

## NEC3 Engineering and Construction Short Contract (ECSC)

entered into by and between

### Transnet SOC Ltd

Registration Number 1990/000900/06

(hereinafter referred to as the "Employer")

and

### TBA

Registration Number <%Agreement.Company.RegistrationNo%>

(hereinafter referred to as the "Contractor")

<b>Description of the Works</b>	Repairs and painting of Perway building at Mtuba, asset no.: 02BE823A
<b>Contract Number</b>	ERAC-EMU-20157
<b>Start Date</b>	03 October 2016
<b>Completion Date</b>	30 January 2017

## Contents

### Number    Heading

#### The Tender

##### Part T1: Tendering Procedures

- T1.1        Tender Notice and Invitation to Tender
- T1.2        Tender Data
- T1.3        Conditions of Tender

##### Part T2: Returnable Documents

- T2.1        List of Returnable Documents

#### The Contract

##### Part C1: Agreements and Contract Data

- C1.1        Form of Offer and Acceptance
- C1.2        Contract Data (Parts 1 & 2)

##### Part C2: Pricing Data

- C2.1        Pricing Instructions
- C2.2        Price List

##### Part C3: Scope of Work

- C3          Scope of Work: Service Information

##### Part 4: Site Information

- C4          Site Information

**T1.1 Tender Notice and Invitation to Tender**

**SECTION 1: NOTICE TO TENDERERS**

**1. INVITATION TO BID**

Responses to this Tender [hereinafter referred to as a **Tender**] are requested from persons, companies, close corporations or enterprises [hereinafter referred to as a Tenderer].

<b>DESCRIPTION</b>	Repairs and painting of Perway building at Mtuba, asset no.: 02BE823A for a period of four weeks
<b>BID FEE</b>	<b>This Tender is obtainable free of charge</b>
<b>INSPECT / COLLECT DOCUMENTS FROM</b>	<p>The physical address for collection of tender documents is <b>TFR, Malahle House, 4 Kiewiet Street, Empangeni, 3880.</b></p> <p>Documents may be collected during working hours after <b>08:00hrs to 15:00hrs on Monday, 15 August 2016 till 08:30hrs Monday, 22<sup>nd</sup> August 2016, for free of charge.</b></p> <p>Queries relating to the issue of these documents may be addressed to:</p> <p>Ms: Barbara Bhengu OR Ms: Yogeshnie Gengan</p> <p>Tel No.: 035 906 7669 Tel No: 035 906 7345</p> <p>Fax No.: 011 774 9815 Fax No: 086 679 7935</p> <p>Email: <a href="mailto:Barabara.Bhengu@transnet.net">Barabara.Bhengu@transnet.net</a></p> <p>Email: <a href="mailto:Yogeshnie.Gengan@transnet.net">Yogeshnie.Gengan@transnet.net</a></p>
<b>ISSUE DATE AND COLLECTION DATE DEADLINE</b>	Between 08:00hrs and 15:00hrs Monday from Monday, 15 <sup>th</sup> August 2016 until 08:30 Monday, 22 <sup>nd</sup> August 2016.
<b>COMPULSORY BRIEFING SESSION</b>	Refer to "formal briefing" Paragraph 2 for details.
<b>CLOSING DATE</b>	<b>10:00 on Thursday, 01<sup>st</sup> September 2016</b>
<b>VALIDITY PERIOD</b>	<p><b>Ninety (90) Business Days from Closing Date</b></p> <p>Tenderers are to note that they may be requested to extend the validity period of their tender, at 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 Tenderer(s), the validity of the successful Tenderer(s)' bid will be deemed to remain valid until a final contract has been concluded.</p>

## 2. FORMAL BRIEFING

A compulsory pre-proposal Tender briefing will be conducted at **Transnet Freight Rail, Malahle House, Boardroom 252, 04 Kiewiet Street, Empangeni** on the 22<sup>nd</sup> August 2016 at **09:00 [9 O'clock]** for a period of  $\pm 1$  hrs. [Tenderers to provide own transportation and accommodation]. The briefing session will start punctually and information will not be repeated for the benefit of Tenderers arriving late. **After the clarification there will be compulsory site visits to Mtuba Buildings, it is compulsory for all tenderers to visit the sites at Mtuba.**

2.1 A Certificate of Attendance in the form set out in the **Returnable Schedule T2.2-15** hereto must be completed and submitted with your Tender as proof of attendance is required for a **compulsory** site meeting and/or tender briefing. Tenderers are required to bring this **Returnable Schedule T2.2-15 (attached to the Tender document)** to the briefing session to be signed by the *Employer's* Representative.

2.2 Tenderers failing to attend the compulsory tender briefing will be disqualified.

2.3 Respondents without a valid RFQ document in their possession will not be allowed to attend the RFQ briefing.

## 3. TENDER SUBMISSION

Tender Offers must be submitted in a sealed envelope addressed as follows:

The Secretariat, Transnet Freight Rail Acquisition Council  
RFQ No : ERAC-EMU-20157  
Description : Repairs and painting of Perway building at Mtuba, asset no.: 02BE823A  
Closing date and time : Thursday, 01 September 2016 at 10:00  
Closing address : Transnet Acquisition Council, Ground Floor, Inyanda House 1, 21 Wellington Road,  
Parktown, Johannesburg, 2001.

*[Refer to options in paragraph 4 below]*

All envelopes must reflect the return address of the Respondent on the reverse side.

## 4. DELIVERY INSTRUCTIONS FOR TENDER

### 4.1. Delivery by hand

If delivered by hand, the envelope must be deposited in the Transnet tender box which is located at The Entrance Foyer Ground Floor, Inyanda House 1, 21 Wellington Road, Parktown, Johannesburg, 2001 and must be addressed as follows:

THE CHAIRMAN  
TRANSNET FREIGHT RAIL ACQUISITION COUNCIL  
GROUND FLOOR  
INYANGA HOUSE 1  
21 WELLINGTON ROAD, PARKTOWN  
JOHANNESBURG, 2001

The measurements of the "tender slot" are 400mm wide x 100mm high, and Tenderers must please ensure that tender documents or files are no larger than the above dimensions. Tenders which are too

bulky [i.e. more than 100mm thick] must be split into two or more files, and placed in separate envelopes, each such envelope to be addressed as required in paragraph 3 above.

#### 4.2 Dispatch by courier

If dispatched by courier, the envelope must be addressed as follows and delivered to the Office of The Secretariat, Transnet Freight Rail Acquisition Council and a signature obtained from that Office:

THE CHAIRMAN  
TRANSNET FREIGHT RAIL ACQUISITION COUNCIL  
GROUND FLOOR  
INYANGA HOUSE 1  
21 WELLINGTON ROAD, PARKTOWN  
JOHANNESBURG, 2001

- 4.3 If tender offers are not delivered as stipulated herein, such tenders will not be considered.
- 4.4 No email or faxed tenders will be considered, unless otherwise stated herein.
- 4.5 The tender offers to this tender will be opened as soon as possible after the closing date and time. Transnet shall not, at the opening of tenders, disclose to any other company any confidential details pertaining to the Tender Offers / information received i.e. pricing, delivery, etc. The names and locations of the Tenderers will be divulged to other Tenderers upon request.
- 4.6 Envelopes must not contain documents relating to any Tender other than that shown on the envelope.

#### 5. DISCLAIMERS

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

- 5.1
- a) Modify the tender services and request Tenderers to re-tender on any changes;
  - b) Reject any tender which does not conform to instructions and specifications which are detailed herein;
  - c) Disqualify tender/s submitted after the stated submission deadline [closing date];
  - d) Not necessarily accept the lowest priced tender or an alternative Tender;
  - e) Go to the open market if the quoted rates (for award of work) are deemed unreasonable;
  - f) Reject all tenders, if it so decides;
  - g) Withdraw the tender on good cause shown;
  - h) Award business in connection with this tender at any time after the tender closing date;
  - i) Award business for only a portion of the proposed services which are reflected in the scope of this tender
  - j) Split the award of business between more than one service providers should it be more advantageous in terms of, amongst others, cost or developmental considerations at Transnet's discretion;

- k) Should the Tenderers be awarded business on strength of information furnished by the Tenderer, which after conclusion of the contract is proved to have been incorrect, Transnet reserves the right to cancel the contract;
- l) To request audited financial statements or other documentation for the purposes of a due diligence exercise;
- m) Not accept any changes or purported changes by the Tenderer to the tender rates after the closing date;
- n) To verify any information supplied by a Tenderer by submitting a tender, the Tenderer/s hereby irrevocably grant the necessary consent to the Transnet to do so;
- o) Undertake post-tender negotiations with those persons/Tenderers appearing on the list of preferred Tenderers once such list is approved by relevant person(s) with delegated authority;
- p) Unless otherwise expressly stated, each tender lodged in response to the invitation to tender shall be deemed to be an offer by the Tenderer. The Employer has the right in its sole and unfettered discretion not to accept any offer.
- q) To award the business to the highest scoring Tenderer/s unless objective criteria justify the award to another Tenderer.

In addition, Transnet reserves the right to exclude any Tenderers from the bidding process who has been convicted of a serious breach of law during the preceding 5 [five] years including but not limited to breaches of the competition Act 89 of 1998. Respondents are required to indicate in tender returnable [clause 12 on T2.2-43], [breach of law] whether or not they have been found guilty of a serious breach of law during the past 5 [five] years.

Should the preferred Tenderer 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 ranked Tenderer, provided that he/she is still prepared to provide the required goods at the quoted rate.

## 6. NATIONAL TREASURY SUPPLIER REGISTRATION

In terms of paragraph 5.6 of the NATIONAL TREASURY SCM INSTRUCTION NO 4 OF 2016/2017, which became effective on 1 May 2016, Transnet may only award bids to suppliers after verifying that the supplier is registered as prospective suppliers on the National Treasury Central Supplier Database.

Please follow the following steps to register your company on the National Treasury Central Supplier Database and confirm your registration by submitting your National Treasury "MAAA" supplier reference number.

Step 1: Access the CSD site on <https://secure.csd.gov.za/>

Step 2: Register a new CSD account <https://secure.csd.gov.za/Account/Register>

Step 3: Receive an activation email and click activate account

Step 4: Activate account by requesting and entering the OTP

Step 5: Log in the CSD

Step 6: Complete supplier identification information

Step 7: Complete contact information

Step 8: Complete address information

Step 9: Complete bank account information

Step 10: Complete tax information

Step 11: Complete directors/members information (if non-CIPC company)

Step 12: Complete associations (if relevant)

Step 13: Complete commodities information

Step 14: Complete B-BBEE information (future phase)

Step 15: Maintain users

Step 16: Complete notification information

Step 17: Complete accreditations

Step 18: Click on submit

Step 19: A CSD supplier number and unique registration reference number is auto-generated and communicated

**Kindly note that Transnet will not reimburse any Tenderer for any preparatory costs or other work performed in connection with this Tender, whether or not the Tenderer is awarded a contract.**

**Transnet urges its clients, suppliers and the general public  
to report any fraud or corruption to  
TIP-OFFS ANONYMOUS: 0800 003 056 OR [Transnet@tip-offs.com](mailto:Transnet@tip-offs.com)**

## ACKNOWLEDGMENT OF RECEIPT OF DOCUMENTS AND INTENTION TO TENDER

(To be returned within 5 days after receipt)

FAX TO:	Transnet Freight Rail	Tender No.:	ERAC-EMU-20157
	Attention: Barbara Bhengu	Tender No.:	ERAC-EMU-20157
	Email: Barbara.Bhengu@transnet.net	Closing Date:	01 September 2016

### FOR: REPAIRS AND PAINTING OF PERWAY BUILDING AT MTUBA, ASSET NO.:02BE823A

**We:** **Do wish to tender** for the work and shall return our tender  
by the due date above  
**Do not wish to tender** on this occasion and herewith return  
all your documents received

**Check**  
**Yes** ☐  
**No** ☐

REASON FOR NOT TENDERING:

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

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

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

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

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

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

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

Clause	Data
F.1.1 The <i>Employer</i> is	Transnet SOC Ltd (Reg No. 1990/000900/30)
F.1.2 The tender documents issued by the <i>Employer</i> comprise:	
<b>Part T: The Tender</b>	
<b>Part T1: Tendering procedures</b>	T1.1 Tender notice and invitation to tender T1.2 Tender data
<b>Part T2 : Returnable documents</b>	T2.1 List of returnable documents T2.2 Returnable schedules C1.1 Form of offer and acceptance C1.2 Contract data C2.2 Price List
<b>Part C: The contract</b>	
<b>Part C1: Agreements and contract data</b>	C1.1 Form of offer and acceptance C1.2 Contract data (Part 1 & 2)
<b>Part C2: Pricing data</b>	C2.1 Pricing instructions C2.2 Activity schedules

	<b>Part C3: Scope of work</b>	C3 Works Information
	<b>Part C4: Site information</b>	C4 Site information
F.1.4	The Employer's agent is:	Transnet Freight Rail
	Name:	Barbara Bhengu
	Address:	Malahle House, 04 Kiewiet Street, Empangeni, 3880
	Tel No.	035 906 7669
	E – mail	Barbara.Bhengu@transnet.net
F1.6	The competitive negotiation procedure may be applied.	
F.2.1	Only those tenderers who satisfy the following eligibility criteria are eligible to submit tenders:	
	<ol style="list-style-type: none"> <li>1. Tenderers will only be considered if:               <ol style="list-style-type: none"> <li>a) An authorised representative of the tendering entity attends the compulsory clarification meeting in terms F.2.7 below</li> <li>b) The Tender materially complies with the scope / specifications of the Tender.</li> <li>c) The Tender meets the threshold set for Quality / functionality criteria.</li> <li>d) The Tender contains a priced offer.</li> </ol> </li> <li>2. Only those tenderers who are registered with the CIDB, or are capable of being so prior to the evaluation of submissions, in a contractor grading designation equal to or higher than a contractor grading designation determined in accordance with the sum tendered or a value determined in accordance with Regulation 25 (1B) or 25(7A) of the Construction Industry Development Regulations, for a 1GB or higher class of construction work, are eligible to have their tenders evaluated.</li> <li>3. <b>Joint Venture (JV)</b>                Joint ventures are eligible to submit tenders subject to the following:               <ol style="list-style-type: none"> <li>1. every member of the joint venture is registered with the CIDB;</li> <li>2. the lead partner has a contractor grading designation in the 1GB or higher class of construction work; and</li> <li>3. the combined Contractor grading designation calculated in accordance with the Construction Industry Development Regulations is equal to or higher than a Contractor grading designation determined in accordance with the sum tendered</li> </ol> </li> </ol>	

for a 1GB or higher class of construction work or a value determined in accordance with Regulation 25(1B) or 25(7A) of the Construction Industry Development Regulations

4. the Contractor shall provide the employer with a certified copy of its signed joint venture agreement;
5. and in the event that the joint venture is an 'Incorporated Joint Venture' the Memorandum of Incorporation to be provided within 4 (four) weeks of the Contract Date.

#### **4. Pre-Qualifying Quality (Functionality) Criteria)**

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

**In the event that all tenderers that are evaluated in terms of quality (functionality) do not meet the minimum stipulated points (threshold) or quality (functionality), Transnet reserves the right to lower the minimum stipulated threshold points (threshold) from 80 to 70 points.**

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

Quality criteria	Sub-criteria	Maximum number of points
Previous Experience	<ul style="list-style-type: none"> <li>Work Experience with respect to specific aspects of the project/ Comparable projects. Greater weight should be given to project of a similar nature for the last 5 years. The contractor should have done and completed any electrical upgrades, repairs or renovation projects.</li> </ul>	20%
Method Statement	<ul style="list-style-type: none"> <li>This document should details the way each activity or process is to be completed. The method statement should also outline the hazards involved and include a step by step guide on how to do the job safely. It should again detail control measures to be introduced to ensure the safety of anyone who will be affected by the projects activities. The method statement cannot be used as safety plan but a technical approach and methodology on the actual work execution. The company special and practical knowledge in business services is required. The contractor must supply/provide and identify his/her proposed technical team. And state their job description, experience and qualifications. A company profile and organogram can be provided as well as the organograms for this project.</li> </ul>	30%
Management and CV's	<ul style="list-style-type: none"> <li>Overall integration and clarity of organisational plan. General experience and qualifications. Adequacy of proposed staff for the contract including Safety Officer and Quality Assurance representative.</li> </ul>	10%
Healthy and Safety Plan	<ul style="list-style-type: none"> <li>Safety Plan should be a written document that describes the process for identifying the physical and health hazards that could harm workers, procedures to prevent accidents, and steps to take when accidents occurs. Safety plan with job safety analysis that communicated with the project scope is required. The job safety analysis (JSA) should be based on the work programme activities and method statement. The safety plan should also identify key project personnel and their responsibilities.</li> </ul>	10%
Work Programme.	<ul style="list-style-type: none"> <li>The contractor must state when he/she intend to start and complete the job. This must also be supported by providing a working programme, which after awarding will then be used as a monitoring tool on work progress. Point given should be based on the duration and sequential project activities. (E.g. dig a foundation before pouring concrete and not vice versa)</li> </ul>	30%
<b>Maximum possible score for quality (W<sub>Q</sub>)</b>		<b>100%</b>

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

- T2.2-2 Programme
- T2.2-7 Management and CV's of key persons
- T2.2-22 Health and Safety Plan
- T2.2-25 Previous Experience
- T2.2-37 Method Statement

The minimum number of evaluation points for quality is: 80

Each evaluation criteria will be assessed in terms of the following indicators tabled below. The scores of each of the evaluators will be weighted and then totalled to obtain the final score for quality, unless score

Item No	Quality Criteria	Evaluation indicators	Points Available
1	Management and CV's of key persons	Very good 10 points, Satisfactory 9 points, poor 4 points and Not submitted 0	10
2	Health and Safety Plan	Very good 10 points, Satisfactory 7 points, poor 0 points	10
3	Previous Experience	Very good 20 points, Good 18 points, Satisfactory 14 points, poor 8 points and Not submitted 0	20
4	Method Statement	Very good 30 points, Good 27 points, Satisfactory 21 points, poor 12 points and Not submitted 0	30
5	Work Program	Very good 30 points, Good 27 points, Satisfactory 21 points, poor 12 points and Not submitted 0	30

**In the event that all tenderers that are evaluated in terms of quality (functionality) do not meet the minimum stipulated points (threshold) or quality (functionality), Transnet reserves the right to lower the minimum stipulated points (threshold) from 80 to 70 Points.**

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

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

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

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F.2.13.3 Parts of each tender offer communicated on paper shall be as an original, plus 1 (One) copy.

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

Location of tender box Transnet Freight Rail Acquisition Council

Physical address: The Chairman  
Transnet Freight Rail Acquisition Council  
Ground Floor  
Inyanga House 1  
21 Wellington Road, Parktown  
Johannesburg, 2001

Identification details: The tender documents must be submitted  
labelled with:

- Name of Tenderer:
- Contact person and details:
- The Tender Number: ERAC-EMU-20157
- The Tender Description: Repairs and painting of Perway building at Mtuba, asset no.: 02BE823A
- Documents must be marked for the attention of:

**Prudence Nkabinde: (011) 544 9486**

Prior arrangement on the submittal of large tender documents should be made with the Prudence Nkabinde (011) 544 9886

**NO LATE TENDERS WILL BE ACCEPTED**

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- F.2.13.9 Telephonic, telegraphic, facsimile or e-mailed tender offers will not be accepted.
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- F.2.15 The closing time for submission of tender offers is as stated in the Tender Notice and Invitation to Tender.
- 
- F.2.16 The tender offer validity period is 90 Business Days from Closing Date
- 
- F.2.23 The tenderer is required to submit with his tender:
1. An **original valid** Tax Clearance Certificate issued by the South African Revenue Services;
  2. A valid certified SANAS or IRBA B-BBEE accreditation certificate, and
  3. Certified Letter of Good Standing
- Note: Refer to Section T2.1 for List of Returnable Documents
- 
- F.3.11.3 The procedure for the evaluation of responsive tenders is Method 2.
- 
- F.3.11.7 The financial offer will be scored using Formula 2 (option 1) in Table F.1 where the value of  $W_1$  is:
- 80 where the financial value inclusive of VAT of one or more responsive tenders received have a value that equals or is less than R 1,000 000
- Up to 100 minus  $W_1$  tender evaluation points will be awarded to tenderers who complete the preferencing schedule and who are found to be eligible for the preference claimed.
- Should the BBBEE rating not be provided, Transnet reserves the right to award no points and/or declare the tender void. Transnet also reserves the right to carry out an independent audit of the tenderers scorecard components at any stage from the date of close of the tenders until completion of the contract. Tenderers with no accreditation will score zero points for preferencing.
- 
- F.3.13 Tender offers will only be accepted if:
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- a) the tenderer submits an original valid Tax Clearance Certificate issued by the South African Revenue Services or has made arrangements to meet outstanding tax obligations;
- b) the tenderer or any of its directors/shareholders is not listed on the Register of Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the public sector;
- c) the tenderer does not appear on Transnet list for restricted tenderers;
- d) the tenderer has fully and properly completed the Compulsory Enterprise Questionnaire and there are no conflicts of interest which may impact on the tenderer's ability to perform the contract in the best interests of the Employer or potentially compromise the tender process and persons in the employ of the state are permitted to submit tenders or participate in the contract;
- e) the tenderer is registered and in good standing with the compensation fund or with a licensed compensation insurer;
- f) the Employer is reasonably satisfied that the tenderer has in terms of the Construction Regulations, 2014, issued in terms of the Occupational Health and Safety Act, 1993, the necessary competencies and resources to carry out the work safely.

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

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## T1.3 CIDB Standard Conditions of Tender

July 2015 Edition



As published in Annexure F of the cidb Standard for Uniformity for construction Procurement, Board Notice 136 Government Gazette No 38960 of 10 July 2015

### F.1 General

#### F.1.1 Actions

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

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

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

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

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

#### F.1.2 Tender Documents

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

#### F.1.3 Interpretation

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

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

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

a) **conflict of interest** means any situation in which:

i) someone in a position of trust has competing professional or personal interests which make it difficult to fulfill his or her duties impartially;

ii) an individual or organisation is in a position to exploit a professional or official capacity in some way for their personal or corporate benefit; or

iii) incompatibility or contradictory interests exist between an employee and the organisation which employs that employee.

b) **comparative offer** means the price after the factors of a non-firm price and all unconditional discounts it can be utilised to have been taken into consideration;

c) **corrupt practice** means the offering, giving, receiving or soliciting of anything of value to influence the action of the employer or his staff or agents in the tender process;

d) **fraudulent practice** means the misrepresentation of the facts in order to influence the tender process or the award of a contract arising from a tender offer to the detriment of the employer, including collusive practices intended to establish prices at artificial levels;

e) **organization** means a company, firm, enterprise, association or other legal entity, whether incorporated or not, or a public body;

f) **functionality** means the measurement according to the predetermined norms of a service or commodity designed to be practical and useful, working or operating, taking into account quality, reliability, viability and durability of a service and technical capacity and ability of a tenderer.

#### **F.1.4 Communication and Employer's agent**

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

#### **F.1.5 Cancellation and Re-Invitation of Tenders**

**F.1.5.1** An organ of state may, prior to the award of the tender, cancel a tender if-

(a) due to changed circumstances, there is no longer a need for the services, works or goods requested; or

(b) funds are no longer available to cover the total envisaged expenditure; or

(c) no acceptable tenders are received.

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

- F1.5.2** The decision to cancel a tender must be published in the cidb website and in the government Tender Bulletin for the media in which the original tender invitation was advertised.

**F.1.6 Procurement procedures**

**F.1.6.1 General**

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

**F.1.6.2 Competitive negotiation procedure**

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

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

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

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

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

**F.1.6.3.1 Option 1**

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

**F.1.6.3.2 Option 2**

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

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

## **F.2 Tenderer's obligations**

### **F.2.1 Eligibility**

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

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

### **F.2.2 Cost of tendering**

**F.2.2.1** Accept that, unless otherwise stated in the tender data, the employer will not compensate the tenderer for any costs incurred in the preparation and submission of a tender offer, including the costs of any testing necessary to demonstrate that aspects of the offer complies with requirements.

**F.2.2.2** The cost of the tender documents charged by the employer shall be limited to the actual cost incurred by the employer for printing the documents. Employers must attempt to make available the tender documents on its website so as not to incur any costs pertaining to the printing of the tender documents.

### **F.2.3 Check documents**

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

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

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

### **F.2.5 Reference documents**

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

### **F.2.6 Acknowledge addenda**

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

### **F.2.7 Clarification meeting**

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

### **F.2.8 Seek clarification**

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

#### **F.2.9 Insurance**

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

#### **F.2.10 Pricing the tender offer**

- F.2.10.1** Include in the rates, prices, and the tendered total of the prices (if any) all duties, taxes (except Value Added Tax (VAT), and other levies payable by the successful tenderer, such duties, taxes and levies being those applicable 14 days before the closing time stated in the tender data.
- F.2.10.2** Show VAT payable by the employer separately as an addition to the tendered total of the prices.
- F.2.10.3** Provide rates and prices that are fixed for the duration of the contract and not subject to adjustment except as provided for in the conditions of contract identified in the contract data.
- F.2.10.4** State the rates and prices in Rand unless instructed otherwise in the tender data. The conditions of contract identified in the contract data may provide for part payment in other currencies.

#### **F.2.11 Alterations to documents**

Do not make any alterations or additions to the tender documents, except to comply with instructions issued by the employer, or necessary to correct errors made by the tenderer. All signatories to the tender offer shall initial all such alterations.

#### **F.2.12 Alternative tender offers**

- F.2.12.1** Unless otherwise stated in the tender data, submit alternative tender offers only if a main tender offer, strictly in accordance with all the requirements of the tender documents, is also submitted as well as a schedule that compares the requirements of the tender documents with the alternative requirements that are proposed.
- F.2.12.2** Accept that an alternative tender offer may be based only on the criteria stated in the tender data or criteria otherwise acceptable to the employer.
- F.2.12.3** An alternative tender offer may only be considered in the event that the main tender offer is the winning tender.

#### **F.2.13 Submitting a tender offer**

- F.2.13.1** Submit one tender offer only, either as a single tendering entity or as a member in a joint venture to provide the whole of the works, services or supply identified in the contract data and described in the scope of works, unless stated otherwise in the tender data.
- F.2.13.2** Return all returnable documents to the employer after completing them in their entirety, either electronically (if they were issued in electronic format) or by writing legibly in non-erasable ink.
- F.2.13.3** Submit the parts of the tender offer communicated on paper as an original plus the number of copies stated in the tender data, with an English translation of any documentation in a language other than English, and the parts communicated electronically in the same format as they were issued by the employer.
- F.2.13.4** Sign the original and all copies of the tender offer where required in terms of the tender data. The employer will hold all authorized signatories liable on behalf of the tenderer. Signatories for tenderers proposing to contract as joint ventures shall state which of the signatories is the lead partner whom the employer shall hold liable for the purpose of the tender offer.

- F.2.13.5** Seal the original and each copy of the tender offer as separate packages marking the packages as "ORIGINAL" and "COPY". Each package shall state on the outside the employer's address and identification details stated in the tender data, as well as the tenderer's name and contact address.
- F.2.13.6** Where a two-envelope system is required in terms of the tender data, place and seal the returnable documents listed in the tender data in an envelope marked "financial proposal" and place the remaining returnable documents in an envelope marked "technical proposal". Each envelope shall state on the outside the employer's address and identification details stated in the tender data, as well as the tenderer's name and contact address.
- F.2.13.7** Seal the original tender offer and copy packages together in an outer package that states on the outside only the employer's address and identification details as stated in the tender data.
- F.2.13.8** Accept that the employer will not assume any responsibility for the misplacement or premature opening of the tender offer if the outer package is not sealed and marked as stated.
- F.2.13.9** Accept that tender offers submitted by facsimile or e-mail will be rejected by the employer, unless stated otherwise in the tender data.
- F.2.14 Information and data to be completed in all respects**  
Accept that tender offers, which do not provide all the data or information requested completely and in the form required, may be regarded by the employer as non-responsive.
- F.2.15 Closing time**
- F.2.15.1** Ensure that the employer receives the tender offer at the address specified in the tender data not later than the closing time stated in the tender data. Accept that proof of posting shall not be accepted as proof of delivery.
- F.2.15.2** Accept that, if the employer extends the closing time stated in the tender data for any reason, the requirements of these conditions of tender apply equally to the extended deadline.
- F.2.16 Tender offer validity**
- F.2.16.1** Hold the tender offer(s) valid for acceptance by the employer at any time during the validity period stated in the tender data after the closing time stated in the tender data.
- F.2.16.2** If requested by the employer, consider extending the validity period stated in the tender data for an agreed additional period with or without any conditions attached to such extension.
- F.2.16.3** Accept that a tender submission that has been submitted to the employer may only be withdrawn or substituted by giving the employer's agent written notice before the closing time for tenders that a tender is to be withdrawn or substituted.
- F.2.16.4** Where a tender submission is to be substituted, submit a substitute tender in accordance with the requirements of F.2.13 with the packages clearly marked as "SUBSTITUTE".
- F.2.17 Clarification of tender offer after submission**  
Provide clarification of a tender offer in response to a request to do so from the employer during the evaluation of tender offers. This may include providing a breakdown of rates or prices and correction of arithmetical errors by the adjustment of certain rates or item prices (or both). No change in the competitive position of tenderers or substance of the tender offer is sought, offered, or permitted.

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

**F.2.18 Provide other material**

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

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

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

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

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

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

**F.2.21 Check final draft**

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

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

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

**F.2.23 Certificates**

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

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

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

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

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

- a) an individual firm, or a joint venture as a whole, or any individual member of the joint venture fails to meet any of the collective or individual qualifying requirements;
- b) the new partners to a joint venture were not prequalified in the first instance, either as individual firms or as another joint venture; or

- c) in the opinion of the Employer, acceptance of the material change would compromise the outcome of the prequalification process.

**F.3.2 Issue Addenda**

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

**F.3.3 Return late tender offers**

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

**F.3.4 Opening of tender submissions**

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

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

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

**F.3.5 Two-envelope system**

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

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

**F.3.6 Non-disclosure**

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

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

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

### **F.3.8 Test for responsiveness**

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

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

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

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

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

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

**F.3.9.1** Check the highest ranked tender or tenderer with the highest number of tender evaluation points after the evaluation of tender offers in accordance with F.3.11 for:

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

**F.3.9.2.** The employer must correct the arithmetical errors in the following manner:

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

Consider the rejection of a tender offer if the tenderer does not correct or accept the correction of the arithmetical error in the manner described above.

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

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

### F.3.11 Evaluation of tender offers

#### F.3.11.1 General

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

#### F.3.11.2 Method 1: Price and Preference

In the case of a price and preference:

- 1) Score tender evaluation points for price.
- 2) Score points for BBBEE contribution.
- 3) Add the points scored for price and BBBEE.

#### F.3.11.3 Method 2: Functionality, Price and Preference

In the case of a functionality, price and preference:

- 1) Score functionality, rejecting all tender offers that fail to achieve the minimum number of points for functionality as stated in the Tender Data.
- 2) No tender must be regarded as an acceptable tender if it fails to achieve the minimum qualifying score for functionality as indicated in the tender invitation.
- 3) Tenders that have achieved the minimum qualification score for functionality must be evaluated further in terms of the preference points system prescribed in paragraphs 4 and 4 and 5 below.

The 80/20 preference point system for acquisition of services, works or goods up to Rand value of R1 million

- 4) (a)(i) The following formula must be used to calculate the points for price in respect of tenders (including price quotation) with a rand value equal to, or above R 30 000 and up to Rand value of R 1 000 000 (all applicable taxes included)

$$Ps = 80 \left( 1 - \frac{Pt - Pmin}{Pmin} \right)$$

Where:

*Ps* = Points scored for comparative price of tender or offer under consideration;

*Pt* = Comparative price of tender or offer under consideration; and

*Pmin* = Comparative price of lowest acceptable tender or offer.

- (4) (a)(ii) An employer of state may apply the formula in paragraph (i) for price quotations with a value less than R30 000, if and when appropriate:
- (4) (b) Subject to subparagraph(4)(c), points must be awarded to a tender for attaining the B-BBEE status level of contributor in accordance with the table below:

<b>B-BBEE status level of contributor</b>	<b>Number of points</b>
1	20
2	18
3	16
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

- (4) (c) A maximum of 20 points may be allocated in accordance with subparagraph (4)(b)
- (4) (d) The points scored by tender in respect of B-BBEE contribution contemplated in subparagraph (4) (b) must be added to the points scored for price as calculated in accordance with subparagraph (4)(a).
- (4) (e) Subject to paragraph 43.8 the contract must be awarded to the tender who scores the highest total number of points.

**The 90/ 10 preference points system for acquisition of services, works or goods with a Rand value above R 1 million**

- (5)(a) The following formula must be used to calculate the points for price in respect of tenders with a Rand value above R1 000 000 (all applicable taxes included):

**90/10**

$$P_s = 90 \left( 1 = \frac{P_t - P_{min}}{P_{min}} \right)$$

Where

*P<sub>s</sub>* = Points scored for comparative price of tender or offer under consideration;

*P<sub>t</sub>* = Comparative price of tender or offer under consideration; and

*P<sub>min</sub>* = Comparative price of lowest acceptable tender or offer.

- (5)(b) Subject to subparagraph(5)(c), points must be awarded to a tender for attaining the BBBEE status level of contributor in accordance with the table below:

B-BBEE status level of contributor	Number of points
1	10
2	9
3	8
4	7
5	6
6	5
7	4
8	3
9	2
10	1
Non-compliant contributor	0

- (5)(c) A maximum of 10 points may be allocated in accordance with subparagraph (5)(b).
- (5)(d) The points scored by tender in respect of B-BBEE contribution contemplated in contemplated in subparagraph (5) (b) must be added to the points scored for price as calculated in accordance with subparagraph (5)(a).
- (5)(e) Subject to paragraph 4.3.8 the contract must be awarded to the tender who scores the highest total number of points.

**F.3.11.6 Decimal places**

Score price, preference and functionality, as relevant, to two decimal places.

**F.3.11.7 Scoring Financial Offers**

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

$$NFO = W_1 \times A$$

where: *NFO* is the number of tender evaluation points awarded for price.  
*W<sub>1</sub>* is the maximum possible number of tender evaluation points awarded for price as stated in the Tender Data.  
*A* is a number calculated using the formula and option described in Table F.1 as stated in the Tender Data.

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

Formula	Comparison aimed at achieving	Option 1a	Option 2 a
1	Highest price or discount	$A = (1 + (\frac{P - P_m}{P_m}))$	$A = P / P_m$
2	Lowest price or percentage commission / fee	$A = (1 - (\frac{P - P_m}{P_m}))$	$A = P_m / P$
<sup>a</sup> $P_m$ is the comparative offer of the most favourable comparative offer. $P$ is the comparative offer of the tender offer under consideration.			

#### **F.3.11.8 Scoring preferences**

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

Calculate the total number of tender evaluation points for preferences claimed in accordance with the provisions of the tender data.

#### **F.3.11.9 Scoring quality**

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

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

$$N_Q = W_2 \times S_o / M_s$$

where:  $S_o$  is the score for quality allocated to the submission under consideration;  
 $M_s$  is the maximum possible score for quality in respect of a submission; and  
 $W_2$  is the maximum possible number of tender evaluation points awarded for the quality as stated in the tender data:

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

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

#### **F.3.13 Acceptance of tender offer**

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

- is not under restrictions, or has principals who are under restrictions, preventing participating in the employer's procurement,
- can, as necessary and in relation to the proposed contract, demonstrate that he or she possesses the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and the personnel, to perform the contract,
- has the legal capacity to enter into the contract,
- is not insolvent, in receivership, under Business Rescue as provided for in chapter 6 of the Companies Act, 2008, bankrupt or being wound up, has his affairs administered by a court or a judicial officer, has suspended his business activities, or is subject to legal proceedings in respect of any of the foregoing,

- e) complies with the legal requirements, if any, stated in the tender data, and
- f) is able, in the opinion of the employer, to perform the contract free of conflicts of interest.

#### **F.3.14 Prepare contract documents**

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

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

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

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

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

#### **F.3.16 Notice to unsuccessful tenderers**

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

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

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

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

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

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

#### **F3.19 Transparency in the procurement process**

**F3.19.1** The cidb prescripts require that tenders must be advertised and be registered on the cidb i.Tender system.

**F3.19.2** The employer must adopt a transparency model that incorporates the disclosure and accountability as transparency requirements in the procurement process.

**F3.19.3** The transparency model must identify the criteria for selection of projects, project information template and the threshold value of the projects to be disclosed in the public domain at various intervals of delivery of infrastructure projects.

**F3.19.4** The client must publish the information on a quarterly basis which contains the following information:

Procurement planning process

- Procurement method and evaluation process

- Contract type
- Contract status
- Number of firms tendering
- Cost estimate
- Contract title
- Contract firm(s)
- Contract price
- Contract scope of work
- Contract start date and duration
- Contract evaluation reports

F3.19.5 The employer must establish a Consultative Forum which will conduct a random audit in the implementation of the transparency requirements in the procurement process.

F3.19.6 Consultative Forum must be an independent structure from the bid committees.

F3.19.7 The information must be published on the employer's website.

F 3.19.8 Records of such disclosed information must be retained for audit purposes.

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## T2.1 List of Returnable Documents

### 1. These schedules are required for eligibility purpose

T2.2-15 **Eligibility Criteria Schedule:** certification of attendance at a tender clarification meeting

### 2. These schedules will be utilised for the evaluation of Functionality Criteria

T2.2-2 **Evaluation Schedule:** Program

T2.2-7 **Evaluation Schedule:** Management and CV's of key persons

T2.2-22 **Evaluation Schedule:** Health and Safety Plan

- Health and Safety Questionnaire

T2.2-25 **Evaluation Schedule:** Previous Experience

T2.2-37 **Evaluation Schedule:** Method Statement

### 3. Returnable Schedules

T2.2-8 Schedule of proposed Subcontractors/consultants

T2.2-9 Insurance provided by the Contractor

T2.2-14 Authority to submit tender

T2.2-15 Certificate of attendance at tender clarification meeting

T2.2-16 Record of addenda to tender documents

T2.2-17 Compulsory Enterprise Questionnaire

T2.2-27 Broad-Based Black Economic Empowerment (BBBEE)

T2.2-31 Supplier Code of Conduct

T2.2-33 Mutual Non-Disclosure Agreement

T2.2-36 RFP Declaration Form

T2.2-38 Declaration of Understanding

T2.2-43 RFP – Breach of Law

T2.2-50 BBBEE Preference Points Claim Form

T2.2-51 Certificate of Acquaintance with Tender Document

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

### 5. C1.2 Contract Data Part 2: Data by Contractor

### 6. C2.2 Price List

### 7. C3.1 Works Information

### 8. C4.1 Site Information

### 9. Annexure

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

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

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

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

Signed

Date

Name

Position

Tenderer

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

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

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

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

Signed

Date

Name

Position

Tenderer

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

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

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

### A. Certificate for Company

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

Signed

Date

Name

Position

Chairman of the Board of Directors

**B. Certificate for Partnership**

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

Name	Address	Signature	Date

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

preview copy

### C. Certificate for Joint Venture

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

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

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

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

preview copy

**D. Certificate for Sole Proprietor**

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

\_\_\_\_\_.

Signed

\_\_\_\_\_

Date

\_\_\_\_\_

Name

\_\_\_\_\_

Position

Sole Proprietor

\_\_\_\_\_

preview copy

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

This is to certify that

\_\_\_\_\_ (Tenderer)  
of \_\_\_\_\_ (address)

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

Held at:	Transnet Freight Rail, Malahle House, Boardroom 253, 04 Kiewiet Street, Empangeni, 3880	
On (date)	28 June 2016	Starting time: 09:00hrs

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

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

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

Name	Signature
Capacity	
Name	Signature
Capacity	

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

Name	Signature
Capacity	Date & time

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

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

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

Attach additional pages if more space is required.

Signed

Date

Name

Position

Tenderer

## T2.2-17: Compulsory Enterprise Questionnaire

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

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

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

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

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

Name	Identity number	Personal income tax number

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

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

Company registration number . . . . .

Close corporation number . . . . .

Tax reference number . . . . .

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

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

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

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

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

\*insert separate page if necessary

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

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

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

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

\*insert separate page if necessary

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

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

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

## T2.2-27 BBBEE AND SOCIO ECONOMIC OBLIGATIONS

### 1 BROAD-BASED BLACK ECONOMIC EMPOWERMENT AND SOCIO-ECONOMIC OBLIGATIONS

As described in more detail in the attached BBBEE Claim Form and as prescribed in terms of the Preferential Procurement Policy Framework Act (PPPFA), Act 5 of 2000 and its Regulations, Tenderers are to note that 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.

Tenderers are required to complete Section 8 [the 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. Tenderers are required to at all times comply with the latest B-BBEE legislation and/or instruction notes as issued from time to time by the DTI.

**Note: Failure to submit a valid and original (or certified copy) as proof of the Tenderer's compliance with the B-BBEE requirements stipulated in Section 8 of this TENDER (the B-BBEE Preference Points Claim Form) at the Closing Date of this TENDER, will result in a score of zero being allocated for B-BBEE.**

The Table below indicates the various options available to Large Enterprises, QSEs and EMEs to verify their B-BBEE status.

Enterprise	Certificate
Large	Certificate issued by SANAS accredited verification agency Certificate issued by an IRBA approved auditor
QSE	Certificate issued by SANAS accredited verification agency Certificate issued by an IRBA approved auditor Sworn Affidavit (only black-owned EMEs - 51% to 100% Black owned)
EME	Certificate issued by SANAS accredited verification agency Certificate issued by an IRBA approved auditor Sworn Affidavit Certificate issued by CIPC (formerly CIPRO Auditor or Accounting Officer (only in terms of 2007 Codes)

#### 1.1 **B-BBEE Joint Ventures or Consortiums**

Tenderers who would wish to respond to this TENDER as a Joint Venture [JV] or consortium with B-BBEE entities, must state their intention to do so in their TENDER submission. Such Tenderers must also submit a signed JV or consortium agreement between the parties clearly stating the percentage [%] split of business and the associated responsibilities of each party. If such a JV or consortium agreement is unavailable, the partners must submit confirmation in writing of their intention to enter into a JV or consortium agreement should they be awarded business by Transnet through this TENDER process. This written confirmation must clearly indicate the percentage [%] split of business and the responsibilities of each party. In such cases, award of business will only take place once a signed copy of a JV or consortium agreement is submitted to Transnet.

Tenderers are to note the requirements for B-BBEE compliance of JVs or consortiums as required by Section 8 [the 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 for the JV or a certified copy thereof at the Closing Date of this TENDER will result in a score of zero being allocated for B-BBEE.

#### 1.2 **Subcontracting**

Transnet fully endorses Government's transformation and empowerment objectives and when contemplating subcontracting Tenderers are requested to give preference to companies which are Black Owned, Black Women Owned, Black Youth Owned, owned by Black People with Disabilities, EMEs and QSEs including any companies designated as B-BBEE Facilitators<sup>1</sup>.

If contemplating subcontracting, please note that a Tenderer will not be awarded points for B-BBEE if it is indicated in its Tender Offer that such Tenderer 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 Tenderer qualifies for, unless the intended subcontractor is an EME with the capability to execute the contract.

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.

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<sup>1</sup> 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 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.

TRANSNET FREIGHT RAIL

ENQUIRY NUMBER: ERAC-EMU-20157

DESCRIPTION OF THE WORKS: REPAIRS AND PAINTING OF PERWAY BUILDING AT MTUBA, ASSET NO.:02BE823A

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In terms of Section 8 of this TENDER [the B-BBEE Preference Point Claim Form] Tenderers 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.

*Note: Should a JV be envisaged the principal Respondent is required to submit the required responses as indicated above.*

**The commitments made by the successful Tenderers will be incorporated as a term of the contract and monitored for compliance.**

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## **T2.2-31 Service Provider Integrity Pact**

### **INTEGRITY PACT**

Between

**TRANSNET SOC LTD**

Registration Number: 1990/000900/30

("Transnet")

and

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

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## **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 Tenderers / Service Providers/Contractors.

In order to achieve these goals, Transnet and the Tenderer / Service Provider hereby enter into this agreement hereinafter referred to as the "Integrity Pact" which will form part of the Tenderer's / Service Provider's / Contractor'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 Tenderers / Service Providers / Contractor's 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**

- 1.1 Transnet and the Tenderer / Service Provider / Contractor 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-bidding 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 Tenderers / Service Providers / Contractors 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:

- 2.1 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 Tenderer, either for themselves or for any person, organisation or third party related to the contract in exchange for an advantage in the tendering process, Tender evaluation, contracting or implementation process related to any contract.
- 2.2 Transnet will, during the registration and tendering process treat all Tenderers / Service Providers with equity, transparency and fairness. Transnet will in particular, before and during the registration process, provide to all Tenderers / Service Providers the same information and will not provide to any Tenderers / Service Providers / Contractors confidential / additional information through which the Tenderers / Service Providers / Contractors could obtain an advantage in relation to any tendering process.
- 2.3 Transnet further confirms that its employees will not favour any prospective Tenderer in any form that could afford an undue advantage to a particular Tenderer during the tendering stage, and will further treat all Tenderers / Service Providers / Contractors participating in the tendering process.

- 2.4 Transnet will exclude from the tender process such employees who have any personal interest in the Tenderers / Service Providers / Contractors participating in the tendering process.

### **3 OBLIGATIONS OF THE TENDERER / SERVICE PROVIDER**

- 3.1 The Tenderer / Service Provider / Contractor commits itself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of its Tender or during any ensuing contract stage in order to secure the contract or in furtherance to secure it and in particular the Tenderer / Service Provider / Contractor commits to the following:
- a) The Tenderer / Service Provider / Contractor 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 tendering process or to any third person any material or other benefit or payment, in order to obtain in exchange an advantage during the tendering process; and
  - b) The Tenderer / Service Provider / Contractor 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 tendering process, or to any person, organisation or third party related to the contract in exchange for any advantage in the tendering, evaluation, contracting and implementation of the contract.
- 3.2 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 R 1 000 within a 12 month period;
  - c) hospitality packages do not exceed R1 000 in value or many low value hospitality packages do not cumulatively exceed R1 000;
  - d) a Tenderer / Service Provider does not give a Transnet employee more than 2 (two) gifts within a 12 (twelve) month period, irrespective of value;
  - e) a Tenderer / Service Provider 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 Tenderer / Service Provider 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 Tender 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 Tenderer / Service Provider 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.
- 3.3 The Tenderer / Service Provider / Contractor will not collude with other parties interested in the contract to preclude a competitive Tender price, impair the transparency, fairness and progress of the tendering process, Tender evaluation, contracting and implementation of the contract. The Tenderer / Service Provider further commits itself to delivering against all agreed upon conditions as stipulated within the contract.
- 3.4 The Tenderer / Service Provider / Contractor will not enter into any illegal or dishonest agreement or understanding, whether formal or informal with other Tenderers / Service Providers / Contractors. This applies in particular to certifications, submissions or non-submission of documents or actions that are restrictive or to introduce cartels into the tendering process.

- 3.5 The Tenderer / Service Provider / Contractor will not commit any criminal offence under the relevant anti-corruption laws of South Africa or any other country. Furthermore, the Tenderer /Service Provider 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.
- 3.6 A Tenderer / Service Provider / Contractor 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 tendering process. Similarly, the Tenderer / Service Provider / Contractor of South African nationality shall furnish the name and address of the foreign principals, if any, involved directly or indirectly in the registration or tendering process.
- 3.7 The Tenderer / Service Provider / Contractor will not misrepresent facts or furnish false or forged documents or information in order to influence the tendering process to the advantage of the Tenderer / Service Provider or detriment of Transnet or other competitors.
- 3.8 The Tenderer / Service Provider / Contractor 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.
- 3.9 The Tenderer / Service Provider / Contractor will not induct third persons to commit offences outlined above or be an accessory to such offences.

#### **4 INDEPENDENT TENDERING**

- 4.1 For the purposes of that Certificate in relation to any submitted Tender, the Tenderer declares to fully understand that the word "competitor" shall include any individual or organisation, other than the Tenderer, whether or not affiliated with the Tenderer, who:
- a) has been requested to submit a Tender in response to this Tender invitation;
  - b) could potentially submit a Tender in response to this Tender invitation, based on their qualifications, abilities or experience; and
  - c) provides the same Goods and Services as the Tenderer and/or is in the same line of business as the Tenderer.
- 4.2 The Tenderer has arrived at his submitted Tender 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 tendering.
- 4.3 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 Tender;
  - e) the submission of a Tender which does not meet the specifications and conditions of the RFP; or
  - f) tendering with the intention of not winning the Tender.

- 4.4 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 tender relates.
- 4.5 The terms of the Tender as submitted have not been, and will not be, disclosed by the Tenderer, directly or indirectly, to any competitor, prior to the date and time of the official Tender opening or of the awarding of the contract.
- 4.6 Tenderers are aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to Tenders and contracts, Tenders 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.
- 4.7 Should the Tenderer find any terms or conditions stipulated in any of the relevant documents quoted in the Tender unacceptable, it should indicate which conditions are unacceptable and offer alternatives by written submission on its company letterhead attached to its submitted Tender. 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 TENDERING PROCESS**

- 5.1 If the Tenderer / Service Provider / Contractor 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 Tenderer / Service Provider into question, Transnet may reject the Tenderer's / Service Provider's / Contractor's application from the registration or tendering process and remove the Tenderer / Service Provider from its database, if already registered.
- 5.2 If the Tenderer / Service Provider / Contractor 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 Tenderer / Service Provider / Contractor from future tendering 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 Tenderer / Service Provider / Contractor and the amount of the damage. The exclusion will be 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.
- 5.3 If the Tenderer / Service Provider / Contractor 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)**

- 6.1 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 this blacklisting procedure.

- 6.2 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.
- 6.3 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.
- 6.4 A Service Provider or Contractor to Transnet may not subcontract any portion of the contract to a blacklisted company.
- 6.5 Grounds for blacklisting include: If any person/Enterprise which has submitted a Tender, concluded a contract, or, in the capacity of agent or subcontractor, has been associated with such Tender or contract:
- a) Has, in bad faith, withdrawn such Tender after the advertised closing date and time for the receipt of Tenders;
  - b) has, after being notified of the acceptance of his Tender, failed or refused to sign a contract when called upon to do so in terms of any condition forming part of the Tender documents;
  - c) has carried out any contract resulting from such Tender 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) 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.
- 6.6 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 Service Providers or Register of Tender Defaulters.
- 6.7 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**

- 7.1 The Tenderer / Service Provider /Contractor 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 Tenderer's / Service Provider's / Contractor's database or any tendering process.
- 7.2 If it is found to be that the Tenderer / Service Provider /Contractor made an incorrect statement on this subject, the Tenderer / Service Provider / Contractor can be rejected from the registration process or removed from the Tenderer / Service Provider / Contractor database, if already registered, for such reason (refer to the Breach of Law Form contained in the applicable RFX document.)

## **8 SANCTIONS FOR VIOLATIONS**

- 8.1 Transnet shall also take all or any one of the following actions, wherever required to:
- a) Immediately exclude the Tenderer / Service Provider / Contractor from the tendering process or call off the pre-contract negotiations without giving any compensation the Tenderer / Service Provider / Contractor. However, the proceedings with the other Tenderer / Service Provider / Contractor may continue;
  - b) Immediately cancel the contract, if already awarded or signed, without giving any compensation to the Tenderer / Service Provider / Contractor;
  - c) Recover all sums already paid by Transnet;
  - d) Encash the advance bank guarantee and performance bond or warranty bond, if furnished by the Tenderer / Service Provider / Contractor, in order to recover the payments, already made by Transnet, along with interest;
  - e) Cancel all or any other contracts with the Tenderer / Service Provider; and
  - f) Exclude the Tenderer / Service Provider / Contractor from entering into any Tender with Transnet in future.

## **9 CONFLICTS OF INTEREST**

- 9.1 A conflict of interest includes, inter alia, a situation in which:
- a) A Transnet employee has a personal financial interest in a tendering / 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.
- 9.2 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 Tender committee member or any person involved in the sourcing process must be declared in a prescribed form.

- 9.3 If a Tenderer / Service Provider / Contractor 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 Tender which will be considered for the Tender process, the Tenderer / Service Provider / Contractor:

- 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.

9.4 The Tenderer / Service Provider / Contractor 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 Tenderer / Service Provider / Contractor.

## 10 MONITORING

10.1 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 Tenderer / Service Provider / Contractor 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 Tenderer / Service Provider / Contractor 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 Tenderer / Service Provider / Contractor, irrespective of value.

10.2 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 Service Provider 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 Tenderer / Service Provider / Contractor / Transnet. The Tenderer / Service Provider / 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

12.1 Transnet recognises that trust and good faith are pivotal to its relationship with its Tenderer / Service Provider / Contractor. When a dispute arises between Transnet and its Tenderer / Service Provider / Contractor, 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, 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 Tenderer / Service Provider / Contractor make a false statement either in giving evidence or on an affidavit;

- c) **Scurrilous allegations:** where a Tenderer / Service Provider / Contractor makes allegations regarding a senior Transnet employee which are without proper foundation, scandalous, abusive or defamatory; and
- d) **Abuse of court process:** when a Tenderer / Service Provider / Contractor abuses the court process in order to gain a competitive advantage during a Tender process.

### 13 GENERAL

- 13.1 This Integrity Pact is governed by and interpreted in accordance with the laws of the Republic of South Africa.
- 13.2 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.
- 13.3 The validity of this Integrity Pact shall cover all the tendering processes and will be valid for an indefinite period unless cancelled by either Party.
- 13.4 Should one or several provisions of this Integrity Pact turn out to be invalid the remainder of this Integrity Pact remains valid.
- 13.5 Should a Tenderer / Service Provider / Contractor be confronted with dishonest, fraudulent or corruptive behaviour of one or more Transnet employees, Transnet expects its Tenderer / Service Provider / Contractor 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.

ooo000ooo

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

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

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

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

and

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

### 1. Purpose

The parties to this Agreement have a business relationship under which each party may disclose its Confidential Information to the other for the purpose of Repairs and painting of Perway building at Mtuba, asset no.: 02BE823A ("the Purpose"). Each party ("the receiving party") shall treat as confidential all information and know-how which it may receive from the other party ("the disclosing party") in terms of this Agreement (hereinafter referred to as "confidential information"), and shall not divulge to any other party in any circumstances any such confidential information, and, in particular, any such confidential information as is covered by the National Key Points Act (Act No. 102 of 1980), whether during the currency of this Agreement or at any time thereafter, without the prior written consent of the disclosing party.

### 2. Definition

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

### 3. Exclusions

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

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

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

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

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

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

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

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

#### **7. Mandatory Disclosure**

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

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

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

#### **9. No License Granted**

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

#### **10. No Representations**

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

#### **11. Term**

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

#### **12. Miscellaneous**

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

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

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

#### **14. Disputes**

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

## 15. Remedies

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

Signed

Date

Name

Position

Tenderer

## T2.2-36: TENDER DECLARATION FORM

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

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

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

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

ADDRESS:

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

Indicate nature of relationship with Transnet:

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

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

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

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

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

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

## T2.2-38: Declaration of Understanding

<b>PROJECT NAME:</b>		<b>DOCUMENT NO:</b>	
<b>PROJECT NO:</b>		<b>DATE:</b>	
<b>CONTRACTOR:</b>		<b>CONTRACT NO:</b>	

I,

(Name)

(Designation)

(Representing)

Declare that I have read and understood the contents of the Standard Environmental Specification (TFR-EM-STD-001, the Construction Environmental Management Plan (TFR-EM-STD-002) and the Occupational Health & Safety Act and Regulations.

I also declare that I understand my responsibilities in terms of enforcing and implementing the Environmental Specifications for the aforementioned Contract

Signed	Signature	Date
Place		
Witness 1:	Signature	Date
Witness 2:		

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

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

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

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

NATURE OF BREACH: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

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

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

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

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

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

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

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### 1. INTRODUCTION

- 1.1 A total of 20 preference points shall be awarded for B-BBEE Status Level of Contribution.
- 1.2 Failure on the part of a Tenderer 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 Tender 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 Tenderer either before a Tender 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 **"Tender"** 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 be 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 Tender 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 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 Tender 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 Tenderer;
- 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 Tender 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 Tenderer 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 Tenderer.
- 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 Tender will be awarded to the Tenderer 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 Tenders have scored equal points including equal preference points for B-BBEE, the successful Tender will be the one scoring the highest score for functionality.
- 3.6 Should two or more Tenders 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 Tenderer 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 Tenderers 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 Tenderers 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, Tenderers 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.
- 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, Tenderers 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 Tender.
- 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 Tender documents that such a Tenderer 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 Tenderer 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 Tenderers 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 Tenderers in order to verify any B-BBEE recognition claimed.

## 5. B-BBEE STATUS AND SUBCONTRACTING

### 5.1 Tenderers 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]

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 .....

## TENDER DECLARATION

I/we, the undersigned, who warrants that he/she is duly authorised to do so on behalf of the

company/firm, certify that points claimed, based on the B-BBEE status level of contribution indicated in paragraph 4 above, qualifies the company/firm for the preference(s) shown and I / we acknowledge that:

- (i) The information furnished is true and correct.
- (ii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 6 above, the contractor may be required to furnish documentary proof to the satisfaction of Transnet that the claims are correct.
- (iii) If the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, Transnet may, in addition to any other remedy it may have:
  - (a) disqualify the person from the Tendering 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 Tenderer or contractor, its shareholders and directors, and/or associated entities, or only the shareholder 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 TENDERER

DATE:.....

COMPANY NAME: .....

ADDRESS:.....

## T2.2-51: Certificate of Acquaintance with Tender Documents

NAME OF TENDERING ENTITY:

---

1. I/we do hereby certify that I/we acquainted myself/ourselves with all the documentation comprising this TENDER and all conditions contained therein, as laid down by Transnet SOC Ltd for the carrying out of the proposed supply/service/works for which I/we submitted my/our Tender.
2. I/we furthermore agree that Transnet SOC Ltd shall recognise no claim from me/us for relief based on an allegation that I/we overlooked any TENDER/contract condition or failed to take it into account for the purpose of calculating my/our offered prices or otherwise.
3. I/we understand that the accompanying Tender will be disqualified if this Certificate is found not to be true and complete in every respect.
4. For the purposes of this Certificate and the accompanying Tender, I/we understand that the word "competitor" shall include any individual or organisation, other than the Tenderder, whether or not affiliated with the Tenderder, who:
  - a) has been requested to submit a Tender in response to this Tender invitation;
  - b) could potentially submit a Tender in response to this Tender invitation, based on their qualifications, abilities or experience; and
  - c) provides the same Services as the Tenderder and/or is in the same line of business as the Tenderder
5. The Tenderder has arrived at the accompanying Tender 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 Tendering.
6. 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 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 Tender;
  - e) the submission of a Tender which does not meet the specifications and conditions of the TENDER; or
  - f) Tendering with the intention not winning the Tender.
7. 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 Services to which this TENDER relates.

8. The terms of the accompanying Tender have not been, and will not be, disclosed by the Tenderder, directly or indirectly, to any competitor, prior to the date and time of the official Tender opening or of the awarding of the contract.
9. I/We am/are aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to Tenders and contracts, Tenders 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. In addition, Tenderders that submit suspicious Tenders 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.

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

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

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## PRE-QUALIFYING QUALITY CRITERIA SCHEDULE

### T2.2-2: Programme

The Tenderer details the proposed programme below or makes reference to his proposed programme and attaches it to this schedule. The Tenderer's attention is drawn to core clause 31 of the NEC3 Engineering and Construction contract regarding the items to be shown on a programme.

For clarity the tenderer shall also note the following:-

- Key milestones and sectional completion dates as listed in contract data Part One - "Data provided by the Employer" and be logically linked to activities in the schedule.
- To be "sorted" by activities.
- All activities to be logically tied using critical path method (CPM).
- All activity durations to be realistic and based on quantities and activities that can be measured in days. The calendar on the schedule should represent the actual work week/month used. e.g. weekends as non-working periods.
- A Level 2 Programme is developed electronically and an electronic copy to be supplied with the Tender document. This should be in a Primavera P6 format.
- Against each activity or grouping of activities (i.e. by CWP) the Tenderer indicates its "time risk allowances". These allowances are NOT float, and owned by the Tenderer, can be included in the activity duration and illustrated in the schedule (i.e. in the code field) or as an attachment.
- Float is shown

The Programme to indicate the following as a minimum:

Price List	Activity description	Start date	Finish date	Preceding activities	Time risk allowances (TRA)
------------	----------------------	------------	-------------	----------------------	----------------------------

The table below is for information purposes only to indicate the method of scoring that will be followed to evaluate the programme submitted by the Tenderer:

The scoring of the Programme will be as follows:

Quality criteria	Sub-criteria	Yes Tick (Submit Proof)	No Tick
Programme	The contractor must state when he/she intend to start and complete the job. This must also be supported by providing a working programme, which after awarding will then be used as a monitoring tool on work progress. Point given should be based on the duration and sequential project activities. (E.g. dig a foundation before pouring concrete and not vice versa)		

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

Signed

Date

Name

Position

Tenderer

## PRE-QUALIFYING QUALITY CRITERIA SCHEDULE

### T2.2-7: Management & CV's of Key Persons

Please describe the management arrangements for the *works*.

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

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

The scoring of the Management & CV's of Key Persons will be as follows:

Quality criteria	Sub-criteria	Yes Tick (Submit Proof)	No Tick
Management & CV's of Key Persons	Overall integration and clarity of organisational plan. General experience and qualifications. Adequacy of proposed staff for the contract including Safety Officer and Quality Assurance representative.		

**Attached submissions to this schedule:**


Signed	<input type="text"/>	Date	<input type="text"/>
Name	<input type="text"/>	Position	<input type="text"/>
Tenderer	<input type="text"/>		

preview copy

## PRE-QUALIFYING QUALITY CRITERIA SCHEDULE

### T2.2-22: Health and Safety Plan

Submit the following documents as a minimum with your tender:

1. Valid letter of good standing with insurance body.
2. Roles and responsibilities of legal appointees.
3. Safety Officer's role and responsibility.
4. Safety, Health & Environmental Policies.
5. Overview of Tenderer's SHE system for project.
6. Overview of RA process and examples.
7. List of job categories for project and competencies required per category and plan to address and meet outstanding competencies.
8. Six months synopsis of SHE incidents, description, type and action taken.
9. Overview of selection process of subcontractors.
10. SHE challenges envisaged for the project and how they will be addressed and overcome.
11. Signed statement acknowledging receiving and budget provision for SHE pack requirements.
12. Construction Safety File (Index)
13. Construction Safety Work Method Statement

The scoring of the Health and Safety Requirements will be as follows:

Quality criteria	Sub-criteria	Yes Tick (Submit Proof)	No Tick
Health and Safety Requirements	Safety Plan should be a written document that describes the process for identifying the physical and health hazards that could harm workers, procedures to prevent accidents, and steps to take when accidents occurs. Safety plan with job safety analysis that communicated with the project scope is required. The job safety analysis (JSA) should be based on the work programme activities and method statement. The safety plan should also identify key project personnel and their responsibilities.		

[illegible]

Date \_\_\_\_\_

Position

preview copy

## Health, Safety Questionnaire

### 1. SAFE WORK PERFORMANCE

#### 1A. Injury Experience / Historical Performance

Use the previous three years injury and illness records to complete the following:

Year			
Number of medical treatment cases			
Number of restricted work day cases			
Number of lost time injury cases			
Number of fatal injuries			
Total recordable frequency			
Lost time injury frequency			
Number of worker manhours			

1 - Medical Treatment Case	Any occupational injury or illness requiring treatment provided by a physician or treatment provided under the direction of a physician
2 - Restricted Work Day Case	Any occupational injury or illness that prevents a worker from performing any of his/her craft jurisdiction duties
3 - Lost Time injury Cases	Any occupational injury that prevents the worker from performing any work for at least one day
4 - Total Recordable Frequency	Total number of Medical Treatment, Restricted Work and Lost Time Injury cases multiplied by 200,000 then divided by total manhours
5- Lost Time Injury Frequency	Total number of Lost Time Injury cases multiplied by 200,000 then divide by total manhours

#### 1B. Workers' Compensation Experience

Use the previous three years injury and illness records to complete the following (if applicable):

Industry Code:	Industry Classification:		
Year			
Industry Rate			
Contractor Rate			
% Discount or Surcharge			
Is your Workers' Compensation account in good standing? (Please provide letter of confirmation)	<input type="checkbox"/> Yes <input type="checkbox"/> No		

### 2. Citations

2A.	Has your company been cited, charged or prosecuted under Health, Safety and/or Environmental Legislation in the last 5 years?
	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If yes, provide details:
2B.	Has your company been cited, charged or prosecuted under the above Legislation in another Country, Region or State?
	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If yes, provide details:

### 3. Certificate of Recognition

Does your company have a Certificate of Recognition?

☐ Yes ☐ No If Yes, what is the Certificate No. \_\_\_\_\_ Issue Date \_\_\_\_\_

### 4. Safety Program

Do you have a written safety program manual?

☐ Yes ☐ No

If Yes, provide a copy for review

Do you have a pocket safety booklet for field distribution?

☐ Yes ☐ No

If Yes, provide a copy for review

Does your safety program contain the following elements:

	YES	NO		YES	NO
CORPORATE SAFETY POLICY	<input type="checkbox"/>	<input type="checkbox"/>	EQUIPMENT MAINTENANCE	<input type="checkbox"/>	<input type="checkbox"/>
INCIDENT NOTIFICATION POLICY	<input type="checkbox"/>	<input type="checkbox"/>	EMERGENCY RESPONSE	<input type="checkbox"/>	<input type="checkbox"/>
RECORDKEEPING & STATISTICS	<input type="checkbox"/>	<input type="checkbox"/>	HAZARD ASSESSMENT	<input type="checkbox"/>	<input type="checkbox"/>
REFERENCE TO LEGISLATION	<input type="checkbox"/>	<input type="checkbox"/>	SAFE WORK PRACTICES	<input type="checkbox"/>	<input type="checkbox"/>
GENERAL RULES & REGULATIONS	<input type="checkbox"/>	<input type="checkbox"/>	SAFE WORK PROCEDURES	<input type="checkbox"/>	<input type="checkbox"/>
PROGRESSIVE DISCIPLINE POLICY	<input type="checkbox"/>	<input type="checkbox"/>	WORKPLACE INSPECTIONS	<input type="checkbox"/>	<input type="checkbox"/>
RESPONSIBILITIES	<input type="checkbox"/>	<input type="checkbox"/>	INVESTIGATION PROCESS	<input type="checkbox"/>	<input type="checkbox"/>
PPE STANDARDS	<input type="checkbox"/>	<input type="checkbox"/>	TRAINING POLICY & PROGRAM	<input type="checkbox"/>	<input type="checkbox"/>
ENVIRONMENTAL STANDARDS	<input type="checkbox"/>	<input type="checkbox"/>	COMMUNICATION PROCESSES	<input type="checkbox"/>	<input type="checkbox"/>
MODIFIED WORK PROGRAM	<input type="checkbox"/>	<input type="checkbox"/>			

### 5. Training Program

5A. Do you have an orientation program for new hire employees?

☐ Yes

☐ No

If Yes, include a course outline. Does it include any of the following:

	YES	NO		YES	NO
GENERAL RULES & REGULATIONS	<input type="checkbox"/>	<input type="checkbox"/>	CONFINED SPACE ENTRY	<input type="checkbox"/>	<input type="checkbox"/>
EMERGENCY REPORTING	<input type="checkbox"/>	<input type="checkbox"/>	TRENCHING & EXCAVATION	<input type="checkbox"/>	<input type="checkbox"/>
INJURY REPORTING	<input type="checkbox"/>	<input type="checkbox"/>	SIGNS & BARRICADES	<input type="checkbox"/>	<input type="checkbox"/>
LEGISLATION	<input type="checkbox"/>	<input type="checkbox"/>	DANGEROUS HOLES & OPENINGS	<input type="checkbox"/>	<input type="checkbox"/>
RIGHT TO REFUSE WORK	<input type="checkbox"/>	<input type="checkbox"/>	RIGGING & CRANES	<input type="checkbox"/>	<input type="checkbox"/>
PERSONAL PROTECTIVE EQUIPMENT	<input type="checkbox"/>	<input type="checkbox"/>	MOBILE VEHICLES	<input type="checkbox"/>	<input type="checkbox"/>
EMERGENCY PROCEDURES	<input type="checkbox"/>	<input type="checkbox"/>	PREVENTATIVE MAINTENANCE	<input type="checkbox"/>	<input type="checkbox"/>
PROJECT SAFETY COMMITTEE	<input type="checkbox"/>	<input type="checkbox"/>	HAND & POWER TOOLS	<input type="checkbox"/>	<input type="checkbox"/>
HOUSEKEEPING	<input type="checkbox"/>	<input type="checkbox"/>	FIRE PREVENTION & PROTECTION	<input type="checkbox"/>	<input type="checkbox"/>
LADDERS & SCAFFOLDS	<input type="checkbox"/>	<input type="checkbox"/>	ELECTRICAL SAFETY	<input type="checkbox"/>	<input type="checkbox"/>
FALL ARREST STANDARDS	<input type="checkbox"/>	<input type="checkbox"/>	COMPRESSED GAS CYLINDERS	<input type="checkbox"/>	<input type="checkbox"/>
AERIAL WORK PLATFORMS	<input type="checkbox"/>	<input type="checkbox"/>	WEATHER EXTREMES	<input type="checkbox"/>	<input type="checkbox"/>

5B. Do you have a program for training newly hired or promoted supervisors? ☐ Yes ☐ No

5B. Do you have a program for training newly hired or promoted supervisors? ☐ Yes ☐ No

(If Yes, submit an outline for evaluation. Does it include instruction on the following:

	Yes	No		Yes	No
EMPLOYER RESPONSIBILITIES	<input type="checkbox"/>	<input type="checkbox"/>	SAFETY COMMUNICATION	<input type="checkbox"/>	<input type="checkbox"/>
EMPLOYEE RESPONSIBILITIES	<input type="checkbox"/>	<input type="checkbox"/>	FIRST AID/MEDICAL PROCEDURES	<input type="checkbox"/>	<input type="checkbox"/>
DUE DILIGENCE	<input type="checkbox"/>	<input type="checkbox"/>	NEW WORKER TRAINING	<input type="checkbox"/>	<input type="checkbox"/>
SAFETY LEADERSHIP	<input type="checkbox"/>	<input type="checkbox"/>	ENVIRONMENTAL REQUIREMENTS	<input type="checkbox"/>	<input type="checkbox"/>
WORK REFUSALS	<input type="checkbox"/>	<input type="checkbox"/>	HAZARD ASSESSMENT	<input type="checkbox"/>	<input type="checkbox"/>
INSPECTION PROCESSES	<input type="checkbox"/>	<input type="checkbox"/>	PRE-JOB SAFETY INSTRUCTION	<input type="checkbox"/>	<input type="checkbox"/>
EMERGENCY PROCEDURES	<input type="checkbox"/>	<input type="checkbox"/>	DRUG & ALCOHOL POLICY	<input type="checkbox"/>	<input type="checkbox"/>
INCIDENT INVESTIGATION	<input type="checkbox"/>	<input type="checkbox"/>	PROGRESSIVE DISCIPLINARY POLICY	<input type="checkbox"/>	<input type="checkbox"/>
SAFE WORK PROCEDURES	<input type="checkbox"/>	<input type="checkbox"/>	SAFE WORK PRACTICES	<input type="checkbox"/>	<input type="checkbox"/>
SAFETY MEETINGS	<input type="checkbox"/>	<input type="checkbox"/>	NOTIFICATION REQUIREMENTS	<input type="checkbox"/>	<input type="checkbox"/>

## 6. SAFETY ACTIVITIES

Do you conduct safety inspections? Y No Weekly Monthly Quarterly

☐ ☐ ☐ ☐ ☐

Describe your safety inspection process (include participation, documentation requirements, follow-up, report distribution).

Who follows up on inspection action items?

Do you hold site safety meetings for field employees? If Yes, how often?

Yes No Daily Weekly Biweekly  
☐ ☐ ☐ ☐ ☐

Do you hold site meetings where safety is addressed with management and field supervisors?

Yes No Weekly Biweekly Monthly  
☐ ☐ ☐ ☐ ☐

Is pre-job safety instruction provided before to each new task? ☐ Yes ☐ No

Is the process documented? ☐ Yes ☐ No

Who leads the discussion?

Do you have a hazard assessment process? ☐ Yes ☐ No

- Are hazard assessments documented? If yes, how are hazard assessments communicated and implemented on each project? Who is responsible for leading the hazard assessment process?

Does your company have policies and procedures for environmental protection, spill clean-up, reporting, waste disposal, and recycling as part of the Health & Safety Program? <div style="text-align: right;"> <input type="checkbox"/> Yes <input type="checkbox"/> No         </div>					
How does your company measure its H&S success? <ul style="list-style-type: none"> <li>Attach separate sheet to explain</li> </ul>					
<b>7. Safety Stewardship</b>					
<b>7A Are incident reports and report summaries sent to the following and how often?</b>					
	Yes	No	Monthly	Quarterly	Annually
Project/Site Manager	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vice President/Managing Director	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Safety Director/Manager	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
President/Chief Executive Officer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>7B How are incident records and summaries kept? How often are they reported internally?</b>					
	Yes	No	Monthly	Quarterly	Annually
Incidents totalled for the entire company	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Incidents totalled by project	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Sub totalled by superintendent	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Sub totalled by foreman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>7C How are the costs of individual incidents kept? How often are they reported internally?</b>					
	Yes	No	Monthly	Quarterly	Annually
Costs totalled for the entire company	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Costs totalled by project	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Sub totalled by superintendent	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Sub totalled by foreman/general foreman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>7D Does your company track non-injury incidents?</b>					
	Yes	No	Monthly	Quarterly	Annually
Near Miss	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Property Damage	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fire	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Security	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Environmental	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## 8 Personnel

List key health and safety officers planned for this project. Attach resume.

Name	Position/Title	Designation
Supply name, address and phone number of your company's corporate health and safety representative. Does this individual have responsibilities other than health, safety and environment?		
Name	Address	Telephone Number
Other responsibilities:		

## 9 References

List the last three company's your form has worked for that could verify the quality and management commitment to your occupational Health & Safety program

Name and Company	Address	Phone Number

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## PRE-QUALIFYING QUALITY CRITERIA SCHEDULE

### T2.2-25: Previous Experience

**Note to tenderers:**

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

The scoring of the Previous Experience will be as follows:

Quality criteria	Sub-criteria	Indicate Number of Years (submit detailed reference list with contact details of existing customers and also indicate their previous experience of building upgrade and repairs)
Previous Experience	Work Experience with respect to specific aspects of the project/ Comparable projects. Greater weight should be given to project of a similar nature for the last 5 years. The contractor should have done and completed any building upgrade, repairs or renovations projects.	

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

.....

.....

.....

.....

.....

.....

Signed

Date

Name

Position

Tenderer

## PRE-QUALIFYING QUALITY CRITERIA SCHEDULE

### T2.2-37: Method Statement

#### **Note to tenderers:**

#### Method statement

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

1. The method statement should also outline the hazards involved and include a step by step guide on how to do the job safely. It should again detail control measures to be introduced to ensure the safety of anyone who will be affected by the projects activities. The method statement cannot be used as safety plan but a technical approach and methodology on the actual work execution.
2. The company special and practical knowledge in business services is required. The contractor must supply/provide and identify his/her proposed technical team. And state their job description, experience and qualifications. A company profile and organogram can be provided as well as the organogram for this project.

The scoring of the Method Statement will be as follows:

Quality criteria	Sub-criteria	Yes Tick (Submit Proof)	No Tick
Method Statement	This document should details the way each activity or process is to be completed. The method statement should also outline the hazards involved and include a step by step guide on how to do the job safely. It should again detail control measures to be introduced to ensure the safety of anyone who will be affected by the projects activities. The method statement cannot be used as safety plan but a technical approach and methodology on the actual work execution. The company special and practical knowledge in business services is required. The contractor must supply/provide and identify his/her proposed technical team. And state their job description, experience and qualifications. A company profile and organogram can be provided as well as the organograms for this project.		

Signed

Date

Name

Position

Tenderer

## C1.1 Form of Offer & Acceptance

### Offer

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

**REPAIRS AND PAINTING OF PERWAY BUILDING AT MTUBA, ASSET NO.:02BE823A**

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

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

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

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

Signature(s)

Name(s)

Capacity

**For the  
tenderer:**

(Insert name and address of organisation)

Name &  
signature of  
witness

Date

Tenderer's CIDB registration number:

## Acceptance

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

The terms of the contract, are contained in:

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

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

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

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

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

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

Signature(s)

Name(s)

Capacity

**for the  
Employer**

Transnet SOC Ltd  
Malahle House, 4 Kiewiet Street  
Room 201-F, Empangeni 3880

Name &  
signature of  
witness

Date

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

## Schedule of Deviations

Note:

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

No.	Subject	Details
1		
2		
3		
4		
5		
6		
7		

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

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

### For the tenderer:

Signature \_\_\_\_\_  
Name \_\_\_\_\_  
Capacity \_\_\_\_\_  
On behalf of \_\_\_\_\_  
(Insert name and address of organisation)  
Name & signature of witness \_\_\_\_\_  
Date \_\_\_\_\_

### For the Employer

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Transnet SOC Ltd  
Malahle House, 4 Kiewiet Street  
Room 201-F, Empangeni 3880  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## C1.2 Contract Data

### Data provided by the *Employer*

Please read the relevant clauses in the NEC3 Engineering and Construction Short Contract (April 2013) (ECSC3)<sup>1</sup> before you enter data. The number of the principal clause is shown for most statements however other clauses may also use the same data.

Completion of this data in full is essential to create a complete contract.

Clause	Statement	Data
<b>General</b>		
10.1	The <i>Employer</i> is	<b>Transnet SOC Ltd</b>
	Address	Registered address: <b>Carlton Centre 150 Commissioner Street Johannesburg</b>
	Having elected its Contractual Address for the purposes of this contract as:	<b>Transnet Freight Rail Malame House 4 Kewee Street Empangeni 3880</b>
		Postal Address: <b>P.O Box 20064 Empangeni 3880</b>
	Tel No.	<b>035 906 7669</b>
	Fax No.	<b>011 774 9815</b>
11.2(11)	The <i>works</i> are	<b>Repairs and painting of Perway building at Mtuba, asset no.: 02BE823A</b>
11.2(13)	The Works Information is in	<b>the document called 'Works Information' in Part 3 of this contract.</b>
11.2(12)	The Site Information is in	<b>the document called 'Site Information' in Part 4 of this contract.</b>
11.2(12)	The <i>site</i> is	<b>Mtuba.</b>
30.1	The <i>starting date</i> is	<b>03 October 2016</b>
11.2(2)	The <i>completion date</i> is	<b>30 January 2016</b>
13.2	The <i>period for reply</i> is	<b>2 weeks</b>

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

14.4	The <i>Employer's</i> representative is (name)	<b>Nozipho Ngcobo</b>
	Address	<b>05 Dina Road Empangeni Rail Empangeni 3910</b>
	Tel No.	<b>035 906 7355</b>
	Fax No.	<b>035 906 7292</b>
	The authority of the <i>Employer's</i> representative is	<b>Nozipho Ngcobo</b>
40	The <i>defects date</i> is	<b>52 weeks after Completion</b>
41.3	The <i>defect correction period</i> is	<b>2 weeks</b>
50.1	The <i>assessment day</i> is on the	<b>After every 2 Weeks</b>
50.6	The retention is	<b>10% on all payments certified</b>
51.1	The <i>currency of this contract</i> is the	<b>South African Rand</b>
51.2	The period within which payments are made is	<b>Payment will be effected on or before the last day of the month following the month during which a valid Tax invoice and statement were received</b>
51.4	The interest rate on late payment is	<b>The prime lending rate of the Standard Bank of South Africa</b>
80.1	<b>Risks and insurance</b>	
83.1	The <i>Employer</i> provides the following insurances from the Insurance Table	
	Insurance against:	<b>Loss of or damage to the works, Plant and Materials is as stated in the Principal Controlled Insurance policy for contract works/ public liability</b>
	Cover / indemnity is:	<b>Cover / Indemnity is to the extent as stated in the Principle Controlled Insurance policy for Contract Works / Public Liability</b>
	The deductibles are:	<b>The deductibles are as stated in the Principle Controlled Insurance policy for Contract Works / Public Liability</b>
2	Insurance against:	<b>Loss of or damage to property (except the works, plant, materials &amp; equipment) and liability for bodily injury to or death of a person (not an employee of the <i>Contractor</i>) arising out of or in connection with the performance of the Contract as stated in the Principle Controlled Insurance policy for Contract Works / Public Liability</b>

	<p>Cover / indemnity is <b>Is to the extent as stated in the Principle Controlled Insurance policy for Contract Works / Public Liability</b></p> <p>The deductibles are <b>The deductibles are as stated in the Principle Controlled Insurance policy for Contract Works / Public Liability</b></p>
83.1	<p>The <i>Employer</i> provides these additional insurances</p> <p>1 Insurance against: <b>Loss of or damage to Equipment (Temporary Works only) as stated in the Principle Controlled Insurance policy for Contract Works / Public Liability</b></p> <p>Cover / indemnity is: <b>Is to the extent as stated in the Principle Controlled Insurance policy for Contract Works / Public Liability</b></p> <p>The deductibles are: <b>The deductibles are as stated in the Principle Controlled Insurance policy for Contract Works / Public Liability</b></p> <p>2 Insurance against: <b>Contract Works SASRIA insurance subject to the terms, exceptions and conditions of the SASRIA coupon</b></p> <p>Cover / indemnity is: <b>Cover / indemnity is to the extent provided by the SASRIA coupon.</b></p> <p>The deductibles are: <b>The deductibles are as stated in the Contract Works SASRIA policy</b></p>

83.1	The <i>Contractor</i> provides these additional insurances.	<p>1. Where the contract requires that the design of any part of the works shall be provided by the Contractor he shall satisfy the Employer that professional indemnity insurance cover in connection therewith has been affected.</p> <p>2. Where the contract involves manufacture, and/or fabrication of Plant &amp; Materials, components or other goods to be incorporated into the works at premises other than the site, the Contractor shall satisfy the Employer that such plant &amp; materials, components or other goods for incorporation in the works are adequately insured during manufacture and/or fabrication.</p> <p>3. Should the Employer have an insurable interest in such items during manufacture of fabrication, such interest shall not be noted by endorsement to the Contractor's policies of insurance as well as those of any subcontractor.</p> <p>4. Motor vehicle Liability Insurance comprising (as a minimum) "Balance of Third Party" Risks including Passenger and Unauthorised Passenger Liability indemnity with a minimum indemnity limit of R5,000,000.00</p> <p>5. The Insurance cover referred to in 1, 2, 3 and 4 above shall be obtained from an Insurer(s) in terms of an insurance policy approved by the Employer. The Contractor shall arrange with the Insurer to submit to the Project Manager the original and the duplicate original of the policy or policies of insurance and the receipts for payment of current premiums, together with a certificate from the Insurer or Insurance Broker concerned, confirming that the policy or policies provide the full coverage as required. The original policy will be returned to the Contractor.</p>
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93.1	The <i>Adjudicator</i> is	Both parties will agree as and when a dispute arises. If the parties cannot reach an agreement on the <i>Adjudicator</i> , the chairman of the Association of Arbitrators will appoint an <i>Adjudicator</i> .
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93.2(2)	The <i>Adjudicator nominating body</i> is:  If no <i>Adjudicator nominating body</i> is entered, it is:	The Association of Arbitrators (Southern Africa)
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93.4	The <i>tribunal</i> is:	Arbitration
------	-------------------------	-------------

If the  
tribunal is  
arbitration  
complete  
this data.

The *arbitration procedure* is

**The Rules for the Conduct of Arbitrations of the  
Association of Arbitrators (Southern Africa)**

The place where arbitration is to be held is **Empangeni**

The person or organisation who will  
choose an arbitrator

- if the Parties cannot agree a choice or
- if the arbitration procedure does not  
state who selects an arbitrator, is

**The Chairman of the Association of Arbitrators  
(Southern Africa)**

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## Data provided by the Contractor (the Contractor's Offer)

The tendering contractor is advised to read both the NEC3 Engineering and Construction Short Contract (June 2005) and the relevant parts of its Guidance Notes (ECSC3-GN)<sup>2</sup> in order to understand the implications of this Data which the tenderer is required to complete. An example of the completed Data is provided on page 26 of the ECSC3 Guidance Notes.

Completion of the data in full is essential to create a complete contract.

10.1	The Contractor is (Name):		
	Address		
	Tel No.		
	Fax No.		
	E-mail address		
63.2	The percentage for overheads and profit added to the Defined Cost for people is		%
63.2	The percentage for overheads and profit added to other Defined Cost is		%
11.2(9)	The Price List is in the document called 'Price List' in Part 2 of this contract.		
11.2(10)	The offered total of the Prices is R	excluding VAT	
	[Enter the total of the Prices from the Price List]:	[in words]	excluding VAT

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

## C2 Pricing Data

### C2.1 Pricing Instructions

Entries in the first four columns in the Price List are made either by the *Employer* or the tenderer.

If the *Contractor* is to be paid an amount for the item which is not adjusted if the quantity of work in the item changes, the tenderer enters the amount in the Price column only; the Unit, Quantity and Rate columns being left blank.

If the *Contractor* is to be paid an amount for the item of work which is the rate for the work multiplied by the quantity completed, the tenderer enters the rate which is then multiplied by the expected quantity to produce the Price, which is also entered.

All Prices are to be shown excluding VAT unless instructed otherwise by the *Employer* in Tender Data or in an instruction the *Employer* has given before the tenderer enters his prices.

If there is insufficient space in the Price List which follows, state in which document the Price List is contained.

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## C2.2 Price List

The Price List for Repairs and Painting to Umtuba Perway Building is as follows:

REPAIRS AND PAINTING @MTUBA PERWAY BUILDING ASSET NO. 02BE823A					
item	Description	Qty.	Unit	Price	Amount
	NB: CONTRACTORS PLEASE TAKE NOTE: DO NOT TAKE ANY INSTRUCTIONS FROM CLIENTS ON SITE ONLY FROM CIVIL MAINTENANCE SUPERVISOR Painting of walls includes Doors, Door frames, fanlights, Windows, Windows not painted burglar bars, air conditioner Architraves, Skirting and D.B. Boxes.				
<b>PART A</b>	<b>PRELIMINARY AND GENERAL</b>				
1	Site Establishment	1	sum	R	R
2	Health and safety obligation	1	sum	R	R
<b>PART B</b>	<b>REPAIRS &amp; PAINTING</b>				
	<b>INTERIOR</b>				
	<b>KITCHEN</b>				
1	Remove and replace double door, F & L (Framed Lugged & Braced ) (D) Double Rubbed door with 3 lever union lock	1	item	R	R
2	Sandpaper, clean and repaint wall as per specification	40	M <sup>2</sup>	R	R
3	Sandpaper, clean and repaint ceiling as per specification	21	M <sup>2</sup>	R	R
4	Replace ventilators material to match existing	4	item	R	R
5	Replace office vertical blinds Colour: Onica Navy Turquoise Size: (0.97x0.91) area 2.65 M <sup>2</sup>	3	each	R	R
6	Replace of wooden window pane (0.56x0.93) 0.52M <sup>2</sup>	1	each	R	R
	<b>OFFICE 1</b>				
1	Replace office vertical blinds, Colour: Onica Navy Turquoise Size:(0.97x0.91) area 0.9M <sup>2</sup>	1	each	R	R
	<b>OFFICE 2</b>				
1	Sandpaper, clean and repaint ceiling as per specification	26	M <sup>2</sup>	R	R
2	Provide new first grade 300 x 300 x 8.5mm Johnson Themis full body porcelain beige floor tiles with 3mm spacing and dove grey grouting all from Tile Africa	15	M <sup>2</sup>	R	R
3	Provide new first grade 300 x 300 x 8.5mm Johnson Themis full body porcelain beige floor tile skirting ± 80mm in height to floor tiles along with grey bull nose	14	M	R	R

	edging				
4	Replace ventilators material to match existing	1	item	R	R
5	Replace existing door with flush panel door (Code:1660) and 3 lever locker	1	item	R	R
	<b>TOILET 1</b>				
1	Replace toilet seat with heavy duty plastic toilet seat	1	item	R	R
	<b>TOILET 2</b>				
1	Sandpaper, clean and repaint ceiling as per specification	1.71	M <sup>2</sup>	R	R
2	Sandpaper, clean and repaint wall as per specification	17	M <sup>2</sup>	R	R
3	Replace toilet seat with heavy duty plastic toilet seat	1	item	R	R
4	Remove existing cistern and provide new flush master with 9litre white porcelain cistern to comply with sabs specification 821 complete with rubber flush pipe to pan connector and new flex connector item include all connection	1	item	R	R
5	Replace existing door with flush panel door (Code: 660) and 3 lever locker	1	item	R	R
	<b>CHANGING ROOM</b>				
1	Sandpaper, clean and repaint wall as per specification	12	M <sup>2</sup>	R	R
2	Sandpaper, clean and repaint ceiling as per specification	18	M <sup>2</sup>	R	R
3	Replace floor shower tile to match the existing	1	item	R	R
4	Fit new kal/wespeco or approved pivot glass and aluminum shower door with obscure/frosted glass. Silicone sealer shall be applied between tiles and aluminum frame before fitting frame and not after frame has been fixed.	1	item	R	R
5	Replace existing door with flush panel door (Code:1660) and 3 lever locker	1	item	R	R
6	Remove and Replace missing ceiling edge	4	M	R	R
	<b>STORE ROOM</b>				
1	Replace double door 3 lever locker	1	item	R	R
2	Sandpaper, clean and paint double door as per specification	1	item	R	R
3	Sandpaper, clean and paint wall as per specification	22	M <sup>2</sup>	R	R
4	Replace double door burglar bars (X-Guard)	1	item	R	R
	<b>EXTERIOR</b>				
1	Sandpaper, clean and paint gutters as per paint specifications	37	M	R	R
2	Sandpaper, clean and paint down pipes as per specification	17	M	R	R

3	Sandpaper, clean and paint facia boards as per paint specifications	37	M	R	R
4	Sandpaper, clean and paint barge boards as per paint specifications	16	M	R	R
				<b>SUB-TOTAL</b>	<b>R</b>
				<b>14% VAT</b>	<b>R</b>
				<b>TOTAL</b>	<b>R</b>

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## C3: Scope of Work

### C3.1 Works Information

#### 1. Description of the works

This contract covers the Renovations of the existing building number 02BE823A Perway Building situated in Mtubatuba in Kwa-Zulu Natal. The work covered by this part of the contract consists of the following:

- Prepare and paint walls
- Prepare and paint ceiling
- Replace, paint doors and door frames
- Replace/paint down pipes, fascia boards and barge boards
- Removal of floor tiles
- Plumbing work includes replacement of toilets and showers
- Site to be left clean of all rubble in completion

#### 2. Specifications

Work to comply with National Building Standards, SANS 0400.

CIVIL	Specifications of corporative identity Paint
Paint ceilings	Two coats DURA 65 WHITE
Wall paint (Interior)	Paint surface (ENAMEL) – Two coats DURA 65 WHITE. Two coats DULUX eggshell enamel, Barely Beige code 3H1-1.
Wall paint (Exterior)(Painted)	Painted surface (PVA or ENAMEL)-One coat DURA 65 White. Two coats WEATHERGUARD, Barely Beige code 3H1-1
Wall paint (Exterior)(Raw walls)	Raw walls. One coat Dura 65 white. Two coats WEATHERGUARD, Barely Beige code 3H-1
Wood skirting's (painted)	Skirting sanded ,One coat Pink Primer, Two coats Dulux code 3H1-1 colour Barely Beige
Skirting -	75mm ANODIZED ALUMINIUMSKIRTING AROUND COLUMNS AND ON NEW DRYWALL PARTITIONING
Skirting (Wood)	19 x 75mm maranti skirting. Sand and apply two coats Dulux Wood guard timber varnish
Paint purling/rafters/sprocket ends	Paint surface – Dulux universal white undercoat. Two coats Dulux high gloss
Facia's, gutters, down pips and barge boards	One coat primer suitable for surfaces where applicable One coat undercoat and two coats high gloss enamel colour white. Facia boards two coats Dulux Dura 65
Roof	Primer - NS4 grey (GI Roofs only) Two coats cottage white heat reflective paint Dulux Roof Guard
	Paint surface two coats Dura 65 white

Window sills and plinths	Two coats Weather Guard Barely Beige code 3H1-1
Window frames interior and exterior painted	One coat white universal undercoat Dulux Pearl glo lockness code 3L1-5 Paint burglar bars one coat universal under coat one coat Dulux high gloss enamel colour white
Door frames interior / exterior steel	Paint door frames one coat Dulux universal undercoat and two coats Dulux Pearl glo lockness code – 3L1-5
Door frames (wood finish)	Sand frame , two coats clear varnish (satin) finish
Doors (wood Finish)	Sand doors, two coats clear varnish (satin) finish
Doors (interior)	Paint doors two sides, One coat white universal undercoat and two coats Dulux pearl glo Lockness - 3L1-5
Doors (exterior )	Paint doors two sides, One coat white universal under coat and two coats Dulux pearl glo Lockness - 3L1-5
Outside pipes paint all dia	One coat white universal undercoat and one coat Dulux Pearl glo Lockness code - 3L1-5

### 3. Constraints on how the *Contractor* Provides the Works

The offices are currently being occupied. Care must be exercised not to damage any property of the occupants. Occupation will be granted to the contractor for a limited contract period.

### 4. Services and other things provided by the *Employer*

Handover certificate will be signed once the work has been completed. Access will be given by the Employer for correction of Defects

## 5. Procurement

### 5.1 The *Contractor's* Invoices

5.1.1 When the *Project Manager* certifies payment (see ECSC Clause 50) following an assessment date, the *Contractor* complies with the *Employer's* procedure for invoice submission.

5.1.2 The invoice must correspond to the *Project Manager's* assessment of the amount due to the *Contractor* as stated in the payment certificate.

5.1.3 The invoice states the following:

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

5.1.4 The invoice contains the supporting details.

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

5.1.6 Invoices submitted by post are addressed to:

Transnet Freight Rail  
Central Accounting  
PO Box 8621  
Johannesburg  
2000

5.1.7 Invoices submitted by hand are presented to:

Transnet Freight Rail  
4 Kiewiet Street  
Room 236  
Malahle House  
EMPANGENI

For the attention of the Chief Admin Official (Maudreen (Jacky) du Plooy), Transnet Freight Rail

5.1.8 The invoice is presented as an original.

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## C4: Site Information

### C4.1: Description of the Site and its surroundings

#### 1. General description

The project will be situated in the Transnet Property at Mtubatuba, Perway Building, and Asset No. is 02BE823A.

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

The Contractor shall attend the site inspection and acquaint themselves with the nature of the work, the condition under which the work is to be performed, and the means of access to site

#### 3. Subsoil information

N/A

#### 4. Hidden services

All work will be within the building, no external digging will be required

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