

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-23934

**FOR THE PROVISION OF : DEVELOPMENT AND DELIVERY OF A COURSE
DESIGNED TO MEET SPECIFIC NEEDS OF
REAL ESTATE BUSINESS IN RAIL ENVIRONMENT
FOR A PERIOD OF 24 MONTHS AT SCHOOL OF
RAIL ESSELEN PARK.**

**FOR DELIVERY TO : SCHOOL OF RAIL – CNR R25 ROAD & CHURCH STREET
ESSELEN PARK, KEMPTON PARK.**

ISSUE DATE : 09 MAY 2017

COLLECTION DUE DATE : 15 MAY 2017

BRIEFING DATE : 16 MAY 2017

BRIEFING TIME : 10:00 AM

**BRIEFING ADDRESS : NO. 8 HILLSIDE STREET, PARKTOWN,
JOHANNESBURG, GROUND FLOOR BOARDROOM.**

CLOSING DATE : 23 MAY 2017

CLOSING TIME : 10:00 AM

VALIDITY PERIOD : 31 JANUARY 2018

ANY TENDERER NOT ATTENDING THE BRIEFING SESSION WILL AUTOMATICALLY BE EXCLUDED FROM THE BUSINESS AWARDING PROCESS

PLEASE BRING THE VALID TENDER DOCUMENT ON THE DAY OF BRIEFING.

Section 1
NOTICE TO BIDDERS

Responses to this RFQ [hereinafter referred to as a **Bid** or a **Proposal**] are requested from persons, companies, close corporations or enterprises [hereinafter referred to as an **Entity, Respondent** or **Bidder**].

DESCRIPTION	For The Provision of Development And Delivery of a Course Designed to Meet Specific Needs of Real Estate Business in Rail Environment for the Period of 24 Months at School of Rail Esselen Park.
COLLECTION / INSPECTION OF DOCUMENTS	This RFQ may be downloaded directly from National Treasury's e-Tender Publication Portal at www.etenders.gov.za free of charge. Alternatively, this RFQ may be purchased at R100 (inclusive of VAT) per set for those bidders that require a hard copy from Transnet. Bidders are however encouraged to download the RFQ from the eTender Portal instead.
BIDS DOWNLOADED FROM NT PORTAL	The document will be available on the NT eTender portal from [09 May 2017] until [15 May 2017] . If Bidders intend to download the bid off the Portal, they are required to indicate their intention to respond to this bid by [15 May 2017] by sending an email with their contact details to the following address: Anthonie.Erasmus@transnet.net & Lerato.Morailane@transnet.net . This is to ensure that any required communication (e.g. addenda to the bid) in relation to this bid reaches those intending to respond. <i>NOTE - Transnet will not be held liable if Bidders do not respond by this date and do not receive the latest information regarding this Bid as a result thereof.</i>
BIDS COLLECTED FROM TFR TENDER OFFICE	If a bidder requires a hard copy bid document, the following steps apply: i. Pay a R100 bid fee Account Name : Transnet Freight Rail Account : Standard Bank Account number : 203158598 Branch code : 004805 Reference : CRAC-JHB-23934 ii. Make arrangements to collect the bid document. Prior arrangements must be made one (1) day in advance and the bid document may be collected between 09:00 and 15:00 from [08 May 2017] until [15 May 2015] . iii. Collect the RFQ from the following address, bringing along proof of payment RECEPTION, TENDER ADVICE CENTRE, INYANDA HOUSE 1, GROUND FLOOR, 21 WELLINGTON ROAD, PARKTOWN, JOHANNESBURG <i>NOTE – This amount is not refundable. A receipt for such payment made must be presented when collecting the RFQ documents and submitted thereafter with your Proposal.</i>
COMPULSORY BRIEFING SESSION	A compulsory RFQ briefing will be conducted at No.8 Hillside Street, Parktown, Johannesburg on the 16 May 2017 , at 10:00 AM for a period of \pm 2 to 3 hours. [Respondents to provide own transportation and accommodation]. The briefing session will start punctually and information will not be repeated for the benefit of Respondents arriving late.
CLOSING DATE	10:00 on Tuesday 23 May 2017 This bid shall close punctually at the following address: The Chairperson, Transnet Freight Rail Acquisition Council, Inyanda House 1, 21 Wellington Rd, Parktown, JOHANNESBURG, 2001. As a general rule, if a bid is late or delivered to the incorrect address, it will

	not be accepted for consideration.
VALIDITY PERIOD	<p>180 Business Days from Closing Date End of validity period: 31 January 2018</p> <p><i>NOTE - Bidders may be requested to extend the validity period of their bid, on the same terms and conditions, if the internal evaluation process has not been finalised within the validity period. However, once the adjudication body has approved the process and award of the business to the successful bidder(s), the validity of the successful bidder(s)' bid will be deemed to remain valid until a final contract has been concluded. With regard to the validity period of short-listed bidders, please refer to Section 1, paragraph Error! Reference source not found.</i></p>

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 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 explained in more detail in the B-BBEE Claim Form (Section 6), Transnet will award preference points to companies who provide proof of their B-BBEE status using either the latest version of the generic Codes of Good Practice or Sector Specific Codes (if applicable).

Given the estimated value of the bid, the **80/20** system shall be applicable.

Respondents are required to complete Section 6 and submit it together with valid proof of their B-BBEE Status as stipulated in the Claim Form in order to obtain preference points for their B-BBEE status.

Respondents are required at all times to comply with the latest B-BBEE legislation and/or instruction notes as issued from time to time by the DTI.

Note: Failure to submit valid and original (or certified copy of) proof of the Respondent's compliance with the B-BBEE requirements stipulated in Section 6 of this RFQ (the B-BBEE Preference Points Claim Form) at the Closing Date of this RFQ, will result in a score of zero being allocated for B-BBEE.

2.1 Subcontracting

Transnet fully endorses Government's transformation and empowerment objectives and when contemplating subcontracting Respondents are requested to give preference to Exempted Micro Enterprises (EMEs), Start-up companies and Qualifying Small Enterprises (QSEs) which are Black Owned, Black Women Owned, Black Youth Owned, companies owned by Black People with Disabilities, including any companies designated as B-BBEE Facilitators¹

¹ The Minister of the Department of Trade and Industry has the power to designate certain Organs of State or Public Entities as B-BBEE Facilitators. For example, the South African National Military Veterans' Association (SANMVA) has been designated as a

Respondents are required to submit proof of the subcontracting arrangement between themselves and the subcontractor. Proof of the subcontracting arrangement may include a subcontracting agreement.

Respondents are to note that it is their responsibility to select competent subcontractors that meet all requirements of the bid so that their bid is not jeopardised by the subcontractor when evaluated. Respondents are responsible for all due diligence on their subcontractors.

If contemplating subcontracting, a Respondent will not be awarded points for B-BBEE if it is indicated in its Proposal that such Respondent intends subcontracting more than 25% [twenty-five percent] of the value of the contract to an entity/entities that do not qualify for at least the same points that the Respondent qualifies for, unless the intended subcontractor is an EME with the capability to execute the contract.

Respondent/s are discouraged from subcontracting with their subsidiary companies as this may be interpreted as subcontracting with themselves and / or using their subsidiaries for fronting. Where a Respondent intends to subcontract with their subsidiary this must be declared in their bid response.

The successful Respondent awarded the contract may only enter into a subcontracting arrangement with Transnet's prior approval.

The contract will be concluded between the successful Respondent and Transnet, therefore, the successful Respondent and not the sub-contractor will be held liable for performance in terms of its contractual obligations.

A person awarded a contract may not subcontract more than 25% [twenty-five percent] 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.

In terms of Section 6 of this RFQ [the B-BBEE Preference Point Claim Form] Respondents are required to indicate the percentage of the contract that will be sub-contracted as well as the B-BBEE status of the sub-contractor/s.

3 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.

For specific queries relating to this RFQ (prior to the tender closing), the tender administrator can be contacted directly, while also informing the secretary of the Acquisition Council of the communication.

Tender Administrator

Name: Moleboheng Tladi
Telephone: 011 584 1071

Email: moleboheng.tladi@transnet.net

and

B-BBEE Facilitator. As such they will be treated as having rights of ownership held 100% by Black People, 40% by Black Women and 20% by Black designated groups.

Secretary of the Acquisition Council

Name: Prudence Nkabinde
Telephone: 011-584 0821

Email: prudence.nkabinde@transnet.net

After the closing date of the RFQ, a Bidder may only communicate with the Rail Secretariat of the Transnet Freight Rail Acquisition Council, on any matter relating to its RFQ Proposal.

Name: Prudence Nkabinde
Telephone: 011-584 0821

Email: prudence.nkabinde@transnet.net

4 Legal Compliance

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

5 Changes to Quotations

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

6 Pricing

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

7 Prices Subject to Confirmation

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

8 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.

9 Disclaimers

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

- 9.1 modify the RFQ's goods / service(s) and request Bidders to re-bid on any changes;
- 9.2 reject any Quotation which does not conform to instructions and specifications which are detailed herein;
- 9.3 disqualify Quotations submitted after the stated submission deadline;
- 9.4 not necessarily accept the lowest priced Quotation or an alternative bid;
- 9.5 reject all Quotations, if it so decides;
- 9.6 place an order in connection with this Quotation at any time after the RFQ's closing date;
- 9.7 award only a portion of the proposed goods / service/s which are reflected in the scope of this RFQ;
- 9.8 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;

- 9.9 make no award at all;
- 9.10 validate any information submitted by Bidders in response to this bid. This would include, but is not limited to, requesting the Bidders to provide supporting evidence. By submitting a bid, Bidders hereby irrevocably grant the necessary consent to Transnet to do so;
- 9.11 request audited financial statements or other documentation for the purposes of a due diligence exercise;
- 9.12 not accept any changes or purported changes by the Bidder to the bid rates after the closing date and/or after the award of the business, unless the contract specifically provides for it;
- 9.13 award the business to the next highest ranked bidder, should the preferred bidder fail to sign or commence with the contract within a reasonable period after being requested to do so, provided that the preferred bidder is still prepared to provide the required goods at the quoted price.

Under such circumstances, the validity of the bids of the next ranked bidder(s) will be deemed to remain valid, irrespective of whether the next ranked bidder(s) were issued with a Letter of Regret. Bidders may therefore be requested to advise whether they would still be prepared to provide the required goods at their quoted price, even after they have been issued with a Letter of Regret;
- 9.14 not clarify the price as submitted in case of arithmetical errors, given time restrictions;
- 9.15 cancel the contract and/or place the Bidder on Transnet's list of Restricted Suppliers, should a contract be awarded on the strength of information furnished by the Bidder, which after conclusion of the contract, is proved to have been incorrect;
- 9.16 award business to the highest scoring bidder/s unless objective criteria justifies the award to another bidder; and/or
- 9.17 undertake post-tender negotiations [PTN] with selected Bidders or any number of short-listed Bidders. Such PTN can include, at Transnet's option, any evaluation criteria listed in this RFQ document. In the event of any Bidder being notified of such short-listed/preferred bidder status, his bid, as well as any subsequent negotiated best and final offers (BAFO), will automatically be deemed to remain valid during the negotiation period and until the ultimate award of business.

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

Transnet reserves the right to lower the threshold for Technical from 80% to 70% if no Bidders pass the predetermined minimum threshold.

10 Specification

Introduction

Transnet Freight Rail seeks to develop a course, customised to meet the needs of Real Estate business in Freight Rail environment. The course should be formally certified by a recognised and accredited institution/body. Service Providers are therefore invited to bid for the development of turnkey course designed to meet specific needs of Real Estate business in Freight Rail environment and use work based action learning to reinforce theory presented in class.

Scope of work

- Development, assessment and facilitating accreditation of Transnet Real Estate Management Course
- Once the training material is developed and accredited it will become property of Transnet. Please indicate the (a) time it will take to develop training material and (b) the time it will take to get the course/ training material accredited.
- Indication of the level/ category in which the certificate will be issued to attendees; thus certificate of attendance, certificate of competency, or certificate of qualification etc.
- Indication of specific learning outcomes / course contents and duration of the course.
- Delivery of the course to Transnet employees: the training will be delivered continuously as and when need, to the average of 20 people/learners per session.
- Provide 2 x formal and detailed proposal showing a breakdown of cost per person/ group to deliver such short course. The quotation must include all costs (escalations, disbursements, development of training material, accreditation of the course/ training material, stationery etc) and issued based on:
 - a) Delivering the course at Transnet premise and facilities located at Transnet School of Rail, Cnr of R25 road and Church Street, Esselenpark, Tembisa 1626.
 - b) Delivering the course at Service Provider's premise in Gauteng. Indicate address, nature of facilities and parking etc.

Course and Modules

Course Objectives: This set of short courses have been developed to provide higher level training for participants who have been introduced to the real estate discipline at NQF 4 (Grade 12/ national Certificate) and NQF 5 (Higher Certificate) levels. The goal is to provide higher level; more targeted training, and focused on some of the fundamentals that enable performance in key business areas.

Who should attend: The course will benefit rail property practitioners who do not have Property degrees; past graduates of SAPOA programs in different aspects of the real estate business and people from different disciplinary backgrounds considering entering the profession.

Course	Modules content/ Topics
Introduction to FR Real Estate	<p>Part 1</p> <ol style="list-style-type: none"> 1. Formation, operation and sustainability of rail industry in South Africa / Transnet 2. Real Estate internal and external factors underpinning the existence of rail industry 3. The impact of Market Demand Strategy on Real Estate business operation <p>Part 2</p> <ol style="list-style-type: none"> 1. Real estate as an asset class and an industry 2. Real estate property rights, fixtures and ownership 3. Contracts, transferring real property interests and leases. 4. Negotiation, ethics and risk management in the contracting process. 5. Land use controls and property taxes 6. Cash flow analysis 7. Risk analysis, leverage and due diligence 8. Introduction to real estate finance, investments, valuation, development, property management and; sales and marketing
Strategic Freight Real Estate Management	<ol style="list-style-type: none"> 1. The importance of real estate assets and management to the Freight Rail Company. 2. The range of potential responsibilities of a Freight Rail real estate manager. 3. Corporate real estate strategy aligned with Freight Rail core business and organisational strategy (such as MDS). 4. The skills necessary to be a successful Freight Rail real estate manager. 5. Advantages and disadvantages of Freight Rail real estate organisational structures. 6. The pros and cons of outsourcing corporate real estate functions. 7. The process of estimating workplace demand for real estate. 8. The important considerations in location and site selection. 9. How workplace can influence employee attitudes and performance. 10. Freight Rail real estate as a corporate marketing tool. 11. Due diligence requirements in Freight Rail property acquisition. 12. Rail property performance measurement. 13. The role of IT and MIS in supporting Freight Rail real estate decisions.
Freight Rail Property Management Programme	<ol style="list-style-type: none"> 1. Property Management and related legislation 2. Property management economics, valuation and planning 3. The management plan 4. The budgeting process, income and expenditure management 5. Property owner and property manager relations 6. Property management - marketing 7. Lease negotiations, agreements and related legislation 8. Property management, administration and accounting 9. Tenant relations 10. Technical component of a building and house keeping

Course	Modules content/ Topics
	11. Introduction to property maintenance 12. Procurement and management of service provider contracts 13. Local authority, utility and energy management 14. Occupation Health & Safety act and other environmental health and safety issues 15. Risk management related to property management 16. Building inspection and work prioritisation 17. Property management: Retail, office, industrial, siding 18. Fund and asset management 19. Property development, finance, investment and valuation
Real Estate Market Analysis	1. Introduction to market analysis 2. The rail real estate asset types and markets 3. Rail real estate economics 4. Theories of urban growth 5. Estimate demand and supply 6. Rail property gap analysis 7. Rail site and feasibility analysis
Real Estate Law	Emphasis will be on the legal aspects of a transaction - ownership of real property: 1. Contract law 2. Types of conveyances and legal descriptions 3. Statutory control over real estate 4. Default and the process of foreclosure
Real Estate Investment Analysis and Corporate Finance	1. The concept of investments 2. Criteria for investment analysis 3. Time Value of money – discounting and compounding 4. Risk, Return, and the Opportunity Cost of Capital 5. Asset Pricing 6. Capital Budgeting and Risk 7. Corporate Financing and Market Efficiency 8. The Dividend Controversy 9. Does Debt Policy Matter? 10. How Much Should a Firm Borrow? 11. Financing and Valuation
Management of Distressed Properties	1. Managing and turning around a troubled property 2. Common causes of troubled properties 3. Diagnosing, analysing and prioritising troubled properties 4. Developing a management plan for troubled properties 5. Developing a marketing plan for troubled properties 6. Reposition troubled properties

Course	Modules content/ Topics
	7. Restructuring leases for troubled properties to save tenants 8. Developing an exit strategy
Facilities Management	1. Facilities management strategy development 2. Facilities occupational health, safety and risk 3. Determining a sourcing model 4. Service procurement 5. Service delivery management 6. Managing and improving performance

11 Legal review

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

12 National Treasury's Central Supplier Database

Respondents are required to self-register on National Treasury's Central Supplier Database (CSD) which has been established to centrally administer supplier information for all organs of state and facilitate the verification of certain key supplier information. Transnet is required to ensure that price quotations are invited and accepted from prospective bidders listed on the CSD. Business may not be awarded to a Respondent who has failed to register on the CSD. Only foreign suppliers with no local registered entity need not register on the CSD. The CSD can be accessed at <https://secure.csd.gov.za/>. Respondents are required to provide the following to Transnet in order to enable it to verify information on the CSD:

Supplier Number: _____ Unique registration reference number: _____.

13 Tax Compliance

Respondents must be compliant when submitting a proposal to Transnet and remain compliant for the entire contract term with all applicable tax legislation, including but not limited to the Income Tax Act, 1962 (Act No. 58 of 1962) and Value Added Tax Act, 1991 (Act No. 89 of 1991).

It is a condition of this RFQ that the tax matters of the successful bidder be in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the bidder's tax obligations.

The Tax Compliance status requirements are also applicable to foreign bidders / individuals who wish to submit bids as indicated in paragraph 15.2 below.

It is a requirement that Respondents grant a written confirmation when submitting this bid that SARS may on an ongoing basis during the tenure of the contract disclose the Respondent's tax compliance status and by submitting this bid such confirmation is deemed to have been granted.

Respondents are required to be registered on the Central Supplier Database as indicated in paragraph 14 and the National Treasury shall verify the Respondent's tax compliance status through the Central Supplier Database.

Where Consortia / Joint Ventures / Sub-contractors are involved, each party must be registered on the Central Supplier Database and their tax compliance status will be verified through the Central Supplier Database

13.1 New Tax Compliance Status (TCS) System

SARS has implemented a new Tax Compliance Status (TCS) system in terms of which a taxpayer is now able to authorise any 3rd party to verify its compliance status in one of two ways: either through the use of an electronic access PIN, or through the use of a Tax Clearance Certificate obtained from the new TCS system.

Respondents are required to provide the following to Transnet in order to enable it to verify their tax compliance status:

Tax reference number: _____

Tax Clearance Certificate & TCC Number: _____ and PIN: _____.

13.2 Tax Compliance Requirements for Foreign Entities

Where foreign bidders with no presence in South Africa, seek to obtain a Tax Clearance Certificate in order to meet the tax compliance requirements mentioned in 1 above, they must confirm an answer of "No" to all questions below:

- a) Is the entity a tax resident of the Republic of South Africa (RSA)?
- b) Does the entity have a branch/locally registered entity in the RSA?
- c) Does the entity have a permanent establishment in the RSA?
- d) Does the entity have any source of income (income is defined as per the Income Tax Act 58 of 1962 as the amount remaining of the gross income of any person for any year or period of assessment after deducting therefrom any amounts exempt from normal tax under Part I of Chapter II of the Act) in the RSA in the current tax year?
- e) Is the entity liable in the RSA for any form of taxation in the current tax year?

Where a foreign entity's answer to all questions above is "No", such entities are required to submit an application to SARS using the following email address: GovernmentInstitute@sars.gov.za and providing the following information to SARS:

- Details of the Foreign entity;
- Description of the service being provided; and
- Name of the South African Government Institution to whom the service is being provided.

SARS will consider this request and will then provide a scanned copy of the Tax Clearance Certificate which must be provided to Transnet with the Respondent's bid submission.

If a Respondent's answers to any one (or more) of the questions in a) to e) above changes to a "Yes" at any time during the bid process and/or after award of the contract (should a particular Respondent be

successful), then the Respondent undertakes to comply with its tax obligations and to report to Transnet accordingly.

14 Protection of Personal Data

In responding to this bid, Transnet acknowledges that it may obtain and have access to personal data of the Respondents. Transnet agrees that it shall only process the information disclosed by Respondents in their response to this bid for the purpose of evaluating and subsequent award of business and in accordance with any applicable law. Furthermore, Transnet will not otherwise modify, amend or alter any personal data submitted by Respondents or disclose or permit the disclosure of any personal data to any Third Party without the prior written consent from the Respondents. Similarly, Transnet requires Respondents to process any personal information disclosed by Transnet in the bidding process in the same manner. The detailed mutual duties of Transnet and the Respondents to protect personal information is contained in paragraph 37 of the General Bid Conditions.

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

TIP-OFFS ANONYMOUS: 0800 003 056

RFQ FOR THE PROVISION OF DEVELOPMENT AND DELIVERY OF COURSE DESIGNED TO MEET SPECIFIC NEEDS OF REAL ESTATE BUSINESS IN RAIL ENVIRONMENT FOR A PERIOD OF 24 MONTHS AT SCHOOL OF RAIL ESSELEN PARK.

SUBMISSION METHOD: [COURIER, POST OR HAND DELIVER]

CLOSING VENUE: TRANSNET FREIGHT RAIL, INYANDA HOUSE 1, 21 WELLINGTON ROAD, PARKTOWN, JOHANNESBURG

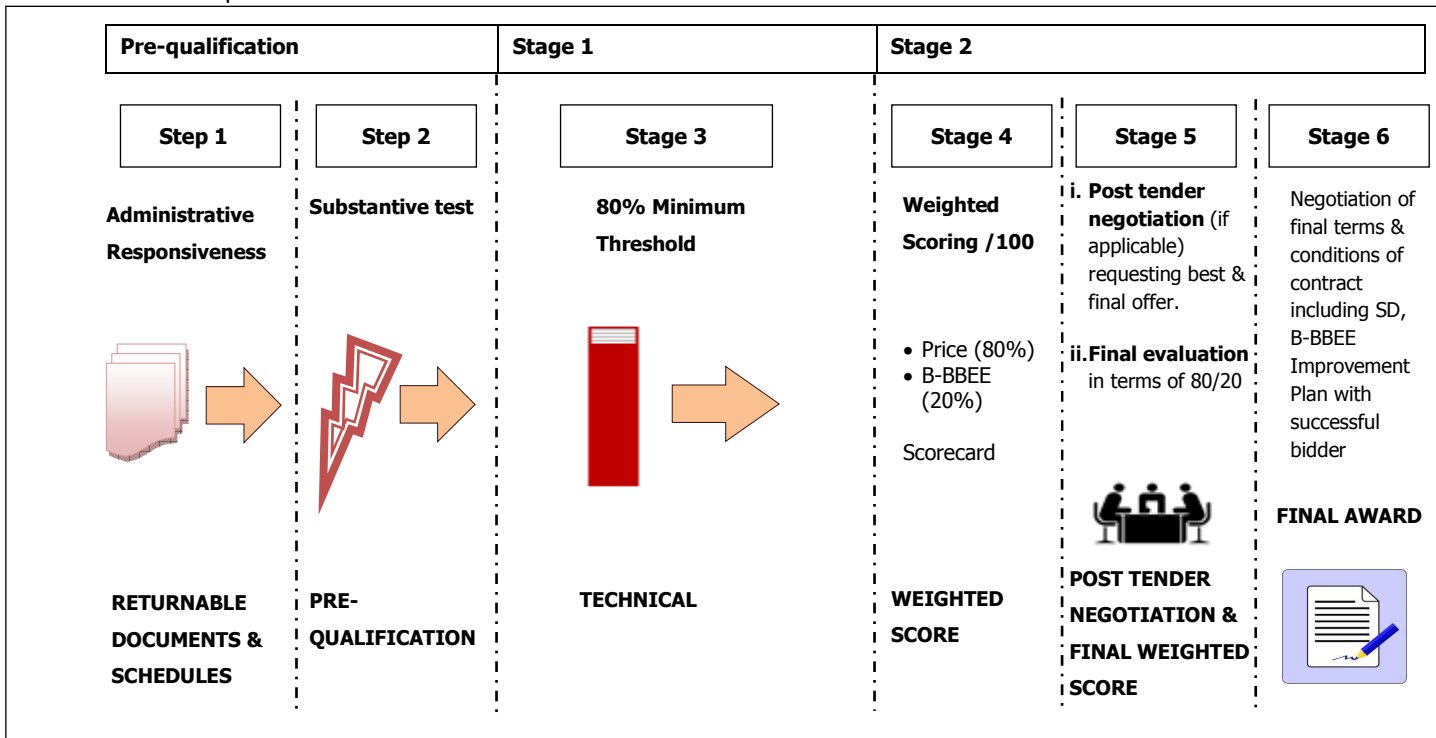
CLOSING DATE & TIME: 23 MAY 2017 @ 10:00AM

VALIDITY PERIOD: 180 (HUNDRED AND EIGHTY) BUSINESS DAYS

**SECTION 2
 EVALUATION CRITERIA AND RETURNABLE DOCUMENTS**

1 EVALUATION METHODOLOGY

Transnet will utilise the following methodology and criteria in selecting a preferred Supplier/s, if so required:



NB: Evaluation of the various stages will normally take place in a sequential manner. However, in order to expedite the process, Transnet reserves the right to conduct the different stages of the evaluation process in parallel. In such instances the evaluation of bidders at any given stage must not be interpreted to mean that bidders have necessarily passed any previous stage(s).

2 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 (Essential)	<ul style="list-style-type: none"> • Submission of Essential / Mandatory Documents & Schedules • Tax Clearance Certificate • B-BBEE certificate • Entity or company CIPC registration certificate
Substantive responsiveness (Mandatory)	<ul style="list-style-type: none"> • Valid proof of registration as a training / education service provider (certificate or registration letter) with a recognised institutions / bodies such as DHET, SETA, SAPOA, etc. • CV(s) and qualifications of course / training facilitators(s) e.g. ETD qualification, etc. • Compliance to Specification – clause by clause (100%) • Proof Registration with National Treasury Central Supplier Database • Pricing Schedule Submitted & All Items on Pricing Schedule Priced. • Compulsory Briefing Attendance Certificate.
Functionality / Technical Threshold	<p>As prescribed in terms of the Preferential Procurement Policy Framework Act (PPPFA), Act 5 of 2000 and its Regulations, Respondents are to note that functionality is included as a threshold with a prescribed percentage threshold of 80%.</p> <ul style="list-style-type: none"> • Previous record indicating a minimum of 3 similar training facilitated and delivered – 50% • A minimum of 3 reference letters / testimonials from clients trained – 20% • Project / Training Plan – 30%
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 Section 6: B-BBEE Claim Form.

3 Validity Period

Transnet requires a validity period of 180 [hundred and eighty] Business Days from the closing date of this RFQ.

Bidders are to note that they may be requested to extend the validity period of their bid, on the same terms and conditions, if the internal evaluation process has not been finalised within the validity period. However, once the adjudication body has approved the process and award of the business to the successful bidder(s), the validity of the successful bidder(s)' bid will be deemed to remain valid until a final contract has been concluded.

With regard to the validity period of short-listed bidders, please refer to Section 1, paragraph 9.

4 Disclosure of Prices Quoted

Respondents are to note that, on award of business, Transnet is required to publish the tendered prices and preferences claimed of the successful and unsuccessful Respondents *inter alia* on the National Treasury e-Tender Publication Portal, (www.etenders.gov.za), as required per National Treasury Instruction Note 01 of 2015/2016.

5 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 2 :	
<ul style="list-style-type: none"> • Valid proof of registration as a training / education service provider (certificate or registration letter) with a recognised institutions / bodies such as DHET, SETA, SAPOA, etc. 	
<ul style="list-style-type: none"> • CV(s) and qualifications of course / training facilitators(s) e.g. ETD qualification, etc. 	
<ul style="list-style-type: none"> • Compliance to Specification – clause by clause (100%) – Annexure A 	
<ul style="list-style-type: none"> • Proof Registration with National Treasury Central Supplier Database 	
SECTION 3 : Quotation Form with price	
Attendance certificate of compulsory briefing session, signed by Transnet official – Annexure B	

b) **Essential Returnable Documents**

In addition to the requirements of section (a) above, Bidders are further required to submit with their Proposals the following **Essential Returnable Documents** as detailed below.

- ***If Essential Returnable Documents are used for purposes of scoring a bid, failure to submit these documents by the closing date and time of this bid will not automatically result in a Bidder’s disqualification. However, Bidders will receive an automatic score of zero for the applicable evaluation criterion.***
- ***If Essential Returnable Documents are not related to evaluation criteria, failure to provide these documents may result in a respondent’s disqualification.***

- ***Bidders are therefore urged to ensure that all these documents are returned with their Proposals.***

ESSENTIAL RETURNABLE DOCUMENTS	SUBMITTED [Yes or No]
In the case of Joint Ventures, a copy of the Joint Venture Agreement or written confirmation of the intention to enter into a Joint Venture Agreement	
Latest Financial Statements signed by your Accounting Officer or latest Audited Financial Statements plus 2 previous years	
Tax Clearance Certificate or electronic access PIN obtained from SARS's new Tax Compliance Status (TCS) system [Consortia / Joint Ventures must submit a separate Tax Clearance Certificate/PIN for each party]	
SECTION 4: Certificate of Acquaintance with RFQ Documents	
SECTION 5: RFQ Declaration and Breach of Law Form	
SECTION 6: B-BBEE Preference Claim Form	

ESSENTIAL RETURNABLE DOCUMENTS USED FOR SCORING	SUBMITTED [Yes or No]
Valid and original (or a certified copy) proof of Bidder's compliance to B-BBEE requirements stipulated in Section 6 of this RFQ	
Previous record indicating a minimum of 3 similar training facilitated and delivered.	
A minimum of 3 references letters / testimonials from clients trained	
Project / Training Plan	

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

Description	Weight (100%)	Points allocation
Minimum of 3 previous record on similar training facilitated/ delivered, indicating the following but not limited to: <ul style="list-style-type: none"> • Course name and content • Date the course was delivered (duration), venue and programme • Total number of course attendees • The profile of course facilitator • Course NQF level 	50%	0 = 0 1 = 17% 2 = 33% 3 and above = 50%

<p>A minimum of 3 reference letters/ testimonials from clients trained:</p>	<p>20%</p> <p>0 = Poor 1 = Average 2 = Satisfactory 3 = Excellent</p>	<p>0 = 0 1 = 7% 2 = 13% 3 = 20%</p>
<p>Project/ Training plan</p> <p>Detailing out the following but not limited to:</p> <ul style="list-style-type: none"> ▪ Timelines (1) ▪ Method of delivery the course ▪ Certification ▪ Quality Assurance ▪ Procurement of study materials 	<p>30%</p> <p>0 = no submission 1 = 1 of the items 2 = 2 of the items 3 = 3 of the items 4 = 4 of the items 5 = 5 and above</p>	<p>0 = 0 1 = 6% 2 = 12% 3 = 18% 4 = 24% 5 = 30%</p>

Transnet reserves the right to lower the threshold for Technical from 80% to 70% if no Bidders pass the predetermined minimum threshold.

6 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.

SECTION 3

QUOTATION FORM AND CERTIFICATE OF ACQUAINTANCE WITH RFQ DOCUMENT

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 afresh 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:

Development of training material	Total Development and accreditation fee
<p>Development, assessment and facilitation of the accreditation (NQF 4 /5) of a Transnet Real Estate management course, which include the following modules:</p> <ol style="list-style-type: none"> 1. Introduction to FR Real Estate 2. Strategic Freight Real Estate Management 3. Freight Rail Property Management Programme 4. Real Estate Market Analysis 5. Real Estate Law 6. Real Estate Investment Analysis and Corporate Finance 7. Management of Distressed Properties 8. Facilities Management 	
Price excluding VAT	
VAT (if applicable)	
Price including VAT	

Presenting of the training

Description	Daily rate for presenting course to average of 20 learners (Year 1)	Daily rate for presenting course to average of 20 learners (Year 1)
1. Daily rate for delivering the course for an average of 20 learners at Transnet premise and facilities located at Transnet School of Rail, Cnr of R25 road and Church Street, Esselenpark, Tembisa 1626)		
2. Daily rate for delivering course for an average of 20		

learners at Service Provider's premise in Gauteng. (Indicate address, nature of facilities and parking etc.)		
Daily rate excluding VAT		
VAT		
Daily rate including VAT		

Total Price (development of material & presenting of the training) exclusive of Vat	
Vat (if applicable)	
Total Price (development of material & presenting of the training) inclusive of Vat	

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

Notes to Pricing:

- a) Respondents are to note that if the price offered by the highest scoring bidder is not market-related, Transnet may not award the contract to that Respondent. Transnet may-
- (i) negotiate a market-related price with the Respondent scoring the highest points or cancel the RFQ;
 - (ii) if that Respondent does not agree to a market-related price, negotiate a market-related price with the Respondent scoring the second highest points or cancel the RFQ;
 - (iii) if the Respondent scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the Respondent scoring the third highest points or cancel the RFQ.

If a market-related price is not agreed with the Respondent scoring the third highest points, Transnet must cancel the RFQ.

- b) All Prices must be quoted in South African Rand, exclusive of VAT
- c) 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.
- d) 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.

Bidders are advised that they take responsibility for submitting quotations that are correct and without any arithmetical errors. All line items must reflect the correct unit price and total price, after taking into account the quantity .The sum of all line items must correctly reflect the total of all line items, without VAT and including VAT. Transnet may disqualify bidders that submit bids with arithmetical errors.

SECTION 4

CERTIFICATE OF ACQUAINTANCE WITH RFQ DOCUMENTS

By signing this certificate the Respondent is deemed to acknowledge that he/she has made himself/herself thoroughly familiar with, and agrees with all the conditions governing this RFQ. This includes those terms and conditions contained in any printed form stated to form part hereof, including but not limited to the documents stated below. As such, Transnet 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 in calculating tendered prices or any other purpose:

1. Transnet’s General Bid Conditions*
2. Standard RFQ Terms and Conditions for the supply of Goods or Services to Transnet – Annexure C
3. Transnet’s Supplier Integrity Pact*
4. Non-disclosure Agreement*
5. Vendor Application Form* and all supporting documents (first time vendors only). Alternatively, for all existing vendors, please complete the table below under the heading “Existing vendors”.
Respondents are to note that the documents marked with a “*” are available on request or at the Transnet website (www.transnet.net). Please click on “Business with Us”, proceed to the tab “Tenders” and then click on “Standard Bid Documents”.

Existing vendors: existing vendors are required to confirm whether all the information (e.g. company address, contact details, banking details, etc.) relating to the existing vendor number is still correct at the time of submission of this bid or update their information in the table below:

Transnet Operating Division [e.g. TFR, TE, etc.]	Vendor Number	Information still current [tick if applicable]	Information change [indicate detail of change/s & attach appropriate proof]

Should the Bidder find any terms or conditions stipulated in any of the relevant documents quoted in the RFQ 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. A material deviation from the Standard terms or conditions could result in disqualification.

Bidders accept that an obligation rests on them to clarify any uncertainties regarding any bid to which they intend to respond, before submitting the bid. The Bidder agrees that he/she will have no claim based on an allegation that any aspect of this RFQ was unclear but in respect of which he/she failed to obtain clarity.

The bidder understands that his/her Bid will be disqualified if this Certificate of Acquaintance with RFQ documents included in the RFQ as a returnable document, is found not to be true and complete in every respect.

SIGNED at _____ on this ____ day of _____ 20__

WITNESSES

1.	Address
_____	_____
Signature	
_____	_____
Name	Date

2.	Address
_____	_____
Signature	
_____	_____
Name	Date

RESPONDENT'S AUTHORISED REPRESENTATIVE

_____	_____
Signature	Designation
_____	_____
Name	Date

SECTION 5

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 have complied with all Obligations of the Bidder/Supplier as indicated in paragraph 3 of the Transnet Supplier Integrity which includes but is not limited to ensuring that we take all measures necessary to prevent corrupt practices, unfairness and illegal activities in order to secure or in furtherance to secure a contract with Transnet;
6. 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
7. 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.
8. 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.
9. 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:

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]

10. 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

11. 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__

<p>This person is hereto duly authorised to sign for and on behalf of the company</p>	<p>As Witness</p>
<p>Registration No of Company/ CC</p>	<p>Name</p>
<p>Registration Name of Company /CC</p>	<p>Position</p>
<p>Name</p>	<p>Signature</p>
<p>Position</p>	<p>Date</p>
<p>Signature</p>	<p>Place</p>
<p>Date</p>	
<p>Place</p>	

SECTION 6

B-BBEE PREFERENCE POINTS CLAIM FORM

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

NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017.

1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to all bids:

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

1.2 The value of this bid is estimated to not exceed R50 000 000 (all applicable taxes included) and therefore the 80/20 preference point system shall be applicable.

1.3 Preference points for this bid shall be awarded for:

- (a) Price; and
- (b) B-BBEE Status Level of Contribution.

1.4 The maximum points for this bid are allocated as follows:

	POINTS
PRICE	80
B-BBEE STATUS LEVEL OF CONTRIBUTION	20
Total points for Price and B-BBEE must not exceed	100

1.5 Failure on the part of a bidder to submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System [**SANAS**], or a sworn affidavit confirming annual turnover and level of black ownership in case of all EMEs and QSEs with 51% black ownership or more together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed. Certificates issued by a Registered Auditor approved by the Independent Board of Auditors [**IRBA**] to Large Enterprises or QSEs with less than 51% black ownership have been discontinued but such valid certificates that were issued before 1 January 2017 may be used until they phase out completely by December 2017.

1.6 The purchaser 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 the purchaser.

2. DEFINITIONS

- (a) "**all applicable taxes**" includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- (b) "**B-BBEE**" means broad-based black economic empowerment as defined in section 1 of the Broad-

Based Black Economic Empowerment Act;

- (c) **"B-BBEE status level 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;
- (d) **"bid"** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;
- (e) **"Black designated group"** has meaning assigned to it in codes of good practice issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act.
- (f) **"Black People"** meaning assigned to in Section 1 of Broad-Based Black Economic Empowerment Act.
- (g) **"Broad-Based Black Economic Empowerment Act"** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (h) **"CIPC"** means the Companies and Intellectual Property Commission, formerly known as CIPRO, the Companies and Intellectual Property Registration Office.
- (i) **"comparative price"** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;
- (j) **"consortium or joint venture"** means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;
- (k) **"contract"** means the agreement that results from the acceptance of a bid by an organ of state;
- (l) **"co-operative"** means a co-operative registered in terms of section 7 of Cooperatives Act, 2005 (Act No. 14 of 2005)
- (m) **"Designated Group"** means - i) Black designated groups; ii) Black People; iii) Women; iv) people with disabilities or v) Small enterprise, as defined in Section 1 of National Small Enterprise Act, (102 of 1996)
- (n) **"Designated Sector"** means, sub-sector or industry or product designated in terms of regulation 8(1)(a)
- (o) **"EME"** means an Exempted Micro Enterprise as defines by Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (p) **"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 or 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;
- (q) **"functionality"** means the ability of a bidder to provide goods or services in accordance with specification as set out in the bid documents;
- (r) **"Military Veteran"** has meaning assigned to it in Section 1 of Military Veterans Act, 2011 (Act No. 18 of 2011);
- (s) **"National Treasury"** has meaning assigned to it in Section 1 of Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (t) **"non-firm prices"** means all prices other than "firm" prices;
- (u) **"person"** includes a juristic person;

- (v) **"People with disabilities"** meaning assigned to it in terms of Section 1 of Employment Equity Act, 1998 (Act No. 55 of 1998);
- (w) **"Price"** includes all applicable taxes less all unconditional discounts.
- (x) **"Proof of B-BBEE Status Level of Contributor"** i) the B-BBEE status level certificate issued by an unauthorised body or person; ii) a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice; or iii) any other requirement prescribed in terms of the Broad-Based Black Economic Empowerment Act.
- (y) **"Rural Area"** i) a sparsely populated area in which people farm or depend on natural resources, including villages and small towns that are dispersed through the area; or ii) an area including a large settlement which depends on migratory labour and remittances and government social grants for survival, and may have traditional land tenure system.
- (z) **"QSE"** means a Qualifying Small Enterprise as defined by Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (aa) **"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;
- (bb) **"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;
- (cc) **"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 Economic Empowerment Act and promulgated in the *Government Gazette* on 9 February 2007;
- (dd) **"Township"** means an urban living area that any time from the late 19th century until 27 April 1994, was reserved for black people, including areas developed for historically disadvantaged individuals post 27 April 1994
- (ee) **"Treasury"** meaning assigned to it in Section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999)
- (ff) **"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
- (gg) **"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.
- (hh) **"Youth"** meaning assigned to it in terms of Section 1 of National Youth Development Agency Act, 2008 (Act No. 54 of 2008)

3. ADJUDICATION USING A POINT SYSTEM

- 3.1 The bidder obtaining the highest number of total points will be awarded the contract.
- 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 must be rounded off to the nearest 2 decimal places.
- 3.4 In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for B-BBEE.
- 3.5 However, when functionality is part of the evaluation process and two or more bids have scored equal points including equal preference points for B-BBEE, the successful bid must be the one scoring the highest score for functionality.

3.6 Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

4. POINTS AWARDED FOR PRICE

4.1 THE 80/20 PREFERENCE POINT SYSTEMS

A maximum of 80 or 90 points is allocated for price on the following basis:

$$P_s = 80 \left(1 - \frac{Pt - P_{min}}{P_{min}} \right)$$

Where

Ps = Points scored for comparative price of bid under consideration

Pt = Comparative price of bid under consideration

Pmin = Comparative price of lowest acceptable bid

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

5.1 In terms of Regulation 6 (2) and 7 (2) of the Preferential Procurement Regulations, preference points must 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 (80/20 system)
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

5.2 A bidder who qualifies as an EME in terms of the B-BBEE Act must submit a sworn affidavit confirming Annual Total Revenue and Level of Black Ownership. Furthermore EMEs may also obtain a sworn affidavit from CIPC (formerly CIPRO) Self Service Terminals when registering a business or filing annual returns. In these instances Transnet would require proof of turnover as well as proof of ownership. Sworn affidavits must substantially comply with the format that can be obtained on the DTI's website at www.dti.gov.za/economic_empowerment/bee_codes.jsp.

5.3 QSEs that are at least 51% Black owned or higher 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.

5.4 A Bidder other than EME or a QSE that is at least 51% Black owned 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.

5.5 A trust, consortium or joint venture (including unincorporated consortia and joint ventures) must submit a consolidated B-BBEE Status Level verification certificate for every separate bid.

- 5.6 Tertiary Institutions and Public Entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- 5.7 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.
- 5.8 A person awarded a contract may not sub-contract more than 25% 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 sub-contracted to an EME that has the capability and ability to execute the sub-contract.
- 5.9 Bidders are to note that the rules pertaining to B-BBEE verification and other B-BBEE requirements may be changed from time to time by regulatory bodies such as National Treasury or the DTI. It is the Bidder's responsibility to ensure that his/her bid complies fully with all B-BBEE requirements at the time of the submission of the bid.

6. BID DECLARATION

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

7. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 5.1

7.1 B-BBEE Status Level of Contribution: . =(maximum of 10 or 20 points)

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 5.1 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.

8. SUB-CONTRACTING

8.1 Will any portion of the contract be sub-contracted?

(Tick applicable box)

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

8.1.1 If yes, indicate:

- i) What percentage of the contract will be subcontracted.....%
- ii) The name of the sub-contractor.....
- iii) The B-BBEE status level of the sub-contractor.....
- iv) Whether the sub-contractor is an EME.

(Tick applicable box)

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

v) Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations,2017:

Designated Group: An EME or QSE which is at least 51% owned by:	EME √	QSE √
Black people		
Black people who are youth		
Black people who are women		
Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		

Cooperative owned by black people		
Black people who are military veterans		
<i>OR</i>		
Any EME		
Any QSE		

9. **DECLARATION WITH REGARD TO COMPANY/FIRM**

9.1 Name of company/firm:.....

9.2 VAT registration number:.....

9.3 Company registration number:.....

9.4 **TYPE OF COMPANY/ FIRM**

- Partnership/Joint Venture / Consortium
- One person business/sole propriety
- Close corporation
- Company
- (Pty) Limited

[TICK APPLICABLE BOX]

9.5 **DESCRIBE PRINCIPAL BUSINESS ACTIVITIES**

.....

9.6 **COMPANY CLASSIFICATION**

- Manufacturer
- Supplier
- Professional service provider
- Other service providers, e.g. transporter, etc.

[TICK APPLICABLE BOX]

9.7 Total number of years the company/firm has been in business:.....

9.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBEE status level of contribution indicated in paragraph 7 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 7, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If a bidder submitted false information regarding its B-BBEE status level of contributor, local production and content, or any other matter required in terms of the Preferential Procurement Regulations, 2017 which will affect or has affected the evaluation of a bid, or where a bidder has failed to declare any subcontracting arrangements or any of the conditions of contract have not been fulfilled, the purchaser 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) if the successful bidder subcontracted a portion of the bid to another person without disclosing it, Transnet reserves the right to penalise the bidder up to 10 percent of the value of the contract;
- (e) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the audi alteram partem (hear the other side) rule has been applied; and
- (f) forward the matter for criminal prosecution.

SIGNATURE(S) OF BIDDERS
_____ Signature
_____ Name
_____ Date
_____ Signed at

WITNESSES
1. Witness signature
2. Witness signature

ANNEXURE A

CLAUSE BY CLAUSE COMPLIANCE TO SPECIFICATION

RFQ NUMBER: CRAC-JHB-23934

The compliance response is to contain ONLY the following statement, **“Comply” or “Do not comply”**.
 Bidders Are To Refer To The Specifications (pages 7-10) For Full Detailed Description For Provision of
 Development and Delivery of Course Designed to Meet Specific needs of Real Estate Business in Rail
 Environment for a Period of Twenty Four [24] Months at School Rail Esselen Park.

**FAILURE TO FULLY COMPLETE OR 100% COMPLY WITH ANNEXURE A WILL BE REGARDED AS
 NON-COMPLIANCE.**

	COMPLY	DO NOT COMPLY	COMMENTS
1. Introduction			
2. Scope of work			
3. Course and Modules:			
3.1 Introduction to FR Real Estate			
3.2 Strategic Freight Real Estate Management			
3.3 Freight Rail Property Management Programme			
3.4 Real Estate Market Analysis			
3.5 Real Estate Law			
3.6 Real Estate Investment Analysis and Corporate Finance			
3.7 Management of Distressed Properties			
3.8 Facilities Management			

ANNEXURE B

RFQ SITE MEETING

A COMPULSORY BRIEFING SESSION WILL BE HELD AT THE FOLLOWING VENUE:

Venue: No. 8 Hillside, Parktown, Johannesburg Ground Floor

Time: A compulsory RFQ briefing will start 10:00am.

Date: 16 May 2017

The briefing session meeting is compulsory and companies not attending **will be excluded** from the tendering process.

ATTENDANCE CERTIFICATE

This is to certify that.....

Representative/s of

Has/have today attended the Tender briefing in respect of the proposed:

.....

TRANSNET'S REPRESENTATIVE

DATE:

.....

TENDERER'S REPRESENTATIVE

DATE:

VERY IMPORTANT

ANY TENDERER NOT ATTENDING THE BRIEFING SESSION **WILL** AUTOMATICALLY BE EXCLUDED FROM THE BUSINESS AWARDDING PROCESS

PLEASE BRING THE VALID TENDER DOCUMENT ON THE DAY OF BRIEFING.

ANNEXURE C

STANDARD RFQ TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS OR SERVICES TO TRANSNET

A Supplier/Service Provider shall be obliged to adhere to the Standard Terms and Conditions for the Supply of Goods and Services to Transnet as expressed hereunder. Should the Respondent find any condition(s) unacceptable, it should indicate which condition(s) is/are unacceptable and offer an alternative(s). A Quotation submitted by a Respondent will be subjected to review and acceptance or rejection of its proposed contractual terms and conditions by Transnet's Legal Counsel, prior to consideration for an award of business. A material deviation from the Standard Terms and Conditions could result in disqualification of a Quotation.

1 SOLE AGREEMENT

Unless otherwise agreed in writing, these terms [**Terms** and each **Term**] and Transnet's purchase order(s) [**Order** or **Orders**] represent the only conditions upon which Transnet SOC Ltd [**Transnet**] procures goods [**the Goods**] or services [**the Services**] specified in the Order from the person to whom the Order is addressed [**the Supplier/Service Provider**]. Transnet does not accept any other conditions which the Supplier/Service Provider may specify, unless otherwise agreed to by Transnet in writing. In the event of any inconsistency between these Terms and any Order, these Terms shall take precedence.

2 CONFORMITY WITH ORDER

An Order shall only be valid if it is reduced to writing and issued by a duly delegated official. Goods/Services shall conform strictly with the Order. The Supplier/Service Provider shall not vary the quantities specified and/or the specification, if any, stipulated in the Order, without the prior written consent of Transnet. The Supplier/Service Provider warrants that the Goods/Services shall be fit for their purpose and of satisfactory quality.

3 DELIVERY AND TITLE

- 3.1 The delivery dates and addresses are those in the Order. Time shall be of the essence in respect of the Supplier's/Service Provider's obligations under the Order.
- 3.2 The Supplier/Service Provider will not be excused for delay in delivery or performance except due to circumstances outside its control and then only subject to the Supplier/Service Provider having notified Transnet in writing on becoming aware of such circumstances. Transnet may terminate an Order, in whole or in part, without incurring any liability to the Supplier/Service Provider if such a delay becomes, in Transnet's absolute opinion, significant.
- 3.3 If on delivery, the Goods/Services do not conform to the Order, Transnet may reject the Goods/Services and the Supplier/Service Provider shall promptly rectify any defects or in Transnet's opinion, supply appropriate replacement Goods/Services at the Supplier's/Service Provider's expense within the specified delivery times, without any liability due by Transnet.

4 PRICE AND PAYMENT

- 4.1 Prices specified in an Order cannot be increased. Payment for the Goods/Services shall be made by Transnet against an original undisputed invoice(s) [a Tax Invoice], supporting documentation and month-end statement from the Supplier/Service Provider. Tax Invoices plus supporting documentation shall be posted to the address shown in the Order.
- 4.2 Payment of the Supplier's/Service Provider's valid Tax Invoice(s) will be made by Transnet in the South African currency and on the terms stated in the Order, the standard payment terms being 30 [thirty] days from date of receipt by Transnet of a month-end statement, unless otherwise agreed to in writing. Transnet shall arrange for payment of such Tax Invoices and any pre-authorised additional expenses incurred, provided that the authorised expenses are supported by acceptable documentary proof of expenditure incurred [where this is available]. Any amounts due in terms of these Terms shall be paid to the Supplier/Service Provider, taking into account any deduction or set-off and bank charges.

5 PROPRIETARY RIGHTS LIABILITY

If any allegations should be made or any claim asserted against Transnet that ownership of, or any act or omission by Transnet in relation to Goods/Services or any written material provided to Transnet relating to any Goods/Services or pursuant to an Order being a violation or infringement of any third party's contractual, industrial, commercial or intellectual property rights including but not limited to any patent, registered design, design right, trade mark, copyright or service mark on any application thereof, the Supplier/Service Provider hereby indemnifies Transnet against and hold it harmless from any and all losses, liabilities, costs, claims, damages and expenses [including any legal fees] arising directly or indirectly from such allegation or claim provided that this indemnity shall not apply where the allegation or claim arises solely as a result of the Supplier/Service Provider following a design or process originated and furnished by Transnet. The Supplier/Service Provider shall either

- a) procure for Transnet the right to continue using the infringing Goods; or
- b) modify or replace the Goods/Services so that they become non-infringing,

provided that in both cases the Goods/Services shall continue to meet Transnet's requirements and any specifications stipulated in the Order. Should neither option be possible, the Supplier/Service Provider may remove, with Transnet's prior written consent, such Goods/Services and will pay to Transnet a sum equivalent to the purchase price. If Transnet refuses to give such consent, the Supplier/Service Provider shall have no liability in respect of any continued use of the infringing Goods/Services after Supplier's/Service Provider's prior written request to remove the same.

6 PROPRIETARY INFORMATION

All information which Transnet has divulged or may divulge to the Supplier/Service Provider and any information relating to Transnet's business which may have come into the Supplier's/Service Provider's possession whilst carrying out an Order, and the existence of the Order, shall be treated by the Supplier/Service Provider as confidential information and shall not, without Transnet's prior written

consent, be disclosed to any third party, or be used or copied for any purposes other than to perform the Order. This clause does not apply to information which is public knowledge or available from other sources other than by breach of this Term. Upon request by Transnet, the Supplier/Service Provider shall return all materials issued pursuant to the Order and, pending this, shall protect Transnet's rights in any such materials. Such confidential information shall at all material times be the property of Transnet.

7 PUBLICITY

The Supplier/Service Provider shall not name Transnet or use its trademarks, service marks [whether registered or not] or Goods in connection with any publicity without Transnet's prior written consent.

8 TERMINATION OF ORDER

8.1 Transnet may cancel an Order in whole or in part at any time upon at least 7 [seven] days' written notice to the Supplier/Service Provider, or when there is a change in control of the Supplier/Service Provider or the Supplier/Service Provider commits any serious breach or any repeated or continued material breach of its obligations under these Terms and/or Order or shall have been guilty of conduct tending to bring itself into disrepute, on written notice to the Supplier/Service Provider when such work on the Order shall stop.

8.2 Transnet shall pay the Supplier/Service Provider a fair and reasonable price for justified work in progress, where such price reflects only those costs not otherwise recoverable by the Supplier/Service Provider, at the time of termination, and the Supplier/Service Provider shall give Transnet full assistance to check the extent of such work in progress. Payment of such price shall be in full and final satisfaction of any claims arising out of such termination and upon such payment the Supplier/Service Provider shall deliver to Transnet all work, including any materials, completed or in progress. The sum payable to the Supplier/Service Provider under this clause will not in any event exceed the total amount that would have been payable to the Supplier/Service Provider had the Order not been terminated.

8.3 In the event of termination the Supplier/Service Provider must submit all claims within 2 [two] months of termination after which time claims will only be met in what Transnet considers exceptional circumstances.

8.4 If the Goods or Services are not provided in accordance with an Order, the Order shall be deemed terminated and the Supplier/Service Provider shall compensate Transnet for any costs incurred in obtaining substitute Goods or any damage caused due to the failure or delay in the delivery.

9 ACCESS

The Supplier/Service Provider shall be liable for the acts, omissions and defaults of its personnel or agents who, for the purposes of the Order, shall be treated as if they are the Supplier's/Service Provider's employees. The Supplier/Service Provider shall ensure that any such personnel or agents, whilst on Transnet's premises, shall comply with Transnet's health and safety, security and system security rules and procedures as and where required.

10 WARRANTY

The Supplier/Service Provider warrants that it is competent to supply the Goods/Services in accordance with these Terms to the reasonable satisfaction of Transnet and that all Goods/Services delivered under the Order: (a) conform and comply in all relevant legislation, standards, directives and orders related to *[inter alia]* the Goods/Services in force at the time of delivery, and to any specifications referred to in the Order; (b) will not cause any deterioration in the functionality of any Transnet equipment; and (c) do not infringe any third party rights of any kind. The Supplier/Service Provider hereby indemnifies Transnet against all losses, liabilities, costs, claims, damages, expenses and awards of any kinds incurred or made against Transnet in connection with any breach of this warranty.

11 INSOLVENCY

If the Supplier/Service Provider shall have a receiver, manager, administrator, liquidator or like person appointed over all or any part of its assets or if the Supplier/Service Provider compounds with its creditors or passes a resolution for the writing up or administration of the Supplier/Service Provider, Transnet is at liberty to terminate the Order or Orders forthwith, or at its option, to seek performance by any such appointed person.

12 SUBCONTRACTING

- 12.1 The Supplier/Service Provider may only enter into a subcontracting arrangement with the approval of Transnet. If the Supplier/Service Provider subcontracts a portion of the contract to another person without declaring it to Transnet, Transnet must penalise the Supplier up to 10% of the value of the contract.
- 12.2 Should Transnet approve the Supplier/Service Provider's subcontracting arrangement, the Supplier/Service Provider and not the sub-contractor will at all times be held liable for performance in terms of its contractual obligations.
- 12.3 The Supplier/Service Provider may not subcontract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level of contributor than the Supplier/Service Provider, unless the contract is subcontracted to an Exempted Micro Enterprise (EME) that has the capability and ability to execute the subcontract.

13 ASSIGNMENT

The Supplier/Service Provider shall not assign its obligations under an Order without Transnet's prior written consent, which consent shall not be unreasonably withheld or delayed.

14 DATABASE OF RESTRICTED SUPPLIERS

- 14.1 The process of restriction is used to exclude a company/person from conducting future business with Transnet and other organs of state for a specified period. No Bid shall be awarded to a Bidder whose name (or any of its members, directors, partners or trustees) appear on the Register of Tender Defaulters kept by National Treasury, or who have been placed on National Treasury's List of Restricted Suppliers. Transnet reserves the right to withdraw an award, or

cancel a contract concluded with a Bidder should it be established, at any time, that a bidder has been restricted with National Treasury by another government institution.

- 14.2 All the stipulations on Transnet's restriction 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 restriction procedure.
- 14.3 On completion of the restriction procedure, Transnet will submit the restricted entity's details (including the identity number of the individuals and registration number of the entity) to National Treasury for placement on National Treasury's Database of Restricted Suppliers for the specified period of exclusion. National Treasury will make the final decision on whether to restrict an entity from doing business with any organ of state for a period not exceeding 10 years and place the entity concerned on the Database of Restricted Suppliers published on its official website
- 14.4 The decision to restrict is based on one of the grounds for restriction. The standard of proof to commence the restriction process is whether a "*prima facie*" (i.e. on the face of it) case has been established.
- 14.5 Depending on the seriousness of the misconduct and the strategic importance of the Goods/Services, in addition to restricting a company/person from future business, Transnet may decide to terminate some or all existing contracts with the company/person as well.
- 14.6 A supplier or contractor to Transnet may not subcontract any portion of the contract to a restricted company.
- 14.7 Grounds for restriction 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:
 - a) Has, in bad faith, withdrawn such Bid after the advertised closing date and time for the receipt of Bids;
 - b) 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;
 - c) has carried out any contract resulting from such bid in an unsatisfactory manner or has breached any condition of the contract;
 - d) has offered, promised or given a bribe in relation to the obtaining or execution of the contract;
 - e) 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;
 - f) 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:

- (i) he made the statement in good faith honestly believing it to be correct; and
- (ii) before making such statement he took all reasonable steps to satisfy himself of its correctness;
- g) has submitted false information regarding any other matter required in terms of the Preferential Procurement Regulations, 2017 issued in terms of the Preferential Procurement Policy Framework Act which will affect the evaluation of a Bid or where a Bidder has failed to declare any subcontracting arrangements;
- h) caused Transnet damage, or to incur costs in order to meet the contractor's requirements and which could not be recovered from the contractor;
- i) has litigated against Transnet in bad faith.

14.8 Transnet recognizes that trust and good faith are pivotal to its relationship with its suppliers/service providers. When a dispute arises between Transnet and its supplier/service provider, 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/service provider commits perjury either in giving evidence or on affidavit;
- c) Scurrilous allegations. Where a supplier/service provider 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/service provider abuses the court process in order to gain a competitive advantage during a bid process.

14.9 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 restricted. 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.

15 NOTICES

Notices under these Terms shall be delivered by hand to the relevant addresses of the parties in the Order or may be served by facsimile or by email, in which event notice shall be deemed served on acknowledgement of receipt by the recipient.

16 LAW

Orders shall be governed by and interpreted in accordance with South African law and any disputes arising herein shall be subject to South African arbitration under the rules of the Arbitration Foundation of South Africa, which rules are deemed incorporated by reference in this clause. The reference to arbitration shall not prevent Transnet referring the matter to any South African courts, having jurisdiction, to which the Supplier/Service Provider hereby irrevocably submits but without prejudice to Transnet's right to take proceedings against the Supplier/Service Provider in other jurisdictions and/or obtaining interim relief on an urgent basis from a court of competent jurisdiction pending the decision in other courts or from instituting in any court of competent jurisdiction any proceedings for an interdict or any other injunctive relief. If the Supplier/Service Provider does not have a registered office in the South Africa it will at all times maintain an agent for service of process in South Africa and shall give Transnet the name and address of such agent as such may be amended, in writing, from time to time.

17 GENERAL

Completion or termination of an Order shall be without prejudice to any Term herein which by its nature would be deemed to continue after completion or termination, including but not limited to clauses 5, 6, 7, 8, 9, 12 and 18. Headings are included herein for convenience only. If any Term herein be held illegal or unenforceable, the validity or enforceability of the remaining Terms shall not be affected. No failure or delay by Transnet to enforce any rights under these Terms will operate as a waiver thereof by Transnet. All rights and remedies available to either party under these Terms shall be in addition to, not to the exclusion of, rights otherwise available at law.

18 COUNTERPARTS

These Terms and conditions may be signed in any number of counterparts, all of which taken together shall constitute one and the same instrument. Any party may enter into this agreement by signing any such counterpart.

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