

Transnet Freight Rail – an Operating Division of **Transnet SOC Ltd** [Registration No.1990/000900/30]

Request for Commercial Proposal

Leasing of the Transnet Freight Rail Sidings/Facilities for ORCHARDS for a minimum period of five (5) years

Siding/ Facility Name:	ORCHARDS
Commercial Proposal Number:	CPGR2424CC
Issue Date:	25 June 2024
Compulsory Briefing session:	04 July 2024 @ 10:00am
Non-Compulsory Site Visit:	18 July 2024 @ 10:00am
Closing Date:	15 August 2024 @ 10:00am
Proposal Validity Period:	180 Business Days from closing date 09 April 2025



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- Annexure A TFR Siding/Facility Profile
- Annexure B Transnet’s General Bid Conditions
- Annexure C Transnet’s Supplier/Lessee Integrity Pact
- Annexure D Non-Disclosure Agreement
- Annexure E Supplier Declaration Form
- Annexure F Bid Evaluation Response
- Annexure G Risk Questionnaire
- Annexure H Health and Safety Questionnaire
- Annexure I Rail Transport Agreement
- Annexure J Environmental Management Plan
- Annexure K Business Continuity Plan

Leasing of the Transnet Freight Rail Sidings/Facilities for ORCHARDS for a minimum period of five (5) years

SECTION 1: SBD1 Form

**PART A
INVITATION For Proposal**

YOU ARE HEREBY INVITED SUBMIT A PROPOSAL FOR REQUIREMENTS OF TRANSNET FREIGHT RAIL, A DIVISION TRANSNET SOC LTD							
Proposal NUMBER:	CPGR3424CC	ISSUE DATE:	25 June 2024	CLOSING DATE:	15 Aug 2024	CLOSING TIME:	10:00 AM
DESCRIPTION	Commercial Proposal for the Leasing of the Transnet Freight Rail Sidings/Facilities for ORCHARDS for a minimum period of five (5) years						
PROPOSAL RESPONSE DOCUMENTS SUBMISSION							
RESPONDENTS ARE TO UPLOAD THEIR COMMERCIAL PROPOSAL RESPONSE ONTO THE TRANSNET SYSTEM AGAINST EACH PROPOSAL SELECTED <i>(please refer to section 2, paragraph 3 for a detailed process on how to upload submissions):</i> https://www.transnet.net							
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO				TECHNICAL ENQUIRIES MAY BE DIRECTED TO:			
CONTACT PERSON	Estelle van Wyk			CONTACT PERSON	Reggie Brown		
TELEPHONE NUMBER				TELEPHONE NUMBER			
E-MAIL ADDRESS	Estelle.vanwyk@transnet.net			E-MAIL ADDRESS	Reggie.brown@transnet.net		
BIDDER INFORMATION							
NAME OF BIDDER							
POSTAL ADDRESS							
STREET ADDRESS							
TELEPHONE NUMBER	CODE			NUMBER			
CELLPHONE NUMBER							
E-MAIL ADDRESS							
VAT REGISTRATION NUMBER							
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:			OR	CENTRAL SUPPLIER DATABASE	UNIQUE REGISTRATION REFERENCE NUMBER:	MAAA

B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No	B-BBEE STATUS LEVEL SWORN AFFIDAVIT	[TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED FOR PURPOSES OF COMPLIANCE WITH THE B-BBEE ACT]			
1 ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]	2 ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER QUESTIONNAIRE BELOW]
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS			
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? NO			<input type="checkbox"/> YES <input type="checkbox"/>
DOES THE ENTITY HAVE A BRANCH IN THE RSA? NO			<input type="checkbox"/> YES <input type="checkbox"/>
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? NO			<input type="checkbox"/> YES <input type="checkbox"/>
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? NO			<input type="checkbox"/> YES <input type="checkbox"/>
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? NO			<input type="checkbox"/> YES <input type="checkbox"/>
IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 1.3 BELOW.			

**PART B
TERMS AND CONDITIONS FOR BIDDING**

1. TAX COMPLIANCE REQUIREMENTS
<p>1.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.</p> <p>1.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.</p> <p>1.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.</p> <p>1.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.</p> <p>1.5 IN BIDS WHERE UNINCORPORATED CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.</p> <p>1.6 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.</p>

NB:

FAILURE TO PROVIDE / OR COMPLY WITH ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.

Signature of bidder:

Capacity under which this bid is signed:

(Proof of authority must be submitted e.g., company resolution)

Date:

SECTION 2: Notice to Bidders

1 Invitation to Bid

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

DESCRIPTION	Leasing of the Transnet Freight Rail Sidings/Facilities for ORCHARDS for a minimum period of five (5) years
COMMERCIAL PROPOSAL DOWNLOADING	<p>This Request for Commercial Proposal may be downloaded directly from National Treasury's e-Tender Publication Portal at www.etenders.gov.za free of charge.</p> <p>To download the Request for Commercial Proposal and Annexures:</p> <ul style="list-style-type: none"> • Click on "Tender Opportunities"; • Select "Advertised Tenders"; • In the "Department" box, select Transnet SOC Ltd. <p>Once the tender has been located in the list, click on the "Tender documents" tab and process to download all uploaded documents.</p> <p>The Request for Commercial Proposal may also be downloaded from the Transnet website at www.transnet.net free of charge. To access the Transnet eTender portal, please click here (refer to section 2, paragraph 3 below for detailed steps)</p>
COMMUNICATION	<p>Any addenda to the Request for Commercial Proposal or clarifications will be published on the e-tender portal and Transnet website. Bidders are required to check the e-tender portal or Transnet website prior to finalising their bid submissions for any changes or clarifications to the Request for Commercial Proposal.</p> <p>Transnet will not be held liable if Bidders do not receive the latest information regarding this Request for Commercial Proposal with the possible consequence of either being disadvantaged or disqualified as a result thereof.</p>
BRIEFING SESSION	There will be a compulsory briefing session for this transaction on the 04 July 2024 @ 10:00am via MS Teams. Bidders who wish to attend the briefing session must email or leave their email address for teams invitation to estelle.vanwyk@transnet.net by no later than 01 July 2024 @ 12:00
SITE VISITS	<p>There will be a non-compulsory site visit for the rail facility that have been advertised on 25 June 2024.</p> <p>Refer to Annexure A for the facility profile.</p> <p>Bidders interested in attending the site visit on 18 July 2024 @ 10:00am are requested to communicate their interest by sending an email to estelle.vanwyk@transnet.net by 09 July 2024.</p> <p>The subject of email must be the name of Rail Siding in question.</p>
CLOSING DATE	<p>10:00 am on Thursday, 15 August 2024</p> <p>Bidders must ensure that bids are delivered timeously to the correct address.</p> <p>As a general rule, if a bid is late or delivered to the incorrect address, it will not be accepted for consideration.</p>

VALIDITY PERIOD	<p>180 Business Days from Closing Date</p> <p>Bidders are to note that they may be requested to extend the validity period of their bid, at the same terms and conditions, if the internal evaluation process has not been finalised within the validity period. However, once the adjudication body has approved the process and award of the business to the successful bidder(s), the validity of the successful bidder(s)' bid will be deemed to remain valid until a final contract has been concluded.</p> <p>With regard to the validity period of next highest ranked bidders, please refer to Section 2, paragraph 8.12</p>
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Any additional information or clarification will be emailed to all Respondents, if necessary. Any additional information or clarification will be published on the e-Tender portal and Transnet website, if necessary.

2 Proposal Submission

Transnet has implemented a electronic tender submission system, the e-Tender Submission Portal, in line with the overall Transnet digitalization strategy where suppliers can view advertised tenders, register their information, log their intent to respond to bids and upload their bid proposals/responses on to the system.

a) The Transnet e-Tender Submission Portal can be accessed as follows:

- Log on to the Transnet eTenders management platform website (<https://www.transnet.net>);
- Click on "TENDERS";
- Scroll towards the bottom right hand side of the page;
- On the blue window click on "register on our new eTender Portal";
- Click on "ADVERTISED TENDERS" to view advertised tenders;
- Click on "SIGN IN/REGISTER – for bidder to register their information (must fill in all mandatory information);
- Click on "SIGN IN/REGISTER" - to sign in if already registered;
- Toggle (click to switch) the "Log an Intent" button to submit a bid;
- Submit bid documents by uploading them into the system against each tender selected.

3 Commercial Proposal Instructions

- 3.1 Please sign documents [sign, stamp and date the bottom of each page] before uploading them on the system. The person or persons signing the submission must be legally authorised by the respondent to do so.
- 3.2 All returnable documents tabled in the Proposal Form [Section 5] must be returned with proposals.
- 3.3 Unless otherwise expressly stated, all Proposals furnished pursuant to this Commercial Proposal shall be deemed to be offers. Any exceptions to this statement must be clearly and specifically indicated.
- 3.4 Any additional conditions must be embodied in an accompanying letter. Subject only to clause 15 [Alterations made by the Respondent to Bid Prices] of the General Bid Conditions, paragraph 13 below (Legal Review) and Section 6 of the Commercial Proposal, alterations, additions or deletions must not be made by the Respondent to the actual Commercial Proposal documents.

4 Joint Ventures or Consortiums

Respondents who would wish to respond to this Commercial Proposal as a Joint Venture [JV] or consortium with B-BBEE entities, must state their intention to do so in their Commercial Proposal submission. Such Respondents must also submit a signed JV or consortium agreement between the parties clearly stating the percentage [%] split of business and the associated responsibilities of each party. If at the time of the bid submission such a JV or consortium agreement has not been concluded, the partners must submit confirmation in writing of their intention to enter into a JV or consortium agreement should they be awarded business by Transnet through this Commercial Proposal process. This written confirmation must clearly indicate the percentage [%] split of business and the responsibilities of each party. In such cases, award of business will only take place once a signed copy of a JV or consortium agreement is submitted to Transnet.

5 Compliance to B-BBEE

Bidders to provide a valid B-BBEE certificate issued by a SANAS accredited agency or Sworn Affidavit.

Successful bidder(s) are encouraged to improve their B-BBEE credentials on an annual basis.

B-BBEE verification agencies can be obtained on website: www.sanas.co.za

Enterprise	B-BBEE Certificate & Sworn Affidavit
Large	Certificate issued by SANAS accredited verification agency
QSE	Certificate issued by SANAS accredited verification agency Sworn Affidavit signed by the authorised QSE representative and attested by a Commissioner of Oaths confirming annual turnover and black ownership (only black-owned QSEs - 51% to 100% Black owned)

	[Sworn affidavits must substantially comply with the format that can be obtained on the DTI’s website at www.dti.gov.za/economic_empowerment/bee_codes.jsp .]
EME¹	Sworn Affidavit signed by the authorised EME representative and attested by a Commissioner of Oaths confirming annual turnover and black ownership Certificate issued by CIPC (formerly CIPRO) confirming annual turnover and black ownership Certificate issued by SANAS accredited verification agency only if the EME is being measured on the QSE scorecard

6 Bid Queries

- 6.1 For specific queries relating to this Request for Commercial Proposal, a Commercial Proposal Clarification Request Form should be submitted to [Estelle van Wyk – estelle.vanwyk@transnet.net] before **12:00 pm on 12 August 2024**, substantially in the form set out Section 8 hereto. In the interest of fairness and transparency, Transnet’s response to such a query will be published on the e-tender portal.
- 6.2 After the closing date of the Request for Commercial Proposal, a Respondent may only communicate with the Secretariat of the Siding Leasing, email estelle.vanwyk@transnet.net on any matter relating to its Request for Commercial Proposal.
- 6.3 Respondents are to note that changes to its submission will not be considered after the closing date.
- 6.4 It is prohibited for Respondents to attempt, either directly or indirectly, to canvass any officer or employee of Transnet in respect of this Request Commercial Proposal between the closing date and the date of the award of the business.
- 6.5 Respondents found to be in collusion with one another will be automatically disqualified and restricted from doing business with organs of state for a specified period.

7 Confidentiality

All information related to this Request for Commercial Proposal is to be treated with strict confidence. In this regard Respondents are required to certify that they have acquainted themselves with the Non-Disclosure Agreement. All information related to a subsequent contract, both during and after completion thereof, will be treated with strict confidence. Should the need however arise to divulge any information related to this

Request for Commercial Proposal or the subsequent contract, written approval must be obtained from Transnet.

8 Disclaimers

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

- 8.1 Modify any aspect of the leasing of sidings set out in this Request for Commercial Proposal, and request Respondents to re-bid on any such changes;
- 8.2 Reject any Proposal which does not conform to instructions and specifications which are detailed herein;
- 8.3 Disqualify Proposals submitted after the stated submission deadline [**15 August 2024**];
- 8.4 Award a contract (Lease Agreement) in connection with this Proposal at any time after the Request for Commercial Proposal's closing date;
- 8.5 Award a contract for only a portion of the proposed premises which are reflected in the scope of this Request for Commercial Proposal;
- 8.6 Split the award of the contract between more than one Bidder, should it at Transnet's discretion be more advantageous in terms of, amongst others, cost or developmental considerations;
- 8.7 Cancel the bid process;
- 8.8 Validate any information submitted by Respondents in response to this bid. This would include, but is not limited to, requesting the Respondents to provide supporting evidence in any medium or form that it requires. By submitting a bid, Respondents hereby irrevocably grant the necessary consent to Transnet to do so;
- 8.9 Request audited financial statements or other documentation for the purposes of a due diligence exercise;
- 8.10 Not accept any changes or purported changes by the Respondent to the bid rates after the closing date and/or after the award of the business, unless the contract specifically provided for it;
- 8.11 To cancel the contract and/or request that National Treasury place the Respondent on its Database of Restricted Suppliers for a period not exceeding 10 years, on the basis that a contract was awarded on the strength of incorrect information furnished by the Respondent, or on any other basis recognised in law;
- 8.12 To award the business to the next ranked bidder, provided that he/she/it is still prepared to lease the siding at the quoted price, should the successful/preferred bidder fail to sign or commence with the contract within a reasonable period after being requested to do so. Under such circumstances, the

validity of the bids of the next ranked bidder(s) will be deemed to remain valid, irrespective of whether the next ranked bidder(s) were issued with a Letter of Regret. Bidders may therefore be requested to advise whether they would still be prepared to lease the siding at their quoted price, even after they have been issued with a Letter of Regret.

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

9 National Treasury's Central Supplier Database

Respondents are required to self-register on National Treasury's Central Supplier Database (CSD) which has been established to centrally administer supplier information for all organs of state and facilitate the verification of certain key supplier information. Respondents must register on the CSD prior to submitting their bids. Business may not be awarded to a Respondent who has failed to register on the CSD. Only foreign suppliers with no local registered entity need not register on the CSD.

For this purpose, the attached SBD 1 form must be completed and submitted as a mandatory returnable document by the closing date and time of the bid.

10 Tax Compliance

- 10.1 Respondents must be compliant when submitting a proposal to Transnet and remain compliant for the entire contract term with all applicable tax legislation, including but not limited to the Income Tax Act, 1962 (Act No. 58 of 1962) and Value Added Tax Act, 1991 (Act No. 89 of 1991).
- 10.2 It is a condition of this bid that the tax matters of the successful Respondents be in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the Respondents tax obligations.
- 10.3 The Tax Compliance status requirements are also applicable to foreign Respondents/ individuals who wish to submit bids.
- 10.4 Where Consortia / Joint Ventures / Sub-contractors are involved, each party must be registered on the Central Supplier Database and their tax compliance status will be verified through the Central Supplier Database.

11 Protection of Personal Data

In responding to this bid, Transnet acknowledges that it may obtain and have access to personal data of the Respondents. Transnet agrees that it shall only process the information disclosed by Respondents in their response to this bid for the purpose of evaluating and subsequent award of business and in accordance with

any applicable law. Furthermore, Transnet will not otherwise modify, amend or alter any personal data submitted by Respondents or disclose or permit the disclosure of any personal data to any Third Party without the prior written consent from the Respondents. Similarly, Transnet requires Respondents to process any personal information disclosed by Transnet in the bidding process in the same manner. The detailed mutual duties of Transnet and the Respondents to protect personal information is contained in paragraph 35 of the General Bid Conditions.

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

TIP-OFFS ANONYMOUS: 0800 003 056

SECTION 3: Background, Overview and Scope of Requirements

1 Background

There are certain properties in the property portfolio of Transnet Freight Rail that are strategic and productive assets - vehicles for economic development, service delivery and transformation.

TFR set out to review the processes for leasing / letting TFR property and sidings to ensure effective utilisation of these properties as strategic enablers for rail logistics solutions to complement an end-to-end efficient logistics service to the market. and after Transnet EXCO's deliberations regarding numerous concerns raised by customers, lessees and other stakeholders.

These includes but not limited to a process that:

- Ensures effective management of TFR Properties as Strategic Enablers for Rail Logistics Solutions through diligent positioning of these to compliment an end to end efficient logistics service to the market.
- To work with private sector to unlock investment focused on improved efficiency in the supply chain, reducing complexities and the cost of doing business to enable volume growth from road to rail
- Encourage sustainable development and community upliftment.

Transnet is therefore embarking on an open process for Commercial Proposals for leasing of some of its sidings to allow all sectors to have open access to compete for the lease of sidings.

2 General

- 2.1 The successful bidder has to agree to sign the Standard TFR Operational Lease Agreement.
- 2.2 The lease will be granted subject to concluding a Transport Agreement with TFR.
- 2.3 Bidders agree to ensure that the requisite rail transport agreement(s) (as per the attached Annexure I) is signed and aligned to the commitments made in the lease agreement in terms of the operating parameters and volume commitments committed to, either by yourself (the bidder) or the parties whose rail account(s) is/are associated with loading/operating from the facility (as per the attached Bid Evaluation Response Annexure F).
- 2.4 Where relevant, the successful bidder appointed to lease the siding is responsible to directly conclude and manage contracts with TFR's rail customers for all siding-related facility charges, in line with TFR volumes allocated.
- 2.5 Any new customers or capacity can only be onboarded through the TFR customer onboarding process.

2.6 Successful bidders are required to adhere to any changes to management policies, procedures or processes required by Transnet.

3 Scope of Requirements

3.1 Siding information

- | | | |
|-------|------------------------------------|--|
| 3.1.1 | Siding: | The lease of the ORCHARDS sidings/ facilities located in the Cape Corridor. |
| 3.1.2 | Siding map: | Refer to Annexure A |
| 3.1.3 | Siding capacity: | ±21 893 m ² |
| 3.1.4 | Commodity/ies: | As determined by Bidder. |
| 3.1.5 | Purpose: | The purpose of the request for commercial proposal is to find suitable lessee(s)/ operator(s) for the siding to invest in and develop a container rail terminal to serve the industry within the Corridor. |
| 3.1.6 | Market related rental: | R 21 000 per month |
| 3.1.7 | Market related rental expiry date: | 30 July 2024 (If the property valuation expires prior to tender award, it will have to be reviewed, and the rental charged could be amended as a result.) |
| 3.1.8 | Siding capacity: | The warehouse / siding is not currently operational, so the siding capacity will be determined by the operational solution and investment made by the bidder. |

3.2 Lease tenure

- 3.2.1 Bidders need to submit a Request for Commercial Proposal for a minimum of five years.
- 3.2.2 The Bidder has to indicate the number of years that they bid for (Annexure F).
- 3.2.3 TFR is entitled to offer the winning bidder a lease period shorter than the period that was indicated in Annexure F of the bid submission.

3.3 Volume and Operational Plan

3.3.1 Background

As part of the bid response, the bidder should submit a volume and operational plan covering volume commitments and operational efficiency. The desired outcome (net output) of investment is to reduce train handling times (THT).

3.3.2 Volume commitments

- Bidders are required to provide a rail volume guarantee.
- The siding is not currently operation, so the siding capacity will be determined by the operational solution and investment made by the bidder. The preferred mode of transport is rail. The bidder to ensure rail has first right of refusal in market opportunities.
- Bidders need to confirm the source of their volumes.
- If the bidder is the cargo owner, they shall submit a commitment letter confirming that they are the cargo owner. This needs to be substantiated with relevant information.
- If the bidder is an operator, they shall submit a commitment letter from the cargo owner. The cargo owner needs to substantiate the figures committed.
- The commitment letter(s) submitted by bidders need to confirm their source of volumes. Bid Evaluation Response Annexure F1 provides a guideline of the information required.
- TFR reserves the right to review the volume commitments submitted by the bidder, and should they prove not be feasible, verify and adjust accordingly.

3.3.3 Operational efficiency

- a. Bidders are expected to improve Operational Efficiency.
- b. Bidders have to provide an operational plan which addresses the following topics as a minimum:
 - i. 40 000 TEUs per annum
 - ii. 24/7 operation
 - iii. 4 hours offloading and 4 hours loading time per 50 wagon train
 - iv. Appropriate security measures.

- c. The winning bidder needs to implement initiatives to reduce the cost of logistics. A plan with the initiatives aimed at achieving cost reduction needs to be included in the bid. This plan will form part of the contracting process.
- d. Bidders need to provide the handling (loading, offloading and all other associated activities) and storage rate (R/ton or R/TEU) that will be offered to the market. The winning bidder will commit to this rate in the contracting process.
- e. Operational Readiness: The successful bidder must ensure that the siding has all required environmental approvals (i.e. authorisations, permits and licences) before commencing with operations.
- f. The siding must be managed in accordance with section 28 of the National Environmental Management Act, 1998, as amended and related provisions in other applicable legislations.
- g. Environmental Incidents must be reported in accordance with section 30 of the National Environmental Management Act, 1998, as amended and related provisions in other applicable legislations.
- h. TFR reserves the right to review the operational plan times submitted by the bidder, and should they prove not be feasible, adjust these times accordingly.

3.3.4 24/7 working

As discussed in Section 3.3.3 (b) i.

3.3.5 Rate for handling and storage (Rand per Ton/TEU)

As discussed in Section 3.3.3 (d).

3.4 Investment Plan

As part of the bid response a bidder must submit a plan that details their investment commitment detailing how they would optimally develop the siding. There are two returnable documents.

- In **Annexure F2A_DCF** the bidder needs to provide a discounted cash flow.
- **Annexure F2B_Detailed Investment** needs to be completed with full details of the intended investment.

For bid evaluation purposes, the investment commitment would be worked back to a per annum figure. Investment commitments beyond the first year will be discounted at an annual rate of 6%.

2.4.1 Discounted Cash flow

- a. The bidder should submit a detailed Discounted Cash Flow (Annexure F2A_DCF) containing the following information:
 - i. Amount/ quantum of the investment
 - ii. Projected Asset Value at the end of Lease tenure.
 - iii. A detailed Investment Plan

2.4.2 Detailed Investment Plan

The bidder should submit a detailed investment plan **Annexure F2B_Detailed Investment** containing the following information about investment within the siding boundary; investment outside the siding boundary; and investment in rolling stock.

- a. The investment plan should distinguish between fixed and moveable assets.
- b. The investment plan needs to include all planned investment (fixed and moveable assets)
- c. The scoring of the investment plan will only take into consideration investment in fixed items that will revert to TFR at the end of the lease period. Temporary structures and moveable assets will not be considered in the evaluation.
- d. All investment commitments in the bid response will form part of the lease agreement and the winning bidder will be bound to provide investment as required in this plan.
- e. The lease will be managed against the full investment plan (fixed and moveable assets).
- f. Bidders are required to submit one set of figures, and not several scenarios.
- g. Bidders need to provide information on investment inside the siding boundary. Investment categories include but are not limited to:
 - i. Rail line refurbishment & maintenance of siding
 - ii. Loading area surface to accommodate loading equipment
 - iii. Access road to siding to be upgraded and maintained
 - iv. Drainage in siding to be upgraded and maintained
 - v. Lighting in siding to be provided and maintained
 - vi. Buildings to be upgraded and maintained
 - vii. Fencing to be erected and maintained around siding
 - viii. Security controls to be provided
 - ix. Loading and offloading equipment and resources to load/offload train in specified time

- h. In their investment plan, bidders should include plans for investment outside the siding boundary. Investment categories include but are not limited to
 - i. Yard upgrade and/or operations (as specified above)
- i. In the investment plan, bidders need to indicate if they intend to make any investment in rolling stock.

2.4.3 Proof of funding

- a. The bid should provide proof of funding for the investment plan.
- b. If the funding will come from a Financial Institution, the bidder needs to provide a valid letter of commitment.
- c. If the investment will be funded by private investors, proof will need to be provided in the form of audited financial statements of the funders.

3.5 Commercial Rental Offer

- 3.5.1 Information regarding the market related rental is provided in Sections 2.1.6 and 2.1.7
- 3.5.2 Bidders are required to indicate whether they are willing to pay market related rental.
- 3.5.3 In case the valuation had expired by the time of award, rental will be based on an updated market valuation.

3.6 Community Development Plan

- 3.6.1 As part of the bid response a bidder must submit a plan that details their commitment to invest in the local community. The bidder needs to complete Annexure F3C_Community Development Plan with details of the proposed investment.
- 3.6.2 Bidders are required to commit to identifying and funding community projects in the area/ close proximity to the facility.
- 3.6.3 A plan of how the initiative will be implemented must be shared with Transnet. Those initiatives must include but not limited to:
 - a. Youth Development
 - i. Bursaries
 - ii. Skills Development - artisan and technical skills
 - iii. Job Creation
 - b. Women Development

- i. Uplift community women through business development
 - ii. Co-operative formation
 - iii. Health awareness
- c. Community Development
- i. Support local businesses.
 - ii. Assist with knowledge on how to form co-operatives.
 - iii. Subcontract to local business.
 - iv. Provide financial assistance or non-financial resources to rural schools.
 - v. Support the welfare of people with disabilities in the community.
 - vi. Improve health systems in the local community.
- 3.6.4 Bidders would need to confirm what the Rand Value and percentage of their revenue derived from siding operations, will be directed to the Community Development Plan over the lease tenure together with a detailed plan on how funds will be spent.
- 3.6.5 Preferred bidders will be required to establish community structures with consortiums or groupings that are registered with the local government as a condition precedent based on the identified needs of the community (6 months for new lessees. A shorter timeframe to be negotiated for existing lessees).
- 3.6.6 Job Creation to be excluded from this measure as it is a separate undertaking as per Section 11 of this Request for Commercial Proposal.

3.7 SHEQ (Safety, Health, Environmental and Quality) Requirements

3.7.1 Environmental requirements (bidder to comment: "Yes" or "No")

Legislative Compliance	Yes/ No
<p>Special consideration must be provided to the Environmental Management Programme (EMPr), Risk Assessment as well as the Business Continuity Plan Guidelines;</p> <p>Where relevant, bidders will be required to obtain Water Use Licenses through relevant authorities, i.e., Department of Water and Sanitation. Such licence (s) must be inclusive of all relevant water uses taking place on site (i.e., uses c, i, h, and g as it relates to section 21 of the said Act);</p> <p>Bidders will also be required to obtain other Environmental Approvals (i.e. authorisations, air emission licenses and/or permits) relevant to the proposed activities before commencing with operations.</p>	
<p>Compliance to the Occupational Health and Safety Act, 85 of 1993 (as amended or replaced from time to time) (the "OHS Act"), any regulations made thereunder and any other applicable health and safety legislation, where applicable,</p>	

Legislative Compliance	Yes/ No
Compliance to the requirements from time to time of the Railway Safety Regulator, which is established in terms of the Railway Safety Regulator Act (including being in possession of a valid certificate of compliance from the Railway Safety Regulator);	
Mine Safety Regulations under the Mine Health and Safety Act, 29 of 1996 (as amended or replaced from time to time) (the "Mine Health and Safety Act") and any other applicable mine health and safety legislation, where applicable, including when providing Transport Services or operating a train within any Loading Site; and	
Rail Safety Directives and all applicable legislation.	
Bidders will be required to submit a Risk Assessment Report/Register together with their proposal. A guideline and template for use are attached hereto as Annexure G and Annexure L for guideline.	
Bidders will be required to submit an Environmental Management Program together with their proposal. A guideline is attached hereto as Annexure J.	
Bidders will be required to submit a Business Continuity Plan together with their proposal. A guideline is attached hereto as Annexure J.	

3.7.2 Health and Safety Requirements (bidder to comment: "Yes" or "No")

SHE requirement	Yes/ No
Bidders will be required to demonstrate how they will comply with Health and Safety Laws and Regulations and any other related Laws.	

3.7.3 Baseline Risk Assessment (bidder to comment comply or not comply)

Baseline Risk Assessment	Yes/ No
Bidders will be required to submit a Risk Assessment Methodology together with application. A guideline is attached hereto as Annexure L	

3.8 Company and Credit Risk Assessment

- 3.8.1 Submit minimum 24 months Audited (signed by an auditor) Financial Statements. If the bidding company is less than 2 years old, the bidder needs to provide a Letter of Credit from recognized

Financial Institution. The Financial Stability and Risk Assessment informs the deposit required from the outcome of the credit risk assessment.

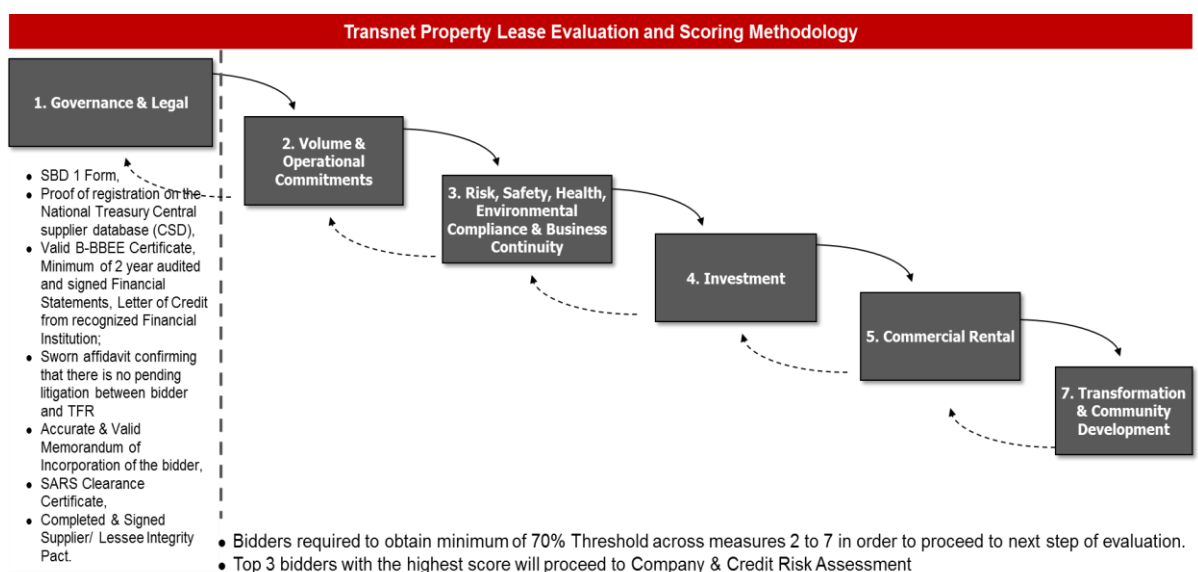
- 3.8.2 A previous bad payment history with Transnet might result in the Prospective Tenant, not being recommended. This will be evaluated during the financial risk assessment.
- 3.8.3 The qualifying bidder will be subjected to Credit Risk Assessment (risk grade) to determine deposit and guarantees required.

4 General Bidder Obligations

- 4.1.1 The Bidder shall be fully responsible to Transnet for the acts and omissions of persons directly or indirectly employed by them.
- 4.1.2 The Bidder must comply with the requirements stated in this Request for Commercial Proposal.

5 Evaluation Methodology

Transnet will utilise the following methodology and criteria in selecting a preferred Supplier:



5.1 Step One: Governance and Legal

The test for administrative responsiveness will include the following:

• Whether the Bid has been lodged on time	<i>Section 2 paragraph 2</i>
• Whether all Returnable Documents and/or schedules [where applicable] were completed and returned by the closing date and time	<i>All sections</i>
• Verify the validity of all returnable documents	<i>Section 5</i>

<ul style="list-style-type: none"> Verify if the Bid document has been duly signed by the authorised respondent 	<i>All section</i>
<ul style="list-style-type: none"> Whether the supplier is registered on the NT Central Supplier Database (CSD) 	<i>Section 1</i>
<ul style="list-style-type: none"> Tax Clearance Certificate or electronic access PIN obtained from SARS's new Tax Compliance Status (TCS) system [Consortia / Joint Ventures must submit a separate Tax Clearance Certificate/PIN for each party] 	<i>Section 1, Section 2</i>
<ul style="list-style-type: none"> B-BBEE certificate/ Sworn Affidavit 	<i>Section 9</i>
<ul style="list-style-type: none"> Sworn affidavit confirming that there is no pending litigation between bidder and TFR 	
<ul style="list-style-type: none"> Accurate & Valid Memorandum of Incorporation of the bidder 	
<ul style="list-style-type: none"> SARS Clearance Certificate, 	
<ul style="list-style-type: none"> Completed & Signed Supplier/ Lessee Integrity Pact. 	

The test for Governance and Legal [Step One] must be passed for a Respondent's Proposal to progress to Step Two for further pre-qualification

5.2 Step Two to Seven: Minimum Threshold 70%

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

Measures	Description	Score	Scoring Table
Volume & Operational Commitments	a. Minimum volume guarantee	20	Highest Volume offer will receive the maximum points allocated to this segment. All other bidders with lower Investment offers will proportionally receive points based on formula
	b. 24/7 working	5	5 Points = 24 Hours 3 Points = 18 Hours 1 Point = 12 Hours
	c. Rate for handling and storage (Rand per Ton/TEU)	5	The bid lowest rate for handling and storage will receive the maximum points allocated to this segment. All other bid with higher rates will score proportionally lower.

Measures	Description	Score	Scoring Table
Investment	a. Security of funding: Letter of Commitment from a Financial Institution or Proof of self-funding	4	Valid Letter of Commitment from a Financial Institution or Proof of self-funding submitted. <ul style="list-style-type: none"> • 4 = Yes • 0 = No
	b. Investment within the siding boundary to be covered in plan include but not limited to <ul style="list-style-type: none"> • Rail line refurbishments and upgrades • Land side upgrades on storage and loading area. • Building upgrades (e.g. Office, ablution facilities, lighting etc.) • Security upgrades (e.g. fencing/walling, guard house etc.) <i>Temporary structures will not be considered as part of evaluation.</i>	36	The bid with the highest investment offer per annum of the proposed lease tenure will receive the maximum points allocated to this segment. All other bids with lower investment offers will score proportionally lower. Please note additional scoring notes in Section 2.4.
	c. Other Investment categories to be covered in plan include <ul style="list-style-type: none"> • Rail Infrastructure (Rail Lines and OHTE) outside the facility. • Rolling Stock (wagons & shunting) • Security & related technology for rail track 	10	The bid with the highest investment offer per annum of the proposed lease tenure will receive the maximum points allocated to this segment. All other bids with lower investment offers will score proportionally lower. Please note additional scoring notes in Section 2.4.

Measures	Description	Score	Scoring Table
Commercial Rental	Rental offer	1	1 Point \geq market related; 0 Points = < less than market related

Measures	Description	Score	Scoring Table
Risk, Safety, Health, Environmental Compliance & Business Continuity	Risk, Safety, Health, Environmental Compliance and Business Continuity Plans	5	<ul style="list-style-type: none"> • 1 point – Risk Management Plan • 1 point – Safety Management Plan • 2 points – Environmental Management Plan • 1 point – Business Continuity Plan
Transformation & Community Development	a. Community Development Plan – spend of identified community projects in the area/ close proximity to the facility – minimum 3% of turnover generated from facility.	10	Highest offer will receive the maximum points allocated to this segment. All other bidders with lower offers will proportionally receive points based on formula.

Measures	Description	Score	Scoring Table
	b. B-BBEE Rating	4	<ul style="list-style-type: none"> • Level 1 = 4 Points • Level 2 = 3.6 Points • Level 3 = 2.4 Points • Level 4 = 2 Points • Level 5 = 1.6 Points • Level 6 = 1.2 Points • Level 7 = 0.8 Points • Level 8 = 0.4 Points
	Total	100	

Respondents are to note that Transnet will round off final technical scores to the nearest 2 (two) decimal places for the purposes of determining whether the technical threshold has been met.is

The minimum threshold for technical/functionality [Step Two to Seven] must be met or exceeded for a Respondent’s Proposal to progress to the Step 3 for final evaluation

5.3 Step Eight: Company and Credit Risk Assessment

Measures	Description	Score	Scoring Table
Company & Credit Risk Assessment	a. Inoxico - Advanced Risk Report	Green; Amber; Red	Company registration; Shareholding; Operational Licensing; Tax & VAT Registration; Bribery & Corruption
	b. Credit Risk Assessment	Risk Grade A to E	Assessment of risk grade to determine deposit and guarantees required

5.4 Step Nine: Award of business and conclusion of a contract

Immediately after approval to award the contract has been received, the successful or preferred bidder(s) will be informed of the acceptance of his/their Bid either by way of a Letter of Award or Letter of Intent where Transnet will negotiate the final terms and condition the contract with the successful Respondent(s). Thereafter the final contract will be concluded with the successful Respondent(s).

Otherwise, a final contract will be concluded and entered into with the successful Bidder at the acceptance of a letter of award by the Respondent.

SECTION 4: Summary of Offer *Complete the table below:*

Respondents are to note that Transnet will round off final pricing scores to the nearest 2 (two) decimal places.

1. National Railway Safety Regulator Act

In compliance with the National Railway Safety Regulator Act, 16 of 2002, the successful Respondent [the Bidder] shall, comply fully with the specifications as set out in this Request for Commercial Proposal, and shall also adhere to railway safety requirements and/or regulations [as applicable]. The Bidder shall grant Transnet access, during the term of the contract, to review any safety-related activities, including the coordination of such activities across all parts of the organisation.

2. Service Levels

2.1 Service Levels will be determined and approved as per the Lease Agreement

3. Total Cost of Ownership and Continuous Improvement Initiatives

3.1 Respondents commit, for the duration of any contract which may be awarded through this Request for Commercial Proposal process, to participate with Transnet in its continuous improvement initiatives to reduce the total cost of ownership [TCO], which will reduce the overall cost of siding maintenance and logistics provided by Transnet’s operating divisions within South Africa to the ultimate benefit of all end-users.

3.2 Respondents must briefly describe their commitment to TCO and continuous improvement initiatives and give examples of specific areas and strategies where cost reduction initiatives can be introduced. Specific areas and proposed potential savings percentages should be included. Additional information can be appended to the Respondent’s Proposal if there is insufficient space available below.

4. Risk

Respondents must elaborate on the control measures put in place by their entity, which would mitigate the risk to Transnet pertaining to potential non-performance by the Respondent, in relation to:

4.1 Continuity of service:

4.2 Compliance with the Occupational Health and Safety Act, 85 of 1993:

4.3 Compliance with the National Railway Safety Regulator Act, 16 of 2002:

SIGNED at _____ on this ____ day of _____ 20__

SIGNATURE OF WITNESSES

ADDRESS OF WITNESSES

1 _____

Name _____

2 _____

Name _____

SIGNATURE OF RESPONDENT'S AUTHORISED REPRESENTATIVE: _____

NAME: _____

DESIGNATION: _____

SECTION 5: Business Proposal Form and list of required documents

I/We _____

[name of entity, company, close corporation or partnership] of [full address]

carrying on business trading/operating as

represented by _____

in his / her capacity as

being duly authorised thereto by a Resolution of the Board of Directors or Members or Certificate of Partners, dated _____ to enter into, sign execute and complete any documents relating to this proposal and any subsequent Agreement. The following list of persons are hereby authorised to negotiate on behalf of the abovementioned entity, should Transnet decide to enter into Post Tender Negotiations with highest ranked bidder(s).

FULL NAME(S)

CAPACITY

SIGNATURE

I/We hereby offer to lease the abovementioned siding at the prices quoted in the schedule of prices in accordance with the terms set forth in the documents listed in the accompanying schedule of Request Commercial Proposal documents.

I/We agree to be bound by those conditions in Transnet's:

- (i) Standard Lease Agreement (which may be subject to amendment at Transnet's discretion if applicable);
- (ii) General Bid Conditions; and
- (iii) any other standard or special conditions mentioned and/or embodied in this Request for Commercial Proposal (Commercial Proposal).

Should Transnet decide that a formal contract should be signed and so inform me/us in a letter of intent [the **Letter of Intent**], this Proposal [and, if any, its covering letter and any subsequent exchange of correspondence] together with Transnet's Letter of Intent, shall constitute a binding contract between Transnet and me/us until the formal contract is signed.

I/We further agree that if, after I/we have been notified of the acceptance of my/our Proposal, I/we fail to enter into a formal written contract if called upon to do so, or fail to commence the occupation and use of the leased siding within the time period, or on the date stipulated by Transnet, Transnet may, without prejudice to any other legal remedy which it may have, recover from me/us any expense to which it may have been put in calling for Proposals afresh and/or having to accept any less favourable Proposal.

Furthermore, in the absence of a formal written contract, I/we agree to a penalty clause/s which will allow Transnet to invoke a penalty against us for non-compliance with material terms of this Request for Commercial Proposal including non-performance by ourselves. etc.

I/we agree that in the absence of a formal written contract, non-compliance with any of the material terms of this Request for Commercial Proposal, including those mentioned above, will constitute a material breach of the terms of this Request for Commercial Proposal, and provide Transnet with cause for cancellation.

Address for Notices

The law of the Republic of South Africa shall govern this Request for Commercial Proposal, and any contract created by the acceptance of this Request for Commercial Proposal/entered into pursuant to this Request for Commercial Proposal. The *domicilium citandi et executandi* shall be an address in the Republic of South Africa to be specified by the Respondent hereunder, at which all legal documents may be served on the Respondent, who shall agree to submit to the jurisdiction of the courts of the Republic of South Africa. Foreign Respondents shall, therefore, state hereunder the name of their authorised representative in the Republic of South Africa who has the power of attorney to sign any contract which may have to be entered

into in the event of their Proposal being accepted, and to act on their behalf in all matters relating to such contract.

Respondent to indicate the details of its *domicilium citandi et executandi* hereunder:

Name of Entity: _____

Address: _____

Notification of award of Request for Commercial Proposal

As soon as possible after internal approval to award the contract(s)/lease(s), the successful Respondent [the Bidder] will be informed in writing of the acceptance of its Proposal. Unsuccessful Respondents will be advised in writing of the name of the successful Bidder and the reason as to why their Proposals have been unsuccessful, for example, in the category of price, delivery period, quality, B-BBEE status or for any other reason.

Validity Period

Transnet requires a validity period of 180 Business Days against this Request for Commercial Proposal, excluding the first day and including the last day.

NAME(S) AND ADDRESS / ADDRESSES OF DIRECTOR(S) OR MEMBER(S)

The Respondent must disclose hereunder the full name(s) and address(s) of the director(s) or members of the company or close corporation [C.C.] on whose behalf the Request for Commercial Proposal is submitted.

(i) Registration number of company / C.C.

(ii) Registered name of company / C.C.

(iii) Full name(s) of director/member(s)	Address/Addresses	ID Number(s)
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Returnable Documents

Returnable Documents means all the documents, Sections and Annexures, as listed in the tables below. There are three types of returnable documents as indicated below and Respondents are urged to ensure that these documents are returned with their bids based on the consequences of non-submission as indicated below:

Returnable Documents	<i>Failure to provide all these Mandatory Returnable Documents at the Closing Date and time of this Request for Commercial Proposal <u>will</u> result in a Respondent's disqualification.</i>
Returnable Documents Used for Scoring	<i>Failure to provide all Returnable Documents used for purposes of scoring a bid, by the closing date and time of this bid will not result in a Respondent's disqualification. However, Bidders will receive an automatic score of zero for the applicable evaluation criterion.</i>
Essential Returnable Documents	<i>Failure to provide essential Returnable Documents <u>will</u> result in Transnet affording Respondents a further opportunity to submit by a set deadline. Should a Respondent thereafter fail to submit the requested documents, this may result in a Respondent's disqualification.</i>

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

a) Returnable Documents

Respondents are required to submit with their bid submissions the following **Mandatory Returnable Documents**, and also to confirm submission of these documents by so indicating [Yes or No] in the tables below:

MANDATORY RETURNABLE DOCUMENT	SUBMITTED [Yes/No]
Bid documentation duly signed by the bidder	
Minimum of 2 year audited and signed Financial Statements * if not audited and signed by an auditor, bidder will be disqualified * Financial Statements must come from the bidding company and not a Holding Company or Group	

If bidding company has been in existence for less than 2 years, the bidder needs to provide a Letter of Credit from recognised Financial Institution (obtain rating of financial institutions from Finance)	
SBD1 form Section 1	
Valid proof of Bidder’s compliance to B-BBEE requirements stipulated in Section 9 of this Request for Commercial Proposal	
Annexure F: Returnable Bid Response	

b) Returnable Documents Used for Scoring

In addition to the requirements of section (a) above, Respondents are further required to submit with their Proposals the following **Returnable Documents Used for Scoring** and also to confirm submission of these documents by so indicating [Yes or No] in the table below:

<u>RETURNABLE DOCUMENTS USED FOR SCORING</u>	SUBMITTED [Yes or No]
Operational plan to introduce innovation in order to improve Operational Efficiency. Bidders to provide operational plan which addresses the following topics: Daily loading & offloading capabilities (Number of trains/wagons); Operational hours/ days (i.e., 24/7)	
Hours per day that the siding will be operational	
Rate for Handling and storage (Rand per ton)	
Annexure F1: Volume Source Confirmation	
Annexure F2A_DCF Template	
Annexure F2B_Detailed Investment Plan	
Annexure F3_Community Development Plan	
Annexure G: Risk Assessment	
Proof of security of funding	
Monthly Proposed rental Rate (Total for siding)	

<u>RETURNABLE DOCUMENTS USED FOR SCORING</u>	SUBMITTED [Yes or No]
Documentation regarding the management of environment matters (including compliance), risk, safety, and business continuity	
Community Development Plan	
B-BBEE status	
Job-Creation Schedule	

c) Essential Returnable Documents required in the Lease Application Form:

Over and the above the requirements of section (a) and (b) mentioned above, Respondents are further required to submit with their Proposals the following **Essential Returnable Documents** and also to confirm submission of these documents by so indicating [Yes or No] in the table below:

ESSENTIAL RETURNABLE DOCUMENTS	SUBMITTED [Yes or No]
• Certificate of Incorporation or any amendment thereto	
• Certificate to Commence Business	
• Memorandum of Articles of Association	
• Resolution signed by the company Secretary or Chairperson and copy/copies of identity document/s of person/s authorised to act on behalf of the company and sign the lease agreement and in what capacity	
• Certificate from Secretary / Auditor of the company confirming address of registered office where processes are to be served	
• Operational readiness plan	
• Annexure I: Rail Transport Agreement	

CONTINUED VALIDITY OF RETURNABLE DOCUMENTS

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

SIGNED at _____ on this _____ day of _____ 20____

WITNESSES

Name: _____

Date: _____

Signature:

Name: _____

Date: _____

Signature:

RESPONDENT'S AUTHORISED REPRESENTATIVE:

Name: _____

Date: _____

Signature:

**SECTION 6: Certificate of Acquaintance with Request for Commercial Proposal,
Master Agreements (Standard Lease Agreement) & applicable documents**

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

1	Transnet’s General Bid Conditions
2	Master Agreements attached (Standard Lease Agreement and Rail Transport Agreement (“RTA”). Bidders to indicate whether they have an existing signed rail transport agreement with TFR, and the commencement and termination dates of such rail transport agreement. If the Bidder is of the view that the RTA will not be applicable for any reason(s) whatsoever, then they must indicate such detailed reason(s) in their bid response.
3	Transnet Integrity Pact
4	Non-disclosure Agreement
5	Facility specifications and drawings attached to this Request for Commercial Proposal
6	Supplier Declaration Form and all supporting documents (new customers only).

Should the Bidder find any terms or conditions stipulated in any of the relevant documents quoted in the Request for Commercial Proposal unacceptable, it should indicate which conditions are unacceptable and offer alternatives by written submission on its company letterhead, attached to its submitted Bid. Any such submission shall be subject to review by Transnet’s Legal Counsel who shall determine whether the proposed alternative(s) are acceptable or otherwise, as the case may be. A material deviation from any term or condition may result in disqualification.

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

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

SIGNED at _____ on this ____ day of _____ 20__

WITNESSES

Name: _____ Date: _____

Signature: _____

Name: _____ Date: _____

Signature: _____

RESPONDENT'S AUTHORISED REPRESENTATIVE:

Name: _____ Date: _____

Signature: _____

SECTION 7: Request for Commercial Proposal Declaration and Breach of Law Form

NAME OF ENTITY: _____

We _____ do hereby certify that:

1. Transnet has supplied and we have received appropriate responses to any/all questions [as applicable] which were submitted by ourselves for Request for Commercial Proposal Clarification purposes;
2. We have received all information we deemed necessary for the completion of this Request for Commercial Proposal;
3. We have been provided with sufficient access to the existing Transnet facilities/sites and any and all relevant information relevant to the sidings and/or the leasing of such sidings as well as related Transnet information and Employees, and have had sufficient time in which to conduct and perform a thorough due diligence of Transnet's operations, business requirements and assets used by Transnet. Transnet will therefore not consider or permit any pre- or post-contract verification or any related adjustment to pricing, service levels or any other provisions/conditions based on any incorrect assumptions made by us (the Respondent) in arriving at our Bid Price or our conclusion of the relevant contracts.
4. At no stage have we received additional information relating to the subject matter of this Request for Commercial Proposal from Transnet sources, other than information formally received from the designated Transnet contact(s) as nominated in the Request for Commercial Proposal documents;
5. We are satisfied, insofar as our entity is concerned, that the processes and procedures adopted by Transnet in issuing this Request for Commercial Proposal and the requirements requested from Bidders in responding to this Request for Commercial Proposal have been conducted in a fair and transparent manner;
6. We have complied with all obligations of the Bidder/Supplier as indicated in the Transnet Supplier Integrity document which includes but are not limited to ensuring that we take all measures necessary to prevent corrupt practices, unfairness and illegal activities in order to secure or in furtherance to secure a contract with Transnet;
7. We declare that a family, business and/or social relationship **exists / does not exist** [delete as applicable] between an owner / member / director / partner / shareholder of our entity and an

employee or board member of the Transnet Group including any person who may be involved in the evaluation and/or adjudication of this Bid;

8. We declare that an owner / member / director / partner / shareholder of our entity **is / is not** [delete as applicable] an employee or board member of Transnet;
9. In addition, we declare that an owner / member / director / partner / shareholder/employee of our entity **has / has not been** [delete as applicable] a former employee or board member of Transnet in the past 10 years. I further declare that if they were a former employee or board member of Transnet in the past 10 years that they **were/were not** involved in the bid preparation or had access to the information related to this Request for Commercial Proposal; and
10. If such a relationship as indicated in paragraph 7, 8 and/or 9 exists, the Respondent is to complete the following section:

FULL NAME OF OWNER/MEMBER/DIRECTOR/

PARTNER/SHAREHOLDER/EMPLOYEE:

ADDRESS:

Indicate nature of relationship with Transnet:

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

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

Breach of Law

12. We further hereby certify that *I/we* (the bidding entity and/or any of its directors, members or partners) **have/have not been** [delete as applicable] found guilty during the preceding 5 [five] years of a serious breach of law, including but not limited to a breach of the Competition Act, 89 of 1998, by a court of law, tribunal or other administrative body. The type of breach that the

Respondent is required to disclose excludes relatively minor offences or misdemeanours, e.g. traffic offences. This includes the imposition of an administrative fine or penalty.

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

NATURE OF BREACH:

DATE OF BREACH: _____

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

SIGNED at _____ on this _____ day of _____ 20____

DULY AUTHORISED AND FOR AND ON BEHALF OF	Registered Company name:
	Registration No of Company/CC
Name:	
Position:	
Signature:	
Date:	
Place:	

AS WITNESS:	
Name:	
Position:	
Signature:	

SECTION 9: Job-Creation Schedule

(Please ensure that you return this schedule with your bid submission)

The Government has identified State Owned Enterprises sourcing activities as a key enabler to achieve the National Development Plan (NDP) objective of reducing unemployment from the current baseline of 28% to 6%. In order to give effect to these job creation objectives, Respondents are required to provide the following undertaking of new jobs that will be created () should they be awarded this bid.

(a) Please indicate total number of new jobs that will be created over the term of the contract:

Total number and value of new jobs created	Total number of new jobs	Total rand value of new jobs created

(b) Of the total number of new jobs created, please indicate the number and value of new jobs to be created for the following designated groups:

	Total number of new jobs	Total rand value of new jobs
Black men		
Black women		
Black Youth		
Black people living in rural or underdeveloped areas or townships		
Black People with Disabilities		

(c) Of the total number of new jobs created, please indicate the number of skilled, semi-skilled and unskilled new jobs that will be created over the term of the contract:

	Total number of Skilled jobs	Total number of Semi-skilled jobs	Total number of Unskilled jobs
Black men			
Black women			
Black Youth			
Black people living in rural or underdeveloped areas or townships			
Black People with Disabilities			
Other			

(d) Please indicate the number of new jobs to be created, broken down per quarter over the term of the contract.

Year 1	Q1	Q2	Q3	Q4
Total number of new jobs				
Number of new jobs for Black men				
Number of new jobs for black women				
Number of new jobs for black youth				
Number of new jobs for black people living in rural or underdeveloped areas or townships				
Number of new jobs for black People with Disabilities				
Number of new jobs for other categories				
Number of new skilled jobs				
Number of new semi-skilled jobs				
Number of new unskilled jobs				