



TRANSNET FREIGHT RAIL
a Division of
TRANSNET LIMITED
(Registration No. 1990/000900/06)

REQUEST FOR QUOTATION ("RFQ")

RFQ NUMBER: WRAC-SLD-7336

**DESCRIPTION: REHABILITATION OF HYDROCARBON CONTAMINATED AREAS
AND SUPPLY OF TRACK ABSORBENT MATS AT TOTAL AND GROUND ZERO
LOCOMOTIVE REFUELING SITES AT KUMBA IRON ORE SISHEN MINE,
NORTHERN CAPE**

ISSUE DATE : 17 MAY 2011
CLOSING DATE : 07 JUNE 2011
OPTION DATE : 30 SEPTEMBER 2011
CLOSING TIME : 10H00

SITE / INFORMATION SESSION: 26 May 2011
VENUE : Sishen Mines, Hendrik van Eck Street, Kathu, 8446, Northern Cape
Province, South Africa
TIME: 10h00.

N.B All tenderers are requested to make arrangements with Mr Livhuwani Ndou
Tel: 051 408 2939 Cell: 083 278 9499 to get access to the site at least 4 days before
the Site / Information session.

TENDER BOX ALLOCATED AT THE CHAIRPERSON TRANSNET FREIGHT RAIL ACQUISITION
COUNCIL, GROUND FLOOR, INYANDA HOUSE 1, 21 WELLINGTON ROAD,
PARKTOWN, AND JOHANNESBURG.

**TENDER ENVELOPE TO BE MARKED AS FOLLOWS: REHABILITATION OF HYDROCARBON
CONTAMINATED AREAS AND SUPPLY OF TRACK ABSORBENT MATS AT TOTAL AND GROUND
ZERO LOCOMOTIVE REFUELING SITES AT KUMBA IRON ORE SISHEN MINE, NORTHERN CAPE.**

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SCHEDULE OF DOCUMENTS

1. Notice to Bidders
2. Requisition for quotation
3. Information Session
4. Scope of Work and General specification
5. Returnable Schedules / Documents
6. Supplier Declaration Form
7. Contractual Safety Clause
8. General Tender Conditions(CSS5-goods)
9. Standard Terms and Conditions of Conduct(US7 – Services)
10. Non-Disclosure
11. Supplier Code of Conduct

"Preview Copy Only"



SECTION 1

RFQ NUMBER: WRAC-SLD-7336

DESCRIPTION: REHABILITATION OF HYDROCARBON CONTAMINATED AREAS AND SUPPLY OF TRACK ABSORBENT MATS AT TOTAL AND GROUND ZERO LOCOMOTIVE REFUELING SITES AT KUMBA IRON ORE SISHEN MINE, NORTHERN CAPE.

NOTICE TO BIDDERS

Quotations are requested from interested Respondents to supply the above-mentioned requirement to TRANSNET FREIGHT RAIL.

On or after 17/05/2011 the RFQ documents may be inspected at, and are obtainable from the office of TRANSNET Freight Rail Tender Advice Centre, Ground Floor, Inyanda 1, 21 Wellington Road, Park town.

A non-refundable tender fee of R100.00 (inclusive of Vat) is applicable per tender (listed below). Payment is to be made to Transnet Freight Rail, Standard Bank Account number 203158598, Branch code 004805. The deposit slip must reflect the tender number and the Company Name.

NOTE: This amount is not refundable.

Receipts to be presented prior to collection of the RFQ.

NAME	:	Goodhope Kunene
Tel	:	(011) 584-0607
Email	:	Goodhope.Kunene@transnet.net

Tenders in duplicate must reach the Chairperson, TRANSNET Freight Rail Acquisition Council, Po box 4244, Johannesburg 2000 before the closing hour on the date shown below, and must be enclosed in a sealed envelope which must have inscribed on the outside:

<p><u>Tender No</u> : WRAC-SLD-7336 <u>Description</u>: Rehabilitation of hydrocarbon contaminated areas and supply of track absorbent mats at total and ground zero locomotive refueling sites at Kumba iron ore Sishen mine, Northern Cape. <u>Closing date and time</u> : 07 June 2011 at 10h00 <u>Closing address</u> (refer options below)</p>
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DELIVERY INSTRUCTIONS FOR THIS RFQ: WRAC-SLD-7336

- 1** **If posted**, the envelope must be addressed to the Chairperson, TRANSNET Freight Rail Acquisition Council, P .O. Box 4244, Johannesburg 2000 and must be dispatched in time for sorting by the Post Office to reach the Chairperson before the closing time of the RFQ. In the event of the late receipt of a Proposal, the Respondent's franking machine impression will not be accepted as proof that the response was posted in time.
- 2** **If delivered by hand**, the envelope is to be deposited in the TRANSNET tender box which is located at the main entrance, Inyanda House, 21 Wellington road, Park town, Johannesburg and should be addressed as follows:

**THE CHAIRPERSON
TRANSNET FREIGHT RAIL ACQUISITION COUNCIL
INYANDA HOUSE
21 WELLINGTON ROAD
PARKTOWN
JOHANNESBURG
2001**

The measurements of the "tender slot" are 500mm wide x 100mm high, and Respondents must please Ensure that response documents or files are not larger than the above dimensions. Responses which are Too bulky (i.e. more than 100mm thick) must be split into two or more files, and placed in separate Envelopes.

It should also be noted that the above tender box is located at the main entrance and is accessible to the public 24 hours per day, 7 days a week.

- 3** **If dispatched by courier**, the envelope must be addressed as follows and delivered to the Office of The Chairperson, TRANSNET Freight Rail Acquisition Council and a signature obtained from that Office.
 1. Please note that this RFQ closes punctually at 10:00 on Tuesday 7 June 2011
 2. If responses are not posted or delivered as stipulated herein, such responses will not be considered and will be treated as "UNRESPONSIVE".
 3. NO EMAIL OR FACSIMILE RESPONSES WILL BE CONSIDERED
 4. The responses to this RFQ will be opened as soon as practicable after the expiry of the time advertised for receiving them.
 5. TRANSNET shall not, at the opening of responses, disclose to any other company any confidential details pertaining to the Quotations received, i.e. pricing, delivery, etc. The names and location of the Respondents will, however, be divulged to other Respondents upon request.
 6. Envelopes must not contain documents relating to any RFQ other than that shown on the envelope.
 7. No slips are to be attached to the response documents. Any additional conditions must be embodied in an accompanying letter. Alterations, additions or deletions must not be made by the Respondent to the actual RFQ documents.



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8. **BROAD-BASED BLACK ECONOMIC EMPOWERMENT (“BBBEE”)**

TRANSNET fully endorses and supports the South African Government’s Broad-Based Black Economic Empowerment Programme and it is strongly of the opinion that all business enterprises have an equal obligation to redress the imbalances of the past. TRANSNET would therefore prefer to do business with business enterprises who share these same values and who are prepared to contribute to meaningful BBBEE initiatives (including and not limited to enterprise development, subcontracting and Joint Ventures) as part of their tender response.

Transnet would accordingly allow a “preference” in accordance with the 10% preference system, as per the Preferential Procurement Policy Framework Act 5 of 2000 (as amended) to companies who provide a BBBEE accreditation Certificate. All procurement and disposal transactions in excess of R30000 will be evaluated accordingly. All transactions below R 30,000 will as far as possible be earmarked for EME’s.

TRANSNET consequently urges Respondents (Large enterprises and QSE’s – see below) to have themselves duly accredited by any one of the Accreditation Agencies **approved** by SANAS (South African National Accreditation System, under the auspices of the DTI).

In terms of Government Gazette No. 32467, Notice No. 810 dated 31 July 2009, as from 1 February 2010 only BBBEE certificates issued by Accredited Verification Agencies of Verification Agencies that are in possession of a valid pre-assessment letter from South African National Accreditation System will be valid.

However accreditation certificates issued by non-accredited verification agencies before 01 February 2010 and which are still within their one (1) year validity period will still be acceptable, until their expiry date provided that the accreditation was done in accordance with the latest codes (i.e. those promulgated on 9 February 2007).

BBBEE Accreditation Certificates issued after the published date i.e. 01 February 2010, by a Verification Agency not approved by SANAS, will NOT be acceptable as from 01 February 2010.

Enterprises will be rated by such Accreditation Agencies based on the following:

(a) **Large Enterprises (i.e. annual turnover >R35 million):**

- Rating level based on all 7 (seven) elements of the BBBEE scorecard
- Enterprises to provide BBBEE certificate and detailed scorecard (to be renewed annually)

(b) **Qualifying Small Enterprises – QSE (i.e. annual turnover >R5 million but <R35 million):**

- Rating based on any 4 (four) of the elements of the BBBEE scorecard
- Enterprises to provide BBBEE certificate and detailed scorecard (to be renewed annually)



(c) **Exempted Micro Enterprises – EME (i.e. annual turnover <R5m are exempted from being rated or verified):**

- Automatic BBBEE Level 4 rating, irrespective of race ownership, i.e. 100% BBBEE recognition
- Black ownership >50% or Black Women ownership >30% automatically qualify as Level 3 BBBEE rating, i.e. 110% BBBEE recognition
- EME's should provide documentary proof of annual turnover (i.e. audited financials) plus proof of Black ownership if Black ownership >50% or Black Women ownership >30% (to be renewed annually) from their Auditors / Accounting Officers

In addition to the above, Respondents who wish to enter into a Joint Venture (JV) or subcontract portions of the contract to BBBEE companies must state in their Tenders / Proposals the percentage of the total contract value which would be allocated to such BBBEE companies, should they be successful in being awarded any business. A rating certificate in respect of such BBBEE JV-partners and/or sub-contractors, as well as a breakdown of the distribution of the aforementioned percentage allocation must also be furnished with the tender response to enable Transnet to evaluate / adjudicate on all tenders received on a fair basis.

Each Respondent is required to furnish proof of its BBBEE status (Certificate and Detailed Scorecard) and ensure that the documentation is valid at the date of Tender Submission as stipulated above to TRANSNET.

Failure to submit your BBBEE Certificate and Detailed Scorecard will result in a score of zero being allocated for BBBEE evaluation.

<p>Turnover: Indicate your company's most recent annual turnover:</p> <p>R.....</p>
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- If annual turnover <R5m, please attach auditors / accounting officers letter confirming annual turnover and percentage black ownership as well as Black Women ownership
- If annual turnover >R5m please attach BBBEE certificate and detailed scorecard from an accredited rating agency.

The DTI has created an online **B-BBEE Registry** (<http://www.dti.gov.za>) in order to provide a central and standardized source of the B-BBEE status of all entities, and to facilitate the flow of this information amongst entities by providing a Unique Profile Number (UPN) per each listing. Existing and prospective suppliers are therefore urged to list their B-BBEE status on the DTI Registry. Hence, entities verified by DTI, will receive the following benefits:

- Their BBBEE status will be verified and confirmed by the DTI, before listing on the Registry
- Listing on the Registry will provide suppliers the option to market themselves on the DTI B-BBEE Opportunities Network. This is a search engine that is designed to help businesses find B-BBEE compliant entities who match specific requirements in terms of the nature of services/goods provided, region, B-BBEE status or other search criteria.

Transnet supports this DTI initiative and will use the DTI Registry to verify prospective and existing suppliers' BBBEE credentials.

Kindly provide Transnet with your DTI B-BBEE UNIQUE PROFILE NUMBER with all tender submissions.



DTI BBEE UNIQUE PROFILE NUMBER:
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.....

Failure to submit your BBEE information in terms of the above-mentioned clauses will result in a score of zero being allocated for BBEE evaluation.

9. COMMUNICATION

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

A respondent may, however, BEFORE THE CLOSING DATE AND TIME, direct any enquiries relating to the RFQ to the TRANSNET employee as indicated in (2) above.

10. RFQ SCHEDULE

Respondents will be contacted as soon as practicable with a status update. At this time short-listed Respondents may be asked to meet with TRANSNET representatives. Respondents are to provide a list of persons who are mandated to negotiate on behalf of their company, together with their contact details.

10.1 INSTRUCTIONS FOR COMPLETING THE RFQ

- (i) Sign one set of documents (sign and date the bottom of each page). This set will serve as the legal and binding copy. A triplicate set of documents is required. This second set can be a copy of the original signed Proposal.
- (ii) Both sets of documents to be submitted to the address specified above.
- (iii) The following returnable documents must accompany all Proposals:
 - The Respondent's latest audited financial statements;
 - The Respondent's valid Tax Clearance Certificate.
 - A CD copy where applicable

11. COMPLIANCE

The Respondent shall be in full and complete compliance with any and all applicable State and Local Laws and Regulations.

12. ADDITIONAL NOTES:

- All returnable documents as indicated in the Proposal Form (Section 3) must be returned with the response
- Changes by the Respondent to its submission will not be considered after the closing date
-
- The person or persons signing the Proposal must be legally authorized by the Respondent to do so (Refer Section 4). A list of those person(s) authorized to negotiate on your behalf must be submitted along with the Proposal
- All prices must be quoted in South African Rand



- TRANSNET reserves the right to undertake post-tender negotiations with the preferred Respondent or any number of short-listed Respondents

NB: Unless otherwise expressly stated, all Proposals furnished pursuant to this Request shall be deemed to be offers. Any exceptions to this statement must be clearly and specifically indicated. TRANSNET reserves the right to reject any or all offers.

**FAILURE TO OBSERVE ANY OF THE ABOVE-MENTIONED REQUIREMENTS
MAY RESULT IN THE PROPOSAL BEING REJECTED.**

13. DISCLAIMERS

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

- modify the RFQ's Goods or Services and request Respondents to re-bid on any changes
- reject any Proposal which does not conform to instructions and specifications which are detailed herein
- disqualify Proposals submitted after the stated submission deadline
- not necessarily accept the lowest priced Proposal
- reject all Proposals, if it so decides
- award a contract in connection with this Proposal at any time after the RFQ's closing date
- award only a portion of the proposed Goods or Services which are reflected in the scope of this RFQ
- split the award of the contract between more than one Supplier
- make no award of a contract

Kindly note that TRANSNET will not reimburse any Respondent for any preparation costs or other work Performed in connection with the Proposal, whether or not the Respondent is awarded a contract.

14. Any PROPOSAL submitted by a Respondent is subject to negotiation and review of the proposed contract by Trans net's Legal Counsel.

NAME OF RESPONDENT:

PHYSICAL ADDRESS:



Indent's contact person:	Name:	_____
	Designation:	_____
	Telephone:	_____
	Cell phone:	_____
	Facsimile:	_____
	Email:	_____

**TRANSNET urges its clients and suppliers to report
Any fraud or corruption
On the part of Transnet' employees to
TIP-OFFS ANONYMOUS: 0800 003 056**

"Preview Copy Only"



SECTION 2

RFQ NUMBER: WRAC-SLD-7336

DESCRIPTION: REHABILITATION OF HYDROCARBON CONTAMINATED AREAS AND SUPPLY OF TRACK ABSORBENT MATS AT TOTAL AND GROUND ZERO LOCOMOTIVE REFUELING SITES AT KUMBA IRON ORE SISHEN MINE, NORTHERN CAPE.

REQUISITION FOR PROPOSAL

Refer Document attached hereto

REQUISITION FOR PROPOSAL

MESSRS:

Tel (011)
 Fax (011)

ISSUE DATE 17-05-2011

CLOSING DATE 07-06-2011 (10h00)

SUPPLY CHAIN SERVICES
Contact: Goodhope Kunene
Tel: 011 584 0607

Prices in South African currency, including all costs.			
Direct to consignees			
ITEM NO:	Description		Price
Total price			
2.Prices must be V.A.T. exclusive			
3. Direct delivered to:			
4.Contact person:		Goodhope Kunene 011 584-0607	



5. COMPULSARY DOCUMENTS

NOTE

5.1. Return of tender documents

The tender documents must be submitted on the closing date in **duplicate** and failure to do so will automatically disqualify your offer.

5.2. The following documents are compulsory, and they must be attached to the tender document. If Not your tender will not be considered.

- a) Tax Clearance Certificate
- b) Supplier Declaration Form
- c) Current Vat Registration No.
- d) BBBEE level certification and Score Card

6. FRAUD HOTLINE

Transnet strives to be fair, equitable and just in all its dealings with tenderers. As such we encourage all tenderers to report any practice, activity or information that they are aware of or become aware of which may result in any perception of or actual fraud being committed against or in the name of Transnet. The hotline details are:-

Hotline telephone: 0800 003 056

Email: transnet@tip-offs.com

Fax: 0800 007 788

All information received will be treated with the utmost confidentiality

7. BUSINESS ADJUDICATION CRITERIA:

Technical:

- Ability to conduct Audit

Commercial offer

- Competitive pricing

BBBEE

- Broad Based Economic Empowerment status of the company.
Provide BBBEE certification



SECTION 3

RFQ NUMBER: WRAC-SLD-7336

DESCRIPTION: REHABILITATION OF HYDROCARBON CONTAMINATED AREAS AND SUPPLY OF TRACK ABSORBENT MATS AT TOTAL AND GROUND ZERO LOCOMOTIVE REFUELING SITES AT KUMBA IRON ORE SISHEN MINE, NORTHERN CAPE.

INFORMATION BRIEFING SESSION:

A **COMPULSORY** Information briefing session will be held at the following venue:

Time : 10h00

Date : 26 May 2011

Venue : Sishen Mines, Hendrik van Eck Street, Kathu, 8446, Northern Cape Province, South Africa

1 ATTENDANCE CERTIFICATE

This is to certify that.....

Representative/s of

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

.....

TRANSNET'S REPRESENTATIVE REPRESENTATIVE

.....

TENDERER'S

DATE :



SECTION 4

RFQ NUMBER: WRAC-SLD-7336

DESCRIPTION: REHABILITATION OF HYDROCARBON CONTAMINATED AREAS AND SUPPLY OF TRACK ABSORBENT MATS AT TOTAL AND GROUND ZERO LOCOMOTIVE REFUELING SITES AT KUMBA IRON ORE SISHEN MINE, NORTHERN CAPE.

Scope of Work

REHABILITATION OF HYDROCARBON CONTAMINATED AREAS AND SUPPLY OF TRACK ABSORBENT MATS AT TOTAL AND GROUND ZERO LOCOMOTIVE REFUELING SITES AT KUMBA IRON ORE SISHEN MINE, NORTHERN CAPE.

1. PURPOSE OF THE CONTRACT

The purpose of the Contract is to arrange for specialist-contracting services of an independent contractor to:-

- Conduct once off rehabilitation of hydrocarbon contaminated areas at Total and Ground Zero Locomotive Refuelling sites at Kumba Iron Ore in Sishen, and
- Once off supply and replacement of new track absorbent mats, removal and disposal of redundant track absorbent mats from Total and Ground Zero locomotive refuelling sites at Kumba mine.

2. BACKGROUND

Transnet Freight Rail operates a dedicated 24/7 transport service for the haulage of iron ore from Kumba Iron Ore Sishen Mine in the Northern Cape to the Port of Saldanha Bay in the Western Cape province. In delivering this service, Transnet Freight Rail employs a mix of both diesel and electrical propelled locomotive engines.

The diesel locomotives fleet consists of predominantly old units which constantly leak oils, resulting in ground pollution especially at the refuelling and staging areas. To address this matter, Transnet Freight Rail is planning to deploy exclusively electrical driven locomotives to operate on the Sishen- Saldanha Iron Ore Export Line (OREX Line). However, this requires upgrading of the power supply on the OREX Line. The electrical power supply upgrade project for OREX Line is currently underway and completion is scheduled for 2015.

Therefore, interim measures / interventions to control and prevent ground pollution due to oil leaks from diesel locomotives are inevitably a necessity at the present juncture. At the Total and Ground Zero refuelling sites, track absorbent mats, as an interim measure, have been laid to prevent and reduce ground pollution due to oil leaks from diesel locomotives. The effectiveness of this measure depends on proper monitoring, care and replacement of redundant track absorbent mats on the sites.



3. SCOPE OF WORK

The successful contractor will undertake the following services:-

- Rehabilitate hydrocarbon contaminated areas under or alongside laid track absorbent mats;
- Remove, transport and dispose of redundant track absorbent mats at the nearest permitted waste disposal site; and
- Supply and lay new track absorbent mats (specifications = **2m X1, 2m**) at Total and Ground Zero locomotive refuelling sites.

NB: Should there be any need for deviation from the above scope of work; the Contractor must obtain a written approval from Transnet Freight Rail Environment, Hazmat, Fire and Emergency Services Office, Western Region, prior to effecting the changes.

4. DELIVERABLES

The successful Contractor shall supply:

- A method statement on how the proposed works will be carried out at the above-mentioned sites.
- Proper and clean refueling sites.
- New track absorbent mats.
- Safe waste disposal certificates from permitted waste disposal sites.
- Reports of services rendered describing how requested service (s) was undertaken including photographic evidence thereof.

5. TO BE SUPPLIED BY TRANSNET FREIGHT RAIL

- Bloemfontein Transnet Freight Rail Environmental Specialist to take the potential Service Providers to the site.
- Site induction and inspection.

6. COSTING

The quote for the proposed services should be priced as follows:

- Price of new track absorbent mats (with each mat having dimensions of 2mX1.2m).
- Actual time spent performing services (e.g. offloading, laying mats, etc) in hours.
- Costs for rehabilitation (price per volume of soil or ballast cleaned) should include costs of rehabilitation product/s (.e.g. amount of oil cap, etc), labour, equipment used, etc.
- Transport (per kilometre [km]) and waste disposal costs (e.g. cost per tonne of absorbent mats to be disposed).
- Report compilation.
- Formal reporting and presentation.
- Disbursements- travel costs (per km), printing, accommodation, etc.

A compulsory Site Inspection and Briefing will take place at Sishen Mine on 14 April 2011. All tenderers are requested to make arrangements with Mr Livhuwani Ndou Tel: 051 408 2939 Cell: 083 278 9499 to get access to the site at least a week before.

Prices quoted shall be deemed inclusive of all costs required to produce the deliverables specified, whether specifically itemised and priced or not.



Disbursements and fees will be payable on an actual basis after the completion of the requested service.

Rates shall remain fixed and quantities quoted shall be deemed the maximum payable to the service provider for providing the deliverables specified.

Prices quoted shall remain fixed for the duration of the contract period and no escalation shall be payable during that period.

The estimated quantities (e.g. number of hours or kilometres) may only be exceeded with prior approval by Transnet Freight Rail.

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SECTION 5

RFQ NUMBER: WRAC-SLD-7336

DESCRIPTION: REHABILITATION OF HYDROCARBON CONTAMINATED AREAS AND SUPPLY OF TRACK ABSORBENT MATS AT TOTAL AND GROUND ZERO LOCOMOTIVE REFUELING SITES AT KUMBA IRON ORE SISHEN MINE, NORTHERN CAPE

RETURNABLE DOCUMENTS

Refer Document attached hereto

C.1.Returnable Schedules / Documents required for tender evaluation purposes

	Returnable Schedules / Documents	YES/NO/N/A	
1	Certificate Of Authority For Joint Ventures (Where Applicable	x	
2	Schedule of the Tenderers Experience	x	
3	Certificate of Attendance at Clarification Meeting	X	
4	Labour Payment Schedule	X	
5	Supplier Declaration form (version2)	X	
6	Letter of Good Standing with the Compensation Commissioner	x	
7	Original / Certified BBBEE Rating Certificate With Detailed Scorecard	X	
8	Statement Of Compliance With Requirements Of The Scope Of Work	x	
9	Certified Copy of Financial Statements (for the past 3 years) including Balance sheets where BBBEE not provided.	x	
10	Certified Copy of Share Certificates CK1 & CK2	x	
11	Certified Copy Of Certificate Of Incorporation and CM29 and CM9	x	
12	Certified Copy of Identity Documents of Shareholders/Directors/Members (Where Applicable)	x	
13	Cancelled Cheque	X	
14	Original current Tax Clearance Certificate	X	
15	Original Vat Registration Certificate	X	
16	Copy of BEE Policy/BEE Plan/Employment Policy/Procurement Policy	X	
17	Proof of Public Liability Insurance of at least R5,000,000 per incident	X	
18	Letters of Good Standing with <ul style="list-style-type: none"> o PSIRA o Compensation and Occupational Injury and Diseases(COID) o Private Security Industry Provident Fund 	X	



SECTION 6

RFQ NUMBER: WRAC-SLD-7336

DESCRIPTION: REHABILITATION OF HYDROCARBON CONTAMINATED AREAS AND SUPPLY OF TRACK ABSORBENT MATS AT TOTAL AND GROUND ZERO LOCOMOTIVE REFUELING SITES AT KUMBA IRON ORE SISHEN MINE, NORTHERN CAPE

Transnet Supplier Declaration/Application

The Financial Director or Company Secretary

Transnet Vendor Management has received a request to load your company on to the Transnet vendor database. Please furnish us with the following to enable us to process this request:

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

NB:

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

IMPORTANT NOTES:

- a) **If your annual turnover is less than R5 million**, then in terms of the DTI codes, you are classified as an Exempted Micro Enterprise (EME). If your company is classified as an EME, please include in your submission, a signed letter from your Auditor / Accountant confirming your company's most recent annual turnover is less than R5 million and percentage of black ownership and black female ownership in the company **AND/OR** BBBEE certificate and detailed scorecard from an accredited rating agency (e.g. permanent SANAS Member), should you feel you will be able to attain a better BBBEE score.
- b) **If your annual turnover is between R5 million and R35million**, then in terms of the DTI codes, you are classified as a Qualifying Small Enterprise (QSE) and you claim a specific BBBEE level based on any 4 of the 7 elements of the BBBEE score-card, please include your BEE certificate in your submission as confirmation of your status.
NB: BBBEE certificate and detailed scorecard should be obtained from an accredited rating agency (e.g. permanent SANAS Member).
- c) **If your annual turnover is in excess of R35million**, then in terms of the DTI codes, you are classified as a Large Enterprise and you claim a specific BEE level based on all seven elements of the BBBEE generic score-card. Please include your BEE certificate in your submission as confirmation of your status.
NB: BBBEE certificate and detailed scorecard should be obtained from an accredited rating agency (permanent SANAS Member).
- d) **To avoid PAYE tax being automatically deducted from any invoices received from you**, you must also contact the Transnet person who lodged this request on your behalf, so as to be correctly classified in terms of Tax legislation.



- e) Unfortunately, **No payments can be made to a vendor** until the vendor has been registered, and no vendor can be registered until the vendor application form, together with its supporting documentation, has been received and processed.
- f) **Please return the completed Supplier Declaration Form (SDF) together with the required supporting documents mentioned above to the Transnet Official who is intending to procure your company's services/products in order that he/she should complete and Internal Transnet Departmental Questionnaire before referring the matter to the appropriate Transnet Vendor Master Office.**

Regards,

Transnet Vendor/Supplier Management *[please substitute this with your relevant Transnet department before sending this document out]*

Supplier Declaration Form

Company Trading Name							
Company Registered Name							
Company Registration Number Or ID Number If A Sole Proprietor							
Form of entity	CC	Trust	Pty Ltd	Limited	Partnership	Sole Proprietor	
VAT number (if registered)							
Company Telephone Number							
Company Fax Number							
Company E-Mail Address							
Company Website Address							
Bank Name					Bank Account Number		
Postal Address						Code	
Physical Address						Code	
Contact Person							
Designation							
Telephone							
Email							
Annual Turnover Range (Last Financial Year)		< R5 Million		R5-35 million		> R35 million	
Does Your Company Provide		Products		Services		Both	
Area Of Delivery		National		Provincial		Local	
Is Your Company A Public Or Private Entity				Public		Private	
Does Your Company Have A Tax Directive Or IRP30 Certificate				Yes		No	
Main Product Or Service Supplied (E.G.: Stationery/Consulting)							
BEE Ownership Details							
% Black Ownership		% Black women ownership		% Disabled person/s ownership			
Does your company have a BEE certificate			Yes		No		
What is your broad based BEE status (Level 1 to 9 / Unknown)							
How many personnel does the firm employ		Permanent		Part time			
Transnet Contact Person							
Contact number							
Transnet operating division							



Duly Authorised To Sign For And On Behalf Of Firm / Organisation			
Name		Designation	
Signature		Date	

Stamp And Signature Of Commissioner Of Oath			
Name		Date	
Signature		Telephone No.	

NB: Please return the completed Supplier Declaration Form (SDF) together with the required supporting documents mentioned above to the Transnet Official who is intending to procure your company's services/products.

2. VENDOR TYPE OF BUSINESS

(Please tick as applicable)

(* - Minimum requirements)

2.1	Indicate the business sector in which your company is involved/operating:		
Agriculture		Mining and Quarrying	
Manufacturing		Construction	
Electricity, Gas and Water		Finance and Business Services	
Retail, Motor Trade and Repair Services		Wholesale Trade, Commercial Agents and Allied Services	
Catering, accommodation and Other Trade		Transport, Storage and Communications	
Community, Social and Personal Services		Other (Specify)	
Principal Business Activity *			
Types of Services Provided			
Since when has the firm been in business?			

2.2	What is your company's annual turnover (excluding VAT)? *									
	<R20k	>R20k <R0.3m	>R0.3m <R1m	>R1m <R5m	>R6m <R10m	>R11m <R15m	>R16m <R25m	>R26m <R30m	>R31m <R34m	>R35m

2.3	Where are your operating/distribution centres situated *	



3. VENDOR OWNERSHIP DETAIL

(Please tick as applicable) (* - Minimum requirements)

3.1	Did the firm previously operate under another name? *		
YES	<input type="checkbox"/>	NO	<input type="checkbox"/>

3.2	If Yes state its previous name:*
Registered Name	<input type="text"/>
Trading Name	<input type="text"/>

3.3	Who were its previous owners / partners / directors?*	
SURNAME & INITIALS		ID NUMBERS
<input type="text"/>		<input type="text"/>
<input type="text"/>		<input type="text"/>
<input type="text"/>		<input type="text"/>
<input type="text"/>		<input type="text"/>

3.4	List Details of current partners, proprietors and shareholders by name, identity number, citizenship, status and ownership as relevant: *							
SURNAME & INITIALS	IDENTITY NUMBER	CITI-ZENSHIP	HDI	DIS - ABLED	GENDER	DATE OF OWNERSHIP	% OWNED	% VOTING
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

3.5	List details of current directors, officers, chairman, secretary etc. of the firm: *					
SURNAME & INITIALS	IDENTITY NUMBER	TITLE	DIS - ABLED	GENDER	% OF TIME DEVOTED TO THE FIRM	CONTACT NUMBER
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

3.6	List details of firms personnel who have an ownership interest in another firm: *				
SURNAME & INITIALS	IDENTITY NUMBER	NAME & ADDRESS OF OTHER FIRM	TITLE IN OTHER FIRM	% OWNED	TYPE OF BUSINESS OF OTHER FIRM
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>



4. VENDOR DETAIL

(Please tick as applicable) (* - Minimum requirements)

4.1	How many personnel does the firm employ? *					
	BLACK	WHITE	COLOURED	INDIAN	OTHER	TOTAL
Permanent						
Part Time						

4.1.1	In terms of above kindly provide numbers on women and disabled personnel? *					
	BLACK	WHITE	COLOURED	INDIAN	OTHER	TOTAL
Women						
Disabled						

4.2	Provide Details of Contact Person/s Responsible for Broad Based Black Economic Empowerment (BBBEE) in the Company *			
	SURNAME	INITIALS	DESIGNATION	TELEPHONE NO.

4.2.1	Is your company a value adding supplier (i.e. registered as a vendor under the VAT Act of 1991, where NPAT + total labour cost > 25% of total revenue)?		
YES		NO	

4.2.2	Is your company a recipient of Enterprise Development Contributions?*		
YES		NO	

4.2.3	May the above mentioned information be shared and included in Transnet Supplier Database for future reference? *		
YES		NO	

4.2.4	If you are successful in the tender/contract (where applicable) and this is awarded to your company / organisation, will this have a positive impact on your employment plans? *		
YES		NO	

4.2.5	If yes (above) kindly provide the following information:					
	BLACK	WHITE	COLOURED	INDIAN	OTHER	TOTAL
Permanent						
Part Time						

4.2.6	In terms of above kindly provide numbers on woman and disabled personnel:					
	BLACK	WHITE	COLOURED	INDIAN	OTHER	TOTAL



Women					
Disabled					

4.2.7	Are any of your members/shareholders/directors ex employees of Transnet?				
YES		NO			

4.2.8	Are any of your family members employees of Transnet?				
YES		NO			

4.2.9	If Yes to points 4.2.7 & 4.2.8, list details of employees/ex-employees				
SURNAME & INITIALS	IDENTITY NUMBER	NAME & ADDRESS OF OTHER FIRM	TITLE IN OTHER FIRM	% OWNED	TYPE OF BUSINESS OF OTHER FIRM

Internal Transnet Departmental Questionnaire (for office use only)

Section 1: To be completed by the Transnet Requesting / Sourcing Department											
TFR		TRE		TPT		TPL		TNPA		TRN	
Create		Amend		Block		Unblock		Once-Off / Emergency			
Extend		Delete		Undele							
Supplier's trading name											
Supplier's registered name											
Please indicate if the Supplier has a contract with sourcing Transnet OD								Yes		No	
If yes please submit a copy of the letter of award											

a) What is being procured from the supplier?				
i. Products only	Yes		No	
ii. Services only	Yes		No	
iii. Labour only	Yes		No	
iv. Mix of services and products	Yes		No	
v. Mix of services and labour	Yes		No	

b) If your answer is **YES** to questions II, III, IV or V in paragraph **a)** above, please indicate whether the relevant **PAYE questionnaires** have been forwarded to the appropriate **Transnet Operational Divisions'** decision making bodies / **Strategic Supply Management** team for a directive /decision on tax withholding from payments to this supplier.

Yes		No	
-----	--	----	--

c) If your reply to **(b)** is **"NO"**, please furnish reasons :

d) Certification and Approval of proposed Vendor Creation/Unblocking/Other Changes by Transnet Official with Appropriate Delegated Authority :



I HEREBY CERTIFY THAT THE TRANSNET DETAILED PROCUREMENT PROCESS (DPP) / PROCUREMENT MECHANISM HAS *IN ALL RESPECTS* BEEN ADHERED TO AND I THEREFORE APPROVE THE PROPOSED VENDOR CREATION/APPROVAL/OTHER CHANGES TO BE EFFECTED ON THE VENDOR MASTER

Name	Grade	Date								Signature
		Y	Y	Y	Y	M	M	D	D	

Tel No:		Fax	
----------------	--	------------	--

Section 2: To be completed by the BEE Department (this section is for Confirmation/Determining of BEE Status)										
NARROW BASED (NB)				BROADBASED (BBBEE)						
BEE O/S	BWBE	DPBE	MR	CONTR. LEVEL	EME: <R5m	QSE: >R5m <R35m		LARGE: >R35m	VALIDITY DATE	
Name	Grade	Date								Signature
		Y	Y	Y	Y	M	M	D	D	
		Y	Y	Y	Y	M	M	D	D	

"Preview Copy"



SECTION 7

RFQ NUMBER: WRAC-SLD-7336

DESCRIPTION: REHABILITATION OF HYDROCARBON CONTAMINATED AREAS AND SUPPLY OF TRACK ABSORBENT MATS AT TOTAL AND GROUND ZERO LOCOMOTIVE REFUELING SITES AT KUMBA IRON ORE SISHEN MINE, NORTHERN CAPE.

TRANSNET LIMITED / CONTRACTORS / SUB-CONTRACTORS

CONTRACTUAL SAFETY CLAUSES WHICH WILL FORM PART OF ANY RESULTING CONTRACT

The parties agree on the following arrangements according to section 37 (2) of the Occupational Health and Safety Act, 1993 (Act 85 of 1993) to ensure compliance by the mandatory with provisions of the Act.

- 1) That the contractor is an “employer” in his own right as defined in section 1 of Act 85 of 1993 and that he must fulfill all his obligations as an employer in terms of the Act.
- 2) The contractor shall comply with the requirements of Act 85 of 1993 in its entirety.
- 3) Where special permits are required, such as electrical switching, hot work permits, etc. the contractor shall obtain them from a person designated by Transnet Limited for this purpose, and all requirements of the contractor must rigidly comply with the permit.
- 4) The contractor shall conduct a risk assessment of the work to be performed by a competent person prior to the commencement of work, to identify risks and hazards that persons may be exposed to, analyse and evaluate identified hazards.
- 5) The contractor shall have a documented Health and Safety Plan based on the risks and hazards identified before commencement of work.
- 6) The Health and Safety Plan shall include the following:
 - 6.1 The safety management structure to be instituted with all appointments in terms of the Act and Regulations
 - 6.2 The safe working methods and procedures to be implemented to ensure work is performed in compliance to the Act.
 - 6.3 The safety equipment, devices and clothing to be made available by the contractor to his employees.
 - 6.4 The site access control measures pertaining to health and safety to be implemented.
 - 6.5 Control measures for ensuring that the Health and Safety Plan is maintained and monitored for the duration of the contract.



- 7) The contractor shall ensure that all work is performed under the close supervision of a person trained to understand the hazards associated with the work performed and who has authority to ensure that the necessary precautionary measures are implemented.
- 8) The contractor must appoint a Health and Safety Co-ordinator to liaise with Transnet Limited on matters pertaining to occupational health and safety.
- 9) The appointed Safety Co-ordinator must liaise at least once a week with the* Health and Safety Section / Risk Manager /Occupational Risk Manager of Transnet Limited.
- 10) The contractor shall furnish the* Health and Safety Section/ Risk Manager/ Occupational Risk Manager of Transnet Limited immediately with full particulars of any sub-contractor which he may involve in the contract in order that the sub-contractor himself can be made aware of all the clauses in this contract pertaining to health and safety.
- 11) The contractor shall stop any subcontractor from executing work which is not in accordance with the Health and Safety Plan or which poses a threat to health and safety of persons.
- 12) The contractor shall ensure that all his employees and visitors undergoes health and safety induction pertaining to the hazards prevalent, proof of such training must be kept on file.
- 13) In the event where the risk assessment reveals the risk relating to working from an elevated position the contractor shall cause the designation of a competent person, responsible for the preparation of a Fall Protection Plan.
- 14) The Fall Protection Plan shall include:
 - 14.1 A risk assessment of all work carried out from an elevated position
 - 14.2 Procedures and methods to address all the identified risks per location
 - 14.3 Evaluation of employees physical and psychological fitness necessary to work at elevated position.
 - 14.4 The training of employees working from an elevated position.
 - 14.5 Procedure addressing the inspection, testing and maintenance of all fall protection equipment.
- 15) The contractor shall advise the * Health and Safety Section / Risk Manager/ Occupational Risk Manager of Transnet Limited of any hazardous situations which may arise from work being performed either by the contractor or his sub-contractor.
- 16) Copies of all appointments required by the act must be given to * Health and Safety Section / Risk Manager / Occupational Risk Manager of Transnet Limited.
- 17) The contractor shall ensure that a Health and Safety File is available which shall include all documentation as required by the Act, copy of his and his subcontractors Risk Assessment and Health and Safety Plan.
- 18) All incidents referred to in Section 24 of the Act involving the contractor and his subcontractor on Transnet Ltd premises, shall be reported as prescribed. Transnet Ltd hereby obtains an interest in the issue of any investigation, formal inquiry conducted in



terms of Section 31 and 32 of the Act into any incident involving the contractor, his subcontractor, any person or machinery under his control on Transnet Ltd premises.

- 19) No alcohol or any other intoxicating substance shall be allowed on Transnet Ltd premises. The contractor shall not allow anyone under or suspected to be under the influence of alcohol or any other intoxicating substance on Transnet Ltd premises.
- 20) A letter of good standing in terms of Section 80 (Employer to register with the Compensation Commissioner) of the Compensation for Occupational Injuries and Disease Act 1993 (Act 130 of 1993) must also be furnished.
- 21) All clauses in the contract pertaining health and safety forms an integral part of the contract and if not complied with may be construed as breach of contract.

*As applicable

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SECTION 8

GENERA
L
TENDER
CONDITIONS

FORM CSS5 (REVISED FEBRUARY 2007)

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1. GENERAL

Respondent's signature

27
Date and company stamp



All tenders and subsequent contracts and orders shall be subject to the following procedures as laid down by Transnet Limited herein after referred to as "Transnet" and are to be strictly adhered to by Tenderers (where applicable).

2. LODGING OF TENDER

- 2.1 Tenders shall be lodged with Transnet not later than the closing date and time specified for the receipt thereof, in accordance with the directions issued with tender documents.
- 2.2 Tenders shall be transmitted in a sealed envelope and placed in the Tender Box at a venue stipulated in the Request for Tender (RFT) or Request for Proposals (RFP) or Request for Quotations (RFQ), with the tender number and subject endorsed on the left hand bottom corner of the envelope. This condition shall NOT apply if tenders are submitted by means of a private computerised system.
- 2.3 Tenders may be transmitted electronically to a specified e-mail address, or by facsimile to a specified fax number, all of which will be stipulated in the RFT, RFP, or RFQ (collectively Tender Documents) whatever the case may be. Such Tenders will if delivered on or before the closing date and hour set out in Tender Documents for receiving tenders will be accepted by Transnet if the Tenderer's name, the items tendered for, the tendered price of each item (or one inclusive price where this is required) are all clearly stated, provided however that the tender is confirmed by a letter on the Tenderer's official letterhead and signed by the same person who signed the tender document on behalf of the tenderer, or the official tender form duly completed, is posted or forwarded by courier service not later than the closing date for the receipt of tenders

3. USE OF TENDER FORMS

Where special forms are issued by Transnet for the submission of tenders, Tenderers are required to submit their tenders in the appropriate spaces on such official forms and not on office stationery bearing their own special conditions of tender; non-compliance with this conditions may result in the rejection of a tender. Tenderers must delete items on the tender form for which they have not quoted or where the price has been provided for elsewhere in the tender documents.

4. THE RAISING OF A CHARGE FOR PLANS, SPECIFICATIONS, TENDER FORMS AND SAMPLES

- 4.1 A non-refundable charge may be raised for tender forms, plans, specifications and samples depending on the nature, magnitude and value of technical information or samples supplied.
- 4.2 If, any of the drawings and specifications referred to in tender forms are the official publications of recognised standardising bodies, copies of such drawings and specifications shall be acquired by Tenderers at their own expense.

5. DEFAULTS BY TENDERERS

- 5.1 If the Tenderer, after he has been notified of the acceptance of his tender/quotation fails to:-
 - 5.1.1 enter into a formal memorandum of agreement when called upon to do so in terms of clause 14, within such period as Transnet may specify; or
 - 5.1.2 accept an order in terms of the tender/quotation; or
 - 5.1.3 when called upon to do so, fails to furnish satisfactory security of the fulfilment of the contract in terms of clause 15;

Transnet may, in any such case, without prejudice to any other legal remedy which it may have, proceed to accept any other tender/quotation or, if it is necessary to do so, call for tenders/quotations



afresh, and may recover from the defaulting Tenderer any additional expense incurred by it in calling for new offers or in accepting a lower offer.

5.2 If any person or enterprise or firm which has submitted a tender/quotation, concluded a contract, or in the capacity of agent or subcontractor, has been associated with such tender or contract:

5.2.1 Has withdrawn such tender/quotation after the advertised date and hour for the receipt of tenders; or

5.2.2 has, after having been notified of the acceptance of his tender/quotation, failed or refused to sign a contract when called upon to do so in terms of any condition forming part of the tender documents; or

5.2.3 *has carried out any contract resulting from such tender/quotation in an unsatisfactory manner or has breached any condition of such contract; or*

5.2.4 has offered, promised or given a bribe in relation to the obtaining or the execution of such contract, or

5.2.5 has acted in a fraudulent or improper manner or in bad faith towards Transnet or any Government Department or towards any public body, company or person; or

5.2.5 has made any incorrect statement in the affidavit or certificate referred to in Clause 11 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; or

5.2.6 caused Transnet damage, or to incur costs in order to meet the Contractor's requirements and which could not be recovered from the Contractor; then

a tender from any such person or enterprise shall be disqualified and the person, enterprise or firm including any directors shall subject to clause 5.3 be disqualified from tendering for any Transnet business ..

5.3 Any person, or enterprise, or firm against whom a decision has been given under the provisions of clauses 5.2.2 or 5.2.4 may make representations to the Group Chief Executive of Transnet, whose decision shall be final.

5.4 Any disqualification imposed upon any person or enterprise, unless Transnet determines otherwise, shall apply to any other enterprise under the same or different names of disqualified persons or enterprise, or firm or associates and shall for avoidance of doubt also be applied to any agent or employee of the person or enterprise concerned.

6. CURRENCY



Prices must be quoted in the currency of the Republic of South Africa in respect of local supplies. Prices in any other currency may be rejected by Transnet save where such price is quoted for imported Goods only.

7. EXCHANGE AND REMITTANCE

The Contractor should note that where the whole or a portion of the contract or order value is to be remitted overseas, Transnet shall, if requested to do so by the Contractor, effect payment overseas direct to the principal/supplier of such percentage of the contract or order value as may be stipulated by the Contractor in his tender documents and any variation in the amount to be so paid which may arise as a result of fluctuations in the rate of exchange involved, will be for the account of the Contractor.

- 7.1 The Contractor who desires to avail himself of the aforementioned facility must at the same time of tendering furnish the information called for in the clause "Exchange and Remittance" of the tender document and also furnish full details of the principals/suppliers to whom payment is to be made.
- 7.2 The Contractor shall at his own cost obtain forward exchange cover on foreign currency to protect himself against any currency rate fluctuation risks, for the duration of any resulting contract or order. Transnet will NOT accept any fluctuations in the rate of exchange at the time when payments are made.
- 7.3 Should it be necessary for the Contractor to establish a letter of credit through a bank, where the whole or a portion of the contract or order value is to be remitted overseas by him against a contract or order and where the Goods are to be collected by or delivered to Transnet's overseas forwarding agent, then such letter of credit must clearly stipulate that for payment purposes an "Original Ocean Bill of Lading" will be the only recognised document as proof that the Goods have been collected/delivered. Failure to comply with this requirement will result in delays in delivery and payment of the Goods.

Transnet will not recognise any claim for adjustment of the order and/or contract price under clause 7.1 if the increase in price arises after the date on which the Goods were to be delivered, as set out in the order and/or contract, or any subsequent agreement between the parties,

8. ACCEPTANCE OF TENDER/QUOTATION

- 8.1 Transnet does not bind itself to accept the lowest or any tender/quotation nor will it give any reasons for the rejection of a tender / quotation. Transnet reserves the right to accept any tender in whole or in part.
- 8.2 Upon the acceptance of a tender/quotation by Transnet, the parties shall be bound by the General Tender Conditions and the Standard Terms and Conditions of Contract (US7)
- 8.3 Where the acceptance of the Tenderer is delivered by letter, the SA Post Office shall be regarded as the agent of the Tenderer and delivery of such notice of acceptance to the SA Post Office shall be considered as delivery to the Tenderer.
- 8.4 Where the Tenderer has been informed per facsimile message of the acceptance of his tender/quotation, the acknowledgement of receipt transmitted by his facsimile machine shall be regarded as proof of delivery to the Tenderer.



9. LAW GOVERNING CONTRACT

The law of the Republic of South Africa shall govern the contract created by the acceptance of a tender/quotation. The *domicilium citandi et executandi* shall be a place in the Republic of South Africa to be specified by the Tenderer in his tender/quotation at which all legal documents may be served on the Tenderer who shall agree to submit to the jurisdiction of the courts of the Republic of South Africa. Tenderers from abroad shall, therefore, state in their tender/quotation the name of their accredited agent in the Republic of South Africa who is empowered to sign any contract which may have to be entered into in the event of their tender/quotation being accepted and to act on their behalf in all matters relating to the contract.

10. IDENTIFICATION

If the Tenderer is a company, the full names of the directors shall be stated in the tender/quotation. If the Tenderer is a partnership or an individual trading under a trade name, the full names of the partners or of such individual, as the case may be, shall be furnished.

11. FORMAL NOTIFICATION REGARDING NAME OF SUCCESSFUL TENDERER

In the case of tenders returnable to the Chairman of the Tender Board, unsuccessful Tenderers will be formally notified of the names of successful Tenderers as soon as possible after the closing date for receipt of the tender in question. In the case of tenders/quotations returnable to Transnet, unsuccessful Tenderers shall, upon application, be furnished with similar information.

12. UNAUTHORISED COMMUNICATION ABOUT TENDERS

12.1 Where tenders are returnable to the Chairman of the Tender Board, Tenderers may at any time communicate with the Chairman on any matter relating to their tender but, in the absence of written authority from the Chairman, no communication on a question affecting a service, purchase, sales or disposal of assets or Goods, which is the subject of a tender, shall take place between Tenderers or other potential suppliers or any member of the Tender Board or official of Transnet during the period between the closing date for the receipt of the tender and the date of the notification of the successful Tenderer. A tender, in respect of which any such unauthorised communication has occurred, may be disqualified.

12.2 Where tenders are returnable to Transnet, Tenderers may at any time communicate with the designated representative of Transnet to whom tenders/quotations are to be submitted on any matter relating to their tender / quotation but, in the absence of written authority from the designated representative of Transnet concerned, no communication on a question affecting a service, purchase, sale or disposal of assets or Goods which is the subject of a tender/quotation shall take place between any other officer of Transnet and Tenderers or other potential suppliers during the period between the closing date for the receipt of the tender / quotation and the date of notification of the successful Tenderer. A tender / quotation, in respect of which any such unauthorised communication has occurred, may be disqualified.



13. TENDERER'S SAMPLES

- 13.1 If samples are required from Tenderers, such samples shall be suitably marked with the Tenderer's name and address, the tender number and the tender item number and must be despatched in time to reach the addressee as stipulated in the tender form on or before the closing date of the tender. Failure to submit samples by the due date may result in the rejection of a tender.
- 13.2 Transnet reserves the right to retain samples furnished by Tenderers in compliance with tender conditions.
- 13.3 Payment will not be made for successful Tenderer's samples that may be retained by Transnet for the purpose of checking the quality and workmanship of Goods delivered in execution of contracts.
- 13.4 If unsuccessful Tenderer's samples are retained and Tenderers require payment therefor, Transnet will make payment at the tendered price of the Goods. If it is not desired to retain such samples and Tenderers require their return Transnet will accept responsibility for its return to the Tenderer's nearest station or siding in South Africa.
- 13.5 Transnet will not accept liability for samples furnished by Tenderers on their own initiative. If Tenderers desire such samples returned it will be at their own risk and cost.

14. CONTRACT DOCUMENTS

The contract documents will comprise the General Tender Conditions the special conditions (if applicable) and General Terms and Conditions of Contract (US7)(Revised February 2007) which will constitute the contract upon receipt by the Tenderer of the acceptance letter, subject to all amendments proposed by the parties.

15. SECURITIES

- 15.1 The successful Tenderer, when called upon to do so, shall provide security to the satisfaction of Transnet for the due fulfilment of a contract or order. Such security shall be in the form of:
- 15.1.1 Government or approved Municipal stocks in negotiable form; or
- 15.1.2 a deed of suretyship furnished by an approved bank, building society, insurance or guarantee corporation carrying on business in South Africa.
- 15.2 The security may be applied in whole or part at the discretion of Transnet to make good any loss or damage which Transnet may incur in consequence of a breach of the contract or any part thereof.
- 15.3 For the purpose of clause 15.1.2 Transnet will supply "Deed of Suretyship" forms to the successful Tenderer for the completion by his sureties, and no guarantee in any other form will be accepted. Copies of such form will be supplied to Tenderers on request. For this purpose "Deed of Suretyship" forms will be provided which shall be completed and returned to Transnet or a designated official by the successful Tenderer within 30 (thirty) days from the date of the letter of acceptance. No payment will be made until the forms, duly completed, are delivered to Transnet. Failure to return the Deed of Suretyship within the prescribed time shall, save where prior extension has been granted, entitle Transnet without notice to the tenderer to cancel the agreement with immediate effect. .



- 15.4 The security shall be an amount which will not exceed 5 (five) percent of the value of the contract or order unless otherwise stipulated in the tender form.
- 15.5 *Additional costs incurred by Transnet for visits or extensions to visits necessitated by reason of default on the part of the successful Tenderer will be for the account of the successful Tenderer.*

16. DELIVERY BASIS

- 16.1 The prices quoted must be on a delivered price basis in accordance with the terms and at the delivery point or points specified in Transnet's tender forms. Tenders for supply on any other basis of delivery are liable to disqualification. The time for delivery stated by the Tenderer must be inclusive of all non-working days or holidays, and of periods occupied in stocktaking or in effecting repairs to or overhauling plant, which would ordinarily occur within the delivery period given by the Tenderer.
- 16.2 *Tenderers must furnish their tender prices under the appropriate columns in the 'Scope of Requirements' of the tender on the following basis :*
- 16.2.1 Local Supplies - column A i.e. Prices for Goods to be manufactured, produced or assembled in the RSA, or imported supplies held in South Africa. to be quoted on a Delivered RSA named Destination basis.
- 16.2.2 Imported Supplies - column B i.e. Prices for Goods to be imported from all sources to be quoted on a DDU, delivered end destination RSA basis (Delivered, Duty Unpaid to named Destination, ICC Incoterms 2000)
- 16.3 *The attention of Tenderers is drawn to the fact that should Transnet's departmental railage account numbers be used in respect of "Delivered Prices", Transnet reserves the right to cancel such contract/order with immediate effect and enforce the conditions of clause 15 headed "Rights on Cancellation" of form US7 (Revised February 2007).*

17. SHIPMENT

- 17.1 Where shipping is arranged by the successful Tenderer :

The successful Tenderer shall arrange direct with a shipping company for the Ocean Bill of Lading to be drawn in favour of Transnet or a designated official, at a port of entry.

To ensure prompt clearance at RSA port of entry.

- 17.1.1 the first set of negotiable shipping documents shall be posted within a maximum period of three (3) days from date of shipment to Transnet or a designated official; and
- 17.1.2 within twenty-four (24) hours of mailing the first set of documents, the second set of negotiable documents shall be posted to Transnet or designated official.

The successful Tenderer shall be liable for all costs, including harbour storage charges, incurred in consequence of breach of any of the abovementioned provisions.

- 17.2 Where shipping is arranged by the forwarding agent appointed by Transnet:

Shipping arrangements by Transnet's nominated forwarding agent shall be made direct with a shipping company to allow the Ocean Bill of Lading to be drawn in favour of Transnet or designated official at a port of entry.



17.2.1 *It should be noted that when Goods are offered on a free on board an ex manufacturer's/supplier's works basis, Transnet reserves the right to nominate its own forwarding agent on condition that the successful Tenderer will not recover any additional costs from Transnet.*

17.2.2 It will be a condition that all Goods collected by or delivered to Transnet's forwarding agent against any resulting contract/order must be accompanied by the overseas manufacturer's/supplier's commercial invoices (which must clearly reflect Transnet's contract / order number) and packing lists/specifications or be handed to Transnet's forwarding agent not later than 3 (three) days prior to the vessel's scheduled date of departure.

17.2.3 In respect of airfreight shipments the Executive Manager, South African Airways, Johannesburg International Airport must be reflected in the column "Sold to" appearing on the overseas supplier's/manufacturer's commercial invoices.

It is imperative that the above be strictly adhered to as Goods cannot be cleared by Transnet at a port of entry in the RSA without the required documentation.

Any demurrage charges applicable to the Goods which may become payable due to late or non-submission of the aforementioned documentation will be for the successful Tenderer's account.

18. EXPORT LICENCE

The award of this tender/quotation for Goods to be imported may be subject to the issue of an export licence. If necessary, the manufacturer or his overseas agent shall be required to apply for such licence.

19. QUALITY OF MATERIAL

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

20. PRICES SUBJECT TO CONFIRMATION

20.1 A tender/quotation with prices which are subject to confirmation will not be considered.

20.2 Tenders, where firm prices are quoted for the duration of any resulting order and or contract, will receive precedence over prices which are subject to adjustment.

21. DELETION OF ITEMS NOT TENDERED FOR

The Tenderer must delete items for which he does not tender or, if the price had been included elsewhere in the tender.

22. ALTERATIONS MADE BY THE TENDERER TO TENDER PRICES

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



23. VALUE ADDED TAX

- 23.1 In respect of local supplies, i.e. Goods to be manufactured, produced or assembled in the RSA, or imported supplies held or already in transit to South Africa, the prices quoted by the Tenderer are to be exclusive of Value added tax (VAT) which must be shown separately at the standard rate on the invoice.
- 23.2 In respect of imported supplies, i.e. Goods to be imported from all sources where Transnet is responsible for the clearance of the supplies at the port of entry, Value Added Tax (VAT) will be paid by Transnet upon arrival of the Goods in the Republic of South Africa.
- 23.2.1 The invoicing by the Tenderer on behalf of his overseas principal, represents a supply made by the principal, which is not subject to VAT.
- 23.2.2 The Tenderer's invoice/s for the local portion only (i.e. the "commission" for the services rendered) must show the Value Added Tax (VAT) separately at zero percent if the services are in compliance with section 11(2) of the VAT Act. No. 89 of 1991

24. TERMS AND CONDITIONS OF TENDER

The Tenderer shall adhere to the standard terms and conditions of contract a set out in Form US7 (Revised February 2007), copy attached hereto.

Should the Tenderer find any conditions unacceptable, he should indicate which conditions are unacceptable and offer an alternative. Please note that any alternative offered shall be subject to and compared with acceptance of the US7 or alternatives offered by other Tenderers, except penalties for late deliveries, the exclusion of which may disqualify the tender, save where indicated otherwise by Transnet.

25. IMPORTANT NOTICE TO TENDERERS REGARDING PAYMENT

25.1 *Method of Tendering:*

- 25.1.1 The attention of the Tenderer is directed to clause 8 of form US7 (Revised February 2007) which sets out the conditions of payment on which tender price/s shall be based.
- 25.1.2 However, in addition to the foregoing the Tenderer is invited to submit offers based on alternative methods of payment and/or financing proposals.
- 25.1.3 The Tenderer is required to give full particulars of the terms that will be applicable to his alternative offers as the financial merits thereof will be evaluated and taken into consideration when the tender is adjudicated.
- 25.1.4 The Tenderer must, therefore, in the first instance, tender strictly in accordance with clause 25.1.1 above.
- 25.1.5 The Tenderer shall clearly indicate the terms of payment. Alternative terms of payment offered shall clearly indicate the manner in which the main offer is affected, with respect to each country of origin.
- 25.1.6 Failure to comply with clauses 25.1.4 and 25.1.5 above may preclude a tender from further consideration.

NOTE: The successful Tenderer shall, where applicable, be required to furnish a guarantee covering any advance payments.

25.2 *Conditional Discount:*



Tenderers offering prices which are subject to a conditional discount applicable for payment within a specific period are to note that the conditional period will be calculated as from the date of receipt by Transnet of the Contractor's month end statement reflecting the relevant invoice/s for payment purposes, provided the conditions of the order or contract have been fulfilled and the invoice is correct in all respects as referred to in the contract or order.

Incomplete and/or incorrect invoices shall be returned and the conditional period will be recalculated from the date of receipt of the correct documents.

26. QUANTITIES (PERIOD CONTRACTS ONLY)

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

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

The estimated planned quantity/quantities likely to be ordered by Transnet per annum is/are furnished in Annexure A attached to the relevant tender. For avoidance of doubt the estimated quantities are estimates and Transnet reserves the right to order quantities sufficient for its operational requirements.

26.1 DELIVERY PERIOD:

26.1.1 **FIXED QUANTITY REQUIREMENTS**

It will be a condition of any resulting contract/order that the delivery period embodied therein will be governed by the provisions of clause 13, 14 and 15 of form US7 (Revised February 2007).

26.1.2 **PERIOD CONTRACTS**

It will be a condition of any resulting contract/order that the delivery period embodied therein will be governed by the provisions of clause 13, 14 and 15 of form US7 (Revised February 2007).

26.1.3 **PROGRESS REPORT**

The successful Tenderer may be required to submit periodical progress reports in regard to the delivery of the Goods.

26.1.4 **EMERGENCY DEMANDS: AS AND WHEN REQUIRED**

If, due to breakdowns, derailments, storm damage or similar unforeseen circumstances, supplies of the material covered by the tender are required at short notice for immediate delivery, the Contractor will be given first right of refusal of such business. If he is unable to meet the desired delivery period, Transnet reserves the right to purchase such supplies as may be required to meet the emergency outside the contract if immediate delivery can be offered from any other source.

The "Non-Fulfilment of Contract Orders" clause will not be applicable in these circumstances.



26.1.5 NON-FULFILMENT OF CONTRACT ORDERS: (AS AND WHEN REQUIRED, PERIOD CONTRACTS ONLY)

The tender is subject to conditions contained in clauses 13, 14 and 15 of form US7 (Revised February 2007).

27. PACKING AND MARKING

27.1 TIMBER USED FOR CRATING, PACKING AND WEDGING, ETC.

Attention is directed to the Forest Act, 1968 (Act 72 of 1968), or any amendments thereto, or regulations promulgated in terms thereof.

27.2 PRINTING ON CONTAINERS AND PACKINGS

Printing appearing on all containers and packing of South African manufactured Goods shall be in English.

27.3 USE OF MOBILE CONTAINERS AND SARTAINERS

Mobile containers and sartainers are not to be used for Goods which are to be despatched "FT" (Free Traffic).

28. PLANS, DRAWINGS, DIAGRAMS, SPECIFICATION, ETC.

28.1 COPYRIGHT IN PLANS, DRAWINGS, DIAGRAMS AND DOCUMENTS COMPILED BY CONTRACTOR FOR PURPOSE OF CONTRACT WORK:

The successful Tenderer grants to Transnet a non-exclusive licence, in accordance with the provisions of section 22 of the Copyright Act, 1978,

- (a) to copy any plan, diagram, drawing, specification, bill of quantities, design calculation or other similar document made, other than under the direction or control of Transnet, by the Tenderer in connection with the tender;
- (b) to make free and unrestricted use thereof for its own purposes;
- (c) to provide copies thereof to consultants of Transnet to be used by them for the purposes of the consultancy; and
- (d) to provide other parties with copies thereof for the purpose of tenders invited by it.

The Tenderer, furthermore, if any plan, diagram, drawing, specification, bill of quantities, design calculation or other similar document made, other than under the direction or control of Transnet a similar non-exclusive licence for the purposes set out herein.

The provisions of this clause 28.1 shall not apply to documents made, in the case of equipment to be supplied, in connection with the manufacturing process of the equipment supplied but only to the equipment supplied itself. No separate or extra payment shall be due by Transnet in respect of any non-exclusive licence granted in terms of this clause.

28.2 DRAWINGS AND SPECIFICATIONS



In addition to what may be stated in any tender form in this connection, the Tenderer should note that, unless notified to the contrary by Transnet or a designated official by means of an official amendment to the tender form he is required to tender for Goods strictly in accordance with the drawings and specifications supplied by Transnet notwithstanding that he may be aware that alterations or amendments to such drawings or specifications are contemplated by Transnet.

28.3 TENDERER'S DRAWINGS

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

28.4 FOREIGN SPECIFICATIONS

The Tenderer quoting for Goods in accordance with foreign specifications, other than British and American standards, is to submit translated copies of such specifications with the tender. In the event of any departures or variations between the foreign specification(s) quoted in the tender form, full details regarding such departures or variations must be furnished by the Tenderer in a covering letter attached to the tender. If this condition is not complied with by the Tenderer, the tender may be disregarded.

28.5 USE OF SI ("Systeme International") UNITS

The Tenderer must ensure that all capacities, physical dimensions and sizes of material and fasteners are in units complying with the SI unless otherwise specifically called for by Transnet.

29. VISITS TO FOREIGN COUNTRIES

- 29.1 Tenderers must furnish details in a covering letter if it is considered necessary that employees of Transnet should carry out inspection and/or witness any tests at the premises of the successful Tenderer or his subcontractors in the country of origin for the purpose of product demonstration and/or final acceptance or for any other reason.
- 29.2 If the Tenderer considers overseas visits to be necessary he must provide the following information in a covering letter in respect of each visit:
- 29.2.1 Countries and places to be visited.
 - 29.2.2 Number of employees and disciplines involved.
 - 29.2.3 Number of man days involved.
 - 29.2.4 Motivation for visit.
- 29.3 Transnet will make all arrangements in regard to booking of air journeys, hotel reservations, transport to and from airports, hotels, places of inspection, etc. and all expenses will be for the account of Transnet.
- 29.4 Before a visit is undertaken, such as envisaged in this clause 29, Transnet and the successful Tenderer will agree in writing on the number of employees of Transnet that should undertake the visit and the number of man days involved in the visit.



30. TENDERS BY FOREIGN TENDERERS OR ON THEIR BEHALF

- 30.1 Tenders submitted by foreign Principals may be forwarded direct by the Principals to the Chairman of the Tender Board or to a designated official of Transnet according to whichever officer is specified in the tender documents, or may be so forwarded on the Principal's behalf by their South African representatives and/or agents provided that written proof is submitted that such representative/agent has been duly authorised to act in that capacity by the Principal. Failure to submit such authorisation by the representative/agent shall disqualify the Tender.
- 30.2 When legally authorised to prepare and submit tenders on behalf of their Principals not domiciled in the Republic of South Africa, representatives and / or agents must compile the tenders in the names of such Principals and sign them on behalf of the latter.
- 30.3 South African representatives and / or agents of successful foreign Tenderers must when so required enter into formal memoranda of agreement in the name of their Principals and must sign such agreements on behalf of the latter. In every such case a Legal Power of Attorney from their Principals must be furnished to Transnet by South African representative and/or agents authorising them to enter into and sign such agreements.

Such Powers of Attorney must comply with Government Notice No. 1160 of 27 June 1930 (and any amendments thereto) - "Rules of the Supreme Court of South Africa for the authentication of documents executed outside the Republic for use within the Republic.

The Powers of Attorney must be signed by Principals under the same title as used in the tender documents.

On arrival within the Republic of South Africa these Powers of Attorney are to be completed in terms of Section 8(2) of the Stamp Duties Act No. 77 of 1968, or any amendment thereof.

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

The Power of Attorney must authorise the South African representative or agent to choose *domicilium citandi et executandi* as provided for in Clause 8 of the General Conditions of Transnet Tenders, Contracts and Orders Form US7 (Revised February 2007).

- 30.4 If payment is to be made in South Africa, the Contractor (i.e. the Principals, or the South African agents or representatives), must notify Transnet in writing whether :
- 30.4.1 Cheques are to be drawn for payment to the credit of the Contractor's account at a bank in South Africa, in which case the name and branch of such bank shall be furnished; or
- 30.4.2 Cheques are to be made out in favour of the Contractors and forwarded to their South African agent or representative, in which case such agent or representative, must be duly authorised to sign the receipt on the cheque and discharge it on behalf of his Principals.
- 30.5 The attention of the Tenderer is invited to Clause 15 regarding the provision of security for the fulfilment of contracts and orders and the manner and form in which such security is to be furnished.

31. PREPRODUCTION SAMPLES

Should it be necessary to submit a pre-production sample for approval by Transnet prior to the commencement of delivery of the Goods against any resulting contract, Tenderers are to note that for the purpose of calculating penalties for late delivery (if applicable) in terms of Clause 30 of form US7 (Revised October 2005) the actual contractual delivery date will be considered to be;



31.1 the period offered by the successful Tenderer to submit the pre-production sample calculated as from the seventh day after the date of the letter of acceptance;

PLUS

31.2 the period required by Transnet to approve the pre-production sample calculated as from the date of receipt thereof;

PLUS

31.3 the period offered to effect delivery of the Goods calculated as from the date of approval of the pre-production sample by Transnet.

Tenderers will not be held responsible for late delivery of the Goods resulting from delays on the part of Transnet to approve the pre-production sample.

32. RAILAGE FREIGHT AND OTHER CHARGES

32.1 The Tenderer must indicate whether the quoted price includes rates for inter alia the following:

- transport to port of export;
- forwarding charges
- ocean freight
- marine insurance;
- landing charges;
- dock dues;
- surcharges;
- railage, where possible, otherwise road transportation from port of discharge,

which rates are based on estimated weights and dimensions calculated by the Contractor. In the event of such estimations being exceeded by the actual weights and dimensions, Transnet shall not be liable to pay the Contractor the associated increased costs.

32.2 The Tenderer shall indicate whether the Contract Price is exclusive of customs, import and excise duties, surcharges and VAT.

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SECTION 9

RFQ NUMBER: WRAC-SLD-7336

DESCRIPTION: REHABILITATION OF HYDROCARBON CONTAMINATED AREAS AND SUPPLY OF TRACK ABSORBENT MATS AT TOTAL AND GROUND ZERO LOCOMOTIVE REFUELING SITES AT KUMBA IRON ORE SISHEN MINE, NORTHERN CAPE.

STANDARD TERMS AND CONDITIONS OF CONTRACT (US7 – SERVICES)

Refer Document attached hereto

"Preview Copy Only"



SECTION 10

RFQ NUMBER: WRAC-SLD-7336

**DESCRIPTION: REHABILITATION OF HYDROCARBON CONTAMINATED AREAS
AND SUPPLY OF TRACK ABSORBENT MATS AT TOTAL AND GROUND ZERO
LOCOMOTIVE REFUELING SITES AT KUMBA IRON ORE SISHEN MINE,
NORTHERN CAPE.**

NON-DISCLOSURE AGREEMENT

THIS AGREEMENT is made the day of 2010

BETWEEN:

- (1) **Transnet Limited** ("Transnet") (Registration Number 1990/000900/06) whose registered office is at 49th Floor, Carlton Centre, 150 Commissioner Street, Johannesburg 2001, and
- (2) [.....] ("the Company") (Registration Number) whose registered office is at [.....]

WHEREAS

Transnet and the Company wish to exchange Information (as defined below) and it is envisaged that each party may from time to time receive Information relating to the other in respect thereof. In consideration of each party making available to the other such Information, the parties jointly agree that any dealings between them shall be subject to the terms and conditions of this Agreement which themselves will be subject to the parameters of the Proposal.

IT IS HEREBY AGREED

1. Interpretation

1.1 In this Agreement:-

"Agents" means directors, officers, employees, agents, professional advisers, contractors or sub-contractors, or any Group member;

"Confidential Information" means Information relating to one party (the "Disclosing Party") and/or the business carried on or proposed or intended to be carried on by that party and which is made available for the purposes of the Proposal to the other party (the "Receiving Party") or its Agents by the Disclosing Party or its Agents or recorded in agreed minutes following oral disclosure and any other information otherwise made available by the Disclosing Party or its Agents to the Receiving Party or its Agents, whether before, on or after the date of this Agreement, and whether in writing or otherwise, including any information, analysis or specifications derived from, containing or reflecting such information but excluding information which:-

- (i) is publicly available at the time of its disclosure or becomes publicly available (other than as result of disclosure by the Receiving Party or any of its Agents contrary to the terms of this letter); or



- (ii) was lawfully in the possession of the Receiving Party or its Agents (as can be demonstrated by its written records or other reasonable evidence) free of any restriction as to its use or disclosure prior to its being so disclosed; or
- (iii) following such disclosure, becomes available to the Receiving Party or its Agents (as can be demonstrated by its written records or other reasonable evidence) from a source other than the Disclosing Party or its Agents, which source is not bound by any duty of confidentiality owed, directly or indirectly, to the Disclosing Party in relation to such information;

“**Group**” means any subsidiary, any holding company and any subsidiary of any holding company of either party;

“**Information**” means all information in whatever form including, without limitation, any information relating to systems, operations, plans, intentions, market opportunities, know-how, trade secrets and business affairs whether in writing, conveyed orally or by machine-readable medium;

“**Proposal**” means the aggregation of Transnet’s Request for Information (RFI) and Request for Proposal (RFP).

2. Confidential Information

- 2.1 The Receiving Party will treat and keep all Confidential Information as secret and confidential and will not, without the Disclosing Party’s written consent, directly or indirectly communicate or disclose (whether in writing or orally or in any other manner) Confidential Information to any other person other than in accordance with the terms of this Agreement.
- 2.2 The Receiving Party will only use the Confidential Information for the sole purpose of technical and commercial discussions between the parties in relation to the Proposal or for the subsequent performance of any contract between the parties in relation to the Proposal.
- 2.3 Notwithstanding clause 2.1, the Receiving Party may disclose Confidential Information:
 - (i) To those of its Agents who strictly need to know the Confidential Information for the sole purpose set out in clause 2.2 provided that the Receiving Party shall ensure that such Agents are made aware prior to the disclosure of any part of the Confidential Information that the same is confidential and that they owe a duty of confidence to the Disclosing Party. The Receiving Party shall at all times remain liable for any actions of such Agents that would constitute a breach of this Agreement; or
 - (ii) to the extent required by law or the rules of any applicable regulatory authority, subject to clause 2.4 below.
- 2.4 In the event that the Receiving Party is required to disclose any Confidential Information in accordance with clause 2.3 (ii) above, it shall promptly notify the Disclosing Party and co-operate with the Disclosing Party regarding the form, nature, content and purpose of such disclosure or any action which the Disclosing Party may reasonably take to challenge the validity of such requirement.
- 2.5 In the event that any Confidential Information shall be copied, disclosed or used otherwise than as permitted under this Agreement then, upon becoming aware of the same, without prejudice to any rights or remedies of the Disclosing Party, the Receiving Party shall as soon as practicable notify the Disclosing Party of such event and if requested take such steps (including the institution of legal proceedings) as shall be necessary to remedy (if capable of remedy) the default and/or to prevent further unauthorised copying, disclosure or use.



2.6 All Confidential Information shall remain the property of the Disclosing Party and its disclosure shall not confer on the Receiving Party any rights, including intellectual property rights, over the Confidential Information whatsoever beyond those contained in this Agreement.

Records and return of Information

3.1 The Receiving Party agrees to ensure proper and secure storage of all Information and any copies thereof to at least the same standard as the Receiving Party keeps its own Confidential Information. The Receiving Party shall not make any copies or reproduce in any form any Confidential Information except for the purpose of disclosure as permitted in accordance with this Agreement.

3.2 The Receiving Party shall keep a written record, to be supplied to the Disclosing Party upon request, of the Confidential Information provided and any copies made thereof and, so far as is reasonably practicable, of the location of such Confidential Information and any copies thereof.

3.3 The Receiving Party shall, within seven days of receipt of a written demand from the Disclosing Party or of its ceasing to be interested in the Proposal:

- (i) Return all written Confidential Information (including all copies); and
- (ii) expunge or destroy any Confidential Information from any computer, word processor or other device whatsoever into which it was copied, read or programmed by the Receiving Party or on its behalf (including by any person to whom disclosure has been made as permitted under clause 2.3(i) above).

The obligations in this clause 3.3 shall not apply to the extent that (but only for so long as) it is necessary to retain copies for the purpose of providing information to any regulatory authority in accordance with clause 2.3 (ii) above.

3.4 The Receiving Party shall on request supply a certificate signed by a director as to its full compliance with the requirements of clause 3.3 (ii) above.

4. Announcements

4.1 Neither party will make or permit to be made any announcement or disclosure of its prospective interest in the Proposal without the prior written consent of the other party.

4.2 Neither party shall make use of the other party's name or any information acquired through its dealings with the other party for publicity or marketing purposes without the prior written consent of the other party.

5. Duration

The obligations of each party and its Agents under this Agreement shall [be continuing and shall survive the termination of any discussions or negotiations between the parties regarding the Proposal continue for a period of 3 (three) years.

6. Principal

Each party confirms that it is acting as principal and not as nominee, agent or broker for any other person and that it will be responsible for any costs incurred by it or its advisers in considering or pursuing the Proposal and in complying with the terms of this Agreement.

7. Representations



7.1 Each party agrees that any Information made available to the Receiving Party or its Agents for the purpose of negotiations or discussions in relation to the Proposal will not form the basis of, or any representation in relation to, any contract, nor constitute an offer or invitation by the Disclosing Party.

7.2 Except in the case of fraudulent misrepresentation, the Disclosing Party accepts no responsibility for nor makes any representation or warranty, express or implied, with respect to the accuracy, reliability or completeness of any Information made available to the Receiving Party or its Agents.

8. Adequacy of damages

8.1 Without prejudice to any other rights or remedies of the Disclosing Party, the Receiving Party acknowledges and agrees that damages would not be an adequate remedy for any breach by it of the provisions of this Agreement and that the Disclosing Party shall be entitled to seek the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach of any such provision by the Receiving Party or its Agents, and no proof of special damages shall be necessary for the enforcement of the rights under this Agreement.

8.2 Nothing contained in this Agreement shall be construed as prohibiting the Disclosing Party from pursuing any other remedies available by it, either at law or in equity, for any such threatened or actual breach of this Agreement including specific performance, recovery of damages or otherwise.

9. Data Protection

The Receiving Party warrants that it and its Agents have the appropriate technical and organizational measures in place against unauthorized or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data held or processed by them.

10. General

10.1 Neither party may assign the benefit of this Agreement or any interest hereunder except with the prior written consent of the other, save that Transnet may assign this Agreement at any time to any member of the Transnet Group.

10.2 No failure or delay in exercising any right, power or privilege under this Agreement will operate as a waiver of it, nor will any single or partial exercise of it preclude any further exercise or the exercise of any right, power or privilege under this Agreement or otherwise.

10.3 The provisions of this Agreement shall be severable in the event that any of its provisions are held by a court of competent jurisdiction or other applicable authority to be invalid, void or otherwise unenforceable, and the remaining provisions shall remain enforceable to the fullest extent permitted by law.

10.4 This Agreement may only be modified by a written agreement duly signed by persons authorized on behalf of each party.

10.5 Nothing in this Agreement shall constitute the creation of a partnership, joint venture or agency between the parties.

10.6 This Agreement will be governed by, and construed in accordance with South African law and the parties irrevocably submit to the exclusive jurisdiction of the South African courts.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives.

TRANSNET LIMITED:

By:
(Signature)

Print name: _____

Title: _____

Date: _____

[*Insert company name*]:

By:
(Signature)

Print name: _____

Title: _____

Date: _____

"Preview Copy Only"



delivering on our commitment to you



Suppliers Code of Conduct

"Preview Copy Only"



Respondent's signature

47
Date and company stamp

Suppliers Code of Conduct

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

These are:

- » Transnet Procurement Policy- A guide for tenderers;
- » Section 217 of the Constitution- the five pillars of Public PSCM (Procurement and Supply Chain Management): fair, equitable, transparent, competitive and cost effective;
- » The Public Finance Management Act (PFMA);
- » The Broad Based Black Economic Empowerment Act (BBBEE); and
- » The Anti-Corruption Act.

This code of conduct has been compiled to formally apprise Transnet Suppliers of Transnet's expectations regarding behaviour and conduct of its Suppliers.

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

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

Transnet will not participate in corrupt practices. Therefore, it expects its suppliers to act in a similar manner.

- » Transnet and its employees will follow the laws of this country and keep accurate business records that reflect actual transactions with, and payments to, our suppliers.





>> Employees must not accept or request money or anything of value, directly or indirectly, from suppliers.

Employees may not receive anything that is calculated to:

- Illegally influence their judgement or conduct or to influence the outcome of a sourcing activity;
- Win or retain business or to influence any act or decision of any person involved in sourcing decisions; gain an improper advantage.

>> There may be times when a supplier is confronted with fraudulent or corrupt behaviour of Transnet employees. We expect our suppliers to use our "Tip-offs Anonymous" Hotline to report these acts - 0800 003 056.

Transnet is firmly committed to free and competitive enterprise.

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

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

>> Generally, suppliers have their own business standards and regulations. Although Transnet cannot control the actions of our suppliers, we will not tolerate any illegal activities.





These include, but are not limited to:

- Misrepresentation of their product (origin of manufacture, specifications, intellectual property rights, etc);
- Collusion;
- Failure to disclose accurate information required during the sourcing activity (ownership financial situation, BBBEE status, etc.);
- Corrupt activities listed above; and harassment, intimidation or other aggressive actions towards Transnet employees.

- >> Suppliers must be evaluated and approved before any materials, components, products or services are purchased from them. Rigorous due diligence must be conducted and the supplier is expected to participate in an honest and straight forward manner.
- >> Suppliers must record and report facts accurately, honestly and objectively. Financial records must be accurate in all material respects.



Conflict of Interest

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

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

Show that you support good business practice by logging onto www.transnet-suppliers.net and completing the form.

This will allow us to confirm that you have received, and agree to, the terms and conditions set out in our Suppliers Code of Conduct.

**TIP-OFFS ANONYMOUS HOTLINE
0800 003 056**