

Provision of vegetation control at Bethlehem and surrounding areas, Kroonstad and surrounding areas on as and when required basis for a period of 24 months

TRANSNET FREIGHT RAIL

an Operating Division of **TRANSNET SOC LTD**

[hereinafter referred to as **Transnet**]

Registration Number 1990/000900/30

REQUEST FOR QUOTATION [RFQ] No WRAC/BFC/33417 [TFR/2022/05/0428/3491/RFQ]

FOR THE PROVISION OF: Vegetation control at Bethlehem and surrounding, Kroonstad and surrounding areas on as and when required basis for a period of 24 months

ISSUE DATE:	23 May 2022
CLOSING DATE:	7 June 2022
CLOSING TIME:	10:00 AM
VALIDITY DATE:	90 [ninety] Business Days (11 October 2022)

Provision of vegetation control at Bethlehem and surrounding areas, Kroonstad and surrounding areas on as and when required basis for a period of 24 months

Dear Bidder,

SBD 1 FORM

PART A - INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF Transnet Freight Rail, A DIVISION TRANSNET SOC LTD							
ID NUMBER:	WRAC/BFC/33417	ISSUE	23 May	CLOSING	7 June	CLOSING TIME:	10:00 am
	[TFR/2022/05/0428/3491/RFQ]	DATE:	2022	DATE:	2022		
DESCRIPTION	Provision of vegetation control at Bethlehem and surrounding areas, Kroonstad and surrounding areas on as and when required basis for a period of 24 months						

BID RESPONSE DOCUMENTS SUBMISSION

Transnet has implemented a new 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.

RESPONDENTS ARE TO UPLOAD THEIR BID RESPONSE PROPOSALS ONTO THE TRANSNET SYSTEM AGAINST EACH TENDER/RFQ SELECTED.

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;
- 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.

BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO		TECHNICAL ENQUIRIES MAY BE DIRECTED TO:	
CONTACT PERSON	Leonie Visagie	CONTACT PERSON	Chris van Vuuren
TELEPHONE NUMBER	(053) 838 3119	TELEPHONE NUMBER	(051) 408 2206
FACSIMILE NUMBER		FACSIMILE NUMBER	(011) 774 9784
E-MAIL ADDRESS	Leonie.Visagie@Transnet.net	E-MAIL ADDRESS	Chris.vanVuuren@Transnet.net

SUPPLIER INFORMATION

NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
FACSIMILE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
AT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE	UNIQUE REGISTRATION REFERENCE NUMBER:
					MAAA:

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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
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A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]

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 QUESTIONAIRE BELOW]
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QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

- 5 THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? ☐ YES ☐ NO
- 6 DOES THE ENTITY HAVE A BRANCH IN THE RSA? ☐ YES ☐ NO
- 7 DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? ☐ YES ☐ NO
- 8 DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? ☐ YES ☐ NO
- 9 IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? ☐ YES ☐ NO

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

- 1.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
- 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.
- 1.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
- 1.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
- 1.5 IN BIDS WHERE UNINCORPORATED CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
- 1.6 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.

//....SDB1: Continue

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 Responses to RFQ

Responses to this RFQ [**Quotations**] must not include documents or reference relating to any other quotation or proposal. Any additional conditions must be embodied in an accompanying letter.

2 Formal Briefing

A compulsory pre-proposal site meeting and RFQ briefing will not be conducted.

3 Communication

3.1 Specific queries relating to this RFQ before the closing date of the RFQ should be submitted to **Chris.vanVuuren@Transnet.net** before **12:00 pm on 3 June 2022**. In the interest of fairness and transparency Transnet's response to such a query will then be made available to other bidders.

3.2 It is prohibited for Respondents to attempt, either directly or indirectly, to canvass any officer or employee of Transnet in respect of this RFQ between the closing date and the date of the award of the business.

3.3 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.

3.4 Respondents may also, at any time after the closing date of the RFQ, communicate with the name of delegated individual on any matter relating to its RFQ response:

Email: Leonie.Visagie@Transnet.net

4 Legal Compliance

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

5 Employment Equity Act

Respondents must comply with the requirements of the Employment Equity Act 55 of 1998 applicable to it including (but not limited to) Section 53 of the Employment Equity Act.

6 Changes to Quotations

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

7 Binding Offer

Any Quotation furnished pursuant to this Request shall be deemed to be an offer. Any exceptions to this statement must be clearly and specifically indicated.

8 Disclaimers

8.1 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 Quotation in response to it. Please note that Transnet reserves the right to:

- modify the RFQ's goods / service(s) and request Respondents to re-bid on any changes;

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- reject any Quotation which does not conform to instructions and specifications which are detailed herein;
- disqualify Quotations submitted after the stated submission deadline;
- not necessarily accept the lowest priced Quotation or an alternative bid;
- place an order in connection with this Quotation at any time after the RFQ's closing date;
- award only a portion of the proposed goods / services which are reflected in the scope of this RFQ;
- split the award of the order/s between more than one Supplier/Service Provider should it at Transnet's discretion be more advantageous in terms of, amongst others, cost or developmental considerations;
- cancel the quotation process;
- 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. By submitting a bid, Respondents hereby irrevocably grant the necessary consent to Transnet to do so;
- request audited financial statements or other documentation for the purposes of a due diligence exercise;
- 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 provides for it;
- to cancel the contract and/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;
- award the business to the next ranked bidder, provided that he/she is still prepared to provide the required Goods/Services at the quoted price, should the 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 provide the required Goods/Services at their quoted price, even after they have been issued with a Letter of Regret.

9 Specification/Scope of Work

Refer to Page 42 for the Scope of Work.

10 Legal review

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

11 Security clearance

Acceptance of this bid could be subject to the condition that the Successful Respondent, its personnel providing the goods and its subcontractor(s) must obtain security clearance from the appropriate authorities to the level of CONFIDENTIAL/ SECRET/TOP SECRET. Obtaining the required clearance is the responsibility of the Successful Respondent. Acceptance of the bid is also subject to the condition that the Successful Respondent will implement all such security measures as the safe performance of the contract may require.

12 National Treasury's Central Supplier Database

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

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.

13 Tax Compliance

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


It is a condition of this 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.

The Tax Compliance status requirements are also applicable to foreign Respondents/ individuals who wish to submit bids.









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.

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

TIP-OFFS ANONYMOUS:



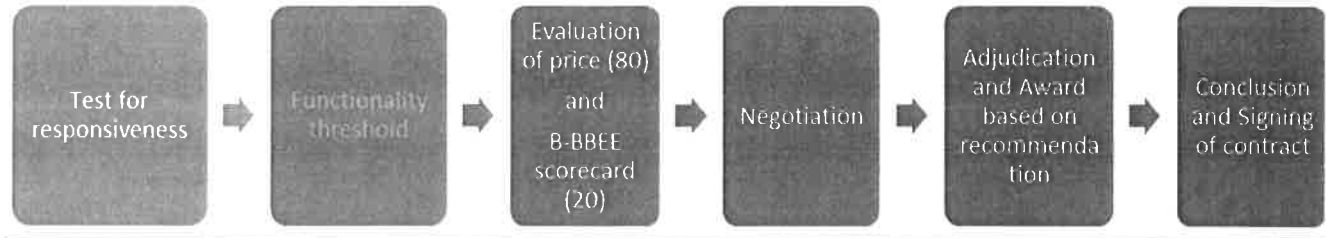
You can choose to be Anonymous or Non-Anonymous on ANY of the platforms
PLEASE RETAIN YOUR REFERENCE NUMBER

				
	<p>AI Voice Bot "Jack" Speak to our AI Voice Chat Bot "JACK", you converse with him like chatting to a human, with the option to record a message and speak to an agent at anytime.</p>	<p>What's App Speak to an Agent via What's App.</p>	<p>Speak to an Agent Speak to an Agent via the platform with no call or data charge</p>	<p>Telegram Speak to an Agent via Telegram</p>
 0800 003 056	 086 551 4153	 reportit@ethicshelpdesk.com	 *120*0785980808#	

SECTION 3**EVALUATION METHODOLOGY, CRITERIA AND RETURNABLE DOCUMENTS****EVALUATION CRITERIA**

TRANSNET WILL UTILISE THE FOLLOWING METHODOLOGY AND CRITERIA IN SELECTING A PREFERRED

SUPPLIER:

**1.1 STEP ONE: Test for Administrative Responsiveness**

The test for administrative responsiveness will include the following:

Administrative responsiveness check	RFQ Reference
• Whether the Bid has been lodged on time	
• Whether all Returnable Documents and/or schedules [where applicable] were completed and returned by the closing date and time	<i>Section 3</i>
• Verify the validity of all returnable documents	<i>Section 3</i>
• Verify if the Bid document has been duly signed by the authorised respondent	<i>All sections</i>

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

1.2 STEP TWO: Test for Substantive Responsiveness to RFQ

The test for substantive responsiveness to this RFQ will include the following:

Check for substantive responsiveness	RFQ Reference
• Whether any general and legislation qualification criteria (excluding preferential procurement) set by Transnet, have been met	<i>All sections</i>
• Whether the Bid contains a priced offer	<i>Section 4 - Quotation Form</i>

The test for substantive responsiveness [Step Two] must be passed for a Respondent's proposal to progress to Step Three for further evaluation

1.3 STEP THREE: Minimum Threshold 60 points for Technical Criteria

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

Technical Evaluation Criteria	Points Weightings	Scoring guideline (0 to 5)
1. Previous Experience	60	0,1,2,3,4,5
2. CV's OF Key personnel	20	0,1,2,3,4,5
3. Health and Safety	20	0,1,2,3,4,5
Total Weighting:	100	
Minimum qualifying score required:	60	

The following Technical Evaluation Criteria will apply:

1. Previous Experience (Weight 60 %)

Proof of completion (certificates) of relevant project .Providing details of company, type of work completed and contactable references relevant to this RFQ	
Score	Criteria
5	Submitted at least 5 or more completed similar projects
4	Submitted at least 4 completed similar projects
3	Submitted at least 3 completed similar projects
2	Submitted at least 2 completed similar projects
1	Submitted at least 1 completed similar project
0	Submitted 0 completed projects or no valid proof of previous projects

2. Key Persons CV and Experience

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

1. An organisation chart showing on-site and off-site management (including the key people you have identified in the Contract Data Part two and identify the required legal appointments.)
2. CV's for people proposed for all identified posts including Safety Officer and Project Manager / Quality Assurance Representative.
3. Details of the location (and functions) of offices from which the works will be managed.
4. Details of the experience of the staff who will be working on the works with respect to:
Agriculture Remedies for Industrial Vegetation and Noxious Weeds)
5. An explanation of how you propose to allocate adequate resources to enable you to comply with the requirements and prohibitions imposed on you by or under the statutory provisions relating to health and safety.

Key Persons CV and Experience (Weight 20 %)	
Criteria	Score
5 of the items as per above	5
4 of the items as per above	4
3 of the items as per above	3
2 of the items as per above	2
1 of the item as per above	1
No items addressed as per above items	0

3. Health and Safety Plan

Submit the following documents as a minimum with your tender:

1. Valid letter of good standing with insurance body.
2. A safety plan to be submitted in accordance with the OHSA 1993 and Transnet Freight Rail's health and Safety Specification TFR-ISM-RN-R&C-FM009
3. Risk assessment
4. Safety File (Index)
5. Safety Work Method Statement

Health and Safety Plan – (Weight 20 %)	
Criteria	Score
5 of the items as per above	5
4 of the items as per above	4
3 of the items as per above	3
2 of the items as per above	2
1 of the item as per above	1
No items addressed as per above items	0

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.

The minimum threshold for technical/functionality [Step Three] must be met or exceeded for a Respondent's Proposal to progress to Step Four for final evaluation

1.4 STEP FOUR: Evaluation of Price :

Evaluation Criteria	RFQ Reference
• Commercial offer	Section 4

Transnet will utilise the following formula in its evaluation of Price:

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

Where:

P_s = Score for the Bid under consideration

P_t = Price of Bid under consideration

P_{min} = Price of lowest acceptable Bid

a) **Broad-Based Black Economic Empowerment criteria** [Weighted score 20 points]

- B-BBEE - current scorecard / B-BBEE Preference Points Claims Form

Preference points will be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table indicated in Section 4.1 of the B-BBEE Preference Points Claim Form.

1.5 STEP FIVE: Post Tender Negotiations (if applicable)

- Respondents are to note that Transnet may not award a contract if the price offered is not market-related. In this regard, Transnet reserves the right to engage in PTN with the view to achieving a market-related price or to cancel the tender. Negotiations will be done in a sequential manner i.e.:
 - first negotiate with the highest ranked bidder or cancel the bid, should such negotiations fail,
 - negotiate with the 2nd and 3rd ranked bidders (if required) in a sequential manner.
- In the event of any Respondent being notified of such short-listed/preferred bidder status, his/her bid, as well as any subsequent negotiated best and final offers (BAFO), will automatically be deemed to remain valid during the negotiation period and until the ultimate award of business.
- Should Transnet conduct post tender negotiations, Respondents will be requested to provide their best and final offers to Transnet based on such negotiations. Where a market related price has been achieved through negotiation, the contract will be awarded to the successful Respondent(s).

1.6 STEP SIX: Award of business and conclusion of 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 Quotation by way of a Letter of Award. 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.

14 Validity Period

Transnet requires a validity period of **90 [ninety] Business Days (7 June 2022)** from the closing date of this RFQ, excluding the first day and including the last day.

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

15 Disclosure of contract information**Prices Quoted**

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

Johannesburg Stock Exchange Debt Listing Requirements

Transnet may also be required to disclose information relating to the subsequent contract i.e. the name of the company, goods/services provided by the company, the value and duration of the contract, etc. in compliance with the Johannesburg Stock Exchange (JSE) Debt Listing Requirements.

Domestic Prominent Influential Persons (DPIP) OR Foreign Prominent Public Officials (FPPO)

Transnet is free to procure the services of any person within or outside the Republic of South Africa in accordance with applicable legislation. Transnet shall not conduct or conclude business transactions, with any Respondents without having:

- Considered relevant governance protocols;
- Determined the DPIP or FPPO status of that counterparty; and
- Conducted a risk assessment and due diligence to assess the potential risks that may be posed by the business relationship.

As per the Transnet Domestic Prominent Influential Persons (DPIP) and Foreign Prominent Public Officials (FPPO) and Related Individuals Policy available on Transnet website <https://www.transnet.net/search/pages/results.aspx?k=FPIDP#k=DPIP>, Respondents are required to disclose any commercial relationship with a DPIP or FPPO (as defined in the Policy) by completing the following section:

The below form contains personal information as defined in the Protection of Personal Information Act, 2013 (the "Act"). By completing the form, the signatory consents to the processing of her/his personal information in accordance with the requirements of the Act. Consent cannot unreasonably be withheld.						
Is the Respondent (Complete with a "Yes" or "No")						
A DPIP/FPPO		Closely Related to a DPIP/FPPO		Closely Associated to a DPIP/FPPO		
List all known business interests, in which a DPIP/FPPO may have a direct/indirect interest or significant participation or involvement.						
No	Name of Entity / Business	Role in the Entity / Business (Nature of interest/ Participation)	Shareholding %	Registration Number	Status (Mark the applicable option with an X)	
					Active	Non-Active
1						
2						
3						

Respondents declaring a commercial relationship with a DPIIP or FPPO are to note that Transnet is required to annually publish on its website a list of all business contracts entered into with DPIIP or FPPO. This list will include successful Respondents, if applicable.

16 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:

Mandatory Returnable Documents	<i>Failure to provide all these Mandatory Returnable Documents at the Closing Date and time of this RFQ <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) Mandatory 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 Documents	Submitted [Yes or No]
SECTION 1: SBD1 Form	
SECTION 4 : Quotation Form	
Valid Proof to be submitted that Pest Control Officer/s is certified (PCO Certificate – Agriculture Remedies for Industrial Vegetation and Noxious Weeds)	
Section 11: Contract Cleaning Minimum Wage Declaration	

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:

RETURNABLE DOCUMENTS USED FOR SCORING	SUBMITTED [Yes or No]
<ul style="list-style-type: none"> Valid proof of Respondent's compliance to B-BBEE requirements stipulated in Section 8 of this RFQ (Valid B-BBEE certificate or Sworn Affidavit) 	
<ul style="list-style-type: none"> Previous Experience 	
<ul style="list-style-type: none"> Key Persons CV and Experience 	
<ul style="list-style-type: none"> Health and Safety 	

c) Essential Returnable Documents:

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 & SCHEDULES	SUBMITTED [Yes or No]
In the case of Joint Ventures, a copy of the Joint Venture Agreement or written confirmation of the intention to enter into a Joint Venture Agreement	
SECTION 5: Certificate of Acquaintance with RFQ Documents	
SECTION 6: RFQ Declaration and Breach of Law Form	
SECTION 7: SBD 9 - Certificate Of Independent Bid Determination	
SECTION 8: B-BBEE Preference Claim Form	
SECTION 9: Protection of Personal Information	

17 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 RFQ. Should the Respondent be awarded the contract [**the Agreement**] and fail to present Transnet with such renewals as and when they become due, Transnet shall be entitled, in addition to any other rights and remedies that it may have in terms of the eventual Agreement, to terminate such Agreement immediately without any liability and without prejudice to any claims which Transnet may have for damages against the Respondent.

SECTION 4

QUOTATION FORM

I/We _____

hereby offer to supply the goods/services at the prices quoted in the Price Schedule below, in accordance with the conditions related thereto.

I/We agree to be bound by those terms and conditions in:

- the Standard RFQ Terms and Conditions for the Supply of Goods or Services to Transnet; and
- any other standard or special conditions embodied in this Request for Quotation.

I/We accept that unless Transnet should otherwise decide and so inform me/us, this Quotation [and, if any, its covering letter and any subsequent exchange of correspondence], together with Transnet's acceptance thereof shall constitute a binding contract between Transnet and me/us. I/We further agree that if, after I/we have been notified of the acceptance of my/our Quotation, I/we fail to deliver the said goods/service/s within the delivery lead-time quoted, Transnet may, without prejudice to any other legal remedy which it may have, cancel the order and recover from me/us any expenses incurred by Transnet in calling for Quotations afresh and/or having to accept any less favourable offer.

Price Schedule

I/We quote as follows for the goods/services required, on a "delivered nominated destination" basis, including VAT:

Price List. Transnet Freight Rail Bethlehem vegetation control to various areas

The Price List is as follows:

SCHEDULE OF RATES AND QUANTITIES: Bethlehem vegetation control to various areas					
Item No.	Description	Unit	Estimated Quantity	Rate	Total
Year one of contract period					
1.	Open land areas, around buildings and fence line cut grass. Brush cut veld grass on open land areas to a maximum of 10cm above natural ground level. "Cut and drop" Not necessary to remove cut grass.	m ²	200 000		
2.	Areas, around buildings and fence line cut grass Brush cut veld grass or next to fence line to a not more than 10cm long above natural ground level and pick up and remove cuttings from site.	m ²	10 000		
3.	Open land areas: Around buildings and fence line cut and removes undesirable or un-wanted plant growth small trees up to 0.5m high to be cut to maximum of 10cm above natural ground level and poison with Herbicide (Garlon and Diesel) herbicide or approved Herbicide.	Each	50		

Respondent's Signature

WRAC/BFC/33417 [TFR/2022/05/0428/3491/RFQ]

Date & Company Stamp

Continue - // Bethlehem vegetation control to various areas					
4.	Open land areas: Around buildings and fence line cut and removes undesirable or un-wanted plant growth small trees up to 1.0m high to be cut to maximum of 10cm above natural ground level and poison with Herbicide (Garlon and Diesel) herbicide or approved Herbicide.	Each	30		
5.	Open land areas: Around buildings and fence line cut and removes undesirable or un-wanted plant growth small trees up to 1.5m high to be cut to maximum of 10cm above natural ground level and poison with Herbicide (Garlon and Diesel) herbicide or approved Herbicide.	Each	20		
6.	Open land areas: Around buildings and fence line cut and removes undesirable or un-wanted plant growth small trees up to 2.0m high to be cut to maximum of 10cm above natural ground level and poison with Herbicide (Garlon and Diesel) herbicide or approved Herbicide.	Each	10		
7.	Fell trees and or cut up trees blown over during a storm. Do risk assessment and to cut tree and price work per hour. Transnet Freight Rail project manager will send photos of tree and location, contractor to visit site and after doing risk assessment give a quote on how many hours he will take to cut and remove the tree to be fell or cut up as necessary to the satisfaction of the Transnet Freight Rail Project manager.	Hour	9		
8.	Tar roads: Spot poison as necessary all grass growing in tar road or paved areas with (Glyphosate) The specification is for spot poison of grass and weeds growing in the tar road, tar parking areas, paved areas and platform areas. Square area quantity will be paid only for areas that were spot poison as necessary and not for the whole area.	m ²	100		
9.	Open filed and or vehicle parking areas, spray whole area as per job card with approved poison as necessary (Glyphosate) The specification is for areas will be price per square metre to poison weeds and grass.	m ²	500		
10.	Remove building rubble: If necessary contractor will be given in writing instruction to remove building rubble dump on Transnet ground. Rubble will be of size that can be hand loaded with hands or with spades. Transnet project manager will with contractor determine the cubic meter to be removed	m ²	6		

Continue - // Bethlehem vegetation control to various areas					
11.	Remove house hold rubble: If necessary contractor will be given in writing instruction to remove house hold rubble dump on Transnet ground. Rubble House hold rubble will consist of plastic bags, bottles paper and other normal house hold rubble that can be hand loaded. Transnet project manager will with contractor determine the cubic meter to be removed	m ²	6		
12.	Provide TLB with operator. If required contractor to provide TLB with operator, price to include diesel cost to remove concrete sleepers to central area and or any building rubble dump on areas where ground maintenance must be done as per instruction in site book if necessary to remove. Rubble will be stock pile at central point. Tariff per hour, minimum time will be 8 hours per instruction as necessary to remove rubble to area on site as per instruction in site book.	Hour	8		
13.	P & G Site establishment & remove	Per cut	3		
14.	Risk & Safety (Act 85 requirements) per cut	Per cut	3		
NET TOTAL R					
15% VAT R					
YEAR ONE GRAND TOTAL R					

Net total without 15% VAT in words:

Year two of contract period

SCHEDULE OF RATES AND QUANTITIES: Bethlehem vegetation control to various areas					
Item No.	Description	Unit	Estimated Quantity	Rate	Total
Year two of contract period					
1.	Open land areas, around buildings and fence line cut grass. Brush cut veld grass on open land areas to a maximum of 10cm above natural ground level. "Cut and drop" Not necessary to remove cut grass.	m ²	200 000		
2.	Areas, around buildings and fence line cut grass Brush cut veld grass or next to fence line to a not more than 10cm long above natural ground level and pick up and remove cuttings from site.	m ²	10 000		
3.	Open land areas: Around buildings and fence line cut and removes undesirable or unwanted plant growth small trees up to 0.5m high to be cut to maximum of 10cm above natural ground level and poison with Herbicide (Garlon and Diesel) herbicide or approved Herbicide.	Each	50		
4.	Open land areas: Around buildings and fence line cut and removes undesirable or unwanted plant growth small trees up to 1.0m high to be cut to maximum of 10cm above natural ground level and poison with Herbicide (Garlon and Diesel) herbicide or approved Herbicide.	Each	30		
5.	Open land areas: Around buildings and fence line cut and removes undesirable or unwanted plant growth small trees up to 1.5m high to be cut to maximum of 10cm above natural ground level and poison with Herbicide (Garlon and Diesel) herbicide or approved Herbicide.	Each	20		
6.	Open land areas: Around buildings and fence line cut and removes undesirable or unwanted plant growth small trees up to 2.0m high to be cut to maximum of 10cm above natural ground level and poison with Herbicide (Garlon and Diesel) herbicide or approved Herbicide.	Each	10		
7.	Fell trees and or cut up trees blown over during a storm. Do risk assessment and to cut tree and price work per hour. Transnet Freight Rail project manager will send photos of tree and location, contractor to visit site and after doing risk assessment give a quote on how many hours he will take to cut and remove the tree to be fell or cut up as necessary to the satisfaction of the Transnet Freight Rail Project manager.	Hour	9		

Respondent's Signature

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Date & Company Stamp

Continue - // Bethlehem vegetation control to various areas					
8.	Tar roads: Spot poison as necessary all grass growing in tar road or paved areas with (Glyphosate) The specification is for spot poison of grass and weeds growing in the tar road, tar parking areas, paved areas and platform areas. Square area quantity will be paid only for areas that were spot poison as necessary and not for the whole area.	m ²	100		
9.	Open filed and or vehicle parking areas, spray whole area as per job card with approved poison as necessary (Glyphosate) The specification is for areas will be price per square metre to poison weeds and grass.	m ²	500		
10.	Remove building rubble: If necessary contractor will be given in writing instruction to remove building rubble dump on Transnet ground. Rubble will be of size that can be hand loaded with hands or with spades. Transnet project manager will with contractor determine the cubic meter to be removed	m ²	6		
11.	Remove house hold rubble: If necessary contractor will be given in writing instruction to remove house hold rubble dump on Transnet ground. Rubble House hold rubble will consist of plastic bags, bottles paper and other normal house hold rubble that can be hand loaded. Transnet project manager will with contractor determine the cubic meter to be removed	m ²	6		
12.	Provide TLB with operator. If required contractor to provide TLB with operator, price to include diesel cost to remove concrete sleepers to central area and or any building rubble dump on areas where ground maintenance must be done as per instruction in site book if necessary to remove. Rubble will be stock pile at central point. Tariff per hour, minimum time will be 8 hours per instruction as necessary to remove rubble to area on site as per instruction in site book.	Hour	8		
13.	P & G Site establishment & remove	Per cut	3		
14.	Risk & Safety (Act 85 requirements) per cut	Per cut	3		
NET TOTAL R					
15% VAT R					
YEAR TWO GRAND TOTAL R					

Net total without 15% VAT in words:

Respondent's Signature

WRAC/BFC/33417 [TFR/2022/05/0428/3491/RFQ]

Date & Company Stamp

1. Price List.

Transnet Freight Rail Kroonstad vegetation control to various areas for three full vegetation control cuts but can be less or more and can be more at certain areas and less at certain areas. Can also be more or less of certain of the items per cut.

The Price List is as follows:

SCHEDULE OF RATES AND QUANTITIES: Kroonstad vegetation control to various areas					
Item No.	Description	Unit	Estimated Quantity	Rate	Total
Year one of contract period					
1.	Open land areas, around buildings and fence line, cut all vegetation that include field grass and all types of weeds up to a maximum of 10cm above natural ground level. "Cut and drop" Not necessary to remove cuttings. Item also include the cut of thorn trees and other types of small trees that is up to 300mm high to a maximum of 10cm above natural ground level. "Cut and drop" Not necessary to remove cuttings.	m ²	160 000		
2.	Open land areas, around buildings and fence line, cut all vegetation that include field grass and all types of weeds up to a maximum of 10cm above natural ground level. Cut, pick up and remove all cuttings from site to approved dumping area. Item also include the cut of thorn trees and other types of small trees that is up to 300mm high to a maximum of 10cm above natural ground level. Cut, pick up and remove all cuttings from site to approved dumping area.	m ²	20 000		
3.	Open land areas: Around buildings and fence line cut and removes undesirable or un-wanted plant growth. Transnet project manager will show on site and asked for time quotation from the contractor and then give instruction on the job card to clean area from the un-wanted small shrubs, Thorn trees, herbaceous and other undesirable or un-wanted plant growth from up to 300mm up to 2.0m high to be cut to maximum off 10cm above natural ground level. Transnet project manager will asked the contractor for an quotation for the work as per hour tariff option explain in item 2, 5	Hour	80		
4.	Cut torn trees and Cat Bush" sample to be shown at site meeting up to 500mm high, poison with approved herbicide and remove cuttings from site. Herbicide shall have colour to show it had been applied	Each	75		

Continue - // Kroonstad vegetation control to various areas					
5.	Cut torn trees and "Cat Bush" sample to be shown at site meeting from 500mm high to 1.00m high, poison with approved herbicide and remove cuttings from site. Herbicide shall have colour to show it had been applied	Each	60		
6.	Cut torn trees and "cat bush" up to from 1.0m high to 1.50m high, poison with approved herbicide and remove cuttings from site. Herbicide shall have colour to show it had been applied	Each	30		
7.	Cut torn trees up to from 1.5m high to 2.00m high, poison with approved herbicide and remove cuttings from site. Herbicide shall have colour to show it had been applied	Each	10		
8.	Fell trees and or cut up trees blown over during a storm. Do risk assessment to cut tree and price work per hour explain in item 2.5. Transnet Freight Rail project manager will send photos of tree and location, contractor to visit site and after doing risk assessment give a quote on how many hours he will take to cut and remove the tree to be fell or cut up as necessary with all cuttings to the satisfaction of the Transnet Freight Rail Project manager. Item include apply herbicide to stump left in ground. Herbicide shall have colour to show it had been applied	Hour	27		
9.	Tar / paved roads: Spot poison as necessary all grass growing in tar road or paved areas with (Glyphosate) The specification is for spot poison of grass and weeds growing in the tar road, tar parking areas, paved areas and platform areas. Square area quantity will be paid only for areas that were spot poison as necessary and not for the whole area. Payment for this item will only be made after 60 days as to see if herbicide used is effective.	m ²	100		
10.	Open field and or gravel vehicle parking areas, spray whole area as per job card with approved poison as necessary (Glyphosate) or approved herbicide The specification for the areas, will be price per square metre to poison weeds and grass. Payment for this item will only be made after 60 days as to see if herbicide used is effective.	m ²	5000		

Respondent's Signature

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Continue - // Kroonstad vegetation control to various areas					
11.	Remove building rubble: If necessary contractor will be given in writing instruction to remove building rubble dump on Transnet ground. Rubble will be of size that can be hand loaded with hands or with spades. Transnet project manager will with contractor determine the cubic meter to be removed	m ³	6		
12.	Remove house hold rubble: If necessary contractor will be given in writing instruction to remove house hold rubble dump on Transnet ground. Rubble House hold rubble will consist of plastic bags, bottles paper and other normal house hold rubble that can be hand loaded. Transnet project manager will with contractor determine the cubic meter to be removed	m ³	6		
13.	P & G The P & G shall be as per the General and Special Conditions and will include all costs not directly related to the execution of the work as stated. All items not specifically mentioned in the Schedule of Rates and Prices should form part of the contractor's requirements such as the cost of stationary and (start-up costs and removal of site establishment) and will include the handing over of the site to the contractor and handing back of the site after completion. The PRELIMINARY AND GENERAL (P & G) tender amount per cut as per the quantity priced in the price list will be used as percentage if less or more work per cut or per job or if only certain work is done as for sample felling only a tree.	Per cut	3		
14.	Risk & Safety (Act 85 requirements) cut The contractor shall allow in his pricing for all material and supervision needed in their costing. This shall include: First aid kit and emergency numbers displayed, Safety clothing (boots, gloves, safety hats, goggles and so on Barriers, barrier tape and so on. Safety files with records of all reports and safety inspections. Sign / notice board stating contractors name and that all visitors report to the site agent for induction to enter onto site and sign the site book. The Health and safety tender amount per cut as per the quantity priced in the price list will be used as percentage if less or more work per cut or per job is done or if only certain work is done as for sample felling only a tree.	Per cut	3		

Respondent's Signature

WRAC/BFC/33417 [TFR/2022/05/0428/3491/RFQ]

Date & Company Stamp

Continue - // Kroonstad vegetation control to various areas	
NET TOTAL R	
15% VAT R	
YEAR ONE GRAND TOTAL R	

Net total without 15% VAT in words:

Year two of contract period

Transnet Freight Rail Kroonstad vegetation control to various areas for three full vegetation control cuts but can be less or more and can be more at certain areas and less at certain areas. Can also be more or less of certain of the items per cut.

SCHEDULE OF RATES AND QUANTITIES: Kroonstad vegetation control to various areas					
Item No.	Description	Unit	Estimated Quantity	Rate	Total
Year two of contract period					
1.	Open land areas, around buildings and fence line, cut all vegetation that include field grass and all types of weeds up to a maximum of 10cm above natural ground level. "Cut and drop" Not necessary to remove cuttings. Item also include the cut of thorn trees and other types of small trees that is up to 300mm high to a maximum of 10cm above natural ground level. "Cut and drop" Not necessary to remove cuttings.	m ²	160 000		
2.	Open land areas, around buildings and fence line, cut all vegetation that include field grass and all types of weeds up to a maximum of 10cm above natural ground level. Cut, pick up and remove all cuttings from site to approved dumping area. Item also include the cut of thorn trees and other types of small trees that is up to 300mm high to a maximum of 10cm above natural ground level. Cut, pick up and remove all cuttings from site to approved dumping area.	m ²	20 000		

Continue - // Kroonstad vegetation control to various areas					
3.	Open land areas: Around buildings and fence line cut and removes undesirable or un-wanted plant growth. Transnet project manager will show on site and asked for time quotation from the contractor and then give instruction on the job card to clean area from the un-wanted small shrubs, Thorn trees, herbaceous and other undesirable or un-wanted plant growth from up to 300mm up to 2.0m high to be cut to maximum off 10cm above natural ground level. Transnet project manager will asked the contractor for an quotation for the work as per hour tariff option explain in item 2, 5	Hour	80		
4.	Cut torn trees and Cat Bush" sample to be shown at site meeting up to 500mm high, poison with approved herbicide and remove cuttings from site. Herbicide shall have colour to show it had been applied	Each	75		
5.	Cut torn trees and "Cat Bush" sample to be shown at site meeting from 500mm high to 1.00m high, poison with approved herbicide and remove cuttings from site. Herbicide shall have colour to show it had been applied	Each	60		
6.	Cut torn trees and "cat bush" up to from 1.0m high to 1.50m high, poison with approved herbicide and remove cuttings from site. Herbicide shall have colour to show it had been applied	Each	30		
7.	Cut torn trees up to from 1.5m high to 2.00m high, poison with approved herbicide and remove cuttings from site. Herbicide shall have colour to show it had been applied	Each	10		
8.	Fell trees and or cut up trees blown over during a storm. Do risk assessment to cut tree and price work per hour explain in item 2.5. Transnet Freight Rail project manager will send photos of tree and location, contractor to visit site and after doing risk assessment give a quote on how many hours he will take to cut and remove the tree to be fell or cut up as necessary with all cuttings to the satisfaction of the Transnet Freight Rail Project manager. Item include apply herbicide to stump left in ground. Herbicide shall have colour to show it had been applied	Hour	27		

Continue - // Kroonstad vegetation control to various areas					
9.	Tar / paved roads: Spot poison as necessary all grass growing in tar road or paved areas with (Glyphosate) The specification is for spot poison of grass and weeds growing in the tar road, tar parking areas, paved areas and platform areas. Square area quantity will be paid only for areas that were spot poison as necessary and not for the whole area. Payment for this item will only be made after 60 days as to see if herbicide used is effective.	m ²	100		
10.	Open field and or gravel vehicle parking areas, spray whole area as per job card with approved poison as necessary (Glyphosate) or approved herbicide The specification for the areas, will be price per square metre to poison weeds and grass. Payment for this item will only be made after 60 days as to see if herbicide used is effective.	m ²	5000		
11.	Remove building rubble: If necessary contractor will be given in writing instruction to remove building rubble dump on Transnet ground. Rubble will be of size that can be hand loaded with hands or with spades. Transnet project manager will with contractor determine the cubic meter to be removed	m ³	6		
12.	Remove house hold rubble: If necessary contractor will be given in writing instruction to remove house hold rubble dump on Transnet ground. Rubble House hold rubble will consist of plastic bags, bottles paper and other normal house hold rubble that can be hand loaded. Transnet project manager will with contractor determine the cubic meter to be removed	m ³	6		
13.	P & G The P & G shall be as per the General and Special Conditions and will include all costs not directly related to the execution of the work as stated. All items not specifically mentioned in the Schedule of Rates and Prices should form part of the contractor's requirements such as the cost of stationary and (start-up costs and removal of site establishment) and will include the handing over of the site to the contractor and handing back of the site after completion. The	Per cut	3		

	PRELIMINARY AND GENERAL (P & G) tender amount per cut as per the quantity priced in the price list will be used as percentage if less or more work per cut or per job or if only certain work is done as for sample felling only a tree.				
Continue - // Kroonstad vegetation control to various areas					
14.	Risk & Safety (Act 85 requirements) cut The contractor shall allow in his pricing for all material and supervision needed in their costing. This shall include: First aid kit and emergency numbers displayed, Safety clothing (boots, gloves, safety hats, goggles and so on. Barriers, barrier tape and so on. Safety files with records of all reports and safety inspections. Sign / notice board stating contractors name and that all visitors report to the site agent for induction to enter onto site and sign the site book. The Health and safety tender amount per cut as per the quantity priced in the price list will be used as percentage if less or more work per cut or per job is done or if only certain work is done as for sample felling only a tree.	Per cut	3		
NET TOTAL (to be carried forward to form of offer and acceptance). R					
15% VAT R					
YEAR TWO GRAND TOTAL R					

Net total without 15% VAT in words:

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

Notes to Pricing:

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

Provision of vegetation control at Bethlehem and surrounding areas, Kroonstad and surrounding areas on as and when required basis for a period of 24 months**Returnable Document**

(iii) if the Respondent scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the Respondent scoring the third highest points or cancel the RFQ.

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

- b) All Prices must be quoted in South African Rand, inclusive of VAT
- c) Any disbursement not specifically priced for will not be considered/accepted by Transnet.
- d) To facilitate like-for-like comparison bidders must submit pricing strictly in accordance with this price schedule and not utilise a different format. Deviation from this pricing schedule will result in a bid being disqualified.
- e) Please note that should you have offered a discounted price(s), Transnet will only consider such price discount(s) in the final evaluation stage if offered on an unconditional basis.

SECTION 5

CERTIFICATE OF ACQUAINTANCE WITH RFQ DOCUMENTS

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

1. Transnet's General Bid Conditions
2. Standard RFQ Terms and Conditions for the supply of Goods or Services to Transnet
3. Transnet's Supplier Integrity Pact
4. Non-disclosure Agreement

Note: Should a Respondent be successful and awarded the bid, they will be required to complete a Supplier Declaration Form for registration as a vendor onto the Transnet vendor master database.

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

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

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

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 6

RFQ DECLARATION AND BREACH OF LAW FORM

NAME OF ENTITY: _____

We _____ do hereby certify that:

1. Transnet has supplied and we have received appropriate responses to any/all questions [as applicable] which were submitted by ourselves for RFQ Clarification purposes;
2. We have received all information we deemed necessary for the completion of this Request for Quotation **[RFQ]**;
3. We have been provided with sufficient access to the existing Transnet facilities/sites and all relevant information relevant to the Supply of the Goods as well as Transnet information and Employees, and have had sufficient time in which to conduct and perform a thorough due diligence of Transnet's operations and business requirements and assets used by Transnet. Transnet will therefore not consider or permit any pre- or post-contract verification or any related adjustment to pricing, service levels or any other provisions/conditions based on any incorrect assumptions made by the Respondent in arriving at his Bid Price.
4. At no stage have we received additional information relating to the subject matter of this RFQ from Transnet sources, other than information formally received from the designated Transnet contact(s) as nominated in the RFQ documents;
5. We have complied with all obligations of the Bidder/Supplier as indicated in the Transnet Supplier Integrity Pact 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;
6. We are satisfied, insofar as our entity is concerned, that the processes and procedures adopted by Transnet in issuing this RFQ and the requirements requested from Bidders in responding to this RFQ have been conducted in a fair and transparent manner;
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 Transnet 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 the 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 RFQ; 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]. Information provided in the declarations may be used by Transnet and/or its affiliates to verify the correctness of the information provided.

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.

DECLARATION OF INTEREST REGARDING PERSONS EMPLOYED BY THE STATE (SBD4)

12. Any legal person, including persons employed by the state¹, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-
- the bidder is employed by the state; and/or
 - the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

13. **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid:**

13.1. Full Name of bidder or his or her representative:

¹ "State" means –

- (a) any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (b) any municipality or municipal entity;
- (c) provincial legislature;
- (d) national Assembly or the national Council of provinces; or
- (e) Parliament.

13.2. Identity Number: Position
 occupied in the Company (director, trustee, shareholder²):

13.3. Company Registration Number:

13.4. Tax Reference Number:

13.5. VAT Registration Number:

13.6. Are you or any person connected with the bidder presently employed by the state?	YES / NO
13.6.1. If so, furnish the following particulars:	
Name of person / director / trustee / shareholder/ member:
Name of state institution at which you or the person connected to the bidder is employed :
Position occupied in the state institution:
Any other particulars:
13.7. If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector?	YES / NO
13.7.1. If yes, did you attached proof of such authority to the bid document? (Note: Failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.	YES / NO
13.7.2. If no, furnish reasons for non-submission of such proof:
13.8. Did you or your spouse, or any of the company's directors / trustees / shareholders / members or their spouses conduct business with the state in the previous twelve months?	YES / NO
13.8.1. If so, furnish particulars:
13.9. Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid?	YES / NO
13.9.1. If so, furnish particulars:
13.10. Are you, or any person connected with the bidder, aware of any relationship (family, friend, other) between any other bidder and any person employed by the state who may be involved with the evaluation and or adjudication of this bid?	YES / NO
13.10.1. If so, furnish particulars:

² "Shareholder" means a person who owns shares in the company and is actively involved in the management of the enterprise or business and exercises control over the enterprise.

Provision of vegetation control at Bethlehem and surrounding areas, Kroonstad and surrounding areas on as and when required basis for a period of 24 months

Returnable Document

13.11. Do you or any of the directors / trustees / shareholders / members of the company have any interest in any other related companies whether or not they are bidding for this contract?	YES / NO
13.11.1. If so, furnish particulars:

The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / persal numbers must be indicated in paragraph 14 below.

14. Full details of directors / trustees / members / shareholders.

Full Name	Identity Number	Personal Tax Reference Number	State Employee Number / Persal Number

BREACH OF LAW

15. We further hereby certify that *I/we have/have not been* [delete as applicable] found guilty during the preceding 5 [five] years of a serious breach of law, including but not limited to a breach of the Competition Act, 89 of 1998, by a court of law, tribunal or other administrative body. The type of breach that the Respondent is required to disclose excludes relatively minor offences or misdemeanours, e.g. traffic offences. This includes the imposition of an administrative fine or penalty.

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

NATURE OF BREACH: _____

DATE OF BREACH: _____

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

SIGNED at _____ on this ____ day of _____ 20__

For and on behalf of _____ duly authorised hereto	AS WITNESS:
Name:	Name:
Position:	Position:
Signature:	Signature:
Date:	Registration No of Company/CC _____
Place:	Registration Name of Company/CC _____

Respondent's Signature

WRAC/BFC/33417 [TFR/2022/05/0428/3491/RFQ]

Date & Company Stamp

SECTION 7**SBD 9- CERTIFICATE OF INDEPENDENT BID DETERMINATION**

1. Section 4(1)(b)(iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging). Collusive bidding is a per se prohibition meaning that it cannot be justified under any grounds. Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.
2. Transnet will take all reasonable steps to prevent abuse of the supply chain management system and to:
 - a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
 - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
3. This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
4. In order to give effect to the above, the following certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of Institution)

do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of: _____ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - a. has been requested to submit a bid in response to this bid invitation;
 - b. could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - c. provides the same goods and services as the bidder and/or is in the same line of business as the bidder
6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - a. prices;
 - b. geographical area where product or service will be rendered (market allocation)
 - c. methods, factors or formulas used to calculate prices;

³ Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract

Provision of vegetation control at Bethlehem and surrounding areas, Kroonstad and surrounding areas on as and when required basis for a period of 24 months

Returnable Document

- d. the intention or decision to submit or not to submit, a bid;
 - e. the submission of a bid which does not meet the specifications and conditions of the bid; or
 - f. bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

.....
Signature.....
Date.....
Position.....
Name of Bidder

SECTION 8**B-BBEE PREFERENCE POINTS CLAIM FORM**

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

Transnet will award preference points to companies who provide valid proof of their B-BBEE status using either the latest version of the generic Codes of Good Practice or Sector Specific Codes (if applicable).

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

1. GENERAL CONDITIONS

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

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

1.2 The value of this bid is estimated to not exceed R50 000 000 (all applicable taxes included) and therefore the 80 / 20 preference point system shall be applicable. Despite the stipulated preference point system, Transnet shall use the lowest acceptable bid to determine the applicable preference point system in a situation where all received acceptable bids are received outside the stated preference point system.

1.3 Preference points for this bid shall be awarded for:

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

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

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

1.5 Failure on the part of a bidder to submit proof of B-BBEE status level of contributor together with the bid will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

1.6 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.

2. DEFINITIONS

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

Broad-Based Black Economic Empowerment Act;

- (c) **"B-BBEE status level of contributor"** means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (d) **"bid"** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the supply/provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;
- (e) **"Broad-Based Black Economic Empowerment Act"** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (f) **"EME"** means an Exempted Micro Enterprise as defines by Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (g) **"functionality"** means the ability of a bidder to provide goods or services in accordance with specification as set out in the bid documents
- (h) **"Price"** includes all applicable taxes less all unconditional discounts.
- (i) **"Proof of B-BBEE Status Level of Contributor"**
- i) the B-BBEE status level certificate issued by an authorised body or person;
 - ii) a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice; or
 - iii) any other requirement prescribed in terms of the B-BBEE Act.
- (j) **"QSE"** means a Qualifying Small EEnterprise as defines by Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (k) **"rand value"** means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties.

3. POINTS AWARDED FOR PRICE

3.1 THE 80/20 PREFERENCE POINT SYSTEMS

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

80/20

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

Where

P_s = Points scored for comparative price of bid under consideration

P_t = Comparative price of bid under consideration

P_{\min} = Comparative price of lowest acceptable bid

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

- 4.1 In terms of Regulation 6 (2) and 7 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (80/20 system)
1	20

Provision of vegetation control at Bethlehem and surrounding areas, Kroonstad and surrounding areas on as and when required basis for a period of 24 months

Returnable Document

2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

- 4.2 The table below indicates the required proof of B-BBEE status depending on the category of enterprises:

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 .]
EME ⁴	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

- 4.3 A trust, consortium or joint venture (including unincorporated consortia and joint ventures) must submit a consolidated B-BBEE Status Level verification certificate for every separate bid.
- 4.4 Tertiary Institutions and Public Entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- 4.5 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.
- 4.6 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.
- 4.7 Bidders are to note that the rules pertaining to B-BBEE verification and other B-BBEE requirements may be changed from time to time by regulatory bodies such as National Treasury or the DTI. It is the Bidder's responsibility to ensure that his/her bid complies fully with all B-BBEE requirements at the time of the submission of the bid.

5. BID DECLARATION

⁴ In terms of the Implementation Guide: Preferential Procurement Regulations, 2017, Version 2, paragraph 11.11 provides that in the Transport Sector, EMEs can provide a letter from accounting officer or get verified and be issued with a B-BBEE certificate by SANAS accredited professional or agency as the Transport Sector Code has not been aligned to the generic Codes. EMEs in the Transport Sector are not allowed to provide a sworn affidavit as the generic codes are not applicable to them.

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

6. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 6.1

6.1 B-BBEE Status Level of Contribution: . =(maximum of 20 points)

(Points claimed in respect of paragraph 6.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

7. SUB-CONTRACTING

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

(*Tick applicable box*)

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

7.1.1 If yes, indicate:

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

(*Tick applicable box*)

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

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

Designated Group: An EME or QSE which is at last 51% owned by:	EME ✓	QSE ✓
Black people		
Black people who are youth		
Black people who are women		
Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		
Black people who are military veterans		
OR		
Any EME		
Any QSE		

8. DECLARATION WITH REGARD TO COMPANY/FIRM

8.1 Name of company/firm:.....

8.2 VAT registration number:.....

8.3 Company registration number:.....

8.4 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

8.6 COMPANY CLASSIFICATION

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

[TICK APPLICABLE BOX]

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

8.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contribution indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If a bidder submitted false information regarding its B-BBEE status level of contributor, local production and content, or any other matter required in terms of the Preferential Procurement Regulations, 2017 which will affect or has affected the evaluation of a bid, or where a bidder has failed to declare any subcontracting arrangements or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have
 - (a) disqualify the person from the bidding process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) if the successful bidder subcontracted a portion of the bid to another person without disclosing it, Transnet reserves the right to penalise the bidder up to 10 percent of the value of the contract;
 - (e) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the audi alteram partem (hear the other side) rule has been applied; and
 - (f) forward the matter for criminal prosecution.

WITNESSES

1.
2.

SIGNATURE(S) OF BIDDERS(S)

DATE:

ADDRESS

SECTION 9

PROTECTION OF PERSONAL INFORMATION

1. The following terms shall bear the same meaning as contemplated in Section 1 of the Protection of Person information act, No.4 of 2013.(“POPIA”):

consent; data subject; electronic communication; information officer; operator; person; personal information; processing; record; Regulator; responsible party; special information; as well as any terms derived from these terms.

2. Transnet will process all information by the Respondent in terms of the requirements contemplated in Section 4(1) of the POPIA:

Accountability; Processing limitation; Purpose specification; Further processing limitation; Information quality; Openness; Security safeguards and Data subject participation.

3. The Parties acknowledge and agree that, in relation to personal information that will be processed pursuant to this RFQ, the Responsible party is “Transnet” and the Data subject is the “Respondent”. Transnet will process personal information only with the knowledge and authorisation of the Respondent and will treat personal information which comes to its knowledge as confidential and will not disclose it, unless so required by law or subject to the exceptions contained in the POPIA.
4. Transnet reserves all the rights afforded to it by the POPIA in the processing of any of its information as contained in this RFQ and the Respondent is required to comply with all prescripts as detailed in the POPIA relating to all information concerning Transnet.
5. In responding to this bid, Transnet acknowledges that it will obtain and have access to personal information of the Respondent. Transnet agrees that it shall only process the information disclosed by Respondent in their response to this bid for the purpose of evaluating and subsequent award of business and in accordance with any applicable law.
6. Transnet further agrees that in submitting any information or documentation requested in this RFQ, the Respondent is consenting to the further processing of their personal information for the purpose of, but not limited to, risk assessment, assurances, contract award, contract management, auditing, legal opinions/litigations, investigations (if applicable), document storage for the legislatively required period, destruction, de-identification and publishing of personal information by Transnet and/or its authorised appointed third parties.
7. Furthermore, Transnet will not otherwise modify, amend or alter any personal data submitted by the Respondent or disclose or permit the disclosure of any personal data to any third party without the prior written consent from the Respondent. Similarly, Transnet requires the Respondent to process any personal information disclosed by Transnet in the bidding process in the same manner.
8. Transnet shall, at all times, ensure compliance with any applicable laws put in place and maintain sufficient measures, policies and systems to manage and secure against all forms of risks to any information that may be shared or accessed pursuant to this RFQ (physically, through a computer or any other form of electronic communication).

9. Transnet shall notify the Respondent in writing of any unauthorised access to information, cybercrimes or suspected cybercrimes, in its knowledge and report such crimes or suspected crimes to the relevant authorities in accordance with applicable laws, after becoming aware of such crimes or suspected crime. The Respondent must take all necessary remedial steps to mitigate the extent of the loss or compromise of personal information and to restore the integrity of the affected personal information as quickly as is possible.
10. The Respondent may, in writing, request Transnet to confirm and/or make available any personal information in its possession in relation to the Respondent and if such personal information has been accessed by third parties and the identity thereof in terms of the POPIA. The Respondent may further request that Transnet correct (excluding critical/mandatory or evaluation information), delete, destroy, withdraw consent or object to the processing of any personal information relating to the Respondent in Transnet's possession in terms of the provision of the POPIA and utilizing Form 2 of the POPIA Regulations.
11. In submitting any information or documentation requested in this RFQ, the Respondent is hereby consenting to the processing of their personal information for the purpose of this RFQ and further confirming that they are aware of their rights in terms of Section 5 of POPIA

Respondents are required to provide consent below:

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

12. Further, the Respondent declares that they have obtained all consents pertaining to other data subject's personal information included in its submission and thereby indemnifying Transnet against any civil or criminal action, administrative fines or other penalty or loss that may arise as a result of the processing of any personal information that the Respondent submitted.
13. The Respondent declares that the personal information submitted for the purpose of this RFQ is complete, accurate, not misleading, is up to date and may be updated where applicable.

Signature of Respondent's authorised representative: _____

Should a Respondent have any complaints or objections to processing of its personal information, by Transnet, the Respondent can submit a complaint to the Information Regulator on <https://www.justice.gov.za/inforeg/>, click on contact us, click on complaints.IR@justice.gov.za

Section 10: SCOPE OF WORK

1. Description of Services

This contract is an "as and when" required contract to brush cut veld grass, small shrubs, herbaceous and other undesirable or unwanted plant growth on open and unutilized land and around buildings. Open land areas to be cut at a maximum of 10cm. Trimming of all indigenous trees and shrubs to up to above eye level and the eradication of all noxious weeds (Robinia, Gleditzia Gum Syringa) by means of Herbicide (Garlon and Diesel) as per area required. Spot poison as necessary all grass growing in tar. Cutting and poison thorn trees, Felling of trees and or cutting of tree branches. Spray weed killer as specified per square meter and removal of building rubble, house rubble.

1.1 Location of sites in Bethlehem to be cut on as and when required basis.

- a: Grounds asset No BBX0922 Old Bethlehem Signal cabin area Pipeline fence to Baxter street including Joubert street and Helmand street corner.
- b: Ground asset No BBX0923 Good shed and station area from Petrol depot Mast pole 133/7 (Baxter street) to Macnicol Street (Gideon Knoble bridge) between Cambridge street and first rail line through Shunting/station yard.
- c: Ground asset No BBX0156 INFRA, Wagons, Yard master area from Macnicol Street (Gideon Knoble bridge) up to South Control point Building Asset No 02AB104.
- d: Ground asset No BBX0174 Warehouse Vacant depots area through to Atbara control point.
- e: Ground asset No BBX0725 Movement depot area Joubert street entrance to Transnet boundary fence Wittenberg Street

1.2 Location of sites in Kroonstad to be cut on as and when required basis.

- a: Kroonstad station street areas from Cashbuild, between businesses in station Street up to 1.5m from railway line up to subway in Cross Street, Area from Subway in Cross Street to S bridge. Area include old station yard area and area from new station fence to top of S bridge. Include area behind houses in Both Street.
- b: Area from is S bridge in Marais street, between houses in Hoffe street up to 1.5m from railway line and area around INFRA Signals depot
- c: Movement depot and INFRA area is from 1.5m from railway line at control point 4 to road to ERS next to Kroon Hospital and from North road to railway line next to INFRA depot. The area include old wagons cut up yard, sections around the Movement depot, the foot path to the ERS, areas both sides of tar road to ERS, both side of paved road to INFRA depot and next to fence lines of INFRA depot. Area at control point 4, area at soccer field and next to North road at houses in North Road.
- d: North Yard areas include area behind houses in MacLagan Street, area at old goods office and area around good shed. Area from rail crossing at good shed gate, both sides of road till 5.0m pass last building (old shunters cabin). Area 5.0m wide from Good shed fence next to 7th Avenue to old Yard Master building road entrance next to 7th Avenue.
- e: Gunhill area is from control point 3 at Barend Wessels dam entrance from Zero Street, both sides of gravel road from control point 3 to Shunt 2 and area from shunt 2 to Vermaak Street and Operations depot in Vermaak Street, area around Operations depot, vacant buildings and car ports in Vermaak Street. TFR erven at concrete reservoir.

2. Contract documents and hand over of work

2.1 This contract will consist of a contract document and letter of acceptance

The contract is for an "as and when" required basis for a period of two years (24 months from dated of acceptance) or when budget has been reached which ever comes first

2.2 The contractor will tender per square metre according to quantity on tender price list for each item. This quantity is just for tender purpose and can be more or less as determine necessary by Transnet per cut.

- 2.3 The Transnet Freight Rail Project manager will contact the Contractor to do vegetation control to the areas, spray tar road with herbicide, fell tree and or cut tree branches on as and when necessary basis.
- 2.4 The Transnet Freight Rail Project manager and the contractor will meet on site and the areas to be cut will be shown to the contractor. The contractor will receive a job card and plan with the size to be cut. The contractor can re-measure the area and if not satisfied with area as shown on the plan can ask the Transnet Freight Rail Project manager to re-check the measurement of the area with him to agree with the quantity to be done.
- 2.5 For the first cut there will be a site hand over and the contractor and his staff will attend the Transnet freight rail safety induction that will take about 20 minutes. The TFR Project manager will give the Contractor instruction with a job card with the quantities as agreed on to do the vegetation control. Also on the job card the start date and completion date for the "cut" as agreed on will be shown. Also if there is any house hold, garden or building rubble to be removed from the sites and the quantities to be removed.
- 2.6 When the work is completed the contractor will inform the TFR Project Manager who will do inspection and approve the work. The contractor will then send in an invoice for the work done as set out on the job card for payment.
- 2.7 **DEFINITIONS:** Project Manager means any person appointed by Transnet Freight Rail from time to time to supervise and take charge of the Contract.
Transnet Freight Rail is a business unit of Transnet Limited, Registration No 90/00900/06, a Company registered under the Company Laws of the Republic of South Africa.
- 2.8 Works means the works to be executed in terms of this contract.
- 2.9 Discrepancies in Tender: Where there is a discrepancy between the amounts in figures and in words, the amount in words shall govern. Where there is an obviously gross misplacement of the decimal point in the unit rate, the line item total as quoted shall govern, and the unit rate shall be corrected. Where there is an error in the total of the prices either as a result of other corrections required by this checking process or in the tenderer's addition of prices, the total of the prices shall govern and the tenderers will be asked to revise selected item prices (and their rates if bills of quantities apply) to achieve the tendered total of the prices
- 2.10 Acquaintance with Contract Documents, the tenderers are required to acquaint themselves with the contents of the aforesaid documents and complete the forms.
- 2.11 The tenderers are required to check the number of pages and should any be found to be missing or in duplicate or the figures or writing to be indistinct or should there be any doubt or obscurity as to the meaning of any particular word or phrase or descriptions or should tenderers consider that any item is incorrectly or inadequately described they must inform, the Senior Buyer (SCS) of the project, at once in writing, under reference and have the matter rectified or explained as the case may be, as no liability whatsoever will be admitted by Transnet freight rail in respect of errors in a tender due to the foregoing.
- 2.12 No alterations, erasures or additions of any kind shall be made by the tenderers, in from or to any part of this specification unless expressly required to be made by written notice and should any unauthorized alterations, erasures or additions be made, they will not be recognized by Transnet freight rail.
- 2.13 Communication and Availability:

The Contractor shall provide sufficient communication facilities including e-mail address and fax machine in order that he may be reached at any time and place during the duration of the contract.

3. Specifications

- 3.1 Open land areas, around buildings and fence line cut grass
Brush cut veld grass on open land areas to a maximum of 10cm above natural ground level. "Cut and drop" Not necessary to remove cut grass.
- 3.2 Areas, around buildings and fence line cut grass
Brush cut veld grass or next to fence line to a not more than 10cm long above natural ground level and pick up and remove cuttings from site.
- 3.3 Open land areas: Around buildings and fence line cut and removes undesirable or unwanted plant growth. Transnet project manager will show on site and give instruction on the job card the un-wanted small shrubs, herbaceous and other undesirable or unwanted plant growth from up to .50m up to 2.0m high to be cut to maximum off 10cm above natural ground level and poison with Herbicide (Garlon and Diesel) herbicide or approved Herbicide. Transnet project manager will with contractor determine the height of the small shrubs, herbaceous and other undesirable or unwanted plant growth for payment as per annexure C2
- 3.4 Fell trees and or cut up trees blown over during a storm. Do risk assessment and to cut tree and price work per hour. Transnet Freight Rail project manager will send photos of tree and location, contractor to visit site and after doing risk assessment give a quote on how many hours he will take to cut and remove the tree to be fell or cut up as necessary to the satisfaction of the Transnet Freight Rail Project manager.
- 3.5 Tar roads: Spot poison as necessary all grass growing in tar road or paved areas with (Glyphosate) The specification is for spot poison of grass and weeds growing in the tar road, tar parking areas, paved areas and platform areas. Square area quantity will be paid only for areas that were spot poison as necessary and not for the whole area.
- 3.6 Open filed and or vehicle parking areas, spray whole area as per job card with approved poison as necessary (Glyphosate) The specification is for areas will be price per square metre to poison weeds and grass.
- 3.7 Remove building rubble: If necessary contractor will be given in writing instruction to remove building rubble dump on Transnet ground. Rubble will be of size that can be hand loaded with hands or with spades. Transnet project manager will with contractor determine the cubic meter to be removed
- 3.8 Remove house hold rubble: If necessary contractor will be given in writing instruction to remove house hold rubble dump on Transnet ground. Rubble House hold rubble will consist of plastic bags, bottles paper and other normal house hold rubble that can be hand loaded. Transnet project manager will with contractor determine the cubic meter to be removed
- 3.9 Provide TLB with operator. If required contractor to provide TLB with operator, price to include diesel cost to remove concrete sleepers to central area and or any building rubble dump on areas where ground maintenance must be done as per instruction in site book if necessary to remove. Rubble will be stock pile at central point. Tariff per hour, minimum time will be 8 hours per instruction as necessary to remove rubble to area on site as per instruction in site book.

4. The Contractor shall comply with the following Acts and Transnet regulations

- 4.1 The Contractor shall not make use of any sub-Contracting to perform the Service or parts thereof without prior permission from the Service Manager / Supervisor.
- 4.2 The Contractor shall comply with all applicable legislation and Transnet safety requirements adopted from time to time and instructed by the Service Manager / Supervisor. Such compliance shall be entirely at own cost, and shall be deemed to have been allowed for in the rates and prices in the contract.
- 4.2 The Compensation for Occupational Injuries and Diseases Act, No. 130 of 1993. The Contractor shall produce proof of his registration and good standing with the Compensation Commissioner in terms of the Act.
- 4.3 The Occupational Health and Safety Act (Act 85 of 1993).
- 4.4 The Contractor shall comply with the current Transnet Specification E.4E, Safety Arrangements and Procedural Compliance with the Occupational Health and Safety Act, Act 85 of 1993 and Regulations and shall before commencement with the execution of the contract, which shall include site establishment and delivery of plant, equipment or material, submit to the Service Manager / Supervisor.
- 4.5 The Contractor shall comply with the current Specification for Service On, Over, Under or Adjacent to Railway Lines and near High Voltage Equipment – E7/1, if applicable, and shall take particular care of the safety of his employees on or in close proximity to a railway line during track occupations as well as under normal operational conditions.
- 4.6 The Contractor's Health and Safety Programme shall be subject to agreement by the Service Manager / Supervisor, who may, in consultation with the Contractor, order supplementary and/or additional safety arrangements and/or different safe working methods to ensure full compliance by the Contractor with his obligations as an employer in terms of the Act.
- 4.7 In addition to compliance with clause 2.5 hereof, the Contractor shall report all incidents in writing to the Service Manager / Supervisor. Any incident resulting in the death of or injury to any person on the Service shall be reported within 24 hours of its occurrence and any other incident shall be reported within 48 hours of its occurrence.
- 4.8 The Contractor will issue all workers employed by him with the necessary protection clothing.
- 4.9 Certificates of Compliance, Competency and Qualifications
Where required by law and as per the by laws of any Local Authority or Municipality the Contractor will provide the necessary Compliance certificates to handle and administer herbicide

NB: The contractor is responsible for his own measurements where applicable, however, where rates are given the actual work done will be measured on completion and paid accordingly.

5. Contractor will be responsible for the following categories of work.

- 5.1 The Contractor shall provide all labour, transport, consumable stores, plant, equipment, tools, services, To be supplied by the contractor
- 5.2 Contractor also has to supply all herbicides required for the treatment of noxious weeds and trees.

5.3 The Contractor shall be called upon to attend meetings on the site to ensure that the Service undertaken is correct and complies with the specifications.

5.4 In the event of Transnet in its sole discretion, being dissatisfied for whatever reason with any or all of the work performed by the Contractor, Transnet shall forthwith notify the Contractor thereof. The Contractor shall then forthwith redo the complete work at his own expense to the satisfaction of Transnet.

6. Travelling/Transport

Traveling time is to be included in tariff for all vegetation control within the radius of 20km from the Bethlehem station. Therefore, the price is inclusive of travelling in this zone.

7. General conditions

7.1 All planned and unplanned work will be set out on a Transnet job order system.

7.2 The job order number is proof for work to proceed.

7.3 The job order number must be indicated on each invoice submitted by the contractor.

7.4 The Contractor shall provide sufficient communication facilities including an e-mail address in order that he may be reached at any time and place during the duration of the contract. The Contractor must be available on a twenty-four hour basis and be able to respond to any emergency request within two hours after he is notified thereof.

7.5 A site access certificate will be issued to the contractor and must be displayed to any person on request thereof.

8. Hire equipment

If necessary to hire TLB to work as specified the tariff for the hire TLB shall be as per price list document C2. Any other hire equipment shall be included in the tariff for the work.

9. To be supplied and provided by the Contractor

The Contractor shall provide sufficient communication facilities including an e mail address in order that he may be reached at any time and place during the duration of the contract.

10. Sub-contractor

The Contractor shall not assign his obligations under the contract, nor sublet the contract work or any part thereof without the consent of the Service Manager. Breach of this condition will entitle Transnet to cancel the contract forthwith.

11. Site meetings

The Contractor shall be called upon to attend meetings on the site to discuss the progress of work with the Service Manager when required.

12. Recording of the Service:

The Contractor shall keep and maintain accurate records in the site diary of all work so that any disputes can be resolved and that the extent of the required tests on the materials can readily be determined.

13. Setting out of the Service:

The setting out of the work shall be the sole responsibility of the Contractor and shall be done in accordance with the "Guidelines for the provision of Engineering Services in Residential Townships" by The Department of Community Development.

All dimensions and quantities to be checked on site by tenderer before commencing with the work.

14. Keep site tidy:

The Contractor shall keep the site tidy at all times and remove all old material and such as rubble, off-cuts, demolished material, surplus material and carry away and dump or store onto or at an approved site.

If required, a permit must be obtained from the local Municipality to transport material on their roads.

15. Payments : Claims:

15.1. All instructions to the Contractor shall be confirmed in writing and only requests that were issued / in writing, will be accepted for payment.

The contractor shall be paid as per the tender rates and prices.

15.2. Labour the contractor will be paid for the actual work done as per the schedule of Rates and Prices. The profit required to do the work shall be to the contractor's consideration and must be allowed for in the entire Schedule of Rates and Prices. The cost of consumables, tools and small plant must be included in the labour rates.

16. Safety

Contractor to adhere to all safety regulations as per Occupational health and Safety Regulations Act, 85 of 1993.

Adhere to the safety rules and regulations of the various Depots and sites at all times the safety aspect of the project must be treated as very important.

All contract workers will attend a safety induction course presented by Transnet before the work commences

17. Risks Assessed

- 17.1. Working with step ladders.
- 17.2. Working with herbicides
- 17.3. Working with flammable liquid
- 17.4. Working with electric tools
- 17.5. Working with chain saw
- 17.6. Working with bush cutters
- 17.7. Working with heavy machinery
- 17.8. Working near Live Overhead electric wires (Overhead Track Lines 22kV)
- 17.9. Working near / on / below live railway lines
- 17.10 Working in or close to public and Transnet service roads.
- 17.11 Travelling/Transporting staff and tools and equipment l.
- 17.12 Working at Heights of more than 3metre

18. Environment: The Contractor shall, at all times, comply with the statutes that prohibit pollution of any kind. These statutes are enacted in the following legislation.

18.1 The National Environmental Management Act, 107/1998;

18.2 The Environmental Conservation Act, 73/1989; and

18.3 The National Water Act, 36/1998.

18.4 The Contractor shall appoint a responsible person to ensure that no incident shall occur on site that could cause pollution. Where the Contractor was negligent and 18.6 caused any form of pollution the damage shall be rectified at the Contractors cost.

19. Site location

The site is situated at per Site Information.

20. Time to complete the work

The tenderer shall indicate at section 2 the time he will require to complete the work, however, this time should not exceed time as per specification. This period shall be exclusive of weekends, public holidays and statutory holiday periods.

Failing completion of the work within the period as stipulated above or with any shorter period offered by the contenders and accepted by Transnet, the contractor shall pay to Transnet the sum of as per specification for every day or part thereof during which the Service remain incomplete.

21. Inspection of Service

The Contractor shall give due notice to the Service Manager whenever any such work of formations is or are ready or about to be ready for examination. The Service Manager shall, without unreasonable delay, unless he considers it necessary and advises the Contractor accordingly, examine and or measuring such work as required.

22. Site records

Site Instruction Book: The Contractor shall provide a **site instruction book (not smaller than A5), in triplicate for the Service Manager to place all instructions** that are needed to compliment the specifications and drawings and any other instruction that may affect the cost of the work.

No work will be recognized for additional payment unless it has been recorded and signed by the Service Manager in the aforesaid book.

23. Site Diary

The contractor shall provide a diary, in triplicate to record all day to day incidents that could occur during the contract period. This includes weather, names & numbers of workers on site, material that has been delivered, material that has been loaded and disposed of, incidents that have occurred, nature of work to be done on that day, etc.

24. Materials found on site

No material that is lying on the site (other than that as specified in this document) or any Transnet's properties may be removed or used (even if deemed as scrap) by the contractor.

25. Clearing of site

The Contractor shall provide for cleaning up and sorting all rubbish and debris of whatever kind, generated by this work only, throughout the duration of the contract. Upon completion the Contractor shall clear away and remove all rubbish, unused material, plant and debris caused by the Service and leaves the site and the whole of the Service clean and tidy to the satisfaction of the Service Manager.

26. Working outside normal working hours

The normal working hours are between 07:30 and 16:00 Mondays to Fridays. If it is required to work outside the stated normal working hours the Contractor must obtain written permission at least 24 hours before such work needs to be undertaken. Transnet will not unreasonably withhold permission; however the Contractor may have to pay for Transnet's supervisory personnel.

27. Escalation

This contract does not make provision for compensation in respect of increased costs. The contenders must allow in his fixed price for any increased costs, which he may encounter during the contract period or such extended period as agreed upon by both parties.

28. Retention

No Retention applicable.

29. SUBSTANCE ABUSE TESTING

The OHSA (Act 85 of 1993) clearly states in the Safety Regulations 2A "INTOXICATION" An under the influence of intoxicating liquor or drugs, to enter or remain at a workplace. Transnet enforces this legislation by means of its Substance Abuse Policy, and therefore reserves employer or user, as the case may be, shall not permit any person who appears to be the right to do substance abuse testing on anyone who enters their premises.

30. PRELIMINARY AND GENERAL (P & G)

The P & G shall be as per the General and Special Conditions and will include all costs not directly related to the execution of the work as stated. All items not specifically mentioned in the Schedule of Rates and Prices should form part of the contractor's requirements such as the cost of stationary and (start-up costs and removal of site establishment) and will include the handing over of the site to the contractor and handing back of the site after completion.

31. HEALT AND SAFTEY(ACT 85:

The contractor shall allow in his pricing for all material and supervision needed in their costing. This shall include: First aid kit and emergency numbers displayed, Safety clothing (boots, gloves, safety hats, goggles and so on Barriers, barrier tape and so on. Safety files with records of all reports and safety inspections. Sign / notice board stating contractors name and that all visitors report to the site agent for induction to enter onto site and sign the site book.

32. Specifications

The contractor shall ensure that all specifications are adhered too
In so far as they can be applied and where they are not inconsistent with the terms of this specification, the following specifications shall be regarded as being embodied in this specification

33. Constraints on how the Contractor Provides the Service

Access to site: Contractor to supply staff that will work at Transnet Freight Rail sites with laminated Identification card with firm name, contact number on, photo of the staff member, staff member ID number and Transnet Freight Rail Supervisor Name and contact number.

Some areas are restricted and the contractor must first arrange with manager at this areas/building for permits to access the areas.

34. Services and other things provided by the Employer

- 34.1 Water supply: No water is available on sites for the purpose of construction of the service.
- 34.2 Electricity supply: No Electricity is available

35. Procurement

- 35.1 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:

- The Transnet Detailed Procurement Procedure (DPP);
- 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 Anti Corruption Act.

This code of conduct has been included in this contract to formally appraise 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.

- 35.2 *Transnet will not participate in corrupt practices and therefore 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, to illegally influence their judgement or conduct or to ensure the desired outcome of a sourcing activity; Win or retain business or to influence any act or decision of any decision stakeholders involved in sourcing decisions; or 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" Hot line to report these acts. (0800 003 056).

- 35.4 *Transnet's relationship with suppliers requires us to clearly define requirements, 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, 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 is 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.

35.5 Conflicts 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. Doing business with family members. Having a financial interest in another Company in our industry

36. The Contractor's Invoices

- i. When the *Service Manager* certifies payment following an assessment date, the *Contractor* complies with the *Employer's* procedure for invoice submission.
- ii. The invoice must correspond to the *Service Manager's* assessment of the amount due to the *Contractor* as stated in the payment certificate.
- iii. The invoice states the following:
 - Invoice addressed to Transnet Limited;
 - Transnet Limited's VAT No: 4720103177;
 - Invoice number;
 - The *Contractor's* VAT Number; and
 - The Contract number
- iv. The invoice is presented either by post or by hand delivery.
- v. A Purchase order will be issued to the service provider to commence with work which should be carried out within 30 days from date of receiving the purchase order.
- vi. Invoice with supporting documents (invoices for material purchased) to be submitted within 30 days after completion of work
- vii. The invoice is presented as an original.

37. Insurance

Contractor shall provide the insurance for the following: Public Liability and safety of contractor's employees.

Section 11: Contract Cleaning Minimum Wage Declaration**SECTORAL DETERMINATION 1: CONTRACT CLEANING SECTOR, SOUTH AFRICA****WAGES TABLE:**

TABLE 1: Minimum hourly rates for Contract Cleaning employees					
Area A		Area B		Area C	
Metropolitan Councils: City of Cape Town, Greater East Rand Metro, City of Johannesburg, Tshwane and Nelson Mandela. Local Council: Emfuleni, Merafong, Mogale City, Metsimaholo, Randfontein, Stellenbosch, Westonaria		All Areas In KwaZulu-Natal NB: Conditions of employment for KwaZulu-Natal areas shall be subjected to the agreement concluded in the Bargaining Council for the Contract Cleaning Service Industry KwaZulu-Natal (BCCCI) published in the Government Gazette No. 38468 dated 18 February 2015.		In the rest of the RSA	
Period	Rate per hour	Rate per hour	Rate per hour	Period	Rate per hour
01.03.2022 to 28/02/2023	R 25.52	01.03.2022 to 28/02/2023	R 25.52	01.03.2022 to 28/02/2023	R 23.27

ITEM	DESCRIPTION			
1	Basic monthly wage cost – Cleaning sectorial determination (20 Work days)		Area A	Area C
	Hourly rate		R 25.52	R 23.27
	Daily rate	(8 Hours per Day)	R 204.16	R 186.16
	Weekly wage cost	(40 Hours per Week)	R 1020.80	R 930.80

NB: Failure to commit paying employees as per above rates from the Department of Labour, bidders will be disqualified

I _____ hereby commit my company to pay my employees according to the above – mentioned salary template.

Signature _____

Capacity _____

IMPORTANT NOTICE*

***Random payslips will be requested from the cleaning personnel once contract is in place**

***Please include the weekend and public holidays rates where applicable**

• **Failure to submit this mandatory document will render the submission Non – Responsive and bid will be overlooked**

Respondent's Signature

WRAC/BFC/33417 [TFR/2022/05/0428/3491/RFQ]

Date & Company Stamp



STANDARD TERMS AND CONDITIONS OF CONTRACT

between

TRANSNET SOC LTD

Registration Number 1990/000900/30

And

.....

Registration Number

FOR THE APPOINTMENT OF A SERVICE PROVIDER FOR THE: Provision of vegetation control at Bethlehem and surrounding areas, Kroonstad and surrounding areas on as and when required basis for a period of 24 months

CONTRACT NUMBER **WRAC/BFC/33417 [TFR/2022/05/0428/3491/RFQ]**

DURATION **24 Months**

COMMENCEMENT DATE

EXPIRY DATE

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1 SOLE AGREEMENT

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

2 CONFORMITY WITH ORDER

Service/Services shall conform strictly with the Order. The Service Provider shall not vary the quantities specified and/or the specification, if any, stipulated in the Order, without the prior written consent of Transnet. The Service Provider warrants that the Service shall be fit for their purpose and of satisfactory quality.

3 DELIVERY AND TITLE

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

4 PRICE AND PAYMENT

- 4.1 Prices specified in an Order cannot be increased. Payment for the Service shall be made by Transnet against an original undisputed invoice(s) [a Tax Invoice], supporting documentation and month-end statement from the Service Provider. Tax Invoices plus supporting documentation shall be posted to the address shown in the Order.
- 4.2 Payment of the Service Provider's valid Tax Invoice(s) will be made by Transnet in the South African currency and on the terms stated in the Order, the standard payment terms being 30 [thirty] days from date of receipt by Transnet of a month-end statement, unless

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otherwise agreed to in writing. Transnet shall arrange for payment of such Tax Invoices and any pre-authorised additional expenses incurred, provided that the authorised expenses are supported by acceptable documentary proof of expenditure incurred [where this is available]. Any amounts due in terms of these Terms shall be paid to the Service Provider, taking into account any deduction or set-off and bank charges.

5 LOCAL CONTENT OBLIGATIONS & NON COMPLIANCE PENALTIES

- 5.1 In terms of Annexure A (SBD 6.2) and Annexure C of the RFQ, the Service Provider has undertaken to implement the local content and production requirements set by National Treasury for the Rail Rolling Stock designated sector ("local content undertaking"). It is recorded that the local content undertaking was a prequalification criterion of the RFP and it is therefore mandatory for the Service Provider to comply with Annexures A and C in order for it to fulfil its local content obligations.
- 5.2 The Service Provider is required to note that Transnet, the Department of Trade and Industry [DTI] and/or the body appointed by the DTI as the verification authority for local content may conduct compliance audits with regard to the local content requirements as prescribed in Regulation 9 of the Preferential Procurement Regulations, 2011 issued in terms of the Preferential Procurement Policy Framework Act.
- 5.3 Breach of Local Content obligations also provides Transnet cause to terminate the contract in certain cases where material noncompliance with Local Content requirements are not achieved.
- 5.4 If for any reason the Service Provider is unable to achieve the local content undertaking, the Service Provider must approach the Department of Trade and Industry ("DTI") to obtain exemption in order to supply the Service at a lower local content threshold. The Service Provider is obliged to approach DTI for exemption within 10 (ten) days of determining that it is unable to achieve the local content threshold. Should the DTI provide exemption, the Service Provider shall be entitled to provide the Service at the lower local content threshold set by DTI. Should DTI not provide the necessary exemption, the Service Provider shall be obliged to meet the local content undertaking.
- 5.5 Should the Service Provider fail to meet the local content undertaking, the following remedies shall apply without limiting any of Transnet's other rights in law:
 - i. Transnet shall afford the Service Provider a period of thirty (30) days to remedy its non-compliance.
 - ii. Should the Service Provider fail to meet its obligations within the further 30 day period, the Service Provider shall pay a Non-Compliance penalty ("Non-compliance Penalty") to Transnet in respect of such Non-compliance as set out in clause iv below. The penalties shall be imposed against the non-delivery of committed values where local content undertakings must be met immediately.

Provision of vegetation control at Bethlehem and surrounding areas, Kroonstad and surrounding areas on as and when required basis for a period of 24 months

iii. To the extent that the Actual Local Content Spend is lower than the Required Local Content Spend (or the Adjusted Required Local Content Spend, as the case may be), the Service Provider shall be liable for Penalties which is the difference in value between the Actual Local Content Spend and the Required Local Content Spend (or the Adjusted Required Local Content Spend, as the case may be) plus an additional percentage of such difference. Such Non-compliance Penalties shall be imposed against the non-delivery of committed values where local content undertakings must be met immediately, in accordance with clause iv below.

iv. Non-compliance penalties shall apply at the following rate: the difference in value between the Required Local Content Spend and the Actual Local Content Spend, plus 5% of such difference.

6 PROPRIETARY RIGHTS LIABILITY

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

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

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

7 PROPRIETARY INFORMATION

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

Provision of vegetation control at Bethlehem and surrounding areas, Kroonstad and surrounding areas on as and when required basis for a period of 24 months

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

8 PROTECTION OF PERSONAL INFORMATION

a) The following terms shall bear the same meaning as contemplated in Section 1 of the Protection of Personal Information Act 4 of 2013 ("POPIA"):

consent; person; personal information; processing; record; Regulator as well as any terms derived from these terms of the POPIA

b) Transnet will process all information by the Respondent in terms of the requirements contemplated in Section 4(1) of the POPIA:

Accountability; Processing limitation; Purpose specification; Further processing limitation; Information quality; Openness; Security safeguards and Data subject participation.

c) Transnet agrees that in submitting any information or documentation requested in the RFP and in this Agreement, the Service Provider consents to the processing of their personal information for the purpose of, but not limited to, risk assessment, contract award, contract management, auditing, legal opinions/litigation, investigations (if applicable), document storage for the legislatively required period, destruction, de-identification and publishing of personal information by Transnet and/or its authorised appointed third parties.

d) The Parties agree that they may obtain and have access to personal information for the fulfilment of the rights and obligations contained herein. In performing the obligations as set out in this Agreement, the Parties shall at all times ensure that:

- i. they process personal information only for the express purpose for which it was obtained;
- ii. once processed for the purposes for which it was obtained, all personal information will be destroyed to an extent that it cannot be reconstructed to its original form, subject to any legal retention requirements;
- iii. Personal information is provided only to authorised personnel who strictly require the personal information to carry out the Parties' respective obligations under this Agreement;
- iv. they do not disclose personal information of the other Party, other than in terms of this Agreement;
- v. they have all reasonable technical and organisational measures in place to protect all personal information from unauthorised access and/or use;

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- vi. they have appropriate technical and organisational measures in place to safeguard the security, integrity and authenticity of all information in their possession or under their control in terms of this Agreement;
 - vii. they identify all reasonably foreseeable internal and external risks to personal information in their possession or under their control; establish and maintain appropriate safeguards against the risks identified; regularly verify that the safeguards are effectively implemented; and ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards;
 - viii. such personal information is protected against unauthorised or unlawful processing, accidental loss, destruction or damage, alteration, disclosure or access.
- 9.1. The Parties agree that if personal information will be processed for additional purposes beyond the original purpose for which it was obtained, explicit consent must be obtained beforehand from those persons whose information will be subject to such processing.
- 9.2. Should it be necessary for either Party to disclose or otherwise make available the personal information to any third party (including sub-contractors and employees) that is not already consented to, it may do so only with the prior written consent of the other Party. The Party requiring such consent shall require of all such third parties, appropriate written undertakings to be provided, containing similar terms to that set forth in this clause, and dealing with that third party's obligations in respect of its processing of the personal information. Following approval by the other Party, the Party requiring consent agrees that the provisions of this clause shall mutatis mutandis apply to all authorised third parties who process personal information.
- 9.3. The Parties shall ensure that any persons authorized to process information on their behalf (including employees and third parties) will safeguard the security, integrity and authenticity of all information. Where necessary to meet this requirement, the Parties shall keep all personal information and any analyses, profiles, or documents derived therefrom logically separated from all other information and documentation held by it.
- 9.4. The Parties shall carry out regular assessments to identify all reasonably foreseeable internal and external risks to the personal information in its possession or under its control. The Parties shall implement and maintain appropriate safeguards against the risks which it identifies and shall also regularly verify that the safeguards which it has in place have been effectively implemented.
- 9.5. The Parties agree that they will promptly return, destroy or de-identify any personal information in their possession or control which belongs to the other Party once it no longer serves the purpose for which it was collected in relation to this Agreement, subject to any legal retention requirements. This may be at the request of the other Party and includes circumstances where a person has requested the Parties to delete all instances of their personal information. The information will be destroyed or de-identified in such a manner

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that it cannot be reconstructed to its original form, linking it to any particular individual or organisation.

9.6. Personal Information security breach:

- a) Each Party shall notify the other party in writing as soon as possible after it becomes aware of or suspects any loss, unauthorised access or unlawful use of any personal information and shall, at its own cost, take all necessary remedial steps to mitigate the extent of the loss or compromise of personal information and to restore the integrity of the affected personal information as quickly as is possible. The Parties shall also be required to provide each other with details of the persons affected by the compromise and the nature and extent of the compromise, including details of the identity of the unauthorised person who may have accessed or acquired the personal information.
- b) The Parties shall provide on-going updates on the progress in resolving the compromise at reasonable intervals until such time as the compromise is resolved.
- c) Where required, the Parties must notify the South African Police Service; and/or the State Security Agency and the Information Regulator and the affected persons of the security breach. Any such notification shall always include sufficient information to allow the persons to take protective measures against the potential consequences of the compromise.
- d) The Parties undertake to co-operate in any investigations relating to security which is carried out by or on behalf of the other including providing any information or material in its possession or control and implementing new security measures.

9 PUBLICITY

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

10 AFTER SALES SERVICE

The Service Provider shall provide replacement parts necessary to ensure the uninterrupted operation of the Service supplied for the duration of the warranty period, from delivery of any particular item of the Service and if requested by Transnet shall make these parts available to a third party maintainer of Transnet's choice at the same price as if the parts had been supplied to Transnet. The Service Provider undertakes to provide a maintenance service for Service, should Transnet so request, on terms to be agreed. If the Order so indicates, the Service Provider will provide a warranty service for the Service at a level to be agreed with Transnet.

11 TERMINATION OF ORDER

11.1 Notwithstanding the date of signature hereof, the commencement date of this Order is and will expire on, unless:

Provision of vegetation control at Bethlehem and surrounding areas, Kroonstad and surrounding areas on as and when required basis for a period of 24 months

- this Order is terminated by either Party in accordance with the provisions incorporated herein or in any schedules or annexures appended hereto, or otherwise in accordance with law or equity; or
 - this Order is extended at Transnet's option for a further period to be agreed by the Parties; or
 - the allocated maximum contract value is depleted before the contract expiry date.
- 11.2 Transnet may cancel this Order in whole or in part at any time upon at least 30 [thirty] days' written notice to the Service Provider, or when there is a change in control of the Service Provider or the Service Provider commits any serious breach or any repeated or continued material breach of its obligations under these Terms and/or Order or shall have been guilty of conduct tending to bring itself into disrepute, on written notice to the Service Provider when such work on the Order shall stop.
- 11.3 Transnet shall pay the Service Provider a fair and reasonable price for justified work in progress, where such price reflects only those costs not otherwise recoverable by the Service Provider, at the time of termination, and the Service Provider shall give Transnet full assistance to check the extent of such work in progress. Payment of such price shall be in full and final satisfaction of any claims arising out of such termination and upon such payment the Service Provider shall deliver to Transnet all work, including any materials, completed or in progress. The sum payable to the Service Provider under this clause will not in any event exceed the total amount that would have been payable to the Service Provider had the Order not been terminated.
- 11.4 In the event of termination the Service Provider must submit all claims within 2 [two] months of termination after which time claims will only be met in what Transnet considers exceptional circumstances.
- 11.5 If the Service are not provided in accordance with an Order, the Order shall be deemed terminated and the Service Provider shall compensate Transnet for any costs incurred in obtaining substitute Service/services or any damage caused due to the failure or delay in the delivery.
- 11.6 Both parties to this agreement reserve the right to terminate this agreement:
- 12.6.1. If the other commits a material breach of this contracts and fails to remedy such breach within a stipulated time frame or within a reasonable time;
 - 12.6.2. There is non-performance from either of the parties; or
 - 12.6.3. If the other party is unable to perform its obligations under this agreement.

12 ACCESS

The Service Provider shall be liable for the acts, omissions and defaults of its personnel or agents who, for the purposes of the Order, shall be treated as if they are the Service Provider's employees. The Service Provider shall ensure that any such personnel or agents, whilst on

Transnet's premises, shall comply with Transnet's health and safety, security and system security rules and procedures as and where required.

13 WARRANTY

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

14 INSOLVENCY

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

15 SUBCONTRACTING

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

16 PAYMENT TO SUB-CONTRACTORS

- 16.1 Transnet reserves the right, in its sole discretion, to make payment directly to the sub-contractor of the Service Provider, subject to the following conditions:

Provision of vegetation control at Bethlehem and surrounding areas, Kroonstad and surrounding areas on as and when required basis for a period of 24 months

- a) Receipt of an undisputed invoice from the sub-contractor; and
- b) Receipt of written confirmation from the Service Provider that the amounts claimed by the sub-contractor are correct and that the services for which the sub-contractor has requested payment were rendered to the satisfaction of the Service Provider, against the required standards.

16.2 Nothing contained in this clause must be interpreted as bestowing on any sub-contractor a right or legitimate expectation to be paid directly by Transnet. Furthermore, this clause does not bestow any right or legitimate expectation on the Service Provider to demand that Transnet pay its sub-contractor directly. The decision to pay any sub-contractor directly, remains that of Transnet alone.

16.3 The Service Provider remains liable for its contractual obligations under the Agreement, including all services rendered by the sub-contractor.

16.4 This clause does not establish any contractual relationship between Transnet and any sub-contractor of the Service Provider, whatsoever.

17 ASSIGNMENT

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

18 SERVICE PROVIDER INTEGRITY PACT

The Service Provider shall observe and ensure compliance with all requirements and objectives of the Transnet Service Provider Integrity Pact as agreed to in response to the RFQ. The general purpose of the Service Provider Integrity Pact is to agree to avoid all forms of dishonesty, fraud and corruption by following a system that is fair, transparent and free from any undue influence prior to, during and subsequent to the currency of the procurement event leading to this Agreement and this Agreement itself;

19 DATABASE OF RESTRICTED SERVICE PROVIDERS

The process of restriction is used to exclude a company/person from conducting future business with Transnet and other organs of state for a specified period. No Bid shall be awarded to a Bidder whose name (or any of its members, directors, partners or trustees) appear on the Register of Tender Defaulters kept by National Treasury, or who have been placed on National Treasury's List of Restricted Service Providers. Transnet reserves the right to withdraw an award, or cancel a contract concluded with a Bidder should it be established, at any time, that a bidder has been restricted with National Treasury by another government institution.

20 NOTICES

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

21 LAW

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

22 GENERAL

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

23 COUNTERPARTS

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

Provision of vegetation control at Bethlehem and surrounding areas, Kroonstad and surrounding areas on as and when required basis for a period of 24 months

Thus signed by the Parties and witnessed on the following dates and at the following places:

SIGNED for and on behalf of Transnet SOC Ltd duly authorised hereto	SIGNED for and on behalf of duly authorised hereto
Registration Number 1990/000900/30	Registration Number
Signature	Signature
Name:	Name:
Position:	Position:
Date:	Date:
Place:	Place:
AS WITNESS: Signature Name	AS WITNESS: Signature Name



GENERAL BID CONDITIONS

[October 2021]

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1 DEFINITIONS

Where the following words or phrases are used in this Agreement, such words or phrases shall have the meaning assigned thereto in this clause, except where the context clearly requires otherwise:

- 1.1 **Bid** shall mean a Respondent's tendered response / proposal to a Transnet RFP or RFQ;
- 1.2 **Bid Document(s)** shall mean a reference to a Request for Proposal or Request for Quotation;
- 1.3 **Business Day** shall mean any day other than a Saturday, Sunday or public holiday;
- 1.4 **Goods** shall mean the goods required by Transnet as specified in its Bid Document;
- 1.5 **Parties** shall mean Transnet and the Respondents to a Bid Document;
- 1.6 **Respondent(s)** shall mean a respondent/bidder to a Bid Document;
- 1.7 **RFP** shall mean Request for Proposal;
- 1.8 **RFQ** shall mean Request for Quotation;
- 1.9 **RFX** shall mean RFP or RFQ, as the case may be;
- 1.10 **Services** shall mean the services required by Transnet as specified in its Bid Document;
- 1.11 **Service Provider or Supplier** shall mean the successful Respondent;
- 1.12 **Tax Invoice** shall mean the document as required by Section 20 of the Value-Added Tax Act, 89 of 1991, as may be amended from time to time;
- 1.13 **Transnet** shall mean Transnet SOC Ltd, a State Owned Company; and
- 1.14 **VAT** shall mean Value-Added Tax in terms of the Value-Added Tax Act, 89 of 1991, as may be amended from time to time.

2 GENERAL

All Bid Documents and subsequent contracts and orders shall be subject to the following general conditions as laid down by Transnet and are to be strictly adhered to by any Respondent to this RFX.

3 SUBMITTING OF BID DOCUMENTS

- 3.1 A Bid, which shall hereinafter include reference to an RFP or RFQ, shall be submitted to Transnet no later than the closing date and time specified in accordance with the directions issued in the Bid Documents. Late Bids will not be considered.
- 3.2 The Bid Documents must be completed in their entirety and Respondents are required to complete their Bid submissions legibly in non-erasable ink.
- 3.3 Bids shall be delivered in a sealed envelope in accordance with the instructions indicated in the Bid Documents with the Bid number and subject marked on the front of the envelope.
- 3.4 The Respondent's return address must be stated on the reverse side of the sealed envelope.

4 USE OF BID FORMS

- 4.1 Where special forms and/or formats are issued by Transnet for the submission of Bids, Respondents are required to submit their Bids by completion of the appropriate sections on such official forms and/or formats and not in other forms and/or formats or documents bearing their own terms and conditions of contract. Non-compliance with this condition may result in the rejection of a Bid.
- 4.2 Respondents must note that the original Bid forms and/or formats must be completed for submission.

- 4.3 Only if insufficient space has been allocated to a particular response may a Respondent submit additional information under separate cover using the Company's letterhead. This must be duly cross-referenced in the RFX.

5 BID FEES

- 5.1 A non-refundable fee may be charged for Bid Documents, depending on the administrative cost of preparing and issuing the Bid Document provided the Bid Documents are also made available free of charge on the National Treasury eTender Publication Portal.

6 VALIDITY PERIOD

- 6.1 The Respondents must hold their Bid valid for acceptance by Transnet at any time within the requested validity period after the closing date of the bid.
- 6.2 Respondents may be requested to extend their validity period for a specified additional period. In such instances, Respondents will not be allowed to change any aspect of their Bid, unless they are able to demonstrate that the proposed change/s is as a direct and unavoidable consequence of Transnet's extension of the validity period.

7 SITE VISITS / BRIEFING SESSIONS

Respondents may be requested to attend a site visit or briefing session where it is necessary to view the site in order to prepare their Bids, or where Transnet deems it necessary to provide Respondents with further information to allow them to complete their Bids properly. Where such visits or sessions are indicated as compulsory in the RFX Document, Respondents are obliged to attend these meetings as failure to do so will result in their disqualification.

8 CLARIFICATION BEFORE THE CLOSING DATE

Should clarification be required on any aspect of the Bid before the closing date, the Respondent must direct such queries to the contact person listed in the RFX Document in the stipulated manner.

9 COMMUNICATION AFTER THE CLOSING DATE

After the closing date of a Bid (i.e. during the evaluation period) the Respondent may only communicate with the Chairperson of the relevant Bid Preparation and Evaluation Committee.

10 UNAUTHORISED COMMUNICATION ABOUT BIDS

Where Bids are submitted to the Chairperson of the relevant Bid Preparation and Evaluation Committee, Respondents may at any time communicate with the Secretary on any matter relating to its Bid but, in the absence of written authority from the Secretary, no communication on a question affecting the subject of a Bid shall take place between Respondents or other potential service providers or any member of the Bid Adjudication Committee or official of Transnet during the period between the closing date for the receipt of the Bid and the date of the notification of the successful Respondent(s). A Bid, in respect of which any such unauthorised communication has occurred, may be disqualified.

11 RETURNABLE DOCUMENTS

All returnable documents listed in the RFX Documents must be submitted with Respondent's Bid. Failure to submit mandatory returnable schedules / documents will result in disqualification. Failure to submit other schedules / documents may result in disqualification.

12 DEFAULTS BY RESPONDENTS

If the Respondent, after it has been notified of the acceptance of its Bid fails to:

- 12.1 enter into a formal contract when called upon to do so within such period as Transnet may specify; or
- 12.2 accept an order in terms of the Bid;
- 12.3 furnish satisfactory security when called upon to do so for the fulfilment of the contract; or
- 12.4 comply with any condition imposed by Transnet,

Transnet may, in any such case, without prejudice to any other legal remedy which it may have, proceed to accept any other Bid or, if it is necessary to do so, call for Bids afresh, and may recover from the defaulting Respondent any additional expense incurred by Transnet in calling for new offers or in accepting a less favourable offer.

13 CURRENCY

All monetary amounts referred to in a Bid response must be in Rand, the currency of the Republic of South Africa [ZAR], save to the extent specifically permitted in the RFP.

14 PRICES SUBJECT TO CONFIRMATION

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

15 ALTERATIONS MADE BY THE RESPONDENT TO BID PRICES

All alterations made by the Respondent to its Bid price(s) prior to the submission of its Bid 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 Bid Documents. Failure to observe this requirement may result in the particular item(s) concerned being excluded in the matter of the award of the business.

16 EXCHANGE AND REMITTANCE

- 16.1 The Respondent 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 Supplier/Service Provider, effect payment overseas directly to the foreign principal or manufacturer of such percentage of the contract or order value as may be stipulated by the Respondent in its Bid Documents.
- 16.2 It is Transnet's preference to enter into Rand-based agreements. Transnet would request, therefore, that the Respondent give favourable consideration to obtaining forward exchange cover on the foreign currency portion of the Agreement at a cost that is acceptable to Transnet to protect itself against any currency rate fluctuation risks for the duration of any resulting contract or order.
- 16.3 The Respondent who desires to avail itself of the aforementioned facility must at the time of bidding furnish the information called for in the Exchange and Remittance section of the Bid Documents and also furnish full details of the principals or manufacturer to whom payment is to be made.
- 16.4 The South African Reserve Bank's approval is required before any foreign currency payments can be made to or on behalf of Respondents.
- 16.5 Transnet will not recognise any claim for adjustment of the order and/or contract price if the increase in price arises after the date on which the Goods/Services were to be delivered, as set out in the order and/or contract, or any subsequent agreement between the parties.

- 16.6 Transnet reserves the right to request a pro-forma invoice/tax invoice in order to ensure compliance with the contract and Value-Added Tax Act no. 89 of 1991 [VAT Act].

17 ACCEPTANCE OF BID

- 17.1 Upon the acceptance of a Bid by Transnet, the parties shall be bound by these General Bid Conditions and any contractual terms and/or any schedule of "Special Conditions" or otherwise which form part of the Bid Documents.
- 17.2 Where the Respondent has been informed by Transnet of the acceptance of its Bid, an email communication that has been successfully sent to the Respondent shall be regarded as proof of delivery to the Respondent 1 day after the date of submission.

18 NOTICE TO UNSUCCESSFUL RESPONDENTS

- 18.1 Unsuccessful Respondents shall be advised in writing that their Bids have not been accepted as soon as possible after the closing date of the Bid. On award of business to the successful Respondent all unsuccessful Respondents must be informed of the name of the successful Respondent and of the reason as to why their Bids had been unsuccessful.

19 TERMS AND CONDITIONS OF CONTRACT

- 19.1 The Supplier/Service Provider shall adhere to the Terms and Conditions of Contract issued with the Bid Documents, together with any schedule of "Special Conditions" or otherwise which form part of the Bid Documents.
- 19.2 Should the Respondent find any conditions unacceptable, it should indicate which conditions are unacceptable and offer amendments/ alternatives by written submission on a company letterhead. Any such submission shall be subject to review by Transnet's Legal Counsel who shall determine whether the proposed amendments /alternative(s) are acceptable or otherwise, as the case may be. Respondents will be afforded an opportunity to withdraw an unacceptable deviation, failing which the respondent will be disqualified.

20 CONTRACT DOCUMENTS

- 20.1 The contract documents will comprise these General Bid Conditions, the Terms and Conditions of Contract and any schedule of "Special Conditions" which form part of the Bid Documents.
- 20.2 The abovementioned documents together with the Respondent's Bid response will constitute the contract between the parties upon receipt by the Respondent of Transnet's letter of acceptance, subject to all additional amendments and/or special conditions thereto as agreed to by the parties.
- 20.3 Should Transnet inform the Respondent that a formal contract will be signed, the abovementioned documents together with the Respondent's Bid response [and, if any, its covering letter and any subsequent exchange of correspondence] as well as Transnet's Letter of Acceptance, shall constitute a binding contract until the final contract is signed.

21 LAW GOVERNING CONTRACT

The law of the Republic of South Africa shall govern the contract created by the acceptance of a Bid. The *domicilium citandi et executandi* shall be a place in the Republic of South Africa to be specified by the Respondent in its Bid 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. A foreign Respondent shall,

therefore, state in its Bid the name of its authorised representative in the Republic of South Africa who is empowered to sign any contract which may be entered into in the event of its Bid being accepted and to act on its behalf in all matters relating to the contract.

22 IDENTIFICATION

If the Respondent is a company, the full names of the directors shall be stated in the Bid. If the Respondent is a close corporation, the full names of the members shall be stated in the Bid. If the Respondent 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.

23 RESPONDENT'S SAMPLES

- 23.1 If samples are required from Respondents, such samples shall be suitably marked with the Respondent's name and address, the Bid number and the Bid item number and must be despatched in time to reach the addressee as stipulated in the Bid Documents on or before the closing date of the Bid. Failure to submit samples by the due date may result in the rejection of a Bid.
- 23.2 Transnet reserves the right to retain samples furnished by Respondents in compliance with Bid conditions.
- 23.3 Payment will not be made for a successful Respondent's samples that may be retained by Transnet for the purpose of checking the quality and workmanship of Goods/Services delivered in execution of a contract.
- 23.4 If Transnet does not wish to retain unsuccessful Respondents' samples and the Respondents require their return, such samples may be collected by the Respondents at their own risk and cost.

24 SECURITIES

- 24.1 The successful Respondent, 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 a Deed of Suretyship [Deed of Suretyship] furnished by an approved bank, building society, insurance or guarantee corporation carrying on business in South Africa.
- 24.2 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.
- 24.3 Such security, if required, shall be an amount which will be stipulated in the Bid Documents.
- 24.4 For the purpose of clause 24.124.1 above, Transnet will supply a Deed of Suretyship form to the successful Respondent for completion and no guarantee in any other form will be accepted. A copy of such form will be supplied to Respondents on request. For this purpose a Deed of Suretyship form will be provided which shall be completed and returned to Transnet or a designated official by the successful Respondent within 30 [thirty] calendar days from the date of the letter of acceptance. No payment will be made until the form, duly completed, is 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 Supplier/Service Provider to cancel the contract with immediate effect.
- 24.5 Additional costs incurred by Transnet necessitated by reason of default on the part of the Supplier/Service Provider in relation to the conditions of this clause 24 will be for the account of the Supplier/Service Provider.

25 PRICE AND DELIVERY BASIS FOR GOODS

- 25.1 Unless otherwise specified in the Bid Documents, the prices quoted for Goods must be on a Delivered Duty Paid [latest ICC Incoterms] price basis in accordance with the terms and at the delivery point or points specified in Transnet's Bid Documents. Bids for supply on any other basis of delivery are liable to disqualification. The lead time for delivery stated by the Respondent 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 Respondent.
- 25.2 Respondents must furnish their Bid prices in the Price Schedule of the Bid Documents on the following basis:
- a) Local Supplies - Prices for Goods to be manufactured, produced or assembled in the Republic of South Africa, or imported supplies held in South Africa, to be quoted on a Delivered RSA named destination basis.
 - b) Imported Supplies - Prices for Goods to be imported from all sources to be quoted on a Delivered Duty Paid [latest ICC Incoterms] basis, to end destination in South Africa, unless otherwise specified in the Bid Price Schedule.

26 EXPORT LICENCE

The award of a Bid for Goods to be imported may be subject to the issue of an export licence in the country of origin or supply. If required, the Supplier/Service Provider's manufacturer or forwarding agent shall be required to apply for such licence.

27 QUALITY OF MATERIAL

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

28 DELETION OF ITEMS EXCLUDED FROM BID

The Respondent must delete items for which it has not tendered or for which the price has been included elsewhere in its Bid.

29 VALUE-ADDED TAX

- 29.1 In respect of local supplies, i.e. Goods to be manufactured, produced or assembled in the Republic of South Africa, or imported supplies held or already in transit to South Africa, the prices quoted by the Respondent are to be inclusive of VAT which must be shown separately at the standard rate on the Tax Invoice.
- 29.2 In respect of foreign Services rendered:
- a) the invoicing by a South African Service Provider on behalf of its foreign principal rendering such Service represents a Service rendered by the principal; and
 - b) the Service Provider's Tax Invoice(s) for the local portion only [i.e. the "commission" for the Services rendered locally] must show the VAT separately.

30 IMPORTANT NOTICE TO RESPONDENTS REGARDING PAYMENT

30.1 Method of Payment

- a) The attention of the Respondent is directed to the Terms and Conditions of Contract which set out the conditions of payment on which Bid price(s) shall be based.

- b) However, in addition to the foregoing the Respondent is invited to submit offers based on alternative methods of payment and/or financing proposals.
- c) The Respondent is required to give full particulars of the terms that will be applicable to its alternative offer(s) and the financial merits thereof will be evaluated and taken into consideration when the Bid is adjudicated.
- d) The Respondent must, therefore, in the first instance, tender strictly in accordance with clause 30.1 (a) above. Failure to comply with clause 30.1 (a) above may preclude a Bid from further consideration.

NOTE: The successful Respondent [the **Supplier/Service Provider**] shall, where applicable, be required to furnish a guarantee covering any advance payments.

30.2 Conditional Discount

Respondents 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 Supplier/Service Provider's month-end statement reflecting the relevant Tax Invoice(s) for payment purposes, provided the conditions of the order or contract have been fulfilled and the Tax Invoice is correct in all respects as referred to in the contract or order. Incomplete and/or incorrect Tax Invoices shall be returned and the conditional period will be recalculated from the date of receipt of the correct documentation.

31 CONTRACT QUANTITIES AND DELIVERY REQUIREMENTS

31.1 Contract Quantities

- a) It must be clearly understood that although Transnet does not bind itself to purchase a definitive quantity under any contract which may be entered into pursuant to this Bid, the successful Respondent nevertheless undertakes to supply against the contract such quantities as may be ordered against the contract, which orders are posted or delivered by hand or transmitted electronically on or before the expiry date of such contract.
- b) It is furthermore a condition that Transnet will not accept liability for any material/stocks specially ordered or carried by the Respondent with a view to meeting the requirements under any such contract.
- c) The estimated planned quantities likely to be ordered by Transnet per annum are furnished in relevant section of the Bid Documents. For avoidance of doubt the estimated quantities are estimates and Transnet reserves the right to order only those quantities sufficient for its operational requirements.

31.2 Delivery Period

a) Period Contracts and 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 the Terms and Conditions of Contract.

b) Progress Reports

The Supplier/Service Provider may be required to submit periodical progress reports with regard to the delivery of the Goods/Services.

c) Emergency Demands as and when required

If, due to unforeseen circumstances, supplies of the Goods/Services covered by the Bid are required at short notice for immediate delivery, the Supplier/Service Provider will be given first right of refusal for such business. If it is unable to meet the desired critical 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 *Total or Partial Failure to Perform the Scope of Supply* section in the Terms and Conditions of Contract will not be applicable in these circumstances.

32 PLANS, DRAWINGS, DIAGRAMS, SPECIFICATIONS AND DOCUMENTS

32.1 Copyright

Copyright in plans, drawings, diagrams, specifications and documents compiled by the Supplier/Service Provider for the purpose of contract work shall be governed by the Intellectual Property Rights section in the Terms and Conditions of Contract.

32.2 Drawings and specifications

In addition to what may be stated in any Bid Document, the Respondent should note that, unless notified to the contrary by Transnet or a designated official by means of an official amendment to the Bid Documents, it is required to tender for Goods/Services strictly in accordance with the drawings and/or specifications supplied by Transnet, notwithstanding that it may be aware that alterations or amendments to such drawings or specifications are contemplated by Transnet.

32.3 Respondent's drawings

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

32.4 Foreign specifications

The Respondent quoting for Goods/Services in accordance with foreign specifications, other than British and American standards, is to submit translated copies of such specifications with the Bid. In the event of any departures or variations between the foreign specification(s) quoted in the Bid Documents, full details regarding such departures or variations must be furnished by the Respondent in a covering letter attached to the Bid. Non-compliance with this condition may result in disqualification.

33 BIDS BY OR ON BEHALF OF FOREIGN RESPONDENTS

33.1 Bids submitted by foreign principals may be forwarded directly by the principals or by its South African representative or agent to the designated official of Transnet according to whichever officer is specified in the Bid Documents.

33.2 In the case of a representative or agent, written proof must be submitted to the effect that such representative or agent has been duly authorised to act in that capacity by the principal. Failure to submit such authorisation by the representative or agent shall disqualify the Bid.

33.3 When legally authorised to prepare and submit Bids on behalf of their principals not domiciled in the Republic of South Africa, representatives or agents must compile the Bids in the names of such principals and sign them on behalf of the latter.

33.4 South African representatives or agents of a successful foreign Respondent must when so required enter into a formal contract in the name of their principals and must sign such contract on behalf of the latter. In every such case a legal Power of Attorney from their principals must be furnished to

Transnet by the South African representative or agents authorising them to enter into and sign such contract.

- a) Such Power of Attorney must comply with Rule 63 (Authentication of documents executed outside the Republic for use within the Republic) of the Uniform Rules of Court: Rules regulating the conduct of the proceedings of the several provincial and local divisions of the Supreme Court of South Africa.
- b) The Power of Attorney must be signed by the principal under the same title as used in the Bid Documents.
- c) 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 a contract with Transnet, a certified copy thereof should be furnished.
- d) The Power of Attorney must authorise the South African representative or agent to choose the *domicilium citandi et executandi*.

33.5 If payment is to be made in South Africa, the foreign Supplier/Service Provider [i.e. the principal, or its South African agent or representative], must notify Transnet in writing whether, for payment by electronic funds transfer [EFT]:

- a) funds are to be transferred to the credit of the foreign Supplier/Service Provider's account at a bank in South Africa, in which case the name and branch of such bank shall be furnished; or
- b) funds are to be transferred to the credit of its South African agent or representative, in which case the name and branch of such bank shall be furnished.

33.6 The attention of the Respondent is directed to clause 24 above [Securities] 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.

34 DATABASE OF RESTRICTED SUPPLIERS

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

35 CONFLICT WITH ISSUED RFX DOCUMENT

35.1 Should a conflict arise between these General Bid Conditions and the issued RFX document, the conditions stated in the RFX document shall prevail.

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

INTEGRITY PACT

Between

TRANSNET SOC LTD

Registration Number: 1990/000900/30

("Transnet")

And The Bidder / Supplier/ Service Provider / Contractor (hereinafter referred to as the "Bidder / Supplier")

PREAMBLE

Transnet values full compliance with all relevant laws and regulations, ethical standards and the principles of economical use of resources, fairness and transparency in its relations with its Bidders / Suppliers.

In order to achieve these goals, Transnet and the Bidder / Supplier hereby enter into this agreement hereinafter referred to as the "Integrity Pact" which will form part of the Bidder's / Supplier's application for registration with Transnet as a vendor.

The general purpose of this Integrity Pact is to agree on avoiding all forms of dishonesty, fraud and corruption by following a system that is fair, transparent and free from any undue influence prior to, during and subsequent to the currency of any procurement and / or reverse logistics event and any further contract to be entered into between the Parties, relating to such event.

All Bidders / Suppliers will be required to sign and comply with undertakings contained in this Integrity Pact, should they want to be registered as a Transnet vendor.

1 OBJECTIVES

- 1.1 Transnet and the Bidder / Supplier agree to enter into this Integrity Pact, to avoid all forms of dishonesty, fraud and corruption including practices that are anti-competitive in nature, negotiations made in bad faith and under-pricing by following a system that is fair, transparent and free from any influence / unprejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to:
 - a) Enable Transnet to obtain the desired contract at a reasonable and competitive price in conformity to the defined specifications of the works, goods and services; and
 - b) Enable Bidders / Suppliers to abstain from bribing or participating in any corrupt practice in order to secure the contract.

2 COMMITMENTS OF TRANSNET

Transnet commits to take all measures necessary to prevent dishonesty, fraud and corruption and to observe the following principles:

- 2.1 Transnet hereby undertakes that no employee of Transnet connected directly or indirectly with the sourcing event and ensuing contract, will demand, take a promise for or accept directly or through intermediaries any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the Bidder, either for themselves or for any person, organisation or third party related to the contract in exchange for an advantage in the bidding process, bid evaluation, contracting or implementation process related to any contract.
- 2.2 Transnet will, during the registration and bidding process treat all Bidders / Suppliers with equity, transparency and fairness. Transnet will in particular, before and during the registration process, provide to all Bidders / Suppliers the same information and will not provide to any Bidders / Suppliers confidential / additional information through which the Bidders / Suppliers could obtain an advantage in relation to any bidding process.
- 2.3 Transnet further confirms that its employees will not favour any prospective bidder in any form that could afford an undue advantage to a particular bidder during the tendering stage, and will further treat all Bidders / Supplier participating in the bidding process in a fair manner.
- 2.4 Transnet will exclude from the bidding process such employees who have any personal interest in the Bidders / Suppliers participating in the bidding process.

3 OBLIGATIONS OF THE BIDDER / SUPPLIER

- 3.1 Transnet has a '**Zero Gifts**' Policy. No employee is allowed to accept gifts, favours or benefits.
- a) Transnet officials and employees **shall not** solicit, give or accept, or from agreeing to solicit, give, accept or receive directly or indirectly, any gift, gratuity, favour, entertainment, loan, or anything of monetary value, from any person or juridical entities in the course of official duties or in connection with any operation being managed by, or any transaction which may be affected by the functions of their office.
 - b) Transnet officials and employees **shall not** solicit or accept gifts of any kind, from vendors, suppliers, customers, potential employees, potential vendors, and suppliers, or any other individual or organisation irrespective of the value.
 - c) Under **no circumstances** should gifts, business courtesies or hospitality packages be accepted from or given to prospective suppliers participating in a tender process at the respective employee's Operating Division, regardless of retail value.
 - d) Gratuities, bribes or kickbacks of any kind must never be solicited, accepted or offered, either directly or indirectly. This includes money, loans, equity, special privileges, personal favours, benefit or services. Such favours will be considered to constitute corruption.
- 3.2 The Bidder / Supplier commits itself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of its bid or during any ensuing contract stage in order to secure the contract or in furtherance to secure it and in particular the Bidder / Supplier commits to the following:
- a) The Bidder / Supplier will not, directly or through any other person or firm, offer, promise or give to Transnet or to any of Transnet's employees involved in the bidding process or to any third person any material or other benefit or payment, in order to obtain in exchange an advantage during the bidding process; and
 - b) The Bidder / Supplier will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any employee of Transnet, connected directly or indirectly with the bidding process, or to any person, organisation or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the contract.
- 3.3 The Bidder / Supplier will not collude with other parties interested in the contract to preclude a competitive bid price, impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract. The Bidder / Supplier further commits itself to delivering against all agreed upon conditions as stipulated within the contract.
- 3.4 The Bidder / Supplier will not enter into any illegal or dishonest agreement or understanding, whether formal or informal with other Bidders / Suppliers. This applies in particular to certifications, submissions or non-submission of documents or actions that are restrictive or to introduce cartels into the bidding process.
- 3.5 The Bidder / Supplier will not commit any criminal offence under the relevant anti-corruption laws of South Africa or any other country. Furthermore, the Bidder /Supplier will not use for illegitimate purposes or for restrictive purposes or personal gain, or pass on to others, any information provided by Transnet as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
- 3.6 A Bidder / Supplier of foreign origin shall disclose the name and address of its agents or representatives in South Africa, if any, involved directly or indirectly in the registration or bidding process. Similarly, the Bidder / Supplier of South African nationality shall furnish the name and address of the foreign principals, if any, involved directly or indirectly in the registration or bidding process.
- 3.7 The Bidder / Supplier will not misrepresent facts or furnish false or forged documents or information in order to influence the bidding process to the advantage of the Bidder / Supplier or detriment of Transnet or other competitors.

- 3.8 Transnet may require the Bidder / Supplier to furnish Transnet with a copy of its code of conduct. Such code of conduct must address the compliance programme for the implementation of the code of conduct and reject the use of bribes and other dishonest and unethical conduct.
- 3.9 The Bidder / Supplier will not instigate third persons to commit offences outlined above or be an accessory to such offences.
- 3.10 The Bidder/Supplier confirms that they will uphold the ten principles of the United Nations Global Compact (UNGC) in the fields of Human Rights, Labour, Anti-Corruption and the Environment when undertaking business with Transnet as follows:
- a) Human Rights
 - Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights; and
 - Principle 2: make sure that they are not complicit in human rights abuses.
 - b) Labour
 - Principle 3: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;
 - Principle 4: the elimination of all forms of forced and compulsory labour;
 - Principle 5: the effective abolition of child labour; and
 - Principle 6: the elimination of discrimination in respect of employment and occupation.
 - c) Environment
 - Principle 7: Businesses should support a precautionary approach to environmental challenges;
 - Principle 8: undertake initiatives to promote greater environmental responsibility; and
 - Principle 9: encourage the development and diffusion of environmentally friendly technologies.
 - d) Anti-Corruption
 - Principle 10: Businesses should work against corruption in all its forms, including extortion and bribery.

4 INDEPENDENT BIDDING

- 4.1 For the purposes of this undertaking in relation to any submitted Bid, the Bidder declares to fully understand that the word "competitor" shall include any individual or organisation, other than the Bidder, whether or not affiliated with the Bidder, who:
- a) has been requested to submit a Bid in response to this Bid invitation;
 - b) could potentially submit a Bid in response to this Bid invitation, based on their qualifications, abilities or experience; and
 - c) provides the same Goods and Services as the Bidder and/or is in the same line of business as the Bidder.
- 4.2 The Bidder has arrived at his submitted Bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium will not be construed as collusive bidding.
- 4.3 In particular, without limiting the generality of paragraph 4.2 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
- a) prices;
 - b) geographical area where Goods or Services will be rendered [market allocation];
 - c) methods, factors or formulas used to calculate prices;
 - d) the intention or decision to submit or not to submit, a Bid;

- e) the submission of a Bid which does not meet the specifications and conditions of the RFP; or
 - f) bidding with the intention of not winning the Bid.
- 4.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the Goods or Services to which his/her Bid relates.
- 4.5 The terms of the Bid as submitted have not been, and will not be, disclosed by the Bidder, directly or indirectly, to any competitor, prior to the date and time of the official Bid opening or of the awarding of the contract.
- 4.6 Bidders are aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, Bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and/or may be reported to the National Prosecuting Authority [NPA] for criminal investigation and/or may be restricted from conducting business with the public sector for a period not exceeding 10 [ten] years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

5 DISQUALIFICATION FROM BIDDING PROCESS

- 5.1 If the Bidder / Supplier has committed a transgression through a violation of paragraph 3 of this Integrity Pact or in any other form such as to put its reliability or credibility as a Bidder / Supplier into question, Transnet may reject the Bidder's / Supplier's application from the registration or bidding process and remove the Bidder / Supplier from its database, if already registered.
- 5.2 If the Bidder / Supplier has committed a transgression through a violation of paragraph 3, or any material violation, such as to put its reliability or credibility into question, Transnet may after following due procedures and at its own discretion also exclude the Bidder / Supplier from future bidding processes. The imposition and duration of the exclusion will be determined by the severity of the transgression. The severity will be determined by the circumstances of the case, which will include amongst others the number of transgressions, the position of the transgressors within the company hierarchy of the Bidder / Supplier and the amount of the damage. The exclusion will be imposed for up to a maximum of 10 (ten) years. However, Transnet reserves the right to impose a longer period of exclusion, depending on the gravity of the misconduct.
- 5.3 If the Bidder / Supplier can prove that it has restored the damage caused by it and has installed a suitable corruption prevention system, or taken other remedial measures as the circumstances of the case may require, Transnet may at its own discretion revoke the exclusion or suspend the imposed penalty.

6 DATABASE OF RESTRICTED SUPPLIERS

- 6.1 The process of restriction is used to exclude a company/person from conducting future business with Transnet and other organs of state for a specified period. No Bid shall be awarded to a Bidder whose name (or any of its members, directors, partners or trustees) appear on the Register of Tender Defaulters kept by National Treasury, or who have been placed on National Treasury's List of Restricted Suppliers. Transnet reserves the right to withdraw an award, or cancel a contract concluded with a Bidder should it be established, at any time, that a bidder has been restricted with National Treasury by another government institution.
- 6.2 All the stipulations on Transnet's restriction process as laid down in Transnet's Supply Chain Policy and Procurement Procedures Manual are included herein by way of reference. Below follows a condensed summary of this restriction procedure.
- 6.3 On completion of the restriction procedure, Transnet will submit the restricted entity's details (including the identity number of the individuals and registration number of the entity) to National Treasury for placement on National Treasury's Database of Restricted Suppliers for the specified period of exclusion. National

Treasury will make the final decision on whether to restrict an entity from doing business with any organ of state for a period not exceeding 10 years and place the entity concerned on the Database of Restricted Suppliers published on its official website.

- 6.4 The decision to restrict is based on one of the grounds for restriction. The standard of proof to commence the restriction process is whether a "*prima facie*" (i.e. on the face of it) case has been established.
- 6.5 Depending on the seriousness of the misconduct and the strategic importance of the Goods/Services, in addition to restricting a company/person from future business, Transnet may decide to terminate some or all existing contracts with the company/person as well.
- 6.6 A supplier or contractor to Transnet may not subcontract any portion of the contract to a restricted company.
- 6.7 Grounds for restriction include: If any person/Enterprise which has submitted a Bid, concluded a contract, or, in the capacity of agent or subcontractor, has been associated with such Bid or contract:
 - a) Has, in bad faith, withdrawn such Bid after the advertised closing date and time for the receipt of Bids;
 - b) has, after being notified of the acceptance of his Bid, failed or refused to sign a contract when called upon to do so in terms of any condition forming part of the bid documents;
 - c) has carried out any contract resulting from such bid in an unsatisfactory manner or has breached any condition of the contract;
 - d) has offered, promised or given a bribe in relation to the obtaining or execution of the contract;
 - e) has acted in a fraudulent or improper manner or in bad faith towards Transnet or any Government Department or towards any public body, Enterprise or person;
 - f) has made any incorrect statement in a certificate or other communication with regard to the Local Content of his Goods or his B-BBEE status and is unable to prove to the satisfaction of Transnet that:
 - (i) he made the statement in good faith honestly believing it to be correct; and
 - (ii) before making such statement he took all reasonable steps to satisfy himself of its correctness;
 - g) has submitted false information regarding any other matter required in terms of the Preferential Procurement Regulations, 2017 issued in terms of the Preferential Procurement Policy Framework Act which will affect the evaluation of a Bid or where a Bidder has failed to declare any subcontracting arrangements;
 - h) caused Transnet damage, or to incur costs in order to meet the contractor's requirements and which could not be recovered from the contractor;
 - i) has litigated against Transnet in bad faith.

7 PREVIOUS TRANSGRESSIONS

- 7.1 The Bidder / Supplier hereby declares that no previous transgressions resulting in a serious breach of any law, including but not limited to, corruption, fraud, theft, extortion and contraventions of the Competition Act 89 of 1998, which occurred in the last 5 (five) years with any other public sector undertaking, government department or private sector company that could justify its exclusion from its registration on the Bidder's / Supplier's database or any bidding process.
- 7.2 If it is found to be that the Bidder / Supplier made an incorrect statement on this subject, the Bidder / Supplier can be rejected from the registration process or removed from the Bidder / Supplier database, if already registered, for such reason (refer to the Breach of Law Form contained in the applicable RFX document.)

8 SANCTIONS FOR VIOLATIONS

8.1 Transnet shall also take all or any one of the following actions, wherever required to:

- a) Immediately exclude the Bidder / Supplier from the bidding process or call off the pre-contract negotiations without giving any compensation to the Bidder / Supplier. However, the proceedings with the other Bidders / Suppliers may continue;
- b) Immediately cancel the contract, if already awarded or signed, without giving any compensation to the Bidder / Supplier;
- c) Recover all sums already paid by Transnet;
- d) Encash the advance bank guarantee and performance bond or warranty bond, if furnished by the Bidder / Supplier, in order to recover the payments, already made by Transnet, along with interest;
- e) Cancel all or any other contracts with the Bidder / Supplier;
- f) Exclude the Bidder / Supplier from entering into any bid with Transnet and other organs of state in future for a specified period; and
- g) If the Supplier subcontracted a portion of the bid to another person without declaring it to Transnet, Transnet must penalise the Supplier up to 10% of the value of the contract.

9 CONFLICTS OF INTEREST

9.1 A conflict of interest includes, inter alia, a situation in which:

- a) A Transnet employee has a personal financial interest in a bidding / supplying entity; and
- b) A Transnet employee has private interests or personal considerations or has an affiliation or a relationship which affects, or may affect, or may be perceived to affect his / her judgment in action in the best interest of Transnet, or could affect the employee's motivations for acting in a particular manner, or which could result in, or be perceived as favouritism or nepotism.

9.2 A Transnet employee uses his / her position, or privileges or information obtained while acting in the capacity as an employee for:

- a) Private gain or advancement; or
- b) The expectation of private gain, or advancement, or any other advantage accruing to the employee must be declared in a prescribed form.

Thus, conflicts of interest of any bid committee member or any person involved in the sourcing process must be declared in a prescribed form.

9.3 If a Bidder / Supplier has or becomes aware of a conflict of interest i.e. a family, business and / or social relationship between its owner(s) / member(s) / director(s) / partner(s) / shareholder(s) and a Transnet employee / member of Transnet's Board of Directors in respect of a bid which will be considered for the bid process, the Bidder / Supplier:

- a) must disclose the interest and its general nature, in the Request for Proposal ("RFX") declaration form; or
- b) must notify Transnet immediately in writing once the circumstances has arisen.

9.4 The Bidder / Supplier shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any committee member or any person involved in the sourcing process, where this is done, Transnet shall be entitled forthwith to rescind the contract and all other contracts with the Bidder / Supplier.

10 DISPUTE RESOLUTION

10.1 Transnet recognises that trust and good faith are pivotal to its relationship with its Bidders / Suppliers. When a dispute arises between Transnet and its Bidder / Supplier, the parties should use their best endeavours to resolve the dispute in an amicable manner, whenever possible. Litigation in bad faith negates the principles of trust and good faith on which commercial relationships are based. Accordingly, following a restriction process as mentioned in paragraph 6 above, Transnet will not do business with a company that litigates against it in bad faith or is involved in any action that reflects bad faith on its part. Litigation in bad faith includes, but is not limited to the following instances:

- a) **Vexatious proceedings:** these are frivolous proceedings which have been instituted without proper grounds;
- b) **Perjury:** where a supplier make a false statement either in giving evidence or on an affidavit;
- c) **Scurrilous allegations:** where a supplier makes allegations regarding a senior Transnet employee which are without proper foundation, scandalous, abusive or defamatory; and
- d) **Abuse of court process:** when a supplier abuses the court process in order to gain a competitive advantage during a bid process.

11 GENERAL

11.1 This Integrity Pact is governed by and interpreted in accordance with the laws of the Republic of South Africa.

11.2 The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the law relating to any civil or criminal proceedings.

11.3 The validity of this Integrity Pact shall cover all the bidding processes and will be valid for an indefinite period unless cancelled by either Party.

11.4 Should one or several provisions of this Integrity Pact turn out to be invalid the remainder of this Integrity Pact remains valid.

11.5 Should a Bidder / Supplier be confronted with dishonest, fraudulent or corruptive behaviour of one or more Transnet employees, Transnet expects its Bidders / Suppliers to report this behaviour directly to a senior Transnet official / employee or alternatively by using Transnet's "Tip-Off Anonymous" hotline number 0800 003 056, whereby your confidentiality is guaranteed.

The Parties hereby declare that each of them has read and understood the clauses of this Integrity Pact and shall abide by it. To the best of the Parties' knowledge and belief, the information provided in this Integrity Pact is true and correct.

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NON DISCLOSURE AGREEMENT

[April 2020]

THIS AGREEMENT is made between

Transnet SOC Ltd [Transnet] [Registration No. 1990/000900/30]

whose registered office is at 49th Floor, Carlton Centre, 150 Commissioner Street, Johannesburg 2001,

and

the Company as indicated in the RFP bid response hereto

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 Bid Document.

IT IS HEREBY AGREED

1. INTERPRETATION

In this Agreement:

- 1.1 **Agents** mean directors, officers, employees, agents, professional advisers, contractors or sub-contractors, or any Group member;
- 1.2 **Bid or Bid Document** means Transnet's Request for Information [**RFI**] Request for Proposal [**RFP**] or Request for Quotation [**RFQ**], as the case may be;
- 1.3 **Confidential Information** means any information or other data 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 Bid 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:
 - 1.3.1 is publicly available at the time of its disclosure or becomes publicly available [other than as a result of disclosure by the Receiving Party or any of its Agents contrary to the terms of this Agreement]; or
 - 1.3.2 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

- 1.3.3 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;
- 1.4 **Group** means any subsidiary, any holding company and any subsidiary of any holding company of either party; and
- 1.5 **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.

2. CONFIDENTIAL INFORMATION

- 2.1 All Confidential Information given by one party to this Agreement [the **Disclosing Party**] to the other party [the **Receiving Party**] will be treated by the Receiving Party 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 Bid or for the subsequent performance of any contract between the parties in relation to the Bid.
- 2.3 Notwithstanding clause 2.1 above, the Receiving Party may disclose Confidential Information:
- 2.3.1 to those of its Agents who strictly need to know the Confidential Information for the sole purpose set out in clause 2.2 above, 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
- 2.3.2 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 2.3.2 above, it shall promptly notify the Disclosing Party and cooperate 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.

3. RECORDS AND RETURN OF INFORMATION

- 3.1 The Receiving Party agrees to ensure proper and secure storage of all Information and any copies thereof.
- 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 Company shall, within 7 [seven] days of receipt of a written demand from Transnet:
 - 3.3.1 return all written Confidential Information [including all copies]; and
 - 3.3.2 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 Company or on its behalf.
- 3.4 The Company shall on request supply a certificate signed by a director as to its full compliance with the requirements of clause 3.3.2 above.

4. ANNOUNCEMENTS

- 4.1 Neither party will make or permit to be made any announcement or disclosure of its prospective interest in the Bid 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 survive the termination of any discussions or negotiations between the parties regarding the Bid and continue thereafter for a period of 5 [five] 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 Bid and in complying with the terms of this Agreement.

7. ADEQUACY OF DAMAGES

Nothing contained in this Agreement shall be construed as prohibiting the Disclosing Party from pursuing any other remedies available to 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.

8. PRIVACY AND DATA PROTECTION

- 8.1 The Receiving Party undertakes to comply with South Africa's general privacy protection in terms Section 14 of the Bill of Rights in connection with this Bid and shall procure that its personnel shall observe the provisions of such Act [as applicable] or any amendments and re-enactments thereof and any regulations made pursuant thereto.
- 8.2 The Receiving Party warrants that it and its Agents have the appropriate technical and organisational measures in place against unauthorised or unlawful processing of data relating to the Bid and against accidental loss or destruction of, or damage to such data held or processed by them.

9. GENERAL

- 9.1 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.
- 9.2 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.
- 9.3 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.
- 9.4 This Agreement may only be modified by a written agreement duly signed by persons authorised on behalf of each party.
- 9.5 Nothing in this Agreement shall constitute the creation of a partnership, joint venture or agency between the parties.
- 9.6 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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