

## NEC3 Term Service Contract (TSC)

entered into by and between

### **Transnet SOC Ltd**

Registration Number 1990/000900/30

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

and

### **TBA**

Registration Number TBA

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

**Description of the Works**      **Alterations, Maintenance, General Building and Civil Engineering Construction Works in the Port of Richards bay and surrounding areas on an "as and when" required basis.**

**Contract Number**                      **CRAC-RCB-21095**

**Start Date**                                **01 September 2016**

**Completion Date**                      **30 August 2018**

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**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].

DESCRIPTION	ALTERATIONS, MAINTENANCE, GENERAL BUILDING AND CIVIL ENGINEERING CONSTRUCTION WORKS IN THE PORT OF RICHARDS BAY AND SURROUNDING AREAS ON AN "AS AND WHEN" REQUIRED BASIS.
<b>BID FEE AND BANKING DETAILS</b>	<p><b>This Tender may be downloaded directly from the National Treasury eTender Publication Portal at <a href="http://www.etenders.gov.za">www.etenders.gov.za</a> free of charge.</b> Alternatively, this RFP may be purchased at R500 [inclusive of VAT] per copy for those Tenders that require a copy from TFR rather than downloading from the website. If a copy of the tender document is required, prior arrangements must be made one (1) day in advance and a CD containing the tender document may be collected during work hours. Payment is to be made as follows:</p> <p>Payment is to be made to:            Account Name : Transnet Freight Rail            Account : Standard Bank            Account number : 203 58598            Branch code : 004805            Reference:</p> <p>NOTE – This amount is not refundable. A receipt for such payment made must be presented when collecting the Tender documents and submitted thereafter with your Proposal.</p>
<b>INSPECT / COLLECT DOCUMENTS FROM</b>	<p>The office of the Secretariat, Acquisition Council            Transnet Freight Rail (RME),            Emerald Park and North Reef Road,            Emerald Park,            Elandsfontein,            Gauteng</p>
<b>ISSUE DATE AND COLLECTION DATE DEADLINE</b>	<p>Between 08:00 and 15:00 from Monday, 25<sup>th</sup> July 2016 until Monday, 08<sup>th</sup> August 2016            Note: If a bid fee is applicable, payment must be effected prior to the deadline for collection. Pursuant to this requirement, should a third party [such as a courier] be instructed to collect RFP documents on behalf of a Tenderer, please ensure that this person [the third party] has a "proof of payment" receipt for presentation to Transnet when collecting the Tender documents. <b>In addition, bidders are to note that the Tender may also be downloaded directly from the National Treasury Tender Publication Portal free of charge.</b> If Tenderers intend to download the bid off the Portal, they are required to indicate their intention to respond to this tender by 13 May 2016 by sending an email with their contact details to the following address: <a href="mailto:Qetelo.Moshoeshoe@transnet.net">Qetelo.Moshoeshoe@transnet.net</a> or <a href="mailto:Yogeshnie.Gengan@transnet.net">Yogeshnie.Gengan@transnet.net</a> This is to ensure that any required communication (e.g. addenda to the tender) in relation to this tender reaches those intending to respond. Transnet will not be held liable if Tenderers do not respond by this date and do not receive the latest information regarding this Tender as a result thereof.</p>

<b>COMPULSORY BRIEFING SESSION</b>	Refer to "formal briefing" Paragraph 2 for details.
<b>CLOSING DATE</b>	<b>10:00am on Tuesday, 23<sup>rd</sup> August 2016.</b> Tenderers must ensure that tenders are delivered timeously to the correct address. As a general rule, if a tender is late or delivered to the incorrect address, it will not be accepted for consideration.
<b>VALIDITY PERIOD</b>	<b>Nighty (90) Business Days from Closing Date</b> 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.

## 2. FORMAL BRIEFING

A compulsory pre-proposal Tender briefing will be conducted at Transnet Freight Rail, Boardroom 253, Malahle House, 4 Kiewiet Street, Empangeni, 3800 **on the 10<sup>th</sup> August 2016, at 10:00am [10 O'clock]** for a period of ± 2 (two) hours. [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.

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 RFP document in their possession will not be allowed to attend the RFP briefing.

## 3. TENDER SUBMISSION

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

The Secretariat, Transnet Freight Rail (RME) Acquisition Council  
 RFP No : CRAC-RCB-21095  
 Description : Alterations, Maintenance, General Building And Civil Engineering Construction Works  
 In The Port Of Richards Bay And Surrounding Areas On An "As And When" Required  
 Basis.  
 Closing date and time : Tuesday, 23<sup>rd</sup> August 2016 at 10:00am  
 Closing address : Transnet Freight Rail (RME), Cnr Jet Park and North Reef Road, Jet Park, Elandsfontein,  
 Gauteng

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 address as follows:

THE SECRETARIAT  
TRANSNET FREIGHT RAIL (RME) ACQUISITION COUNCIL  
TRANSNET FREIGHT RAIL (RME),  
CNR JET PARK AND NORTH REEF ROAD,  
JET PARK,  
ELANDSFONTEIN, GAUTENG

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 Capital Projects Acquisition Council and a signature obtained from that Office:

THE SECRETARIAT  
TRANSNET FREIGHT RAIL (RME) ACQUISITION COUNCIL  
TRANSNET FREIGHT RAIL (RME),  
CNR JET PARK AND NORTH REEF ROAD,  
JET PARK,  
ELANDSFONTEIN, GAUTENG

- 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.

**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)**

PREVIEW COPY

## ACKNOWLEDGMENT OF RECEIPT OF DOCUMENTS AND INTENTION TO TENDER

(To be returned within 5 days after receipt)

FAX TO:	Transnet Freight Rail	Project No.:	CRAC-RCB-21095
	Attention: Qetelo Moshoeshoe		
	Email:	Tender No.:	CRAC-RCB-21095
	Qetelo.Moshoeshoe@transnet.net		
		Closing Date	23 August 2016

**For: Alterations, Maintenance, General Building And Civil Engineering Construction Works In The Port Of Richards Bay And Surrounding Areas On An "As And When" Required Basis.**

**We: Do wish to tender** for the work and shall return our tender by the due date above

**Check**  
**Yes** ☐

**Do not wish to tender** on this occasion and herewith return all your documents received

**No** ☐

REASON FOR NOT TENDERING:

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

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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 <b>Transnet SOC Ltd</b> (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
	<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 Price List

	<b>Part C3: Scope of work</b>	C3 Service Information
	<b>Part C4: Site information</b>	C4 Site information
F.1.4	The Employer's agent is:	The Contract Administrator
	Name:	Qetelo Moshoeshoe
	Address:	Malahle House 4 Kiewiet Street Empangeni 3880
	Tel No.	035 906 7344
	E – mail	Qetelo.Moshoeshoe@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:	
	<p><b>1.</b> Tenderers will only be considered if:</p> <ul 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 Tenderer fully and properly completes and signs the Supplier Development Returnable Schedule. Tenderers accept that failure to commit to allocating a minimum of 20% (Twenty percent); by completing and signing Supplier Development Returnable Schedule Annexure A: SD Value Summary and Section 19: Declaration of Supplier Development Commitments; shall result in the Tenderer being deemed non-responsive and therefore eliminated from further evaluation.</li> <li>c) The Tender materially comply with the scope / specifications of the Tender.</li> <li>d) The Tender meets the threshold set for Quality / functionality criteria.</li> <li>e) The Tender contains a priced offer.</li> </ul> <p><b>2.</b> 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</p>	

the Construction Industry Development Regulations, for a 7GB, 7CE or Higher class of construction work, are eligible to have their tenders evaluated.

### 3. Joint Venture (JV)

Joint ventures are eligible to submit tenders subject to the following:

1. every member of the joint venture is registered with the CIDB;
2. the lead partner has a contractor grading designation in the 7GB, 7CE or higher class of construction work; and
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 for a 7GB, 7CE or Higher class of construction work or a value determined in accordance with Regulation 25(1A) 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.**

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

Quality criteria	Sub-criteria	Max number of points
Technical Capacity/ Resources/ CV's	1. Overall integration and clarity of organogram 2. General experience and qualifications (Trade Certificates and /or proof being trained through accredited training agency) 3. Adequacy of proposed staff for the contract (Quantity of Relevant trades available i.e. bricklayers, carpenters, plumbers, painters, etc.	20
Health and Safety Plan	1. Safety File Index 2. Safety Work Method Statement and Risk Assessment (Project specific) 3. Valid letter of good standing with Insurance Body and Tax Clearance certificate 4. SHE Management System 5. Safe Working Procedure and Safe Operating Procedure for hand tools and Equipment	30
Environmental Management Plan (EMPS)	1. EMP File Index 2. Project specific EMP 3. Emergency Response Plan 4. Spillage Control Procedure	10
Quality Plan	1. Quality management plan with relevant index 2. Project Quality Plan for the contract 3. The Contractor's Quality Policy 4. Index of procedures to be used during the contract 5. Audit Schedule for internal and external audits during the contract 6. ISO 9001 certification 7. Typical Quality Manual 8. Typical Quality Control Plan 9. Typical data book index	10
Previous Experience in civil engineering and Building Works	1. Relevance of experience (project specific) in civil engineering and Building Works	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:

- T2.2-7 Technical Capacity/ Resources/ CV's

- T2.2-20 Quality Plan
- T2.2-21 Environmental Management Plan
- T2.2-22 Health and Safety

#### Health and Safety Questionnaire

- T2.2-25 Previous Experience in civil engineering and building works

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 scored collectively.

Item No	Quality Criteria	Evaluation indicators	Points Available
1	Technical Capacity/ Resources/ CV's	20 Points, 15 Points and 5 Points, 0 Points	<b>20</b>
2	Previous experience in civil engineering and building works		<b>30</b>
2.1	Relevance of experience (project specific)	30 Points, 20 points, 10 Points, 0 Points.	
5	Quality Plan	10 Points, 5 Points and 0 Points	<b>10</b>
6	Health & Safety Plan	30 Points, 20 Points, 10 Points and 0 Points	<b>30</b>
7	Environmental Management Plan	10 Points, 8 Points, 4 Points and 0 Points	<b>10</b>

**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**

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

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

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

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 (RME)

Physical address: Corner Jet Park and North Reef Road  
Jet Park  
Elandsfontein  
Gauteng

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

- Name of Tenderer:
- Contact person and details:  
The Tender Number: CRAC-RCB-21095
- The Tender Description: Alterations,  
Maintenance, General Building And Civil  
Engineering Construction Works In The  
Port Of Richards Bay And Surrounding  
Areas On An "As And When" Required  
Basis.

Documents must be marked for the attention  
of: Ms Tlalane Mokiba 011 878 7045

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

**NO LATE TENDERS WILL BE ACCEPTED**

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

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

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Invitation to Tender.

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F.2.16 The tender offer validity period is 12 weeks

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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

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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:

90 where the financial value inclusive of VAT of one or more responsive tenders received have a value in excess of R 1,000 000

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

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

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F.3.13 Tender offers will only be accepted if:

- a) the tenderer submits an original valid Tax Clearance Certificate issued by the South African Revenue Services or has made arrangements to meet outstanding tax obligations;
  - b) the tenderer or any of its directors/shareholders is not listed on the Register of Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the public sector;
  - c) the tenderer does not appear on Transnet list for restricted tenderers;
  - d) the tenderer has fully and properly completed the Compulsory Enterprise Questionnaire
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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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The additional conditions of tender are:

### 1. SUPPLIER DEVELOPMENT PLAN

The upswing in growth in the last decade, followed by the global recession in 2008, as well as persistently high unemployment and social inequality, forced the South African government to re-evaluate its growth strategy. This led to the development of a revised growth framework, the New Growth Path (NGP). The NGP aims to enhance growth, employment creation and equity, through the identification of strategies that will enable South Africa to grow in a more equitable and inclusive manner and promote the development of new industry to attain South Africa's developmental agenda.

In order to achieve this, the NGP focuses on:

- Increasing employment intensity of the economy
- Increasing the responsiveness of infrastructure and addressing competitiveness
- Balancing spatial development of rural areas and poorer provinces
- Reducing the carbon intensity of the economy
- Creating opportunities in changing regional and global environments
- Enabling transformation that benefits a wider range of social actors in society e.g. workers, rural communities, women etc.

Tenderers must submit a Supplier Development Proposal (SDP) which clearly indicates the following

benefits:

- Acceleration of localisation and transformation of local business by promoting technology transfer, skill development and job creation
- Focused regional development
- Increase in local content – security of supply, reduced cycle times, reduced exposure to foreign currency and reduction of supply chain costs (over time)
- Transformation of supplier dominance from large international or traditionally white owned business to locally owned and black owned suppliers

Clear targets are to be stipulated which will be achieved throughout the duration of the contract, and must be based on the pillars of Supplier development, such as:

- a) Job creation – indicate what direct jobs can be created, where and the cost thereof,
- b) Skills development - who will receive training, the type and the cost thereof,
- c) Local content – what percentage of the material/service costs will be procured from the local area (i.e. Local to a region), and what will be imported and the cost and relative to the contract value (percentage).
- d) Small business development – What percentage and costs will be used to procure goods/services from small local business (such as SME or EME).

All these pillars of supplier development needs to be investigated by the tenderer, and clearly indicated within the Supplier development plan submitted to Transnet.

The SDP will be incorporated in the eventual Contract and will be managed as part of the Contractors deliverables in terms of the contract. The final SDP will be submitted and agreed to by Transnet and Tenderers must clearly indicate in their Pricing Schedule the cost of implementation hereof.

## 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 dealings with each other, they shall discharge their duties and obligations as set out in F.2 and F.3, timeously and with integrity, and behave equitably, honestly and transparently, comply with all legal obligations and not engage in anti-competitive 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

March 2015

**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) **organisation** 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 cost 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 BBEE status level and time for completion for the main tender offer only.

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

**F.3.5 Two-envelope system**

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

**F.3.5.2** Evaluate 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 BBEE 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):

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

Where:

$P_s$  = Points scored for comparative price of tender or offer under consideration;

$P_t$  = Comparative price of tender or offer under consideration; and

$P_{min}$  = 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-BBEE status level of contributor	Number of points
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 4.3.8 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**

$$Ps = 90 \left( 1 + \frac{Pt - Pmin}{Pmin} \right)$$

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.

- (5)(b) Subject to subparagraph(5)(c), points must be awarded to a tender for attaining the BBEE 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	5
5	4
6	3
7	2
8	1

Non-compliant contributor	0
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- (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 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:

$$NFO = W1 \times A$$

where: *NFO* is the number of tender evaluation points awarded for price.  
*W1* 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 free	$A = (1 - \frac{P - P_m}{P_m})$	$A = P_m / P$
<sup>a</sup> <i>P<sub>m</sub></i> is the comparative offer of the most favourable comparative offer. <i>P</i> 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<sub>o</sub>* is the score for quality allocated to the submission under consideration;  
*M<sub>s</sub>* is the maximum possible score for quality in respect of a submission; and  
*W<sub>2</sub>* 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:

- a) is not under restrictions, or has principals who are under restrictions, preventing participating in the employer's procurement
- b) can, as necessary and in relation to the proposed contract, demonstrate that he or she possesses the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and the personnel, to perform the contract,
- c) has the legal capacity to enter into the contract,
- d) is not insolvent, in receivership, 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 or 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 purposes:

- T2.2-15 **Eligibility Criteria Schedule:** certification of attendance at a tender clarification meeting
- Eligibility Criteria Schedule:** Declaration of Supplier Development Commitments
- Eligibility Criteria Schedule:** Supplier Development Value Summary

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

- T2.2-7 **Evaluation Schedule:** Technical Capacity/ Resources/ CV's
- T2.2-20 **Evaluation Schedule:** Quality Plan
- T2.2-21 **Evaluation Schedule:** Environmental Management Plan
- T2.2-22 **Evaluation Schedule:** Health and Safety Plan  
Health and Safety Questionnaire
- T2.2-25 **Evaluation Schedule:** Previous experience in civil engineering and building works

### 3. Returnable Schedules

- T2.2-7 Technical Capacity/ Resources/ CV's
- 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
- T2.2-21 Environmental Management Plan
- T2.2-22 Health and Safety Plan  
Health and Safety Questionnaire
- T2.2-25 Previous experience
- T2.2-27 Broad-Based Black Economic Empowerment and Socio-Economic Obligations
- T2.2-31 Supplier Integrity Pact
- T2.2-33 Mutual Non-Disclosure Agreement

- T2.2-36 RFP Declaration Form
- T2.2-38 Declaration of Understanding (Environmental and Health & Safety)
- T2.2-43 RFP – Breach of Law
- T2.2-50 B-BBEE Preference Points Claim Form
- T2.2-51 Certificate of Acquaintance with Tender Documents
  - Declaration of Supplier Development Commitments
  - Supplier Development Value Summary
  - B-BBEE Improvement Plan

**4. C1.1: Offer portion of Form of Offer & Acceptance**

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

**6. C2.2: Pricing Data**

**7. C3.1 Service Information**

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

This is to certify that

(Tenderer)

of

(address)

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

Held at:	Malahle House, 4 Kiewiet Street, Empangeni, 3880	
On (date)	10 August 2016	Starting time: 10:00hrs

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

**RFP FOR**  
**CRAC-RCB-21095: ALTERATIONS, MAINTENANCE, GENERAL BUILDING AND CIVIL ENGINEERING**  
**CONSTRUCTION WORK IN THE PORT OF RICHARDS BAY AND SURROUNDING AREAS ON AN "AS**  
**AND WHEN" REQUIRED BASIS.**

**FOR A PERIOD OF 24 months**

**Section A : DECLARATION OF SUPPLIER DEVELOPMENT COMMITMENTS**

I/We \_\_\_\_\_  
hereby **agree** to commit that not less than 20% of the contract value will be spent cumulatively on  
Supplier Development Initiatives. This pre-qualification criterion must be discharged against the following  
Supplier Development categories as outlined in the Supplier Development Value Summary [Annexure A]:

- ☐ Job creation
- ☐ Enterprise and Supplier Development

I/We do hereby certify that the Supplier Development commitments made in relation to this RFP are  
solely in relation to this transaction and are not duplicated in relation to any other contracts that I/we  
have secured with any other organ of state including other State Owned Companies.

Furthermore, I/we do hereby declare that this undertaking also applies to any other contracts that I may  
have secured with Transnet including other Transnet Operating Divisions/Specialist Units. For the  
purposes of verification of this undertaking, the following is a list of contracts with Supplier Development  
commitments that I/we have secured with Transnet:

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

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

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

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

**SUPPLIER DEVELOPMENT VALUE SUMMARY**

**ANNEXURE A**

**INSTRUCTION AND NOTES FOR COMPLETION OF THE SD VALUE SUMMARY**

Respondents must complete this Annexure which summarises your Supplier Development (SD) Plan and related value commitments over the contract period.

Do not populate the greyed out areas

Populate the columns as requested in the SD MEASUREMENT column: NUMBER, PERCENTAGE, RAND VALUE excluding VAT, YES/NO and SD PLAN CROSS-REFERENCE

Cross-reference the Value Indicators quoted under the column heading "SD PLAN CROSS-REFERENCE" with the corresponding section in your SD Plan.

SD CATEGORY		MEASUREMENT	SD VALUE INDICATORS					SD BID DOCUMENT CROSS-REFERENCE
			NUMBER	PERCENTAGE	RAND VALUE excluding VAT	YES/NO		
1	Job Creation	The potential for job creation directly due to the award of this business allows for assessment of your company's intentions in terms of the Government's objective to increase labour absorption focusing on unskilled workers and the youth						
1.1		Number and Rand value of new skilled jobs to be created due to award of contract:						
1.1.1		Number and Rand value of new skilled jobs to be created in rural areas as per 1.1 above						
1.1.2		Number and Rand value of new skilled jobs for "Black" individuals and/or contractors as per 1.1 above						
1.1.3		Number and rand value of new skilled jobs for Black women as per 1.1 above						
1.1.4		Number of new skilled jobs for Black Persons Living with Disabilities as per 1.1 above						
1.1.5		Number of new skilled jobs for Black Youth [where "Youth" means Individuals between the ages of 16 - 35 years] as per 1.1 above						
1.2		Number and Rand value of new unskilled jobs to be created by award of contract:						
1.2.1		Number and Rand value of unskilled jobs to be created in rural areas as per 1.2 above						
1.2.2		Number and Rand value of unskilled jobs for Black individuals and/or contractors as per 1.2 above						
1.2.3		Number and Rand value of unskilled jobs for Black women as per 1.2 above						
1.2.4		Number and Rand value of unskilled jobs for Black Persons Living with Disabilities as per 1.2 above						
1.2.5		Number and Rand value of unskilled jobs for Black Youth [where "Youth" means individuals between the ages of 16 - 35 years] as per 1.2 above						

SD CATEGORY		SD MEASUREMENT	SD VALUE INDICATORS					SD BID DOCUMENT CROSS-REFERENCE
			NUMBER	PERCENTAGE	RAND VALUE excluding VAT	YES/NO		
2	Enterprise and Supplier Development	These SD value measurements give an indication of your commitment to developing small businesses in line with the Government's New Growth Path [NGP] and B-BBEE requirements						
	2.1	Rand Value of projected procurement spend from businesses with an annual turnover of less than R50 million (QSEs)						
	2.1.1	Rand Value of projected procurement spend from Black Youth Owned companies as per point 2.1 above						
	2.1.2	Rand Value of projected procurement spend from Black Women Owned companies as per point 2.1 above						
	2.1.3	Rand Value of projected procurement spend from Black Owned companies as per point 2.1 above						
	2.2	Rand Value of projected procurement spend from businesses with an annual turnover of less and equal to R10 million (SMEs)						
	2.2.1	Rand Value of projected procurement spend from Black Youth Owned companies as per point 2.2 above						
	2.2.2	Rand Value of projected procurement spend from Black Women Owned companies as per point 2.2 above						
	2.2.3	Rand Value of projected procurement spend from Black Owned companies as per point 2.2 above						
ESTIMATED RAND VALUE TOTAL OF SUPPLIER DEVELOPMENT COMMITMENT, EXCLUDING VAT :					R 0.00			
Note 1: To calculate the Estimated Rand Value of Supplier Development Commitment:					$= 1.1 + 1.2 + 2.1 + 2.2$			
ESTIMATED CONTRACT VALUE (ECV) :								
SUPPLIER DEVELOPMENT COMMITMENT EXPRESSED AS A PERCENTAGE OF ESTIMATED CONTRACT VALUE :					%			
Note 2: To calculate the Supplier Development Commitment as a percentage of Estimated contract Value:								
			Estimated Rand Value Total of Supplier Development Commitment DIVIDED by Estimated Contract Value					

## PRE-QUALIFYING QUALITY CRITERIA SCHEDULE

### T2.2-7: Technical Capacity/ Resources/ CV's

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 Term Service 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 Technical Capacity/ Resources/ CV's 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		

Attached submissions to this schedule:

.....

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.....

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Signed

Date

Name

Position

Tenderer

## PRE-QUALIFYING QUALITY CRITERIA SCHEDULE

### T2.2-20: Quality Plan

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

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

The scoring of the Quality Plan will be as follows:

Quality criteria	Sub-criteria	Yes Tick (Submit Proof)	No Tick
Quality Plan	Quality management plan with relevant index		
	Project Quality Plan for the contract		
	The Contractor's Quality Policy		
	Index of procedures to be used during the contract		
	Audit Schedule for internal and external audits during the contract		
	ISO 9001 certification		
	Typical Quality Manual		
	Typical Quality Control Plan		
	Typical data book index		

**Attached submissions to this schedule:**

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Signed	_____	Date	_____
Name	_____	Position	_____
Tenderer	_____		

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## PRE-QUALIFYING QUALITY CRITERIA SCHEDULE

### T2.2-21: Evaluation Schedule: Environmental Management Plan

1. The tenderer must provide their environmental management policy detailing the Managements commitment to preventing and controlling environmental impacts.
2. The tenderer must provide specific Environmental Management Plan which describes relevant roles and responsibilities, and how potential environmental impacts will be identified and managed including the monitoring and recording thereof.

The following documents found in are key -

- 1) Transnet SOC Limited – SHEQ Policy,
- 2) Transnet Freight Rail – HSE Policy,
- 3) ENV-STD-001 REV 01 Construction Environmental Management Plan (CEMP); and
- 4) ENV-STD-002 REV 01 Standard Environmental Specifications (SES).

3. Organisational charts depicting key environmental staff must be accompanied by staff CV's showing staff competencies, together with qualifications.
4. Tender to provide a signed declaration of understanding (Form PRO-FAT-0312 - T2.2-38) as part of the returnable acknowledging understanding thereof and the budget provision for the implementation of environmental management requirements.
5. By signing this Tender schedule the tenderer confirms that they will **comply** with the above requirements and in particular Transnet **policy statements and environmental specifications**.

The scoring of the Tenderer's Environmental Management Plan will be as follows:

Quality criteria	Sub-criteria	Indicate if Submitted Yes/No
Environmental Management Plan	EMP File Index	
	Project Specific EMP	
	Emergency Response Plan	
	Spillage Control Procedure	

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

**Attached submissions to this schedule:**

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Signed

Date

Name

Position

Tenderer

## 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 File Index		
	Safety Work Method Statement and Risk Assessment (Project Specific)		
	Valid letter of good standing with Insurance Body and Tax Clearance certificate		
	SHE Management System		
	Safe Working Procedure and Safe Operating Procedure for hand tools and Equipment		

**Attached submissions to this schedule:**

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Signed \_\_\_\_\_ Date \_\_\_\_\_

Name \_\_\_\_\_ Position \_\_\_\_\_

Tenderer \_\_\_\_\_

TRANSNET FREIGHT RAIL

ENQUIRY NUMBER: CRAC-RCB-21095

DESCRIPTION OF THE WORKS: ALTERATIONS, MAINTENANCE, GENERAL BUILDING AND CIVIL ENGINEERING CONSTRUCTION WORKS IN THE PORT OF RICHARDS BAY AND SURROUNDING AREAS ON AN "AS AND WHEN" REQUIRED BASIS.

## 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?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
(Please provide letter of confirmation)			

### 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:

TRANSNET FREIGHT RAIL

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### 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"/>

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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  
 (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 Month ly 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

TRANSNET FREIGHT RAIL

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- 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?

☐ Yes ☐ No

How does your company measure its H&S success?

- Attach separate sheet to explain

## 7. Safety Stewardship

7A Are incident reports and report summaries sent to the following and how often?

	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"/>

7B How are incident records and summaries kept? How often are they reported internally?

	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"/>

7C How are the costs of individual incidents kept? How often are they reported internally?

	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"/>

7D Does your company track non-injury incidents?

	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"/>

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Environmental	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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### 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 firm has worked for that could verify the quality and management commitment to your occupational Health & Safety program

Name and Company	Address	Phone Number

## 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 in General Building and Civil Engineering construction works.

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 your previous experience in general Building and Civil Engineering construction works.
Previous Experience in civil Engineering and Building Works	Relevance of experience (project specific)	

The reference list should consist of the below details:

Project Description	Client	Duration	Value of Project	Reference letters	
				Submitted Yes	Submitted No

Signed

Date

Name

Position

Tenderer

## 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.

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**C. Certificate for Joint Venture**

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

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

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

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

**D. Certificate for Sole Proprietor**

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

\_\_\_\_\_

Signed

\_\_\_\_\_

Date

\_\_\_\_\_

Name

\_\_\_\_\_

Position

Sole Proprietor

\_\_\_\_\_

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## T2.2-16: 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 the National Assembly or the National Council of Province | <input type="checkbox"/> a member of an accounting authority of any national or provincial public entity                                                                                                            |
| <input type="checkbox"/> a member of the board of directors of any municipal entity            | <input type="checkbox"/> an employee of Parliament or a provincial legislature                                                                                                                                      |
| <input type="checkbox"/> an official of any municipality or municipal entity                   |                                                                                                                                                                                                                     |

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 year 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 exceed R1 000 000 (all applicable taxes included); and therefore the **90/10** 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 JV 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.

---

<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: CRAC-RCB-21095

DESCRIPTION OF THE WORKS: ALTERATIONS, MAINTENANCE, GENERAL BUILDING AND CIVIL ENGINEERING CONSTRUCTION WORKS IN THE PORT OF RICHARDS BAY AND SURROUNDING AREAS ON AN "AS AND WHEN" REQUIRED BASIS.

---

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.

### 1.3 B-BBEE Improvement Plan

Transnet encourages its Suppliers to constantly strive to improve their B-BBEE rating. Whereas Tenderers will be allocated points in terms of a preference point system based on its B-BBEE scorecard to be assessed as detailed in paragraph 5.1 above, in addition to such scoring, Transnet also requests that Tenderers submit a B-BBEE improvement plan. Tenderers are therefore requested to indicate the extent to which they will maintain or improve their B-BBEE status over the contract period.

Tenderers are requested to submit their B-BBEE Improvement Plan as a Returnable Schedule document with their Tender Offers by completion of Annexure 1 appended to Returnable T2.2-51 Certificate of Acquaintance with Tender Documents

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

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

### **INTEGRITY PACT**

Between

**TRANSNET SOC LTD**

Registration Number: 1990/000900/30

("Transnet")

and

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

**PREVIEW COPY**

## 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-pricing by following a system that is fair, transparent and free from any influence / unprejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to:
  - a) Enable Transnet to obtain the desired contract at a reasonable and competitive price in conformity to the defined specifications of the works, goods and services; and
  - b) Enable Tenderers / Service Providers / Contractors to abstain from bribing or participating in any corrupt practice in order to secure the contract.

## 2 COMMITMENTS OF TRANSNET

- 2.0 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 R5 000 in value or many low value hospitality packages do not cumulatively exceed R5 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 competitor.
- 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 instigate 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, whenever 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.

oooOOOooo

## 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 planning, developing and/or constructing a new Alterations, Maintenance, General Building And Civil Engineering Construction Works In The Port Of Richards Bay And Surrounding Areas On An "As And When" Required Basis. ("the Purpose"). Each party ("the receiving party") shall treat as confidential all information and know-how which it may receive from the other party ("the disclosing party") in terms of this Agreement (hereinafter referred to as "confidential information"), and shall not divulge to any other party in any circumstances any such confidential information, and, in particular, any such confidential information as is covered by the National Key Points Act (Act No. 102 of 1980), whether during the currency of this Agreement or at any time thereafter, without the prior written consent of the disclosing party.

### 2. Definition

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

### 3. Exclusions

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

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

- 3.4. is disclosed to the receiving party by a third party without restriction and, to the knowledge of the receiving party, without violation of any obligation of confidentiality; or
- 3.5. is approved for release by the disclosing party in writing.

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

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

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

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

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

During the two-year period following the execution of this Agreement, neither party will solicit for employment, on its own behalf or that of any other person, any officer, director or employee of the other party at the level of director, vice-president or higher with whom the soliciting party became acquainted during the course of the discussions contemplated by this Agreement; provided, that the foregoing shall not

be deemed to prohibit either party or a subsidiary of such party from making a general, public solicitation of employment in the ordinary course of such party or subsidiary's business, provided that such solicitation is not directed specifically to employees of the other party.

## **7. Mandatory Disclosure**

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

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

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

## **9. No License Granted**

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

## **10. No Representations**

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

## **11. Term**

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

## **12. Miscellaneous**

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

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

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

#### 14. Disputes

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

#### 15. Remedies

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

Signed

Date

Name

Position

Tenderer

## 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 company) 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:	

TRANSNET FREIGHT RAIL

ENQUIRY NUMBER: CRAC-RCB-21095

DESCRIPTION OF THE WORKS: ALTERATIONS, MAINTENANCE, GENERAL BUILDING AND CIVIL ENGINEERING CONSTRUCTION WORKS IN THE PORT OF RICHARDS BAY AND SURROUNDING AREAS ON AN "AS AND WHEN" REQUIRED BASIS.

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

## T2.2-38: Declaration of Understanding

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 10 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 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 10]
1	10
2	9
3	8
4	5
5	4
6	3
7	2
8	1
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 10 points]

Note: Points claimed in respect of this paragraph 5.1 must be in accordance with the table reflected in paragraph 4.1 above and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or 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 shareholders and directors who acted in a fraudulent manner, from obtaining business from Transnet for a period not exceeding 10 years, after the *audi alteram partem* [hear the other side] rule has been applied; and/or
  - (e) forward the matter for criminal prosecution.

### WITNESSES:

- 1. ....
- 2. ....

SIGNATURE OF 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



## ANNEXURE 1: B-BBEE IMPROVEMENT PLAN

Transnet encourages its Suppliers/Service Providers to constantly strive to improve their B-BBEE rating. Whereas Respondents will be allocated points in terms of a preference point system based on its B-BBEE scorecard, in addition to such scoring, Transnet also requests that Respondents submit a B-BBEE improvement plan. Respondents are therefore requested to indicate the extent to which their ownership, management control, Supplier Development, Preferential Procurement and Enterprise Development will be maintained or improved over the contract period.

Respondents are requested to submit their B-BBEE Improvement Plan as an additional document with their Proposals.

*Respondents are to insert their current status (%) and future targets (%) for the B-BBEE Improvement Plan [i.e. not the % change but the end-state quantum expressed as a percentage] in the table below. This will indicate how you intend to sustain or improve your B-BBEE rating over the contract period. On agreement, this will represent a binding commitment to the successful Respondent.*

*Transnet reserves the right to request supporting evidence to substantiate the commitments made in the B-BBEE Improvement Plan.*

OWNERSHIP INDICATOR	Required Responses	Current Status (%)	Future Target (%)
1. The percentage of the business owned by Black <sup>1</sup> persons.	<i>Provide a commitment based on the extent to which ownership in the hands of Black persons as a percentage of total ownership of the organisation would be sustained or increased over the contract period.</i>		
2. The percentage of your business owned by Black women.	<i>Provide a commitment based on the extent to which ownership in the hands of Black women as a percentage of total ownership of the organisation would be sustained or increased over the contract period.</i>		
3. The percentage of the business owned by Black youth <sup>2</sup>	<i>Provide a commitment based on the extent to which ownership in the hands of Black youth as a percentage of total ownership of the organisation would be sustained or increased over the contract period.</i>		
4. The percentage of the business owned by Black persons living with disabilities	<i>Provide a commitment based on the extent to which ownership in the hands of Black disabled persons as a percentage of total ownership of the organisation would be sustained or increased over the contract period.</i>		
5. New Entrants <sup>3</sup> (Early stage business)	<i>Provide a commitment based on the extent to which new entrants will be supported over the contract period.</i>		

1 "**Black**" means South African Blacks, Coloureds and Indians, as defined in the B-BBEE Act, 53 of 2003

2 "**Black youth**" means Black persons from the age of 16 to 35

3 "**New Entrants**" means an early stage business which is similar to a start-up. However, an early stage business is typically 3 years old or less.

MANAGEMENT CONTROL INDICATOR	Required Responses	Current Status (%)	Future Targets (%)
6. The percentage of Black Board members in relation to the total number of Board members	<i>Provide a commitment based on the extent to which the number of Black Board members, as a percentage of the total Board, would be sustained or increased over the contract period.</i>		
7. The percentage of Black female Board members in relation to the total number of Board members	<i>Provide a commitment based on the extent to which the number of Black female Board members, as a percentage of the total Board, would be sustained or increased over the contract period.</i>		
8. Black Executives directors as a percentage of all executive directors	<i>Provide a commitment based on the extent to which the number of Black executive Directors as a percentage of all Executive Directors would be sustained or increased over the contract period.</i>		
9. Black female Executives directors as a percentage of all executive directors	<i>Provide a commitment based on the extent to which the number of Black female executive Directors as a percentage of all Executive Directors would be sustained or increased over the contract period.</i>		
<b>Other Executive Management</b>	<b>Required Response</b>	<b>Current Status (%)</b>	<b>Future Targets (%)</b>
10. Black Executive Management as a percentage of all executive directors	<i>Provide a commitment based on the extent to which the number of Black executive Managers as a percentage of all Executive Directors would be sustained or increased over the contract period.</i>		
11. Black Female Executive Management as a percentage of all executive directors	<i>Provide a commitment based on the extent to which the number of Black female executive Managers as a percentage of all Executive Directors would be sustained or increased over the contract period.</i>		
<b>Senior Management</b>	<b>Required Response</b>	<b>Current Status (%)</b>	<b>Future Targets (%)</b>
12. Black employees in Senior Management as a percentage of all senior management	<i>Provide the percentage of Blacks that would be appointed or retained by the Board and would be operationally involved in the day to day <b>senior management</b> of the business, with individual responsibility for overall and/or financial management of the business and actively involved in the development and implementation of <b>overall strategy</b>, over the contract period.</i>		
13. Black female employees in Senior Management as a percentage of all senior management	<i>Provide the percentage of Black females that would be appointed or retained by the Board and would be operationally involved in the day to day <b>senior management</b> of the business, with individual responsibility for overall and/or financial management of the business and actively involved in the development and implementation of <b>overall strategy</b>, over the contract period.</i>		
<b>Middle Management</b>	<b>Required Response</b>	<b>Current Status (%)</b>	<b>Future Targets (%)</b>

Respondent's Signature

Date & Company Stamp

14. Black employees in Middle Management as a percentage of all middle management	<i>Provide the percentage of Blacks that would be retained or appointed by the organisation in the <b>middle management</b> cadre and would be operationally involved in the day to day management of the business, with individual responsibility for a particular area within the business and actively involved in the <b>day to day management</b> of the organisation, over the contract period.</i>		
15. Black female employees in Middle Management as a percentage of all middle management	<i>Provide the percentage of Blacks females that would be retained or appointed by the organisation in the <b>middle management</b> cadre and would be operationally involved in the day to day management of the business, with individual responsibility for a particular area within the business and actively involved in the <b>day to day management</b> of the organisation, over the contract period.</i>		
<b>Junior Management</b>	<b>Required Response</b>	<b>Current Status (%)</b>	<b>Future Targets (%)</b>
16. Black employees in Junior management as a percentage of all junior management	<i>Provide a commitment based on the extent to which the number of Black Junior Managers as a percentage of the total junior Managers, would be sustained or increased over the contract period.</i>		
17. Black female employees in Junior management as a percentage of all junior management	<i>Provide a commitment based on the extent to which the number of Black female Junior Managers as a percentage of the total junior Managers, would be sustained or increased over the contract period.</i>		
<b>Employees with disabilities</b>	<b>Required Response</b>	<b>Current Status (%)</b>	<b>Future Targets (%)</b>
18. Black employees with disabilities as a percentage of all employees	<i>Provide a commitment based on the extent to which the percentage of Black disabled employees, in relation to the total of all employees in the organisation, would be sustained or increased over the contract period.</i>		
<b>PREFERENTIAL PROCUREMENT INDICATOR</b>	<b>Required Responses</b>	<b>Current Status (%)</b>	<b>Future Targets (%)</b>
19. B-BBEE procurement spend from all Empowering Suppliers <sup>4</sup> based on the B-BBEE procurement recognition level as a percentage of total measured procurement spend	<i>Provide a commitment based on the extent to which B-BBEE spend from all Empowering Suppliers would be sustained or increased over the contract period.</i>		

<sup>4</sup> "Empowering Suppliers" means a B-BBEE compliant entity, which should meet at least three of the following criteria if it is a Large Enterprise or one if it is a QSE:

(a) At least 25% of cost of sales excluding labour cost and depreciation must be procured from local producers or local supplier in SA, for service industry labour cost are included but capped to 15%.

(b) Job creation - 50% of jobs created are for Black people provided that the number of Black employees since the immediate prior verified B-BBEE Measurement is maintained.

(c) At least 25% transformation of raw material/beneficiation which include local manufacturing, production and/or assembly, and/or packaging.

(d) Skills transfer - at least spend 12 days per annum of productivity deployed in assisting Black EMEs and QSEs beneficiaries to increase their operation or financial capacity.

20.	20 B-BBEE procurement spend from all Empowering Suppliers QSEs based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	<i>Provide a commitment based on the extent to which B-BBEE spend from Empowering Supplier QSEs would be sustained or increased over the contract period</i>		
21.	B-BBEE procurement spend from Exempted Micro-Enterprise based on the applicable B-BBEE procurement recognition Levels as a percentage of Total Measured Procurement Spend	<i>Provide a commitment based on the extent to which B-BBEE spend from EMEs would be sustained or increased over the contract period</i>		
22.	B-BBEE procurement spend from Empowering Suppliers that are at least 51% black owned based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	<i>Provide a commitment based on the extent to which spend from Empowering Suppliers who are more than 51% Black-owned would be maintained or increased over the contract period.</i>		
23.	B-BBEE procurement spend from Empowering Suppliers that are at least 30% black women owned based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	<i>Provide a commitment based on the extent to which spend from Empowering Suppliers who are more than 30% Black women-owned would be maintained or increased over the contract period.</i>		
24.	B-BBEE Procurement Spent from Designated Group <sup>5</sup> Suppliers that are at least 51% Black owned	<i>Provide a commitment based on the extent to which spend from suppliers from Designated Group Suppliers that are at least 51% Black owned would be maintained or increased over the contract period.</i>		

<sup>5</sup> "Designated Groups" means:

- a) unemployed black people not attending and required by law to attend an educational institution and not awaiting admission to an educational institution;
- b) black people who are youth as defined in the National Youth Commission Act of 1996;
- c) black people who are persons with disabilities as defined in the Codes of Good Practice on employment of people with disabilities issued under the Employment Equity Act;
- d) black people living in rural and under developed areas; and
- e) black military veterans who qualifies to be called a military veteran in terms of the Military Veterans Act 18 of 2011.

SUPPLIER DEVELOPMENT INDICATOR	Required Response	Current Status (%)	Future Target (%)
25. Annual value of all Supplier Development <sup>6</sup> Contributions made by the Measured entity as a percentage of the target	<i>Provide a commitment based on the percentage in your organisation's annual spend on Supplier Development initiatives, will be maintained or improved over the contract period.</i>		
ENTERPRISE DEVELOPMENT INDICATOR	Required Response	Current Status (%)	Future Target (%)
26. The organisation's annual spend on Enterprise Development <sup>7</sup> as a percentage of Net Profit after Tax [NPAT]	<i>Provide a commitment based on the retention or increase in your organisation's annual spend on Enterprise Development initiatives, as a percentage of its Net Profit after Tax, over the contract period.</i>		

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<sup>6</sup> "**Supplier Development**" means monetary or non-monetary contributions carried out for the benefit of value-adding suppliers to the Measured Entity, with the objective of contributing to the development, sustainability and financial and operational independence of those beneficiaries:

(a) Supplier Development Contributions to suppliers that are Exempted Micro-Enterprises or Qualifying Small Enterprises which are at least 51% black owned or at least 51% black women owned.

Supplier Development within the contest of the B-BBEE scorecard must be differentiated from Transnet's Supplier Development Initiatives. Whereas the former relates to the definition above, the latter relates to improving the socio-economic environment through initiatives that are committed to as part of a contract award that contribute to the development of a competitive supplier base in relation to a particular industry.

<sup>7</sup> "**Enterprise Development**" means monetary and non-monetary contributions carried out for the following beneficiaries, with the objective of contributing to the development, sustainability and financial and operational independence of those beneficiaries:

(a) Enterprise Development Contributions to Exempted Micro-Enterprises or Qualifying Small Enterprises which are at least 51% Black owned or at least 51% Black women owned;

## 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:

**ALTERATIONS, MAINTENANCE, GENERAL BUILDING AND CIVIL ENGINEERING  
CONSTRUCTION WORKS IN THE PORT OF RICHARDS BAY AND SURROUNDING  
AREAS ON AN "AS AND WHEN" REQUIRED BASIS.**

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 (Not Applicable - Cost reimbursable)
Value Added Tax @ 14% is	R (Not Applicable - Cost reimbursable)
The offered total of the Prices inclusive of VAT is	R (Not Applicable - Cost reimbursable)
(in words) R (Not Applicable - Cost reimbursable)	

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 Services: Service Information

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

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

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

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

Unless the tenderer (now Contractor) within five working days of the date of such receipt notifies the Employer in writing of any reasons 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 Kiewet Street  
Empangeni  
3880

Name &  
signature of  
witness

Date

## 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 Kiewet Street  
Empangeni  
3880

## C1.2 Contract Data

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

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

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

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

Clause	Statement	Data
1	<b>General</b>	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option:	
	dispute resolution Option	E: <b>Cost reimbursable contract</b>
	and secondary Options	W1: <b>Dispute resolution procedure</b>
		X2: <b>Changes in the law</b>
		X19: <b>Task Order</b>
	of the NEC3 Term Service Contract (June 2005) <sup>1</sup> (and amended June 2006 and April 2013)	
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 Malahle House 4 Kiewet Street Empangeni 3880</b>
		Postal Address: <b>P O Box 20064 Empangeni 3880</b>
	Tel No.	<b>035 906 7344</b>
	Fax No.	<b>086 723 0510</b>

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

10.1	The <i>Service Manager</i> is (name):	<b>Jannie Visser</b>
	Address	<b>Old Naval Base, Commodore Close, Meerensee, Richards Bay, 3900.</b>
	Tel	<b>035 905 3662</b>
	Fax	<b>035 905 3545</b>
	e-mail	<b><u>Jannie.Visser@transnet.net</u></b>
11.2(2)	The Affected Property is	<b>Port of Richards Bay and Surrounding areas.</b>
11.2(13)	The <i>service</i> is	<b>Alterations, Maintenance, General Building and Civil Engineering Construction Works in the Port of Richards bay and surrounding areas on an "as and when" required basis.</b>
11.2(14)	The following matters will be included in the Risk Register	<ul style="list-style-type: none"> <li>• <b>Speed restrictions in the Port.</b></li> <li>• <b>Weather conditions.</b></li> <li>• <b>Occupations</b></li> <li>• <b>Working adjacent to other Contractors</b></li> <li>• <b>Access into the Port.</b></li> </ul>
11.2(15)	The Service Information is in	<b>The Scope of Services</b>
12.2	The <i>law of the contract</i> is the law of	<b>the Republic of South Africa subject to the jurisdiction of the Courts of South Africa.</b>
13.1	The <i>language of this contract</i> is	<b>English</b>
13.3	The <i>period for reply</i> is	<b>2 weeks</b>
2	<b>The Contractor's main responsibilities</b>	(If the optional statement for this section is not used, no data will be required for this section)
21.1	The <i>Contractor</i> submit a first plan for acceptance within	<b>2 weeks of the Contract Date</b>
3	<b>Time</b>	
30.1	The <i>starting date</i> is.	<b>01 September 2016</b>
30.1	The <i>service period</i> is	<b>30 August 2018</b>
4	<b>Testing and defects</b>	<b>No additional data is required for this section of the <i>conditions of contract</i>.</b>
5	<b>Payment</b>	
50.1	The <i>assessment interval</i> is	<b>On the 25<sup>th</sup> of the months or weeks (not more than five).</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 <i>interest rate</i> is	the prime lending rate of the Standard Bank South Africa.
6	<b>Compensation events</b>	No data required for this section of the <i>conditions of contract</i>
7	<b>Use of Equipment Plant and Materials</b>	No additional data is required for this section of the <i>conditions of contract</i> .
8	<b>Risks and insurance</b>	
80.1	Cover / indemnity is:	Cover / Indemnity is to the extent as stated in the Principle Controlled Insurance policy for Contract Works / Public Liability
	The deductibles are:	The deductibles are as stated in the Principle Controlled Insurance policy for Contract Works / Public Liability
2	Insurance against:	Loss of or damage to property (except the works, plant, materials & equipment) and liability for bodily injury to or death of a person (not an employee of the Contractor) 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
	Cover / indemnity is:	Is to the extent as stated in the Principle Controlled Insurance policy for Contract Works / Public Liability
	The deductibles are:	The deductibles are as stated in the Principle Controlled Insurance policy for Contract Works / Public Liability
83.1	The <i>Employer</i> provides these additional insurances	
1	Insurance against:	Loss of or damage to Equipment (Temporary Works only) as stated in the Principle Controlled Insurance policy for Contract Works / Public Liability
	Cover / indemnity is:	Is to the extent as stated in the Principle Controlled Insurance policy for Contract Works / Public Liability

		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>Contract Works SASRIA insurance subject to the terms, exceptions and conditions of the SASRIA coupon</b>
		Cover / indemnity is	<b>Cover / indemnity is to the extent provided by the SASRIA coupon.</b>
		The deductibles are	<b>The deductibles are as stated in the Contract Works SASRIA policy</b>

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	<p>The <i>Contractor</i> provides these additional insurances.</p>	<ol style="list-style-type: none"> <li>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.</li> <li>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.</li> <li>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.</li> <li>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</li> <li>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.</li> </ol>
--	--------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

9	Termination	There is no Contract Data required for this section of the <i>conditions of contract</i> .
10	Data for main Option clause	
E	Cost reimbursable contract	
20.5	<p>The <i>Contractor</i> prepares forecasts of the final total of the Prices for the whole of the service at intervals no longer than</p>	4 (four) weeks.

## 11 Data for Option W1

W1.1 The *Adjudicator* is (Name) Both parties will agree as and when a dispute arises. If the parties cannot reach an agreement on the *Adjudicator*, the chairman of the Association of Arbitrators will appoint an *Adjudicator*.

W1.2(3) The *Adjudicator nominating body* is:  
If no *Adjudicator nominating body* is entered, it is The Association of Arbitrators (Southern Africa)

W1.4(2) The *tribunal* is: Arbitration

W1.4(5) 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)

## 12 Data for secondary Option clauses

X2 Changes in the law: No additional data is required for this Option

X19 Task Order

X19.5 The *Contractor* submit a Task Order programme to the *Service Manager* within 3 days of receiving the Task Order

## C1.2 Contract Data

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

The tendering contractor is advised to read both the NEC3 Term Service Contract (June 2005) and the relevant parts of its Guidance Notes (TSC3-GN)<sup>2</sup> in order to understand the implications of this Data which the tenderer is required to complete.

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

Clause	Statement	Data
10.1	The <i>Contractor</i> is (Name): Address Tel No. Fax No.	
11.2(8)	The <i>direct fee percentage</i> is The <i>subcontracted fee percentage</i> is	% %
11.2(14)	The following matters will be included in the Risk Register	
11.2(15)	The Service Information for the <i>Contractor's</i> plan is in:	
21.1	The plan identified in the Contract Data is contained in:	
24.1	The key persons are: 1 Name: Job: Responsibilities: Qualifications: Experience: 2 Name: Job: Responsibilities: Qualifications: Experience:	

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

CV's (and further key person's data including  
CVs) are in .

A	Priced contract with price list	
11.2(12)	The <i>price list</i> is in	
11.2(19)	The tendered total of the Prices is	R

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## Task Order

**Contract Description** : ALTERATIONS, MAINTENANCE, GENERAL BUILDING AND CIVIL  
ENGINEERING CONSTRUCTION WORKS IN THE PORT OF  
RICHARDS BAY AND SURROUNDING AREAS ON AN "AS AND  
WHEN" REQUIRED BASIS.

**Contract Number** : CRAC-RCB-21095  
**Task Order Number** : TO-xxxxxx  
**Project Number** :

**Employer** : Transnet SOC Ltd  
(Registration No. 1990/000900/30), a juristic person incorporated in  
terms of the Company Laws of the Republic of South Africa, with its  
registered office at Carlton Centre, 150 Commissioner Street,  
Johannesburg, Republic of South Africa.

**Contractual Address** : Transnet Freight Rail  
4 Kiewiet Street  
Malahle House  
Empangeni, 3880

**Employer's Agent** : Jannie Visser

**Consultant** : Insert Company Name (Pty) Ltd  
Insert name

### 1. Task

The Task is .....

### 2. Deliverables

### 3. Programme

Task Starting Date

Task Completion Date

### 4. The Consultant's Invoices

4.1 When the *Employer's Agent* certifies payment following an assessment date, the *Consultant* complies with the following procedure for invoicing submission. The invoice must correspond to the *Employer's Agent* assessment of the amount due to the *Consultant*. The *Consultant* shall familiarise himself with the Payment and Invoicing requirements set out below, and comply with it in all respects. Payment is subject to the absolute and complete compliance with the Payment and Invoicing requirements indicated below and elsewhere in this Task Order. The risk of the Invoice Controller not receiving *Consultant's* Invoices as specified below resides with the *Consultant*.

4.2 The invoice shall correspond to the *Employer's Agent* assessment of the amount due to the *Consultant* as stated in the payment certificate.

4.2.1 The invoice states the following:

- Invoice addressed to Transnet SOC Ltd;
- Transnet SOC Ltd's VAT No: 4720103177;
- Invoice sequence number;
- The *Consultant's* VAT Number; and
- The Task Order number;
- The following Cost Code:
- Project number: XXXXX

4.2.2 The invoice contains the supporting detail:

- Description of work completed and claimed for
- Cost breakdown of work previously claimed, currently claimed, and balance outstanding for each section of work.
- Approved timesheets by *Employer's Agent*.

4.2.3 The invoice is presented either by post or by hand delivery. Invoices submitted by post are addressed to:  
Transnet Freight Rail  
Malahle House  
4 Kiewet Street  
Empangeni

4.2.4 Invoices submitted by hand are presented to:  
Transnet Freight Rail  
P.O Box 20064  
Empangeni  
3880

4.2.5 The invoice is presented as an original, together with a statement.

4.2.6 The Contract Administrator for this Project is Ms. Qetelo Moshoeshoe



## 6. Delay Damages

Delay damages for the late Completion of the ☐ 10% penalties for late completion per Task Order total value.

### Notes

The *Consultant* is hereby instructed to carry out the Task Order in accordance with Contract No: CRAC-RCB-21095 which includes the Data stated in this Task Order.

Employer/Employer's Agent \_\_\_\_\_  
Name Signed Date

Accepted by the Consultant \_\_\_\_\_  
Name Signed Date

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## PART C2: PRICING DATA

Document reference	Title	No of pages
C2.1	Pricing instructions: Option E	1
C2.2	Price List	2

## C2.1 Pricing instructions: Option E

### 1.1 The *conditions of contract*

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

Clause 11 in NEC3 Term Services Contract (TSC), June 2005 (with amendments June 2006)

Option A states:

**Identified 11  
and defined  
terms**

11.2 (18) The Price for Services Provided to Date is the Defined Cost which the Contractor has paid plus the Fee.

(21) The Prices are the amounts stated in the Price column of the Price List. If no Price List is included, the Prices are the Defined Cost plus the Fee.

### 1.3 Measurement and Payment

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

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

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

1.3.4 The *Contractor's* detailed Price List summates back to the activity/milestone provided by the *Employer* and is sufficient detail to monitor completion of activities related to the operations on the Accepted Plan in order that payment of completed activities may be assessed.

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

## C2.2 Price List

Item No.	Description	Unit	Rate
<b>1.1</b>	<b>Preliminary and General (P &amp; G):</b>		
<b>1.1.1</b>	Allow for attendance, site supervision, site inspection, site establishment, site de-establishment etc.	hr	
<b>1.2</b>	<b><u>General civil and structural work (Labour Only)</u></b>		
<b>1.2.1</b>	Compact insitu to 95%Mod. AASHTO density.	m <sup>2</sup>	
<b>1.2.2</b>	G5 material 150mm thick compacted to 98% Mod. AASHTO density.	m <sup>3</sup>	
<b>1.2.3</b>	G2 material 150mm thick compacted to 98% Mod. AASHTO density.	m <sup>3</sup>	
<b>1.2.4</b>	Handle and lay concrete kerbing	m	
<b>1.2.5</b>	Lay G-block paving bricks	m <sup>2</sup>	
<b>1.2.6</b>	Saw cutting asphalt 50mm thick	m	
<b>1.2.7</b>	Break-up of existing asphalt	m <sup>2</sup>	
<b>1.2.8</b>	Sweep and prime (0.7 lt. / m <sup>2</sup> )	m <sup>2</sup>	
<b>1.2.9</b>	Laying of new asphalt by hand (30 to 50mm	m <sup>2</sup>	

	thick)		
<b>1.2.10</b>	Road marking 100mm wide lines (Solid or broken)	m	
<b>1.2.11</b>	Road marking 150mm wide lines (Solid or broken)	m	
<b>1.2.12</b>	Road marking character and symbols	m <sup>2</sup>	
<b>1.2.13</b>	Cast concrete (Site Mix)	m <sup>3</sup>	
<b>1.2.14</b>	Cast Ready Mixed concrete	m <sup>3</sup>	
<b>1.2.15</b>	Finishing off of concrete surfaces – wood floating	m <sup>2</sup>	
<b>1.2.16</b>	Finishing off of concrete surfaces – Power floating	m <sup>2</sup>	
<b>1.2.17</b>	Apply curing compound	m <sup>2</sup>	
<b>1.2.18</b>	Rough formwork to sides of slabs not exceeding 300mm thick	m	
<b>1.2.19</b>	Steel Fixing (Rebar - various diameters)	kg	
<b>1.2.20</b>	Excavate, backfill and compact in all materials for pipe trenches over 1.5 to 2.0m deep	m <sup>3</sup>	
<b>1.3</b>	<b><u>General building works (Labour Only)</u></b>		
	<b>REMOVAL OF EXISTING WORK</b>		
<b>1.3.1</b>	Taking out and removing doors, windows, etc.		
	Steel single door and frame 750 x 2050mm high overall from one brick wall and make good to receive new	No.	

<b>1.3.2</b>	<b>CEILINGS PARTITIONS AND ACCESS FLOORING</b>		
	The Tenderer is referred to the relevant Clauses in the separate document Model Preambles for Trades (2008 Edition)		
	NAILED UP CEILINGS		
	6.4mm 'Rhinoboard' gypsum plastered ceiling fixed print side up with 32mm galvanized semi-clout nails at 150mm centres with 48mm wrought softwood half round cover strips over joints and the whole finished with minimum 3mm and maximum 6mm thick coat of 'Rhinolite' or 'Crestestone' gypsum skim plaster trowelled to a smooth polished surface, all in strict accordance with the manufacturer's instructions		
	Ceilings fixed to existing bracking in patches	m <sup>2</sup>	
	Gypsum plaster board cornice		
	75mm coved cornice	m	
<b>1.3.3</b>	<b>PLUMBING AND DRAINAGE</b>		
	The Tenderer is referred to the relevant Clauses in the separate document Model Preambles for Trades (2008 Edition)		
	RAINWATER DISPOSAL (Remove only)		

	100mm Half round eaves gutters	m	
	Gutter brackets	No.	
	Extra over gutter for stopped end	No.	
	Extra over 100mm eaves gutter for outlet for 75mm pipe	No.	
	75mm Diameter rainwater pipes	m	
	Extra over 75mm rainwater pipe for bend	No.	
	Extra over rainwater pipe for eaves offset	No.	
<b>1.3.4</b>	<b>PAINTWORK</b>		
	The tenderer is referred to the relevant Clauses in the separate document Model Preambles for Trades (2008 Edition)		
	SUPPLEMENTARY PREAMBLES		
	PAINTWORK ETC. TO NEW WORK		

	ON INTERNAL GYPSUM PLASTER SURFACES		
	One coat primer and two coats superior quality acrylic emulsion paint for interior and exterior use		
	Ceilings and beams	m <sup>2</sup>	
	ON METAL SURFACES		
1.3.5	Prepare surfaces and remove all loose material, apply two coats 'Plascon' Nuroof Acrylic' roof paint, colour to client's specification		
	On roof sheeting	m <sup>2</sup>	
1.3.6	Prepare surfaces and remove all loose material, paint surfaces with 'StonCor Carboline 193' epoxy primer and applying one coat 'StonCor Carboline 134' two component re-coatable polyurethane gloss paint applied to a minimum dry film thickness of 75 microns on galvanised steel all in accordance with the manufacturer's instructions		
	Members of lattice columns and beams	m <sup>2</sup>	
	PAINTWORK, ETC. TO PREVIOUSLY PAINTEDWORK		
	ON INTERNAL FLOATED PLASTER SURFACES		
1.3.7	Prepare surfaces and remove all loose material		

	and apply two coats "Plascon Wall and All Pure Acrylic' paint, colour to client's approval		
	Walls	m <sup>2</sup>	
<b>1.3.8</b>	Prepare surfaces and remove all loose material, apply two coats 'Plascon Floor Paint' colour to client's approval		
	On floors	m	
	ON EXTERNAL FLOATED PLASTER SURFACES		
<b>1.3.9</b>	Prepare surfaces and removed all loose material and apply two coats "Plascon Wall and All Pure Acrylic' paint, colour to client's approval		
	Walls	m <sup>2</sup>	
	Bands on windows	m <sup>2</sup>	
	ON INTERNAL GYPSUM PLASTER SURFACES		
<b>1.3.10</b>	Prepare surfaces and remove all loose material, apply one undercoat paint and two coats 'Plascon Super Universal Enamel' paint, colour to client's specification		

	doors	m <sup>2</sup>	
	Roller shutter doors	m <sup>2</sup>	
<b>1.3.11</b>	Sand down and apply three coats 'Woodgard' exterior timber varnish all in accordance with the manufacturer's instructions		
	Doors	m <sup>2</sup>	
	Door frames, etc.	m <sup>2</sup>	
	Roof timbers at eaves and verges	m <sup>2</sup>	
	Skirtings, rails, etc. not exceeding 100mm girth	m	
	On trusses	m <sup>2</sup>	
<b>1.3.12</b>	Prepare surfaces and remove all loose material, and apply two coats 'Plascon Wall and All Pure Acrylic' paint, colour to client's approval		
	Ceilings and beams	m <sup>2</sup>	
	Soffit of roof slab projections	m <sup>2</sup>	
	Edges of roof slab	m <sup>2</sup>	

<b>1.3.13</b>	Prepare surfaces and remove all loose material, apply two coats 'Plascon Floor Paint' colour to client's approval		
	On floors	m <sup>2</sup>	
	On stoep	m <sup>2</sup>	
	<b>REDECORATION WORK</b>		
	Redecoration work		
<b>1.3.14</b>	High pressure clean existing surfaces and leave in acceptable condition		
	Face brick walls	m <sup>2</sup>	
	<b>WATERPROOFING</b>		
	The Tenderer is referred to the relevant Clauses in the separate document Model Preambles for Trades (2008 Edition)		
	<b>WATERPROOFING TO ROOFS, BASEMENTS, ETC.</b>		
<b>1.3.15</b>	One layer 'Derbigum SP4' waterproofing membrane sealed by means of 'torchfusion' with 75mm side laps and 100mm end laps, laid under a ten-year insurance backed guarantee, to receive paint or stone protection (e.m)		

	On flat roofs	m <sup>2</sup>	
	PROTECTIVE ROOFING PAINT		
<b>1.3.16</b>	Two coats bituminous aluminium paint		
	On waterproofing to roofs	m <sup>2</sup>	
<b>1.3.17</b>	Brickwork of NFP bricks in class II mortar:		
	Half brick walls.	m <sup>2</sup>	
	One brick walls.	m <sup>2</sup>	
<b>1.3.18</b>	Bagging of 1:3 cement and sand mixture:		
	On brick surfaces.	m <sup>2</sup>	
<b>1.3.19</b>	Brickwork reinforcement		
	150mm Wide reinforcement built in horizontally.	m	
<b>1.3.20</b>	Galvanised hoop iron cramps, ties, etc:		
	30 x 1,6mm Cramp 500mm long with one end	No.	

	fixed to wood and other end built into brickwork.		
<b>1.3.21</b>	<b>Facebrick pointed with flush horizontal and vertical joints:</b>		
	Extra over brickwork for face brickwork.	m <sup>2</sup>	
	Cutting toothings and bonding new face brickwork to existing.	m <sup>2</sup>	
<b>1.3.22</b>	<b>Take delivery of and fix the following:</b>		
	40mm Door 813 x 2032mm high.	No.	
	70 x 70mm Rebated frames.	m	
	18mm Quadrant beads.	m	
	Aluminium hinge with nylon washers.	No.	
	WC indicator bolt.	No.	
	Three lever lockset	No.	

<b>1.3.23</b>	<b>Screeds on concrete:</b>		
	30mm Thick on floors and landings.	m <sup>2</sup>	
<b>1.3.24</b>	<b>Cement plaster on brickwork:</b>		
	On walls.	m <sup>2</sup>	
	On ceilings.	m <sup>2</sup>	
	On narrow widths.	m <sup>2</sup>	
<b>1.3.25</b>	<b>Take delivery of 152 x 152 x 5mm white glazed ceramic tiles and fix to plaster including flush pointing with tinted jointing compound:</b>		
	On walls.	m <sup>2</sup>	
	On narrow widths.	m <sup>2</sup>	
<b>1.3.26</b>	<b>Take delivery of 200 x 200 x 5mm white glazed ceramic tiles and fix to plaster including flush pointing with tinted jointing compound:</b>		
	On walls.	m <sup>2</sup>	
	On narrow widths.	m <sup>2</sup>	
<b>1.3.27</b>	<b>Take delivery of 300 x 300mm ceramic floor tiles and fix to bedding (bedding elsewhere) including flush pointing with tinted waterproof</b>		

	<b>jointing compound:</b>		
	On floors and landings.	m <sup>2</sup>	
	On narrow widths.	m <sup>2</sup>	
	Skirting 100mm high of stretcher course tiles.	m	
<b>1.3.28</b>	<b>Prepare and apply one coat of alkali resistant primer, one undercoat and two coats polyurethane silk enamel paint:</b>		
	On interior walls.	m <sup>2</sup>	
<b>1.3.29</b>	<b>Prepare and brush to remove all loose contaminants, apply one coat alkali resistant primer and two coats acrylic paint:</b>		
	On interior partitions.	m <sup>2</sup>	
	On ceilings and cornices.	m <sup>2</sup>	
<b>1.3.30</b>	<b>One coat extremely durable UV-resistant washable paint:</b>		
	Ceilings and cornices, including priming metal cover strips and nail heads.	m <sup>2</sup>	

	Fascias and barge boards not exceeding 300mm girth.	m	
<b>1.3.31</b>	<b>Two coats wood primer:</b>		
	On backs of frames, linings, etc. not exceeding 300mm wide.	m	
<b>1.4</b>	<b><u>Repairs to sheeting on various conveyors and buildings in the Port of Richards Bay</u></b>		
<b>1.4.1</b>	Replace glass windows with polycarbonate sheeting.	m <sup>2</sup>	
<b>1.4.2</b>	Install steel door with door frame	ea	
<b>1.4.3</b>	Close small holes in roof (mastic glue)	no	
<b>1.4.4</b>	Remove and replace polycarbonate roof sheets	m <sup>2</sup>	
<b>1.4.5</b>	Replace ridge caps	lm	
<b>1.4.6</b>	Replace aluminium or zincalume roof and side wall sheeting	m <sup>2</sup>	
<b>1.4.7</b>	Remove and replace s/steel top speed and other roofing screws including washers	ea	
<b>1.4.8</b>	Access to roofs (Tower access scaffolding) in 3.0m heights, including certification	Each /week	
<b>1.5</b>	<b>Schedule of Cost Components – People Costs</b>		
<b>1.5.1</b>	<u>Normal Time</u>		
	Skilled	hr	
	Semi- Skilled	hr	
	Un- Skilled	hr	

<b>1.5.2</b>	<u>Overtime</u>		
	Skilled	hr	
	Semi- Skilled	hr	
	Un- Skilled	hr	
<b>1.5.3</b>	<u>Sunday Time &amp; Public Holidays</u>		
	Skilled	hr	
	Semi- Skilled	hr	
	Un- Skilled	hr	
<b>1.5.4</b>	Foreman including Vehicle	hr	
<b>1.5.5</b>	Contracts Manager including Vehicle	hr	
<b>1.5.6</b>	Plumber including Assistant and Vehicle	hr	
<b>1.5.7</b>	Electrician including Assistant and Vehicle	hr	
<b>1.5.8</b>	Transportation of Staff to and from surrounding areas, exceeding a 100km radius.	km	
<b>1.5.9</b>	Accommodation and Sleep out allowance per person per night.	ea	

## PART 3: SERVICE INFORMATION

Document reference	Title	No of pages
C3.1	This cover page	1
	Service Information	5
Total number of pages		6

## C3.1: *SERVICE* INFORMATION

### Contents

3.1 Overview of Services .....	3
3.2 Specification of Services .....	4
3.3 Insurance .....	4
3.4 Price & Structure and Payment .....	4
3.5 Access to Site .....	4
3.6 Health and Safety .....	5
3.7 Environmental Management.....	5
3.8 Procurement .....	5-6

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## C3 Service information

The Contractor must assist with specialist tasks for a period not exceeding 24 months in the Port of Richards Bay and surrounding areas. The Contractor shall make his services available on an as and when required basis to assist with the required activities as per the Price List.

The Contractor will be notified of his requirement to assist with the maintaining of TPT assets. He will meet with the RME Representative on site to discuss the works after a formal Task Order is issued. The Contractor/Supplier must familiarise himself with the working environment and conditions in the Port.

The Contractor's Employees must be medically fit and all tools and equipment must pass our criteria's and they shall comply with the Port regulations. The Contractor's employees will be inducted to the various conditions and work areas.

The Contractor/Supplier must be available on a reasonable requested time. 24 hours for normal maintenance activities and 3 hours for emergencies.

All Employees shall comply with Transnet safety regulations and shall wear the minimum PPE required. All site vehicles will have a reversing sirens and orange construction flashing lights.

### 3.1 Overview of the Services

The maintenance of assets includes, but not limited to the following:

- General civil and structural works
- General building works
- Supervision
- Plumbing and drainage
- Ceilings, partitioning and carpentry
- Concrete works including shuttering, fix reinforcing and placing of concrete
- Painting and tiling
- Roofing, cladding, repairs and waterproofing
- Brickwork and plastering
- Removal of existing building and structures (Demolition work)
- Road works, layer works, paving, small tar works and road marking

### 3.2 Specifications of the Services

- a) South African Standard of Civil Engineers "Standard Guidelines for the structural steel SANS 1200H specification.
- b) All structural steel works shall comply with relevant Grade S355JR to EN 10025-2.

### 3.3 Insurance

- a) Refer to NEC3 SC part C1.2 - Contract Data, Data provided by the Purchaser. Clauses 8 – Risks and insurance.

### 3.4 Price structure and payment

- a) The fees payable by Transnet to the Contractor for the delivery of material shall be in accordance with the schedule of prices agree.
- b) The invoiced amount payable to the Contractor shall be the sum of the charges as set out in the clause above, which shall be determined in accordance with the records, approved delivery notes and such other documents kept by the parties, and which shall be invoiced monthly.
- c) The Contractor shall, after the end of each month, submit to Transnet invoices, certified as correct, specifying the services rendered during the proceeding month and detailing the amount due.
- d) Transnet shall effect payment thirty (30) days after receipt of a valid TAX-invoice from the Contractor.
- e) The Contractor shall correct any error in the invoiced amount per credit note.

### 3.5 Access to site

- a) Access to the work site will via the western or eastern access gates to the Port of Richards Bay and will be subjected to the Transnet Security requirements and regulations. The Supplier will be responsible for obtaining the access permits for himself, his staff and delivery vehicles.
- a) The Drivers and Employees need to comply with the site Safety and must at all times wear correct PPE and the vehicles must also have orange construction flashing lights and reversing sirens.

### **3.6 Safety Arrangements and Procedural Compliance with the Occupational Health and Safety Act (Act 85 Of 1993) and Applicable Regulations.**

- The Contractor shall accept his obligation to complying fully with the Act and applicable Regulations and with Transnet safety requirements.
- The Contractor shall provide a written Health and Safety plan, the file shall be approved before starting with the work
- The Contractor shall keep a safety file at all times.
- The Contractor shall keep a site diary and instruction book.
- The Contractor shall attend Transnet Freight Rail- RME safety induction training before starting with the work.

### **3.7 Environmental Responsibility.**

- The Contractor shall separate hazardous or non-hazardous waste and where practical waste for recycling prior to disposing thereof.
- The Contractor also undertakes to minimize the amount of waste generated or released, whether it is hazardous or non-hazardous waste, as far as possible to reduce the impact on the Environment.

The Contractor undertakes to dispose of all waste generated, albeit hazardous or non- hazardous waste in a responsible manner and submit proof of all disposal documents to the Project Engineer

### 3.8 Procurement

- When the responsible person as per each SAP Purchase Order certifies payment following an assessment date, the *Supplier* complies with the *Employer's* procedure for invoice submission.
- The invoice states the following:
  - Invoice addressed to Transnet SOC Ltd;
  - Transnet Limited's VAT No: 4720103177;
  - Invoice number;
  - The *Supplier's* VAT Number; and
  - The Contract number
  - Purchase order number
  - The invoice contains the supporting detail
- The invoice is presented either by post or by hand delivery.
- Invoices submitted by post are addressed to:  
Transnet Freight Rail  
PO Box 20064  
Empangeni  
3880
- Invoices submitted by hand are presented to:  
Transnet Freight Rail  
Malahle House, 4 Kiewet Street, Empangeni, 3880.
- The invoice is presented as an original.