a juristic person;
- 2.14 **"QSE"** means any enterprise with an annual total revenue between R5 [five] million and R35 [thirty five] million as per the 2007 version of the B-BBEE Codes of Good Practice and means any enterprise with an annual total revenue of between R10 [ten] million and R50 [fifty] million as per the Revised Codes of Good Practice issued on 11 October 2013 in terms of Government Gazette No. 36928
- 2.15 **"rand value"** means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties;
- 2.16 **"subcontract"** means the primary contractor's assigning or leasing or making out work to, or employing another person to support such primary contractor in the execution of part of a project in terms of the contract;
- 2.17 **"total revenue"** bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Empowerment Act and promulgated in the Government Gazette on 9 February 2007;
- 2.18 **"trust"** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
- 2.19 **"trustee"** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

3. ADJUDICATION USING A POINT SYSTEM

- 3.1 The Bidder obtaining the highest number of total points for the evaluation criteria as enumerated in Section 2 of the 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

Transnet Request for Quotation No CRAC JHB 21786

Respondent's Signature

Date & Company Stamp

Transnet Request for Quotation No CRAC JHB 21786
 For the supply and delivery of Branded Leather spinner four wheel
 Laptop trolley bags

of preference points for B-BBEE.

- 3.5 However, when functionality is part of the evaluation process and two or more Bids have scored equal points including equal preference points for B-BBEE, the successful Bid will be the one scoring the highest score for functionality.
- 3.6 Should two or more Bids be equal in all respect, the award shall be decided by the drawing of lots.

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

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

B-BBEE Status Level of Contributor	Number of Points [Maximum 20]
1	20
2	18
3	16
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

- 4.2 Bidders who qualify as EMEs in terms of the 2007 version of the Codes of Good Practice must submit a certificate issued by an Accounting Officer as contemplated in the CCA or a Verification Agency accredited by SANAS or a Registered Auditor. Registered auditors do not need to meet the prerequisite for IRBA's approval for the purpose of conducting verification and issuing EME's with B-BBEE Status Level Certificates.
- 4.3 Bidders who qualify as EMEs in terms of the Revised Codes of Good Practice issued on 11 October 2013 in terms of Government Gazette No. 36928 are only required to obtain a sworn affidavit on an annual basis confirming that the entity has an Annual Total Revenue of R10 million or less and the entity's Level of Black ownership.
- 4.4 In terms of the 2007 version of the Codes of Good Practice, Bidders other than EMEs must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.
- 4.5 The Department of Trade and Industry recently revised the Codes of Good Practice on 11 October 2013 [Government Gazette No. 36928]. The Revised Codes will replace the Black Economic Empowerment Codes of Good Practice issued on 9 February 2007. The Revised Codes provide for a transitional period ending 30 April 2015. During the transitional period, companies may elect to be measured in terms of the Revised Codes or the 2007 version of the Codes. Companies which are governed by Sector-specific Codes will be measured in terms of those Sector Codes.

Transnet Request for Quotation No CRAC JHB 21786

Respondent's Signature

Date & Company Stamp

Transnet Request for Quotation No CRAC JHB 21786
 For the supply and delivery of Branded Leather spinner four wheel
 Laptop trolley bags

- 4.6 As such, Transnet will accept B-BBEE certificates issued based on the Revised Codes. Transnet will also continue to accept B-BBEE certificates issued in terms of the 2007 version of the Codes provided it was issued before 1 May 2015. Thereafter, Transnet will only accept B-BBEE certificates issued based on the Revised Codes.
- 4.7 In terms of the Revised Codes of Good Practice, Bidders who qualify as QSEs must comply with all the elements of B-BBEE for the purposes of measurement. QSEs that are at least 51% or 100% Black owned are only required to obtain a sworn affidavit on an annual basis confirming that the entity has an Annual Total Revenue of R50 million or less and the entity's Level of Black ownership. Large enterprises must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.
- 4.8 A trust, consortium or joint venture will qualify for points for its B-BBEE status level as a legal entity, provided that the entity submits its B-BBEE status level certificate.
- 4.9 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- 4.10 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialised scorecard contained in the B-BBEE Codes of Good Practice.
- 4.11 A person will not be awarded points for B-BBEE status level if it is indicated in the Bid documents that such a Bidder intends subcontracting more than 25% [twenty-five per cent] of the value of the contract to any other enterprise that does not qualify for at least the same number of points that such a Bidder qualifies for, unless the intended subcontractor is an EME that has the capability and ability to execute the subcontract.
- 4.12 A person awarded a contract may not subcontract more than 25% [twenty-five per cent] of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is subcontracted to an EME that has the capability and ability to execute the subcontract.
- 4.13 Bidders are to note that in terms of paragraph 2.6 of Statement 000 of the Revised Codes of Good Practice issued on 11 October 2013 in terms of Government Gazette No. 36928, any representation made by an entity about its B-BBEE compliance must be supported by suitable evidence or documentation. As such, Transnet reserves the right to request such evidence or documentation from Bidders in order to verify any B-BBEE recognition claimed.

5. B-BBEE STATUS AND SUBCONTRACTING

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

B-BBEE Status Level of Contributor _____ = _____ [maximum of 20 points]

Transnet Request for Quotation No CRAC JHB 21786

Respondent's Signature

Date & Company Stamp

Transnet Request for Quotation No CRAC JHB 21786
 For the supply and delivery of Branded Leather spinner four wheel
 Laptop trolley bags

Note: Points claimed in respect of this paragraph 5.1 must be in accordance with the table reflected in paragraph 4.1 above and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or a sworn affidavit in the case of an EME or QSE.

5.2 Subcontracting:

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

If YES, indicate:

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

5.3 Declaration with regard to Company/Firm

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

.....

.....
- (vi) Company Classification [TICK APPLICABLE BOX]
 - ☐ Manufacturer
 - ☐ Supplier
 - ☐ Professional Service Provider
 - ☐ Other Service Providers, e.g Transporter, etc
- (vii) Total number of years the company/firm has been in business.....

BID DECLARATION

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

- (i) The information furnished is true and correct.
- (ii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 6 above, the contractor may be required to furnish documentary proof to the satisfaction of Transnet that the claims are correct.

Transnet Request for Quotation No CRAC JHB 21786
 For the supply and delivery of Branded Leather spinner four wheel
 Laptop trolley bags

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

WITNESSES:

1.

2.

SIGNATURE OF BIDDER

DATE:

COMPANY NAME:

ADDRESS:

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

Transnet Request for Quotation No CRAC JHB 21786

Respondent's Signature

Date & Company Stamp

Transnet Request for Quotation No CRAC JHB 21786
For the supply and delivery of Branded Leather spinner four wheel
Laptop trolley bags

GENERAL BID CONDITIONS - GOODS

[February 2015]

preview copy

Transnet Request for Quotation No CRAC JHB 21786

Respondent's Signature

Date & Company Stamp

TABLE OF CONTENTS

1	<u>DEFINITIONS</u>	31
2	<u>GENERAL</u>	31
3	<u>SUBMITTING OF BID DOCUMENTS</u>	31
4	<u>USE OF BID FORMS</u>	31
5	<u>BID FEES</u>	32
6	<u>VALIDITY PERIOD</u>	32
7	<u>SITE VISITS / BRIEFING SESSIONS</u>	32
8	<u>CLARIFICATION BEFORE THE CLOSING DATE</u>	32
9	<u>COMMUNICATION AFTER THE CLOSING DATE</u>	32
10	<u>UNAUTHORISED COMMUNICATION ABOUT BIDS</u>	32
11	<u>POST TENDER NEGOTIATIONS</u>	33
12	<u>RETURNABLE DOCUMENTS</u>	33
13	<u>DEFAULTS BY RESPONDENTS</u>	33
14	<u>CURRENCY</u>	33
15	<u>PRICES SUBJECT TO CONFIRMATION</u>	33
16	<u>ALTERATIONS MADE BY THE RESPONDENT TO BID PRICES</u>	34
17	<u>EXCHANGE AND REMITTANCE</u>	34
18	<u>ACCEPTANCE OF BID</u>	34
19	<u>NOTICE TO UNSUCCESSFUL RESPONDENTS</u>	35
20	<u>TERMS AND CONDITIONS OF CONTRACT</u>	35
21	<u>CONTRACT DOCUMENTS</u>	35
22	<u>LAW GOVERNING CONTRACT</u>	35
23	<u>IDENTIFICATION</u>	36
24	<u>RESPONDENT'S SAMPLES</u>	36
25	<u>SECURITIES</u>	36
26	<u>PRICE AND DELIVERY BASIS FOR GOODS</u>	37
27	<u>EXPORT LICENCE</u>	37
28	<u>QUALITY OF MATERIAL</u>	37
29	<u>DELETION OF ITEMS EXCLUDED FROM BID</u>	37
30	<u>VALUE-ADDED TAX</u>	37
31	<u>IMPORTANT NOTICE TO RESPONDENTS REGARDING PAYMENT</u>	38
32	<u>CONTRACT QUANTITIES AND DELIVERY REQUIREMENTS</u>	38
33	<u>PLANS, DRAWINGS, DIAGRAMS, SPECIFICATIONS AND DOCUMENTS</u>	39
34	<u>BIDS BY OR ON BEHALF OF FOREIGN RESPONDENTS</u>	40
35	<u>CONFLICT WITH ISSUED RFX DOCUMENT</u>	41
36	<u>TRANSNET'S LIST OF EXCLUDED TENDERERS (BLACKLIST)</u>	41

For Supply and delivery of Branded Leather Spinner 4 wheel Laptop Trolley Bags

Returnable Document

5 DEFINITIONS

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

- 5.1 Bid** shall mean a Respondent's tendered response / proposal to a Transnet RFQ;
- 5.2 Bid Document(s)** shall mean a reference to a Request for Proposal or Request for Quotation;
- 5.3 Business Day** shall mean any day other than a Saturday, Sunday or public holiday;
- 5.4 Goods** shall mean the goods required by Transnet as specified in its Bid Document;
- 5.5 Respondent(s)** shall mean a respondent/bidder to a Bid Document;
- 5.6 RFQ** shall mean Request for Quotation;
- 5.7 RFX** shall mean RFP or RFQ, as the case may be;
- 5.8 Supplier** shall mean the successful Respondent;
- 5.9 Tax Invoice** shall mean the document as required by Section 20 of the Value-Added Tax Act, 89 of 1991, as may be amended from time to time;
- 5.10 Transnet** shall mean Transnet SOC Ltd, a State Owned Company; and
- 5.11 VAT** shall mean Value Added Tax in terms of the Value-Added Tax Act, 89 of 1991, as may be amended from time to time.

6 GENERAL

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

7 SUBMITTING OF BID DOCUMENTS

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

8 USE OF BID FORMS

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

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Returnable Document

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

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

9 BID FEES

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

9.2 Where necessary, only Respondents that have paid the Bid fee and provided proof of payment when submitting their proposal will be considered.

10 VALIDITY PERIOD

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

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

11 SITE VISITS / BRIEFING SESSIONS

Respondents may be requested to attend a site visit or briefing session where it is necessary to view the site in order to prepare their Bids, or where Transnet deems it necessary to provide Respondents with further information to allow them to complete their Bids properly. Where such visits or sessions are indicated as compulsory in the RFX Document, Respondents are obliged to attend these meetings as failure to do so will result in their disqualification.

12 CLARIFICATION BEFORE THE CLOSING DATE

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

13 COMMUNICATION AFTER THE CLOSING DATE

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

14 UNAUTHORISED COMMUNICATION ABOUT BIDS

Where Bids are submitted to the Secretary of an Acquisition Council, Respondents may at any time communicate with the Secretary on any matter relating to its Bid but, in the absence of written authority from the Secretary, no communication on a question affecting the subject of a Bid shall take place between

For Supply and delivery of Branded Leather Spinner 4 wheel Laptop Trolley Bags

Returnable Document

Respondents or other potential service providers or any member of the Acquisition Council or official of Transnet during the period between the closing date for the receipt of the Bid and the date of the notification of the successful Respondent(s). A Bid, in respect of which any such unauthorised communication has occurred, may be disqualified.

15 POST TENDER NEGOTIATIONS

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

16 RETURNABLE DOCUMENTS

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

17 DEFAULTS BY RESPONDENTS

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

- 17.1** enter into a formal contract when called upon to do so within such period as Transnet may specify; or
- 17.2** accept an order in terms of the Bid;
- 17.3** furnish satisfactory security when called upon to do so for the fulfilment of the contract; or
- 17.4** comply with any condition imposed by Transnet.

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

18 CURRENCY

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

19 PRICES SUBJECT TO CONFIRMATION

- 19.1** Prices which are quoted subject to confirmation will not be considered.
- 19.2** Firm prices quoted for the duration of any resulting order and/or contract will receive precedence over prices which are subject to fluctuation if this is in Transnet's best interests.

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Returnable Document**20 ALTERATIONS MADE BY THE RESPONDENT TO BID PRICES**

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

21 EXCHANGE AND REMITTANCE

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

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

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

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

21.5 Transnet will not recognise any claim for adjustment of the order and/or contract price if the increase in price arises after the date on which the Goods were to be delivered, as set out in the order and/or contract, or any subsequent agreement between the parties.

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

22 ACCEPTANCE OF BID

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

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

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

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

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Returnable Document

23 NOTICE TO UNSUCCESSFUL RESPONDENTS

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

24 TERMS AND CONDITIONS OF CONTRACT

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

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

25 CONTRACT DOCUMENTS

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

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

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

26 LAW GOVERNING CONTRACT

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

For Supply and delivery of Branded Leather Spinner 4 wheel Laptop Trolley Bags

Returnable Document

27 IDENTIFICATION

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

28 RESPONDENT'S SAMPLES

28.1 If samples are required from Respondents, such samples shall be suitably marked with the Respondent's name and address, the Bid number and the Bid item number and must be despatched in time to reach the addressee as stipulated in the Bid Documents on or before the closing date of the Bid. Failure to submit samples by the due date may result in the rejection of a Bid.

28.2 Transnet reserves the right to retain samples furnished by Respondents in compliance with Bid conditions.

28.3 Payment will not be made for a successful Respondent's samples that may be retained by Transnet for the purpose of checking the quality and workmanship of Goods delivered in execution of a contract.

28.4 If Transnet does not wish to retain unsuccessful Respondents' samples and the Respondents require their return, such samples may be collected by the Respondents at their own risk and cost.

29 SECURITIES

29.1 The successful Respondent, when called upon to do so, shall provide security to the satisfaction of Transnet for the due fulfilment of a contract or order. Such security shall be in the form of a Deed of Suretyship [Deed of Suretyship] furnished by an approved bank, building society, insurance or guarantee corporation carrying on business in South Africa.

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

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

29.4 For the purpose of clause 29.129.1 above, Transnet will supply a Deed of Suretyship form to the successful Respondent for completion and no guarantee in any other form will be accepted. A copy of such form will be supplied to Respondents on request. For this purpose a Deed of Suretyship form will be provided which shall be completed and returned to Transnet or a designated official by the successful Respondent within 30 [thirty] calendar days from the date of the letter of acceptance. No payment will be made until the form, duly completed, is delivered to Transnet. Failure to return the Deed of Suretyship within the prescribed time shall, save where prior

For Supply and delivery of Branded Leather Spinner 4 wheel Laptop Trolley Bags

Returnable Document

extension has been granted, entitle Transnet without notice to the Supplier to cancel the contract with immediate effect.

29.5 Additional costs incurred by Transnet necessitated by reason of default on the part of the Supplier in relation to the conditions of this clause 29 will be for the account of the Supplier.

30 PRICE AND DELIVERY BASIS FOR GOODS

30.1 Unless otherwise specified in the Bid Documents, the prices quoted for Goods must be on a Delivered Duty Paid [ICC Incoterms 2010] price basis in accordance with the terms and at the delivery point or points specified in Transnet's Bid Documents. Bids for supply on any other basis of delivery are liable to disqualification. The lead time for delivery stated by the Respondent must be inclusive of all non-working days or holidays, and of periods occupied in stocktaking or in effecting repairs to or overhauling plant, which would ordinarily occur within the delivery period given by the Respondent.

30.2 Respondents must furnish their Bid prices in the Price Schedule of the Bid Documents on the following basis:

Local Supplies - Prices for Goods to be manufactured, produced or assembled in the Republic of South Africa, or imported supplies held in South Africa, to be quoted on a Delivered RSA named destination basis.

Imported Supplies - Prices for Goods to be imported from all sources to be quoted on a Delivered Duty Paid [ICC Incoterms 2010] basis, to end destination in South Africa, unless otherwise specified in the Bid Price Schedule.

31 EXPORT LICENCE

The award of a Bid for Goods to be imported may be subject to the issue of an export licence in the country of origin or supply. If required, the Supplier's manufacturer or forwarding agent shall be required to apply for such licence.

32 QUALITY OF MATERIAL

Unless otherwise stipulated, the Goods offered shall be NEW i.e. in unused condition, neither second-hand nor reconditioned.

33 DELETION OF ITEMS EXCLUDED FROM BID

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

34 VALUE-ADDED TAX

34.1 In respect of local supplies, i.e. Goods to be manufactured, produced or assembled in the Republic of South Africa, or imported supplies held or already in transit to South Africa, the prices

For Supply and delivery of Branded Leather Spinner 4 wheel Laptop Trolley Bags

Returnable Document

quoted by the Respondent are to be exclusive of VAT which must be shown separately at the standard rate on the Tax Invoice.

35 IMPORTANT NOTICE TO RESPONDENTS REGARDING PAYMENT**35.1 Method of Payment**

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

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

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

The Respondent must, therefore, in the first instance, tender strictly in accordance with clause 35.1

(a) above. Failure to comply with clause 35.1 (0 above may preclude a Bid from further consideration.

NOTE: The successful Respondent [the **Supplier**] shall, where applicable, be required to furnish a guarantee covering any advance payments.

35.2 Conditional Discount

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

36 CONTRACT QUANTITIES AND DELIVERY REQUIREMENTS**36.1 Contract Quantities**

It must be clearly understood that although Transnet does not bind itself to purchase a definitive quantity under any contract which may be entered into pursuant to this Bid, the successful Respondent nevertheless undertakes to supply against the contract such quantities as may be ordered against the contract, which orders are posted or delivered by hand or transmitted electronically on or before the expiry date of such contract.

It is furthermore a condition that Transnet will not accept liability for any material/stocks specially ordered or carried by the Respondent with a view to meeting the requirements under any such contract.

For Supply and delivery of Branded Leather Spinner 4 wheel Laptop Trolley Bags

Returnable Document

The estimated planned quantities likely to be ordered by Transnet per annum are furnished in relevant section of the Bid Documents. For avoidance of doubt the estimated quantities are estimates and Transnet reserves the right to order only those quantities sufficient for its operational requirements.

36.2 Delivery Period**Period Contracts and Fixed Quantity Requirements**

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

Progress Reports

The Supplier may be required to submit periodical progress reports with regard to the delivery of the Goods.

Emergency Demands as and when required

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

37 PLANS, DRAWINGS, DIAGRAMS, SPECIFICATIONS AND DOCUMENTS**37.1 Copyright**

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

37.3 Drawings and specifications

37.4 In addition to what may be stated in any Bid Document, the Respondent should note that, unless notified to the contrary by Transnet or a designated official by means of an official amendment to the Bid Documents, it is required to tender for Goods strictly in accordance with the drawings and/or specifications supplied by Transnet, notwithstanding that it may be aware that alterations or amendments to such drawings or specifications are contemplated by Transnet.

37.5 Respondent's drawings

37.6 Drawings required to be submitted by the Respondent must be furnished before the closing time and date of the Bid. The non-receipt of such drawings by the appointed time may disqualify the Bid.

37.7 Foreign specifications

For Supply and delivery of Branded Leather Spinner 4 wheel Laptop Trolley Bags

Returnable Document

37.8 The Respondent quoting for Goods in accordance with foreign specifications, other than British and American standards, is to submit translated copies of such specifications with the Bid. In the event of any departures or variations between the foreign specification(s) quoted in the Bid Documents, full details regarding such departures or variations must be furnished by the Respondent in a covering letter attached to the Bid. Non-compliance with this condition may result in disqualification.

38 BIDS BY OR ON BEHALF OF FOREIGN RESPONDENTS

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

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

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

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

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

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

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

The Power of Attorney must authorise the South African representative or agent to choose the *domicilium citandi et executandi*.

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

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Returnable Document

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

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

38.6 The attention of the Respondent is directed to clause 29 above [Securities] regarding the provision of security for the fulfilment of contracts and orders and the manner and form in which such security is to be furnished.

39 CONFLICT WITH ISSUED RFX DOCUMENT

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

40 TRANSNET'S LIST OF EXCLUDED TENDERERS (BLACKLIST)

- 1.1 All the stipulations around Transnet's blacklisting process as laid down in Transnet's Supply Chain Policy and Procurement Procedures Manual are included herein by way of reference. Below follows a condensed summary of the blacklisting procedure.
- 1.2 Blacklisting is a mechanism used to exclude a company/person from future business with Transnet for a specified period. The decision to blacklist is based on one of the grounds for blacklisting. The standard of proof to commence the blacklisting process is whether a "*prima facie*" (i.e. on the face of it) case has been established.
- 1.3 Depending on the seriousness of the misconduct and the strategic importance of the Goods/Services, in addition to blacklisting a company/person from future business, Transnet may decide to terminate some or all existing contracts with the company/person as well.
- 1.4 A supplier or contractor to Transnet may not subcontract any portion of the contract to a blacklisted company.
- 1.5 Grounds for blacklisting include: If any person/Enterprise which has submitted a Bid, concluded a contract, or, in the capacity of agent or subcontractor, has been associated with such Bid or contract:
 - i) Has, in bad faith, withdrawn such Bid after the advertised closing date and time for the receipt of Bids;
 - j) has, after being notified of the acceptance of his Bid, failed or refused to sign a contract when called upon to do so in terms of any condition forming part of the bid documents;
 - k) has carried out any contract resulting from such bid in an unsatisfactory manner or has breached any condition of the contract;
 - l) has offered, promised or given a bribe in relation to the obtaining or execution of the contract;

For Supply and delivery of Branded Leather Spinner 4 wheel Laptop Trolley Bags

Returnable Document

- m) has acted in a fraudulent or improper manner or in bad faith towards Transnet or any Government Department or towards any public body, Enterprise or person;
 - n) has made any incorrect statement in a certificate or other communication with regard to the Local Content of his Goods or his B-BBEE status and is unable to prove to the satisfaction of Transnet that:
 - (iii) he made the statement in good faith honestly believing it to be correct; and
 - (iv) before making such statement he took all reasonable steps to satisfy himself of its correctness;
 - o) caused Transnet damage, or to incur costs in order to meet the contractor's requirements and which could not be recovered from the contractor;
 - p) has litigated against Transnet in bad faith.
- 1.6 Transnet recognizes that trust and good faith are pivotal to its relationship with its suppliers. When a dispute arises between Transnet and its supplier, the parties should use their best endeavours to resolve the dispute in an amicable manner, whenever possible. Litigation in bad faith negates the principles of trust and good faith on which commercial relationships are based. Accordingly, Transnet will not do business with a company that litigates against it in bad faith or is involved in any action that reflects bad faith on its part. Litigation in bad faith includes, but is not limited to the following instances:
- a) Vexatious proceedings. These are frivolous proceedings which have been instituted without proper grounds;
 - b) Perjury. Where a supplier commits perjury either in giving evidence or on affidavit;
 - c) Scurrilous allegations. Where a supplier makes allegations regarding a senior Transnet employee which are without a proper foundation, scandalous, abusive or defamatory.
 - d) Abuse of court process. When a supplier abuses the court process in order to gain a competitive advantage during a bid process.
- 1.7 Where any person or Enterprise has been found guilty by a court of law, tribunal or other administrative body of a serious breach of any law, during the preceding 5 Years, such person/Enterprise may also be blacklisted. Serious breaches of the law would include but are not limited to corruption, fraud, theft, extortion, or contraventions of the Competition Act 89 of 1998 (e.g. collusive tendering). This process excludes minor convictions such as traffic offences or personal disagreements between parties which have no bearing on the business operations of the person or Enterprise.

For Supply and delivery of Branded Leather Spinner 4 wheel Laptop Trolley Bags

Returnable Document

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

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

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

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

National Treasury's Central Supplier Database (CSD)

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



ANNEXURE B

SBD 6.2

DECLARATION CERTIFICATE FOR LOCAL PRODUCTION AND CONTENT FOR DESIGNATED SECTORS

This Standard Bidding Document (SBD) must form part of all bids invited. It contains general information and serves as a declaration form for local content (local production and local content are used interchangeably).

Before completing this declaration, bidders must study the General Conditions, Definitions, Directives applicable in respect of Local Content as prescribed in the Preferential Procurement Regulations, 2011, the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:2011 (Edition 1) and the Guidance on the Calculation of Local Content together with the Local Content Declaration Templates [Annex C (Local Content Declaration: Summary Schedule), D (Imported Content Declaration: Supporting Schedule to Annex C) and E (Local Content Declaration: Supporting Schedule to Annex C)].

1. GENERAL CONDITIONS

- 1.1. Preferential Procurement Regulations, 2011 (Regulation 9) makes provision for the promotion of local production and content.
- 1.2. Regulation 9.(1) prescribes that in the case of designated sectors, where in the award of bids local production and content is of critical importance, such bids must be advertised with the specific bidding condition that only locally produced goods, services or works or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered.
- 1.3. Where necessary, for bids referred to in paragraph 1.2 above, a two stage bidding process may be followed, where the first stage involves a minimum threshold for local production and content and the second stage price and B-BBEE.
- 1.4. A person awarded a contract in relation to a designated sector, may not sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- 1.5. The local content (LC) expressed as a percentage of the bid price must be calculated in accordance with the SABS approved technical specification number SATS 1286: 2011 as follows:

$$LC = [1 - x / y] * 100$$

Where

x is the imported content in Rand

y is the bid price in Rand excluding value added tax (VAT)

Prices referred to in the determination of x must be converted to Rand (ZAR) by using the exchange rate published by South African Reserve Bank (SARB) at 12:00 on the date of advertisement of the bid as indicated in paragraph 4.1 below.

The SABS approved technical specification number SATS 1286:2011 is accessible on http://www.thedti.gov.za/industrial_development/ip.jsp at no cost.

1.6. A bid may be disqualified if –

- a) this Declaration Certificate and the Annex C (Local Content Declaration: Summary Schedule) are not submitted as part of the bid documentation; and
- b) the bidder fails to declare that the Local Content Declaration Templates (Annex C, D and E) have been audited and certified as correct.

2. DEFINITIONS

- 2.1. **"bid"** includes written price quotations, advertised competitive bids or proposals;
- 2.2. **"bid price"** price offered by the bidder, excluding value added tax (VAT);
- 2.3. **"contract"** means the agreement that results from the acceptance of a bid by an organ of state;
- 2.4. **"designated sector"** means a sector, sub-sector or industry that has been designated by the Department of Trade and Industry in line with national development and industrial policies for local production, where only locally produced services, works or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content;
- 2.5. **"duly sign"** means a Declaration Certificate for Local Content that has been signed by the Chief Financial Officer or other legally responsible person nominated in writing by the Chief Executive, or senior member / person with management responsibility (close corporation, partnership or individual).
- 2.6. **"imported content"** means that portion of the bid price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its subcontractors) and which costs are inclusive of the costs abroad (this includes labour or intellectual property costs), plus freight and other direct importation costs, such as landing costs, dock duties, import duty, sales duty or other similar tax or duty at the South African port of entry;
- 2.7. **"local content"** means that portion of the bid price which is not included in the imported content, provided that local manufacture does take place;
- 2.8. **"stipulated minimum threshold"** means that portion of local production and content as determined by the Department of Trade and Industry; and
- 2.9. **"sub-contract"** means the primary contractor's assigning, leasing, 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.

3. The stipulated minimum threshold(s) for local production and content (refer to annex a of sats 1286:2011) for this bid is/are as follows:

<u>Description of services, works or goods</u>	<u>Stipulated minimum threshold</u>
_____	_____ %
_____	_____ %

_____ %

4. Does any portion of the services, works or goods offered have any imported content?
(Tick applicable box)

YES		NO	
-----	--	----	--

- 4.1 If yes, the rate(s) of exchange to be used in this bid to calculate the local content as prescribed in paragraph 1.5 of the general conditions must be the rate(s) published by SARB for the specific currency at 12:00 on the date of advertisement of the bid.

The relevant rates of exchange information is accessible on www.reservebank.co.za.

Indicate the rate(s) of exchange against the appropriate currency in the table below (refer to Annex A of SATS 1286:2011):

Currency	Rates of exchange
US Dollar	
Pound Sterling	
Euro	
Yen	
Other	

NB: Bidders must submit proof of the SARB rate (s) of exchange used.

5. Were the Local Content Declaration Templates (Annex C, D and E) audited and certified as correct?
(Tick applicable box)

YES		NO	
-----	--	----	--

- 5.1. If yes, provide the following particulars:

- (a) Full name of auditor:
(b) Practice number:
(c) Telephone and cell number:
(d) Email address:

(Documentary proof regarding the declaration will, when required, be submitted to the satisfaction of the Accounting Officer / Accounting Authority)

6. Where, after the award of a bid, challenges are experienced in meeting the stipulated minimum threshold for local content the dti must be informed accordingly in order for the dti to verify and in consultation with the AO/AA provide directives in this regard.

LOCAL CONTENT DECLARATION
(REFER TO ANNEX B OF SATS 1286:2011)

LOCAL CONTENT DECLARATION BY CHIEF FINANCIAL OFFICER OR OTHER LEGALLY RESPONSIBLE PERSON NOMINATED IN WRITING BY THE CHIEF EXECUTIVE OR SENIOR MEMBER/PERSON WITH MANAGEMENT RESPONSIBILITY (CLOSE CORPORATION, PARTNERSHIP OR INDIVIDUAL)

IN RESPECT OF BID NO.

ISSUED BY: (Procurement Authority / Name of Institution):

NB

1 The obligation to complete, duly sign and submit this declaration cannot be transferred to an external authorized representative, auditor or any other third party acting on behalf of the bidder.

2 Guidance on the Calculation of Local Content together with Local Content Declaration Templates (Annex C, D and E) is accessible on http://www.thdti.gov.za/industrial_development/ip.jsp. Bidders should first complete Declaration D. After completing Declaration D, bidders should complete Declaration E and then consolidate the information on Declaration C. **Declaration C should be submitted with the bid documentation at the closing date and time of the bid in order to substantiate the declaration made in paragraph (c) below.** Declarations D and E should be kept by the bidders for verification purposes for a period of at least 5 years. The successful bidder is required to continuously update Declarations C, D and E with the actual values for the duration of the contract.

I, the undersigned, (full names),
do hereby declare, in my capacity as
of(name of bidder entity), the
following:

(a) The facts contained herein are within my own personal knowledge.

(b) I have satisfied myself that:

- (i) the goods/services/works to be delivered in terms of the above-specified bid comply with the minimum local content requirements as specified in the bid, and as measured in terms of SATS 1286:2011; and
- (ii) the declaration templates have been audited and certified to be correct.

(c) The local content percentage (%) indicated below has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E which has been consolidated in Declaration C:

Bid price, excluding VAT (y)	R
Imported content (x), as calculated in terms of SATS 1286:2011	R
Stipulated minimum threshold for local content (paragraph 3 above)	
Local content %, as calculated in terms of SATS 1286:2011	

If the bid is for more than one product, the local content percentages for each product contained in Declaration C shall be used instead of the table above. The local content percentages for each product has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E.

(d) I accept that the Procurement Authority / Institution has the right to request that the local content be verified in terms of the requirements of SATS 1286:2011.

(e) I understand that the awarding of the bid is dependent on the accuracy of the information furnished in this application. I also understand that the submission of incorrect data, or data that are not verifiable as described in SATS 1286:2011, may result in the Procurement Authority / Institution imposing any or all of the remedies as provided for in Regulation 13 of the Preferential Procurement Regulations, 2011 promulgated under the Preferential Policy Framework Act (PPPFA), 2000 (Act No. 5 of 2000).

SIGNATURE: _____

DATE: _____

WITNESS No. 1 _____

DATE: _____

WITNESS No. 2 _____

DATE: _____

Imported Content Declaration - Supporting Schedule to Annex C

EU	R 9.00	GBP	R 12.00
----	--------	-----	---------

Note: VAT to be excluded from all calculations

A. Exempted imported content

This local news correspondence with
Anne-C.C.21

B. Imported directly by the Tenderer

(D32) Total imported value by transfer	in Q

C. Imported by a 3rd party and supplied to the Tenderer

(2025) Total imported value by 3rd party

D. Other foreign currency payments

Symmetry of Differences
Local value of payments
(051)

Signature of tenderer from Annex 8

(D52) Total of foreign currency payments declared by tenderer and/or 3rd party

(D53) Total of imported content & foreign currency payments - (D32), (D45) & (D52) above

Date:

The total must correspond with
 Annex C, C.2.3

Local Content Declaration - Summary Schedule

Note: VAT to be excluded from all calculations

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[illegible][illegible]

Signature of tenderer from Annex B

Date: _____

Local Content Declaration - Supporting Schedule to Annex C

(E1)	Tender No.
(E2)	Tender description:
(E3)	Designated products:
(E4)	Tender Authority:
(E5)	Tendering Entity name:

Note: VAT to be excluded from all calculations

Local Products (Goods, Services and Works)	Description of items purchased (E6)	Local suppliers (E7)	Value (E8)
	(E9) Total local products (Goods, Services and Works)		R 0
(E10) Manpower costs (Tenderer's manpower cost)			R 0
(E11) Factory overheads (Rental, depreciation & amortisation, utility costs, consumables etc.)			R 0
(E12) Administration overheads and mark-up (Marketing, insurance, financing, interest etc.)			R 0
		(E13) Total local content	R 0

(E13) Total local content	R 0
---------------------------	-----

This total must correspond with Annex C -

C24

Signature of tenderer from Annex B

Date: _____



SUPPLIER DECLARATION FORM

Transnet Vendor Management has received a request to load / change your company details on to the Transnet vendor database. Please return the completed Supplier Declaration Form (SDF) together with the required supporting documents as per Appendix V to the Transnet Official who is intending to procure your company's services / products, to enable us to process this request. Please only submit the documentation relevant to your request.

NB: Effective 1 April 2016 all organisations, institutions and individuals who wish to provide goods and/or services to Organs of the State must be registered on the National Treasury Central Supplier Database (CSD). This needs to be done via their portal at <https://secure.csd.gov.za/> **before applying to Transnet.**

General Terms and Conditions:

Failure to submit the relevant documentation will delay the vendor creation / change process.

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

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

Transnet expects its suppliers to timeously renew their Tax Clearance and B-BBEE certificates (where applicable, as EMEs and QSEs are only expected to supply an affidavit as per Appendix III and IV), as well as all affidavits, annually. Failure to do so may result in the supplier's account being temporarily suspended.



SUPPLIER DECLARATION FORM

NB: Effective 1 April 2016 all organisations, institutions and individuals who wish to provide goods and/or services to Organs of the State must be registered on the National Treasury Central Supplier Database (CSD). This needs to be done via their portal at <https://secure.csd.gov.za/> before applying to Transnet.

CSD Number (MAAA xxxxxxx):

Company Trading Name						
Company Registered Name						
Company Registration No. Or ID No If a Sole Proprietor						
Company Income Tax Number						
Form of Entity	CC	Trust	Pty Ltd	Limited	Partnership	Sole Proprietor
	Non-profit	Personal Liability Co	State Owned Co	National Govt	Provincial Govt	Local Govt
	Educational Institution	Specialised Profession	Financial Institution	Foreign International	Foreign Branch Office	
Did your company previously operate under another name?						Yes <input type="checkbox"/> No <input type="checkbox"/>
If YES state the previous details below						
Trading Name						
Registered Name						
Company Registration No Or ID No If a Sole Proprietor						
Form of Entity	CC	Trust	Pty Ltd	Limited	Partnership	Sole Proprietor
	Non-profit	Personal Liability Co	State Owned Co	National Govt	Provincial Govt	Local Govt
	Educational Institution	Specialised Profession	Financial Institution	Foreign International	Foreign Branch Office	
Your Current Company's VAT Registration Status						
VAT Registration Number						
If Exempted from VAT registration , state reason and submit proof from SARS in confirming the exemption status						
If your business entity is not VAT Registered, please submit a current original sworn affidavit (see example in Appendix I). Your Non VAT Registration must be confirmed annually.						
Company Banking Details				Bank Name		
Universal Branch Code				Bank Account Number		
Company Physical Address						
		Code				
Company Postal Address						
		Code				
Company Telephone number						
Company Fax Number						
Company E-Mail Address						
Company Website Address						
Company Contact Person Name						
Designation						
Telephone						
Email						

Document Name: Supplier Declaration Form

Revision: Version 7.3

Date: 4 April 2016



Is your company a Labour Broker?		Yes	No
Main Product / Service Supplied e.g. Stationery / Consulting / Labour etc.			
How many personnel does the business employ?	Full Time	Part Time	
Please Note: Should your business employ more than 2 full time employees who are not connected persons as defined in the Income Tax Act, please submit a sworn affidavit, as per Appendix II.			
Most recent Financial Year's Annual Turnover	<R10Million	>R10Million <R50Million	>R50Million
Does your company have a valid BBBEE certificate?		Yes	No
What is your broad based BEE status (Level 1 to 9)			
Majority Race of Ownership			
% Black Ownership	% Black Women ownership	% Black Disabled person(s) ownership	% Black Youth ownership
Please Note: Please provide proof of BBBEE status as per Appendix V. If you qualify as an EME or QSE then provide an affidavit following the examples provided in Appendix III and IV respectively. If you have indicated Black Disabled person(s) ownership, then provide a certified letter signed by a physician, on the physician's letterhead, confirming the disability.			
By signing below, I hereby verify that I am duly authorised to sign for and on behalf of firm / organisation and that all information contained herein and attached herewith are true and correct			
Name		Designation	
Signature		Date	
Stamp And Signature Of Commissioner Of Oaths			
Name		Date	
Signature		Telephone No	

Example of an Affidavit or Solemn Declaration as to VAT registration status

Affidavit or Solemn Declaration

I, _____, solemnly swear/declare that _____
_____ is not a registered VAT vendor and is not required to
register as a VAT vendor because the combined value of taxable supplies made by the provider in
any 12 month period has not exceeded or is not expected to exceed R1 million threshold, as
required in terms of the Value Added Tax Act.

Signature: _____

Designation: _____

Date: _____

Commissioner of Oaths

Thus signed and sworn to before me at _____ on this the _____ day of _____
_____ 20____.

the Deponent having knowledge that he/she knows and understands the contents of this Affidavit,
and that he/she has no objection to taking the prescribed oath, which he/she regards binding on
his/her conscience and that the allegations herein contained are all true and correct.

Commissioner of Oaths

Example of an Affidavit or Solemn Declaration as to number of employees

Affidavit or Solemn Declaration

I, _____ solemnly swear/declare that _____
_____ employs three or more full time employees, which employees are
engaged in the business of rendering the services of the organisation and are not connected
persons as defined in the Income Tax Act.

Signature: _____

Designation: _____

Date: _____

Commissioner of Oaths

Thus signed and sworn to before me at _____ on this the _____ day of _____
_____ 20____.

the Deponent having knowledge that he/she knows and understands the contents of this Affidavit,
and that he/she has no objection to taking the prescribed oath, which he/she regards binding on
his/her conscience and that the allegations herein contained are all true and correct.

Commissioner of Oaths

Example of an Affidavit or Solemn Declaration as to EME B-BBEE Status

SWORN AFFIDAVIT – B-BBEE EXEMPTED MICRO ENTERPRISE

I, the undersigned,

Full Name & Surname	
Identity Number	

Hereby declare under oath as follows:

1. The contents of this statement are to the best of my knowledge a true reflection of the facts.
2. I am a member / director / owner of the following enterprise and am duly authorised to act on its behalf,

Enterprise Name	
Trading Name	
Registration Number	
Enterprise Address	

3. I hereby declare under oath that:

- The enterprise is _____ % black owned;
- The enterprise is _____ % black woman owned;
- The enterprise is _____ % black youth owned;
- The enterprise is _____ % black disabled owned;
- Based on the management accounts and other information available for the _____ financial year, the income did not exceed R10, 000,000.00 (ten million rand).

Please confirm on the table below the B-BBEE level contributor, by ticking the applicable box.

100% black owned	Level One (135% B-BBEE procurement recognition) More than 51% black	
More than 51% black owned	Level Two (125% B-BBEE procurement recognition) Less than 51% black	
Less than 51% black owned	Level Four (100% B-BBEE procurement recognition)	

4. The entity is an empowering supplier in terms of the dti Codes of Good Practice.
5. I know and understand the contents of this affidavit and I have no objection to take the prescribed oath and consider the oath binding on my conscience and on the owners of the enterprise which I represent in this matter.
6. The sworn affidavit will be valid for a period of 12 months from the date signed by commissioner.

Deponent Signature: _____

Date: _____

Commissioner of Oaths
Signature & stamp

Example of an Affidavit or Solemn Declaration as to QSE B-BBEE Status

SWORN AFFIDAVIT – B-BBEE QUALIFYING SMALL ENTERPRISE

I, the undersigned,

Full Name & Surname	
Identity Number	

Hereby declare under oath as follows:

1. The contents of this statement are to the best of my knowledge a true reflection of the facts.
2. I am a member / director / owner of the following enterprise and am duly authorised to act on its behalf.

Enterprise Name	
Trading Name	
Registration Number	
Enterprise Address	

3. I hereby declare under oath that:

- The enterprise is _____ % black owned;
- The enterprise is _____ % black woman owned;
- The enterprise is _____ % black youth owned;
- The enterprise is _____ % black disabled owned;
- Based on the management accounts and other information available for the _____ financial year, the income did not exceed R50,000,000.00 (fifty million rand);
- The entity is an empowering supplier in terms of Clause 3.3 (a) or (b) or (c) or (d) or as amended 3.3 (e) of the dti Codes of Good Practice. (Tick appropriate box in table below).

(a) At least 25% of cost of sales, (excluding labour costs and depreciation) must be procurement from local producers or suppliers in South Africa; for the services industry include labour costs but capped at 15%	(b) Job Creation – 50% of jobs created are for black people, provided that the number of black employees in the immediate prior verified B-BBEE measurement is maintained	
(c) At least 25% transformation of raw material / beneficiation which include local manufacturing, production and /or assembly, and / or packaging	(d) At least 12 days per annum of productivity deployed in assisting QSE and EME beneficiaries to increase their operation or financial capacity	
(e) At least 85% of labour costs should be paid to South African employees by service industry entities		

Please confirm on the table below the B-BBEE level contributor, by ticking the applicable box.

100% black owned	Level One (135% B-BBEE procurement recognition)	
More than 51% black owned	Level Two (125% B-BBEE procurement recognition)	

5. I know and understand the contents of this affidavit and I have no objection to take the prescribed oath and consider the oath binding on my conscience and on the owners of the enterprise which I represent in this matter.

6. The sworn affidavit will be valid for a period of 12 months from the date signed by commissioner.

Deponent Signature: _____

Date: _____

Commissioner of Oaths
Signature & stamp

Required Vendor Documents

(Note: All dates in this table refer to date of registration of the entity)

Entity Type	Company Registration	Proof of Ownership	Proof of Banking Details	Income Tax	VAT Registration	Company Name Change	Proof of Address	Proof of Communication	Proof of BBBEE	Institution
Sole Proprietor	No company registration number is required for a sole proprietor. Trade Name Certificate – Filed in the city province where the business is located (Non-Mandatory)	Clear certified copy of South African Identity document	Current original certified letter from Bank with Bank stamp and / or original cancelled cheque	A valid original SARS Tax Certificate (Personal) No business rule applicable	If registered for VAT – VAT certificate. Mandatory for a person/business that makes, or is likely to make a tax supply, of more than R1 million in any consecutive twelve month period to register for VAT. As from 1 st March 2012, qualifying micro businesses that are registered for Turnover Tax may also choose to register for VAT.	N/A Trade Name Certificate – Filed in the city province where the business is located (Non-Mandatory)	Letterhead confirming physical and postal addresses	Letterhead confirming telephone, fax and e-mail	An original valid BBBEE certificate issued by an approved IRBA registered auditor or a SANAS accredited verification agency or certified copy. OR A signed letter from the Auditor/Accountant confirming most recent annual turnover and percentage black ownership. OR Sworn Affidavit for EME or QSE classifications.	If the entity is indicated to be an educational institution, the vendor needs to provide the accreditation from The Department Of Higher Education (DHET) If the entity is indicated to be a Financial Institution, the vendor needs to provide the accreditation from FSB (Financial Services Board).