

Transnet Port Terminal

an Operating Division of **TRANSNET SOC LTD**

[hereinafter referred to as **Transnet**]

Registration Number 1990/000900/30

REQUEST FOR PROPOSAL [RFP] No TPT/2025/02/0002/89029/RFP

PROVISION OF HEAVY PLANT CLEANING SERVICES FOR BULK COMMODITY/MATERIAL FOR TRANSNET SOC LIMITED (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS "TPT") AT THE BULK TERMINAL, PORT OF SALDANHA, FOR THIRTY-SIX (36) MONTHS

ISSUE DATE:	31 March 2025
COMPULSORY SITE BRIEFING:	08 April 2025, 11:30 am – 13:00 pm
CLOSING DATE:	14 April 2025
CLOSING TIME:	16:00
BID VALIDITY PERIOD:	180 Business Days from Closing Date

Prequalification criteria:

Regional or Local Community Procurement– Bidder MUST submit a valid proof of address (CIPC- Proof of Registered address of entity for local/regional)

Failure to submit this requirement will result in disqualification.

SUBMISSION TO: Transnet e-tender submission portal – see SBD 1 for details

SECTION 1: SBD1 FORM

PART A

INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF HEAVY INDUSTRIAL PLANT CLEANING SERVICES FOR SALDANHA IRON ORE TERMINALS, A DIVISION TRANSNET SOC LTD

BID NUMBER:	TPT/2025/02/0002/89029/RFP	ISSUE DATE:	31-03-2025	CLOSING DATE:	14-04-2025	CLOSING TIME:	16:00 PM
DESCRIPTION	PROVISION OF HEAVY PLANT CLEANING SERVICES FOR BULK COMMODITY/MATERIAL FOR TRANSNET SOC LIMITED (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS "TPT") AT THE BULK TERMINAL, PORT OF SALDANHA, FOR THIRTY-SIX (36) MONTHS						

BID RESPONSE DOCUMENTS SUBMISSION INSTRUCTIONS

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.

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

- a) Log on to the Transnet eTenders management platform website/Portal (transnetetenders.azurewebsites.net)
- b) Click on "ADVERTISED TENDERS" to view advertised tenders;
- c) Click on "SIGN IN/REGISTER –to register new bidder information and ensure that all (must fill in all mandatory information is completed) OR;
- - to sign in if already registered;
- d) Toggle (click to switch) the "Log an Intent" button to submit a bid;
- e) Respondents are to submit bid documents by uploading them onto the system against each tender selected. **A Bidder can upload 30mb per upload and multiple uploads are permitted.**
- f) Bidders should ensure that electronic bid submissions are submitted at least a day before the closing date and bidders should not wait for the last hour before the deadline to submit. This is to enable them to timeously address issues which they may encounter due to internet speed, bandwidth or the size of the number of uploads being submitted. Transnet will not be held liable for any challenges experienced by bidders as a result of their own technical challenges.
- g) No late submissions will be accepted.
- h) Each company must register its own profile using its company details and use the corresponding registered profile to log an intent to bid as well as submitting any bid.
- i) Transnet will not accept a bid or will disqualify a bidder who submits a bid in the Transnet e-tender submission through another bidders'/Company's profile. In other words, each bidder must register the intent to bid and submit its bid through its own profile under the same company name that will eventually bid for the tender. No company shall submit a bid on behalf of another company regardless of the company being a subsidiary or holding company.
- j) In case of a Joint Venture, any of the parties/companies to the Joint Venture may use its registered profile to submit a bid on behalf of the Joint Venture.
- k) A detailed bidder guide can be found on the Transnet Portal transnetetenders.azurewebsites.net

Respondent's Signature

Date & Company Stamp

BIDDING PROCEDURE/TECHNICAL ENQUIRIES MAY BE DIRECTED TO:				
CONTACT PERSON	THIZEKA MPENGEZI			
TELEPHONE NUMBER	022 703 4471			
FACSIMILE NUMBER	N/A			
E-MAIL ADDRESS	thizeka.mpengezi@transnet.net			
SUPPLIER INFORMATION				
NAME OF BIDDER				
POSTAL ADDRESS				
STREET ADDRESS				
TELEPHONE NUMBER	CODE		NUMBER	
CELLPHONE NUMBER				
FACSIMILE NUMBER	CODE		NUMBER	
E-MAIL ADDRESS				
VAT REGISTRATION NUMBER				
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.				
	TCS PIN		OR	CSD No
SUPPLIER COMPLIANCE STATUS	<input type="checkbox"/> Yes <input type="checkbox"/> No		BBEE STATUS LEVEL SWORN AFFIDAVIT	
If Yes, Who was the Certificate issued by?				
AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA) AND NAME THE APPLICABLE IN THE TICK BOX	<input type="checkbox"/>	AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA)		
	<input type="checkbox"/>	A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN ACCREDITATION SYSTEM (SANAS)		
	<input type="checkbox"/>	A REGISTERED AUDITOR NAME:		
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT MUST BE SUBMITTED FOR PURPOSES OF COMPLIANCE WITH THE B-BBEE ACT]				

Respondent's Signature_____
Date & Company Stamp

1 ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]	2 ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER QUESTIONNAIRE BELOW]
Signature of the Bidder	Date:

QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS	
IS THE BIDDER A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?	<input type="checkbox"/> YES <input type="checkbox"/> NO
DOES THE BIDDER HAVE A BRANCH IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO
DOES THE BIDDER HAVE A PERMANENT ESTABLISHMENT IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO
DOES THE BIDDER HAVE ANY SOURCE OF INCOME IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> 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. 1.7 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. 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/ .

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 RFP

Responses to this RFP [**Proposals**] must not include documents or reference relating to any other proposal. Any additional conditions that the bidder wants to bring to the attention of Transnet must be embodied in an accompanying letter.

2 Formal Briefing

A compulsory RFP briefing will be conducted at the Saldanha Iron Ore Terminal, Technical Building, Saldanha, Western Cape, South Africa on the **08 April 2025**, at 11:30 for a period of ± 2 hours. [Respondents to provide own transportation, safety vest, reflector jacket and accommodation]. The briefing session will start punctually and information will not be repeated for the benefit of Respondents arriving late. Bidders who arrive 15 minutes late will not be allowed to enter the briefing session. Bidders should remain for the entire duration of the briefing session.

*A Certificate of Attendance in the form set out in Section 8 hereto must be completed and submitted with your Proposal as proof of attendance is required for a **compulsory** site meeting and/or RFP briefing.*

Respondents failing to attend the compulsory RFP briefing will be disqualified.

3 Communication (Clarifications and Complaints)

- 3.1 Specific queries relating to this RFP before the closing date of the RFP should be submitted to [thizeka.mpengezi@transnet.net] before 12:00 pm on 08 April 2025. In the interest of fairness and transparency Transnet's response to such a query will then be made available to other bidders.
- 3.2 Specific complaints relating to this RFP before or after the closing date should be formally submitted by emailing to groupscmcomplaints@transnet.net. Once the complaint has been submitted, the Transnet SCM Complaints office will acknowledge your complaint and send you a complaint form for completion.
- 3.3 It is prohibited for Respondents to attempt, either directly or indirectly, to canvass any officer or employee of Transnet in respect of this RFP between the closing date and the date of the award of the business.
- 3.4 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.
- 3.5 The outcome of the process will be communicated, via email, to all bidders as soon as the process is concluded. Should a bidder not receive any communication from Transnet 30 days after the expiry of the validity period of this bid, the bidder can consider its bid not being successful.

All unsuccessful bidders have a right to request Transnet to furnish reasons for their bid not being successful. This requested must be directed to the contact person stated in the SBD 1 form

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 PROPOSALS

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

7 Binding Offer

Any Proposal 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

Respondents are hereby advised that Transnet is not committed to any course of action as a result of its issuance of this RFP and/or its receipt of a Proposal in response to it. Please note that Transnet reserves the right to:

- modify the RFP's goods / service(s);
- award only a portion of the proposed goods / services which are reflected in the scope of this RFP;
- split the award of the order/s between more than one Supplier/Service Provider as may be explicitly articulated in the conditions or objective criteria to this RFP
- cancel the RFP 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 notified of their bid being unsuccessful. Bidders may therefore be requested to advise whether they would still be prepared to provide the required Goods/Services at their quoted price.
- Should a bidder fail to respond to a request for extension of the validity period before it expires, that bidder will be excluded from tender process.

9 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.

10 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.

TRANSNET URGES ITS CLIENTS, SUPPLIERS AND THE GENERAL PUBLIC TO REPORT ANY FRAUD OR CORRUPTION TO

IF YOU DON'T REPORT IT, YOU SUPPORT IT!



Email: Transnet.Reportit@outlook.com
Toll free: 0800 003 056
SMS: 0637867403
Please Call Me number: *120*0637867403
Website: <https://whistleblowersoftware.com/secure/Transnet>

SECTION 3: BACKGROUND, OVERVIEW AND SCOPE OF REQUIREMENTS**1 BACKGROUND**

Transnet Port Terminals (TPT) Saldanha requires a service provider to provide a heavy industrial plant cleaning for 36 months.

2 EXECUTIVE OVERVIEW

Whereas Transnet is seeking a partner(s) to provide solutions for reduction of fugitive dust from the roads, it also seeks to improve its current processes for providing these Services to its end user community throughout its locations.

The selected Service provider(s) must share in the mission and business objectives of Transnet. These mutual goals will be met by meeting contractual requirements and new challenges in an environment of teamwork, joint participation, flexibility, innovation and open communications. In this spirit of partnership, Transnet and its Service provider(s) will study the current ways they do business to enhance current practices and support processes and systems. Such a partnership will allow Transnet to reach higher levels of quality, service and profitability.

Specifically, Transnet seeks to benefit from this partnership in the following ways:

- 2.1 Transnet must receive reduced cost of acquisition and improved service benefits resulting from the Service provider's economies of scale and streamlined service processes.
- 2.2 Transnet must achieve appropriate availability that meets user needs while reducing costs for both Transnet and the chosen Service provider(s).
- 2.3 Transnet must receive proactive improvements from the Service provider with respect to supply/provision of Goods/Services and related processes.

2.4 Transnet's overall competitive advantage must be strengthened by the chosen Service provider's leading edge technology and service delivery systems.

2.5 Transnet end users must be able to rely on the chosen Service provider's personnel for service enquiries, recommendations and substitutions.

2.6 Transnet must reduce costs by streamlining its acquisition of Goods/Services, including managed service processes on a Group basis.

3 SCOPE OF REQUIREMENTS

ANNEXURE A – SCOPE OF WORK

4 GREEN ECONOMY / CARBON FOOTPRINT

Transnet wishes to have an understanding of your company's position with regard to environmental commitments, including key environmental characteristics such as waste disposal, recycling and energy conservation. Please submit details of your entity's policies in this regard.

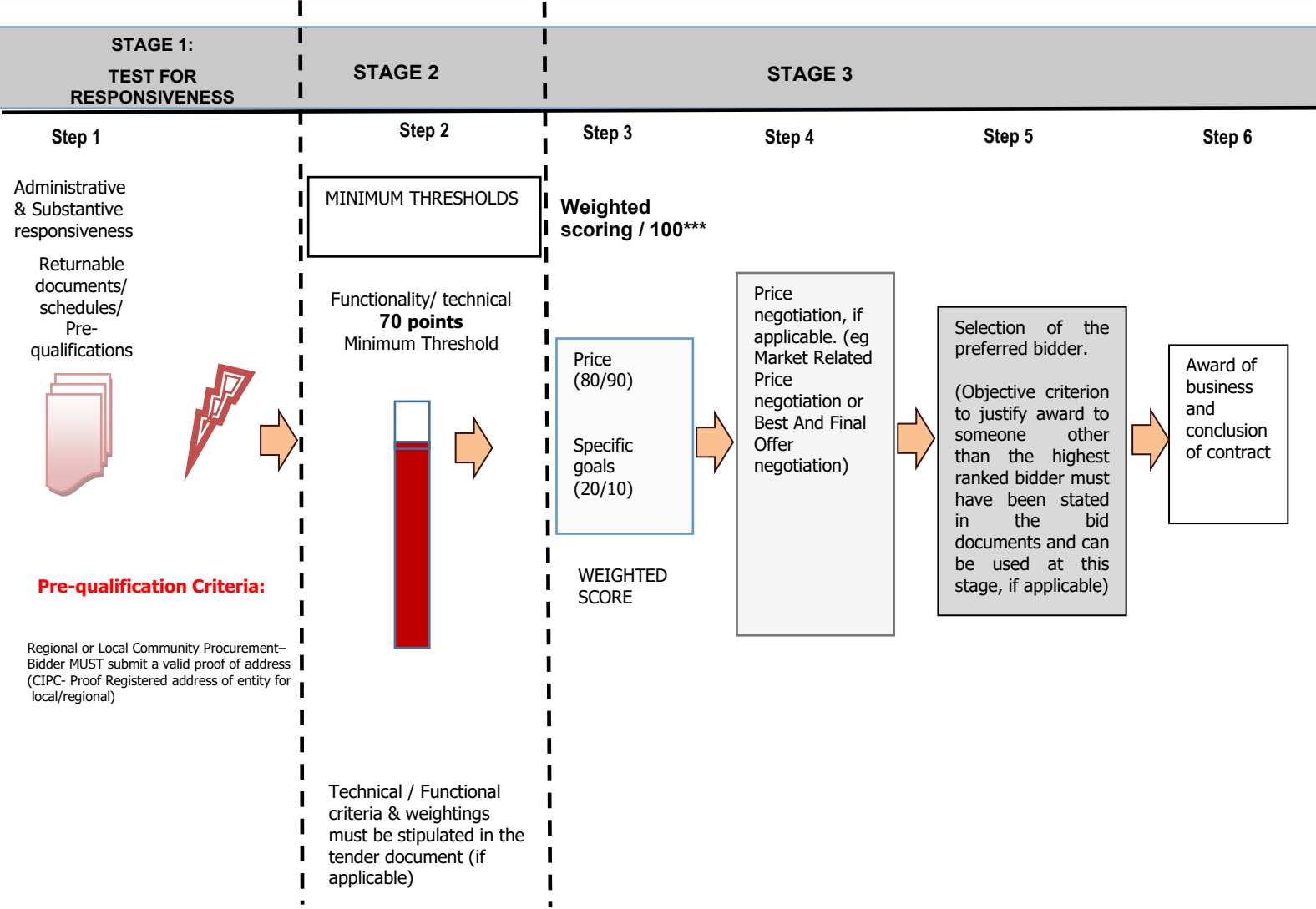
5 GENERAL SERVICE PROVIDER OBLIGATIONS

5.1 The Service provider(s) shall be fully responsible to Transnet for the acts and omissions of persons directly or indirectly employed by them.

5.2 The Service provider(s) must comply with the requirements stated in this RFP.

6. EVALUATION METHODOLOGY

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



1.1 STEP ONE: Test for Administrative and Substantive Responsiveness

The test for administrative and substantive responsiveness will include the following:

Administrative responsiveness check	RFP Reference
<ul style="list-style-type: none"> Whether the Bid has been lodged on time 	<i>Section 1 paragraph 3</i>
<ul style="list-style-type: none"> Whether all Returnable Documents and/or schedules [where applicable] were completed and returned by the closing date and time 	<i>Section 5</i>
<ul style="list-style-type: none"> Verify the validity of all returnable documents 	<i>Section 5</i>
<ul style="list-style-type: none"> Verify if the Bid document has been duly signed by the authorised respondent 	<i>All sections</i>
<ul style="list-style-type: none"> Whether any general and legislation qualification criteria set by Transnet, have been met 	<i>All sections</i>

<ul style="list-style-type: none"> Whether the Bid contains a priced offer 	<i>Section 4 - Quotation Form</i>
<ul style="list-style-type: none"> Whether the Bid materially complies with the scope and/or specification given 	<i>All Sections</i>
<ul style="list-style-type: none"> Whether any Technical Pre-qualification Criteria/minimum requirements/legal requirements have been met as follows: Regional or Local Community Procurement- Bidder must submit a valid proof of address CIPC- Proof of Registered address of entity for local/regional 	<i>Section 2 – paragraph 10 (Scope of Work) OR Annexure a</i>
Check for substantive responsiveness	RFP Reference
<ul style="list-style-type: none"> Whether any general and legislation qualification criteria set by Transnet, have been met 	<i>All sections including: Section 2 paragraphs, 2.2, 6, 11.2, General Bid Conditions clause 20</i>
<ul style="list-style-type: none"> Whether the Bid contains a priced offer as prescribed in the pricing and delivery schedule 	<i>Section 4</i>
<ul style="list-style-type: none"> Whether the Bid materially complies with the scope and/or specification given 	<i>All Sections</i>
<ul style="list-style-type: none"> Entity's financial stability 	

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

STEP TWO: Minimum Threshold 70 points for Technical Criteria

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

FUNCTIONALITY THRESHOLD EVALUATION				
PROVISION OF HEAVY INDUSTRIAL CLEANING SERVICES FOR BULK COMMODITY/MATERIAL FOR THE PORT OF SALDANHA, FOR TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS "TPT") AN OPERATING DIVISION OF TRANSNET SOC LTD, AT THE BULK TERMINAL, PORT OF SALDANHA ON AN "AS AND WHEN" REQUIRED BASIS FOR A PERIOD OF THIRTY-SIX (36) MONTHS				
	EVALUATION CRITERIA	MINIMUM REQUIREMENTS	INDEX	WEIGHTING
1	<p>Experience:</p> <p>The Service Provider should have experience in delivering Heavy Industrial Cleaning Services</p>	<p>Supporting Document -Written references from different companies that the Service Provider has provided Heavy Industrial Plant Cleaning Services for bulk material/commodity, each reference with preferred experience of three (3) years or more but not less than one (1) year</p>	<p>*Written reference letters with cumulative experience of 3 years or more 30 points</p> <p>*Written reference letters with cumulative experience of 2 years or more but less than 3 years = 20 points</p> <p>*Written reference letters with cumulative experience 1 year or more but less than 2 years = 10 points</p> <p>*0 points for less than 1-year cumulative experience</p>	30
2	<p>The Service Provider shall have available drivers holding valid driver's license and PDPs to meet contractual transportation requirements.</p>	<p>Supporting documents</p> <p>TPT's preference is for the service provider to have 4 drivers available holding a valid driver's license and PDPs.</p>	<p>*Clear copy of valid driver's license with PDP for 4 x drivers = 20 points</p> <p>*Clear copy of valid driver's license with PDP for 3 x drivers =15 points</p> <p>*Clear copy of valid drivers license with PDP for 2 x drivers =10 points</p> <p>*Clear copy of valid drivers license with PDP for less than 2 drivers =0 points</p>	20
3	<p>The Service provider is required to provide a written confirmation that the transportation requirement will be made available</p>	<p>Supporting documents to be provided - Proof of Ownership or Proof of Rental or Intention to Lease or Buy Signed, from the car rental company. Minimum required onsite vehicles; Two X22 Seater required during the week and on weekends and nightshift)</p>	<p>*Proof of Ownership or Proof of Rental or Intention to Lease or buy</p> <p>Minimum required onsite vehicles; Two 22 Seater = 20 points</p> <p>*No Evidence Provided = 0 points</p>	20
4	<p>The Service Provider is required to be a member of National Contract Cleaners Association (NCCA) OR Black Economic Empowerment Cleaning Association (BEECA) OR Cleaning Association of South Africa (CASA), confirming that the Service Provider is an existing member of at least one of the respective bodies.</p> <p>Supporting documents to be provided - copy of a valid membership certificate.</p>	<p>Supporting Documents - The Service Provider is required to submit a certificate of membership from the National Contract Cleaners Association (NCCA) OR Black Economic Empowerment Cleaning Association (BEECA) OR Cleaning Association of South Africa (CASA), confirming that the Service Provider is an existing member of at least one of the respective bodies. Supporting documents to be provided - copy of a valid membership certificate.</p>	<p>*Proof of Valid membership certificate submitted. = 20 points</p> <p>*No Proof of Valid membership certificate submitted = 0 points</p>	30

Respondent's Signature

Date & Company Stamp

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 TWO] must be met or exceeded for a Respondent's Proposal to progress to Step Four for final evaluation

1.2 STEP THREE: Evaluation and Final Weighted Scoring

a) **Price and TCO Criteria** [Weighted score 80/90 points]:

Evaluation Criteria	RFP Reference
<ul style="list-style-type: none"> • Commercial offer 	<i>Section 4</i>

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

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

Where:

- Ps = Score for the Bid under consideration
- Pt = Price of Bid under consideration
- $Pmin$ = Price of lowest acceptable Bid

b) **Specific Goals** [Weighted score 20/10 point]

- Specific goals preference points claim form
- Preference points will be awarded to a bidder for attaining the specific goals requirements in accordance with the table indicated in Section 4.1 of the specific goals Claim Form.

1.3 STEP FOUR: Price 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 Price negotiations 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.
 - Transnet may also enter into price negotiations to get a Best and Final Offer from the preferred bidder or a number of shortlisted bidders (add the details of the BAFO process as per the manual)
- 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 price 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).

1.4 STEP FIVE: Objective Criteria (if applicable)

Transnet reserves the right to award the business to the highest scoring bidder/s unless objective criteria justify the award to another bidder. The objective criteria Transnet may apply in this bid process include:

- Skills Transfer and Capacity Building for Transnet;
- Impact on Transnet's Return On Investment;
- Rotation of Suppliers to promote opportunities for other suppliers, by overlooking a supplier that has been awarded business repeatedly overtime, in the same commodity, in order to benefit other suppliers in the market;
- the tenderer:
 - is not under restrictions, or has principals who are under restrictions, preventing participating in the employer's procurement,
 - is not undergoing a process of being restricted by Transnet or other state institution that Transnet may be aware of,
 - cannot, as necessary and in relation to the proposed contract, demonstrate that he or she possesses the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and the personnel, to perform the contract,
 - has no legal capacity to enter into the contract
 - is insolvent, in receivership, under Business Rescue as provided for in chapter 6 of the Companies Act, 2008, bankrupt or being wound up, has his affairs administered by a court or a judicial officer, has suspended his business activities, or is subject to legal proceedings in respect of any of the foregoing,
 - does not comply with the legal requirements, if any, stated in the tender data and
 - is unable, in the option of the employer to perform the contract free of conflicts of interest.
- all risks identified during a risk assessment exercise/probity check (which may be conducted by an authorised third party) that would be done to assess all risks, including but not limited to:
 - the financial stability of the bidder based on key ratio analysis, which would include, but not be limited to Efficiency, Profitability, Financial Risk, Liquidity, Acid Test, and Solvency;
 - A commercial relationship with a Domestic Prominent Influential Person (DPIP) or Foreign Prominent Public Official (FPPO) or an entity of which such person or official is the beneficial owner; and
 - reputational and brand risks.

1.5 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 Proposal by way of a Letter of Award. Thereafter the final contract will be concluded with the successful Respondent(s). where applicable
- Alternatively, the acceptance of a letter of award by the Successful Respondent. will constitute the final contract read together with their RFP response and the Standard Terms and Conditions. This will be stated in the letter of award.

Validity Period

Transnet requires a validity period of 180 (one hundred and eighty) Business Days from the closing date of this RFP, 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.

Disclosure of contract information

Prices Quoted

Respondents are to note that, on award of business, Transnet is required to publish the outcome of the RFP and information of the successful Respondents *inter alia* on the National Treasury e-Tender Publication Portal, (www.etenders.gov.za), as required per National Treasury Instruction Note 09 of 2022/2023.

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 <i>(Complete with a "Yes" or "No")</i>						
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 DPIP or FPPO are to note that Transnet is required to annually publish on its website a list of all business contracts entered into with DPIP or FPPO. This list will include successful Respondents, if applicable.

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 RFP <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 may result in Transnet affording Respondents a further opportunity to submit by a set deadline, where applicable. 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]
Annexure B: Pricing Schedule Form	
Certificate of attendance of compulsory RFP Briefing -SECTION 8	
Regional or Local Community Procurement– Bidder MUST submit a valid proof of address(CIPC- Proof Registered address of entity for local/regional)	

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]
Valid proof of Respondent's compliance to Specific Goal requirements stipulated in Section 7 of this RFP (Valid B-BBEE certificate or Sworn- Affidavit as per DTIC guidelines)	
<p>Experience: The Service Provider should have experience in delivering Heavy Industrial Cleaning Services</p> <p>Written references from different companies that the Service Provider has provided Heavy Industrial Plant Cleaning Services for bulk material/commodity, each reference with preferred experience of three (3) years or more but not less than one (1) year</p>	
<p>The Service Provider shall have available a minimum of 4 x drivers holding valid driver's license and PDPs to meet contractual transportation requirements.</p> <p>TPT's preference is for the service provider to have 4 drivers available, there must be a minimum of two (2) driver's made available, holding a valid driver's license and PDP's.</p>	
<p>Proof of Ownership or Proof of Rental or Intention to Lease or Buy Signed, from the car rental company. Minimum required onsite vehicles; Two X22 Seater required during the week and on weekends and nightshift)</p>	
<p>The Service Provider is required to provide proof of National Contract Cleaners Association (NCCA) OR Black Economic Empowerment Cleaning Association (BEECA) OR Cleaning Association of South Africa (CASA), confirming that the Service Provider is an existing member of at least one of the respective bodies. Supporting documents to be provided - copy of a valid membership certificate</p>	

c) Essential Returnable Documents:

Respondents are further required to submit the following **Essential Returnable Documents with their RFP** and to confirm submission of these documents by so indicating [Yes or No] in the table below:

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
Latest Financial Statements signed by your Accounting Officer or latest Audited Financial Statements plus 2 previous years
Section 1: SBD1 Form
SECTION 5 : Proposal Form and List of Returnable documents
SECTION 6 : Certificate Of Acquaintance with RFP, Terms & Conditions & Applicable Documents
SECTION 7 : RFP Declaration and Breach of Law Form
SECTION 8: RFP Clarification Request Form
SECTION 9: Specific Goal Points Claim Form
SECTION 10: Certificate of attendance of compulsory RFP Briefing
SECTION 11: Protection of personal information

Respondent's Signature

Date & Company Stamp

ANNEXURE A: SCOPE OF WORK
ANNEXURE C: MASTER AGREEMENT/ SERVICE LEVEL AGREEMENT
TRANSNET'S GENERAL BID CONDITIONS
SUPPLIER INTERGRITY PACT
Valid proof of registration of the Compensation for Occupational Injuries and Diseases (COIDA) from the Department of Labour
CENTRAL SUPPLIER DATABASE(CSD)
TAX CLEARANCE CERTIFICATE WITH PIN

CONTINUED VALIDITY OF RETURNABLE DOCUMENTS

The successful Respondent will be required to ensure the validity of all returnable documents, , for the duration of any contract emanating from this RFP. 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
PRICING SCHEDULE 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 RFP Terms and Conditions for the Supply of Goods or Services to Transnet; and
- any other standard or special conditions embodied in this Request for Proposal.

I/We accept that unless Transnet should otherwise decide and so inform me/us, this Proposal [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 Proposal, 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 Proposals afresh and/or having to accept any less favourable offer.

Price Schedule

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

Refer **Annexure B**

The Service Provider is required to provide confirmation that owned or leased transportation requirement will be satisfied within one (1) week of receiving the letter of award.

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 RFP;
 - (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 RFP;
 - (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 RFP.

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

- 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 could 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.
- f) Labour rates must be in line with Gazetted sectoral rates approved by Department of labour. Should the bidder quoted below the gazetted sectorial labour rates, such bidder will be disqualified for further evaluation

NB. The recommended bidder must ensure that they have enough cash flow that will enable them to operate or pay their employees for a minimum period of two months without depending on the payment they will receive from Transnet. Transnet payment terms is thirty (30) days after the receipt of invoice.

SECTION 5**RFP DECLARATION CERTIFICATE OF ACQUAINTANCE & BREACH OF LAW FORM WITH RFP**

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 RFP. 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 RFP 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 RFP 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 RFP 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 RFP documents included in the RFP as a returnable document, is found not to be true and/ or complete in every respect.

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 RFP Clarification purposes;
2. We have received all information we deemed necessary for the completion of this Request for Proposal [**RFP**];
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 RFP from Transnet sources, other than information formally received from the designated Transnet contact(s) as nominated in the RFP 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 RFP and the requirements requested from Bidders in responding to this RFP have been conducted in a fair and transparent manner;
7. We 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 RFP; and
8. If such a relationship as indicated in paragraph 7, 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.

9. 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.

BIDDER’S DISCLOSURE (SBD4)

12 PURPOSE OF THE FORM

12.1 Any person (natural or juristic) may make an offer or offers in terms of this invitation to bid. In line with the principles of transparency, accountability, impartiality, and ethics as enshrined in the Constitution of the Republic of South Africa and further expressed in various pieces of legislation, it is required for the bidder to make this declaration in respect of the details required hereunder.

12.2 Where a person/s are listed in the Register for Tender Defaulters and / or the List of Restricted Suppliers, that person will automatically be disqualified from the bid process.

13 Bidder’s declaration

13.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest¹ in the enterprise, employed by the state? **YES/NO**

13.1.1. If so, furnish particulars of the names, individual identity numbers, and, if applicable, state employee numbers of sole proprietor/ directors / trustees / shareholders / members/ partners or any person having a controlling interest in the enterprise, in table below.

Full Name	Identity Number	Name of State institution

13.2 Do you, or any person connected with the bidder, have a relationship with any person who is employed by the procuring institution? **YES/NO**

13.2.1. If so, furnish particulars:

13.3 Does the bidder or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest in the enterprise have any interest in any other related enterprise whether or not they are bidding for this contract? **YES/NO**

13.3.1. If so, furnish particulars:

14 DECLARATION

I, the undersigned, (name)..... in submitting the accompanying bid, do hereby make the following statements that I certify to be true and complete in every respect:

¹ the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person/s having the deciding vote or power to influence or to direct the course and decisions of the enterprise.

- 14.1 I have read and I understand the contents of this disclosure;
- 14.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 14.3 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 consortium² will not be construed as collusive bidding.
- 14.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 14.5 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.
- 14.6 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.
- 14.7 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.

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 12, 13 and 14 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

15 BREACH OF LAW

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.

² 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.

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 _____

SECTION 6: SPECIFIC GOALS 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 specific goals Contribution. Transnet will award preference points to companies who provide valid proof of evidence of as per the table below.

NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF SPECIFIC GOALS, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000.

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).

Either the 80/20 or 90/10 preference point system will apply

1.2 Preference points for this bid shall be awarded for:

- (a) Price;
- (b) B-BBEE Status Level of Contribution.
- (c) Any other specific goal determined in Transnet preferential procurement policy.

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

			POINTS	
PRICE			80/90	
B-BBEE STATUS LEVEL OF CONTRIBUTOR:				
PREFERENCE POINT SYSTEM 90/10				
SPECIFIC GOALS	NUMBER OF POINTS	PRICE		
BBBEE Level 1 or 2	5			
EME or QSE 51% Black Owned	5			
Total	10	90		
PREFERENCE POINT SYSTEM 80/20				
SPECIFIC GOALS	NUMBER OF POINTS	PRICE		
BBBEE Level 1 or 2	10			
EME or QSE 51% Black Owned	10			
Total	20	80		
Total points for Price and Specific Goals must not exceed				100

- 1.4 Failure on the part of a bidder to submit proof of specific goals together with the bid will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.
- 1.5 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"** means:
- 1) B-BBEE status level certificate issued by an unauthorised body or person;
 - 2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;
 - 3) Any other requirement prescribed in terms of the B-BBEE Act.
- (j) **"QSE"** means a Qualifying Small Enterprise in terms of a 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.
- (l) **"Specific goals"** means targeted advancement areas or categories of persons or groups either previously disadvantaged or falling within the scope of the Reconstruction and Development Programme identified by Transnet to be given preference in allocation of procurement contracts in line with section 2(1) of the PPPFA.

3. POINTS AWARDED FOR PRICE

3.1 THE 80/20 or 90/10 PREFERENCE POINT SYSTEMS

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

80/90

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

Where

- Ps = Points scored for comparative price of bid under consideration
- Pt = Comparative price of bid under consideration
- Pmin = Comparative price of lowest acceptable bid

In terms of Transnet Preferential Procurement Policy (TPPP) and Procurement Manuals, the following preference points must be awarded to a bidder who provides the relevant required evidence for claiming points

Selected Specific Goal	Number of points allocated (80/20)	Number of points allocated (90/10)
B-BBEE Level of contributor (1 or 2)	10	5
EME or QSE 51% Black women Owned entities	10	5
Non-Compliant and/or B-BBEE Level 3-8 contributors	0	0

4. EVIDENCE REQUIRED FOR CLAIMING SPECIFIC GOALS

4.1 In terms of Transnet Preferential Procurement Policy (TPPP) and Procurement Manuals, preference points must be awarded to a bidder for providing evidence in accordance with the table below:

Specific Goals	Acceptable Evidence
B-BBEE	B-BBEE Certificate / Sworn- Affidavit / B-BBEE CIPC Certificate (in case of JV, a consolidated scorecard will be accepted) as per DTIC guideline
30% Black Women Owned Entities	B-BBEE Certificate / Sworn- Affidavit / B-BBEE CIPC Certificate (in case of JV, a consolidated scorecard will be accepted) as per DTIC guideline
+50% Black Youth Owned Entities	Certified copy of ID Documents of the Owners and B-BBEE Certificate / Sworn- Affidavit / B-BBEE CIPC Certificate (in case of JV, a consolidated scorecard will be accepted) as per DTIC guideline
Entities Owned by People with Disability (PWD)	Certified copy of ID Documents of the Owners / Doctor’s note and /or EEA1 form confirming the disability
Entities/Black People living in rural areas	Entity ‘s Municipal/ESKOM bill or letter from Induna/chief confirming residential address not older than 3 months.
South African Enterprises	CIPC Certificate
EME or QSE 51% Black Owned	B-BBEE Certificate / Sworn-Affidavit / CIPC Certificate
Entities that are 51 % Black Owned	CI B-BBEE Certificate / Sworn- Affidavit / B-BBEE CIPC Certificate (in case of JV, a consolidated scorecard will be accepted) as per DTIC guideline
Promoting exports Orientated for Job creation	Section.....Job Creation Schedule Returnable documents
Local Content and Local Production	Returnable Local Content and production Annexures
NIPP	NIPP Returnable documents

Creation of new jobs and labour intensification	Section.....Job Creation Schedule Returnable documents
The promotion of supplier development through sub-contracting or JV for a minimum of 30% of the value of a contract to South African Companies which are: I. 30% Black Women owned, 51% Black Youth and 51% Black people with disabilities II. Entities with a specified minimum B-BBEE level (1 and 2) III. EMEs and/or QSEs who are 51% black-owned	Sub-contracting agreements and Declaration / Joint Venture Agreement and CIPC – B-BBEE Certificate / Sworn- Affidavit / B-BBEE CIPC Certificate as per DTIC guideline
The promotion of enterprises located in a specific province/region/municipal area for work to be done or services to be rendered in that province/region/municipal area	CIPC – B-BBEE Certificate / Sworn- Affidavit / B-BBEE CIPC Certificate (in case of JV, a consolidated scorecard will be accepted) as per DTIC guidelines and Proof Registered address of entity

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 .]
EME³	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 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

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

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 any of the enterprises below:

s: 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-BBEE status level of contribution indicated in paragraphs 4.1 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 4.1 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 the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis 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 8

CERTIFICATE OF ATTENDANCE OF COMPULSORY RFP BRIEFING

It is hereby certified that –

1. _____

2. _____

Representative(s) of _____ *[name of entity]*
attended the site meeting / RFP briefing in respect of the proposed Goods/Services to be rendered in terms of
this RFP on _____ 20__

TRANSNET'S REPRESENTATIVE

RESPONDENT'S REPRESENTATIVE

DATE _____

DATE _____

NOTE:

This certificate of attendance must be filled in duplicate, one copy to be kept by Transnet and the other copy to be kept by the bidder.

SECTION 9**PROTECTION OF PERSONAL INFORMATION**

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.

1. 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.

2. The Parties acknowledge and agree that, in relation to personal information that will be processed pursuant to this RFP, 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.
3. Transnet reserves all the rights afforded to it by the POPIA in the processing of any of its information as contained in this RFP and the Respondent is required to comply with all prescripts as detailed in the POPIA relating to all information concerning Transnet.
4. 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.
5. Transnet further agrees that in submitting any information or documentation requested in this RFP, 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.
6. 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.
7. 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 RFP (physically, through a computer or any other form of electronic communication).

8. 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.
9. 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.
10. In submitting any information or documentation requested in this RFP, the Respondent is hereby consenting to the processing of their personal information for the purpose of this RFP 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
------------	-----------

11. 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.
12. The Respondent declares that the personal information submitted for the purpose of this RFP 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

Respondent's Signature

Date & Company Stamp

PROVISION OF IRON ORE HEAVY INDUSTRIAL PLANT CLEANING SERVICES FOR BULK COMMODITY/MATERIAL FOR TRANSNET SOC LIMITED (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS "TPT") AT THE BULK TERMINAL, PORT OF SALDANHA, FOR THIRTY-SIX (36) MONTHS.

1 BACKGROUND

Transnet Port Terminals (TPT), Port of Saldanha requires a Service Provider(s) to provide Heavy Industrial Plant Cleaning Services for bulk commodity/material for a period of thirty-six (36) months.

2 EXECUTIVE OVERVIEW

- 2.1 TPT, Port of Saldanha requires a partner or partners to provide solutions for its Heavy Industrial Plant Cleaning Services for bulk commodity/material requirements.
- 2.2 Other key considerations include the Service Provider's capability, capacity, and adherence to (without limitation) all legal and safety requirements and/or considerations.
- 2.3 TPT further seeks to improve its current services with the provision of these services.
- 2.4 TPT must receive the reduced cost of acquisition and improved service benefits resulting from the Service Provider's economies of scale and streamlined service processes.

3 SCOPE OF REQUIREMENTS

- 3.1 The Service Provider must be able to provide the required services and must be available 24 hours per day, including weekends and public holidays, to support TPT's requirements.
- 3.2 The Service Provider shall provide the competent labor to execute the requirements of the Heavy Industrial Plant Cleaning Services for bulk commodity/material.
- 3.3 The Service Provider shall ensure that they have more resources than what TPT requires in order to be able to meet TPT's minimum requirements and ensure that all its employees are well rested and comply to the Basic Condition of Employment Act (BCEA).
- 3.4 The Service Provider undertakes to provide a minimum of 108 x plant cleaners, 10 x supervisors, 4 x safety officers (competent and qualified), 1 x Chief Supervisor and 1 x Site Manager necessary for the provision of Heavy Industrial Plant Cleaning Services at Transnet Port Terminals Bulk Terminal Saldanha. It should be noted that human capital quantities are neither guaranteed nor limited to the above.
- 3.5 **Ad hoc Service** - The Service Provider undertakes to provide ADHOC services determined by the need with an additional minimum of 5 and a maximum of 40 x plant cleaners and 4 x Supervisors, necessary for the provision of Heavy Industrial Plant Cleaning Services at Transnet Port Terminals Bulk Terminal Saldanha (BTS) on Ad Hoc basis , It should be noted that human capital quantities are neither guaranteed nor limited to the above ,and shall ensure that they have more resources than what TPT requires to be able to meet TPT's minimum requirements and ensure that all its employees are well-rested and comply with the Bargaining Counsel minimum wage rate prescribed by the Department of Labour.
- 3.6 **Annual Plant Shutdown** - The Service Provider undertakes to provide an additional minimum of 20 and a maximum of 80 x plant cleaners; 8 x Supervisors, 2 x Chief Supervisors and 2 x Safety Officers, necessary for the provision of Heavy Industrial Plant Cleaning Services at Transnet Port Terminals Bulk Terminal Saldanha (BTS) during the Annual Plant Shut Down. It should be noted that human capital quantities are neither guaranteed nor limited to the above. The date and duration of the Bulk Terminal Saldanha (BTS) Plant Shut Down shall be communicated to the Service Provider at a reasonable time to allow the Service Provider to ensure that the necessary arrangements are in place.

- 3.7 The required resources will be confirmed closer to the annual shutdown for the particular year. The requirement will be based on the need at that time.
- 3.8 The Service Provider shall ensure that it has a sufficient labour pool to allow all its employees sufficient resting period and yet supply TPT with the required resources for the shutdown and ad hoc services.
- 3.9 It should be noted that for all Adhoc requirements the stipulated working time will be a minimum of 8 hours from the commencement of work on-site, as and when required. The Service Provider shall be responsible for ensuring that the minimum labour requirements are met daily and proof/evidence of compliance is presented/submitted to the TPT BTS Supervisor (or TPT BTS Representative) daily in a form of a Shift Cleaning Report with clear pictures of before and after cleaning as well as the attendance register for all Ad Hoc cleaning requirements.
- i. Mini Shut Down (approx. twice per year, as and when required).
 - ii. Major plant equipment breakdowns after hours, over weekends, and on public holidays (as and when required)
 - iii. Environmental/Housekeeping related plant visits (approx. 10 times per year, as and when required).
 - iv. After-hours abnormally excessive ore spillage incidents.
 - v. After-hours hours train and vessel gaps require extra resources.
- 3.10 The Service Provider shall be responsible for ensuring that the minimum labour requirements are met daily and proof/evidence of compliance is presented/submitted to the TPT BTS Supervisor (or TPT BTS Representative) daily in a form of a Shift Cleaning Report clear before and after pictures of the areas that were cleaned, and attendance register for the daily plant cleaning requirements.
- 3.11 The TPT BTS Supervisor (or TPT BTS Representative acting on behalf of the TPT BTS Supervisor) shall give instructions to the Service Provider on how the cleaners are to be allocated to the plant to meet the cleaning requirements for the benefit of TPT.
- 3.12 The Service Provider shall ensure that all Heavy Industrial Plant Cleaning Services rendered are presented/reported to the TPT BTS Supervisor (or TPT BTS Representative) daily, additional progress status reports detailing work done at each area must be submitted to the TPT BTS Supervisor (TPT BTS Representative) daily as per instruction.
- 3.13 In the event of an emergency and/or unplanned situation requiring additional Plant Cleaners for Ad Hoc requirements, the Service Provider will be notified telephonically by the TPT representative from procurement and/or Operations and will be expected to be on-site with the required number of workers within 2 hours ready to commence on work. The Service Provider will be advised/ informed on the number of workers required.
- 3.14 The service provider shall ensure that plant cleaners have been trained on the Plant Cleaning Standard Operating Procedure (SOP); Lockout Procedure and Mini HIRA Procedure and ensure that they undergo refresher training annually.
- 3.15 The Service Provider shall ensure that all Heavy Industrial Plant Cleaning Services rendered are presented/reported to the TPT BTS Supervisor (or TPT BTS Representative) daily, in additional progress status reports detailing work done at each area must be submitted to the TPT BTS Supervisor every 3 hours via WhatsApp or over the two-way radio).
- 3.16 TPT BTS Representative) daily, in additional progress status reports detailing work done at each area must be submitted to the TPT BTS Supervisor every three hours.
- 3.17 The service provider should supply/furnish a SHE file in accordance with the TIMS SHEQ Contractor Specification Guidelines for the approval by TPT SHERQ department including Training Certificates, training records and is also responsible for full compliance.
- 3.18 The Service Provider shall be responsible and accountable to train 30 plant cleaners on cleaning at heights and safety harness training provided by an accredited trainer. The Service provider will be responsible for providing a minimum of 15 double lanyard safety harnesses and ensure that the safety harnesses is inspected, approved annually and ensure that the documentation is submitted and kept in the safety file. Furthermore, the Service Provider is responsible for

furnishing TPT BTS SHERQ Department with proof that such training took place, and the employees were deemed competent by the accredited trainer, i.e. certificate of competence that is valid for a minimum of one year, and for the duration of the contract employees will have to be recertified on annual basis and that will have to be in place before the commencement of work for the required Industrial Cleaning Service.

- 3.19 The Service Provider shall ensure that there is a qualified and competent Safety Officer, all appointments must be in line with the South African Occupational Health and Safety Act, 1993 in conjunction with the Basic Conditions of Employment Act .
- 3.20 The Service Provider shall be responsible and accountable for providing personal protective equipment (PPE) clothing free of charge to its employees. PPE must be of the standard approved by TPT SHEQ Department. Furthermore, the Service Provider shall be responsible and accountable for providing laundry services for personal protective equipment (PPE) issued to its employees. The following will be required for all employees.
- i. Overalls with reflective tape on the arms and legs;
 - ii. Safety Life Jackets e.g. for work conducted within or about 2meters of the quay side.
 - iii. Safety shoes/boots;
 - iv. Safety gumboots (where applicable)
 - v. Safety helmet;
 - vi. Pigskin gloves;
 - vii. Disposable Overalls;
 - viii. Rain suites with reflective tape on arms and legs;
 - ix. Eye protection (where applicable);
 - x. Respiratory protection/ Dust Masks (where applicable);
 - xi. Ear protection (where applicable);
 - xii. Safety Harnesses - Double Lanyard where applicable (that complies with applicable legislation)
 - xiii. Safety vest/reflector.
 - xiv. Headlights (where applicable)
- 3.21 The service provider will be responsible for shuttling employees to and from the terminal and within the operation area and must be supplied by the Service Provider for their employees. The service provider must provide a minimum of 2 X 22 seater vehicles for the day shift and a minimum of 1 X 22 seater vehicles for after hours, night shift, weekend, and public holidays. This is to be part of the Service Provider's cost structure, as TPT will not pay for this as a separate charge. The service provider must have sufficient transport available to shuttle its employees, to and from, and within the Port. TPT will not assist the service provider in terms of transportation requirements.
- 3.22 Transport must comply with the minimum requirements as prescribed in the Road Traffic Act, Including but not limited to: National Land Transport Act,2009 (Act No .5 of 2009) Transport appeal Tribunal Act, 1998 South African Transport Services Conditions and Services Act,1988 (Act 41 of 1998) Urban Transport Act 78 of 1977.
- 3.23 The Service Provider shall be responsible and accountable for adhering to the following shift patterns at the Bulk Terminal Saldanha site at all times unless instructed otherwise by the TPT BTS Supervisor (or TPT BTS Representative):
- i. 07:00 – 15:30 Shift.
 - ii. 07:00 – 19:00 Shift; and
 - iii. 19:00 – 07:00 Shift.
- Flat rates will apply for the above-mentioned shifts pattern.
- 3.24 The Service Provider shall ensure that operations at the Bulk Terminals Saldanha are not negatively impacted in any way during shift change.

- 3.25 The Service Provider is to ensure that no contamination of Cargo shall occur, except as agreed prior with the TPT BTS Supervisor (or TPT BTS Representative).
- 3.26 The Service Provider shall be responsible and accountable for providing all required plant cleaning tools for all required industrial plant cleaning. The tools will include the following but are not limited to the below minimum levels for normal operation:
- i. Long Spades x 40
 - ii. Short Spades x 90
 - iii. Picks x 40
 - iv. Guallas x 40
 - v. Jack-hammers x 5
 - vi. Long-hand scrappers x 40
 - vii. Short-hand scrappers x 40
 - viii. Wheelbarrows x 40
 - ix. Chisels x 40
 - x. Wire brushes x 40
 - xi. Paintbrushes x 40
 - xii. Hand brooms x 40
 - xiii. Long hard brooms x 40
 - xiv. Long soft brooms x 40
 - xv. Safety gates x 10
- 3.27 The Service Provider will ensure that all tools are in good condition. All damaged tools need to be replaced to ensure that the minimum quantities stated in clause 3.27 are available at all times.
- 3.28 The Service Provider is required to have controls in place to manage the issuing of tools and replacement of damaged tools.
- 3.29 The Service Provider shall ensure that all Heavy Industrial Plant Cleaning Services tools' quantities and their conditions are accurately recorded.
- 3.30 On a weekly bases the Service Provider will submit a Tools report to the TPT BTS Supervisor (or TPT BTS Representative) indicating the quantity and condition of all required tools.
- 3.31 Incase of a damaged, worn and lost tool/s, the Service Provider will submit and incident investigation report indicating the rootcause to the damage, wear and tear, loss. The responsible party will be liable to replace/repair the tool.
- 3.32 All damaged/worn tools shall be replenished/replaced from the annual shutdown tools after year 1 shutdown. The Service Provider shall give the old tool/s to Transnet.
- 3.33 It is the Service Provider's responsibility to manage the issuing and maintenance of tools.
- 3.34 TPT Supervisor or Representative will on ad hoc bases conduct audits at the Service Provider's tools store.
- 3.35 The Service Provider shall be responsible and accountable for providing all required plant cleaning tools for all required industrial plant cleaning during the annual shutdown. The tools will include the following but are not limited to the below minimum levels:
- i. Long Spades x 20
 - ii. Short Spades x 80
 - iii. Picks x 20

- iv. Guallas x 20
 - v. Jackhammers x 5
 - vi. Long-hand scrappers x 20
 - vii. Short-hand scrappers x 20
 - viii. Wheelbarrows x 40
 - ix. Chisels x 20
 - x. Wire brushes x 20
 - xi. Painting brushes x 20
 - xii. Hand broom x 20
 - xiii. Long-hard broom x 20
 - xiv. Long-soft Broom x 20
- 3.36 After the annual shutdown of year 1, the shutdown tools shall be used to replenish/replace damaged, worn and lost tools for the normal contract.
- 3.37 Each year the Service Provider shall purchase new tools for the shutdown
- 3.38 Section 3.28 to 3.38 shall apply to these tools
- 3.39 The Service Provider shall ensure that all safety gates are in a safe working condition.
- 3.40 Damaged and worn safety gates shall be repaired by the service provider

Site Facilities:

- i. Detailed below are facilities, which are available to the Service Provider on Site. Where Services are used, it will be the Service Provider's responsibility to provide the necessary temporary connections in terms of the Contract at the Service Provider's own cost and to the satisfaction of the TPT BTS Supervisor (or TPT BTS Representative), from the point(s) of supply, and the disconnecting and clearing of the site after the expiry or termination of the work.
- ii. All rubble/refuse generated by the Service Provider during site establishment and/or in the provision of Services is to be removed at the Service Provider's own cost.
- iii. The Service Provider will be penalized for not adhering to the above bullet.
- iv. The Service Provider is required to take good care of facilities, tools, or any items provided/issued by TPT.
- v. Any damages or loss on facilities, tools, or any items provided/issued by TPT the Service Provider shall be held responsible and liable to repair and/or replace.
- vi. The Service Provider must repair/replace any damages or loss on facilities, tools, or any items provided/issued by TPT within seven days from the day of damage and/or loss.
- vii. The cost of replacing/repairing damaged and/or lost item/s will be deducted from the Payment of the Service Provider. TPT will issue the Service Provider with proof of how much the item cost TPT when purchased. The replacement and/or repairs are to be made to the satisfaction of the TPT BTS Supervisor (or TPT BTS Representative),
- viii. The service provider shall be responsible for supplying and installing power meters and water meters in all facilities that they will occupy and use while rendering the services to TPT for the duration of the contract. The Service Provider will be responsible for the water bill and electricity bill for all their facilities.

a. Site Facilities

FACILITY DESCRIPTION	AVAILABLE				ACCOUNT	
	Yes	No	Qty	Unit	TPT	Service Provider
Potable Water	X					X
Industrial Water	X					X
Electric Power (220/380 Volts)	X					X
Telephones		X				X
Printing Machines		X				X
Camera/s		X				X
2 Way Radios	X				X	
Radio Frequencies	X				X	
Offices – Furnished		X				X
Offices – Limited Furniture		X				X
Offices – Unfurnished		X				X
Site Office Facilities		X				X
Laundry Facilities		X				X
Personnel Transport – Inside Security Area		X				X
Personnel Transport – Outside Security Area		X				X
Personnel Transport – on Site		X				X
Tools Transport – on Site		X				X
Messing Facilities	X				X	
Change House Facilities	X				X	
Ablution Facilities	X				X	
Medical Facilities (Accidents on Site)		X				X
Personal Protective Equipment		X				X
Tools (i.e. spades, wheelbarrows, etc.)		X				X
Scaffolding (as and when required)		X				X
Training (i.e. safety harness, etc.)		X				X
Top scrub soap		X				X
Refuse bags		X				X
Reflective Cones		X				X
Flags		X				X
Whistles		X				X
Barricades		X				X
Disinfectants		X				X
Sanitizers		X				X
Microwaves		X				X
Water Boiler / Urn		X				X
Fridge		X				X
Food Lockers		X				X
Clothes lockers		X				X
Tables		X				X
Chairs		X				X
Toilet paper, soap, and paper towels		X				X
Facility (Mobile units) Cleaning detergents and chemicals		X				X
Facility (Mobile units) Cleaning equipment i.e. Mops, brooms, buckets, etc		X				X
Tools store Facility	X				X	

4 SCOPE OF SERVICES

The Service Provider shall be required to perform Heavy Industrial Plant Cleaning Services at the Bulk Terminal at the following areas within the terminal:

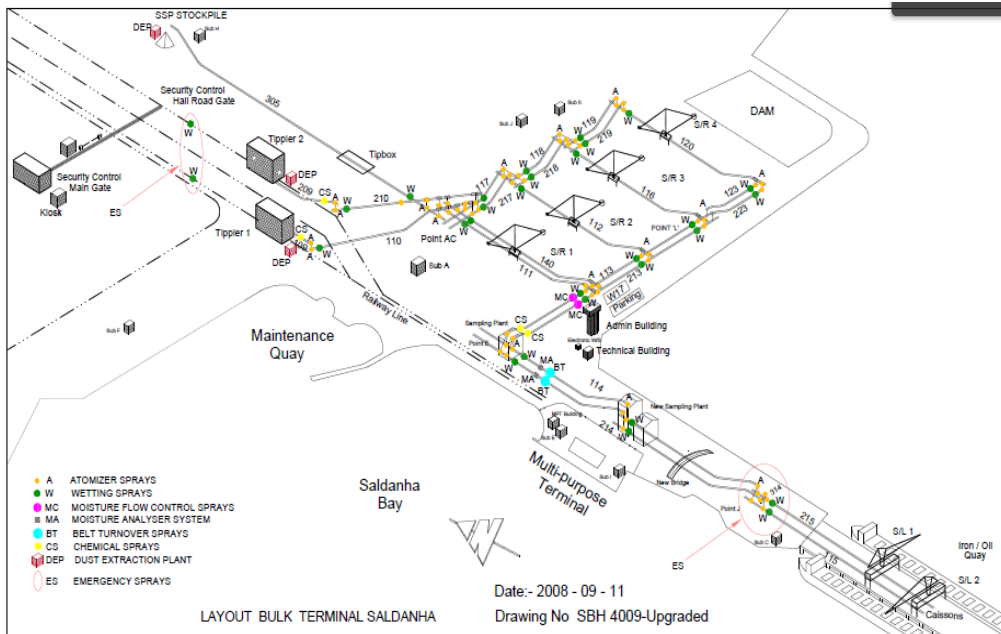


Figure 1: Bulk Terminal Saldanha Layout

4.1.1 Train Side



Figure 2: Train Side Layout

a. Industrial Cleaning Requirements

- i. **Trunnion Wheel Area** – ore spillage is removed by using spades and wheelbarrows and then is transferred to the tippler bin. Once the ore spillage is in the tippler bin, the TPT BTS Supervisor arranges with the Central Communication Room operator and tippler supervisor to empty the tippler bins.
- ii. **Tippler Bins (Only Tippler 1)** – ore spillage/build-up is removed by using picks, spades, and jackhammers to remove and transfer the ore spillage/build-up onto the pan feeders and/or conveyor belt. Once the ore spillage is in the pan feeders and/or conveyor belt, the TPT BTS Supervisor arranges with the Central Control Room Operator and Tippler Supervisor to run the conveyor route to transfer the ore spillage from the tippler conveyor to the dumpsite.

- iii. **Hopper Area & Probes (Tippler 2 & 3)** - ore spillage is removed by using spades, wheelbarrows, scrapers, and a water hose to transfer the ore spillage to the tippler bin. Once the ore spillage is in the tippler bin, the TPT BTS Supervisor arranges with the Central Control Room Operator and Tippler Supervisor to empty the tippler bins.
- iv. **CV109** – ore spillage underneath the tail to the head section of the belt is removed by the plant cleaners using spades, scrapers, and wheelbarrows and dumped at the transfer chute onto the CV110 belt. Once the transfer chute is full, the TPT BTS Supervisor operates CV110 on manual mode until the transfer chute is empty and then stops the belt. Once the belt is full, the TPT BTS Supervisor arranges with the Central Control Room Operator and Tippler Supervisor to empty the belt.
- v. **CV110** – ore spillage underneath the tail to the head section of the belt is removed by the plant cleaners using spades, scrapers, and wheelbarrows and placed onto the CV110 belt. The TPT BTS Supervisor operates CV110 on manual mode to free up space on the belt to load the ore spillage until the belt is full and then arranges with the Central Control Room Operator and Tippler Supervisor to empty the belt.
- vi. **CV209** – ore spillage underneath the tail to the head section of the belt is removed by the plant cleaners using spades, scrapers, and wheelbarrows. Ore spillage on the Saldanha side at the tail end of the belt is moved by a wheelbarrow and placed on the Langebaan side of the belt. Once the ore spillage is on the Langebaan side, the TPT BTS Supervisor organizes for the Bobcat to remove it out of the tunnel.
- vii. **CV210** – ore spillage underneath the tail to the head section of the belt is removed by the plant cleaners using spades, scrapers, and wheelbarrows and placed at the designated area to be removed by the Bobcat.
- viii. **CV 308** – ore spillage underneath the tail to the head section of the belt is removed by the plant cleaners using spades, scrapers, and wheelbarrows. Ore spillage on the Saldanha side at the tail end of the belt is moved by a wheelbarrow and placed on the Langebaan side of the belt. Once the ore spillage is on the Langebaan side, the TPT BTS Supervisor organizes for the Bobcat to remove it out of the tunnel
- ix. **CV 309** – ore spillage underneath the tail to the head section of the belt is removed by the plant cleaners using spades, scrapers, and wheelbarrows. Ore spillage on the Saldanha side at the tail end of the belt is moved by a wheelbarrow and placed on the Langebaan side of the belt. Once the ore spillage is on the Langebaan side, the TPT BTS Supervisor organizes for the Bobcat to remove it out of the tunnel
- x. **CV 310** – ore spillage underneath the tail to the head section of the belt is removed by the plant cleaners using spades, scrapers, and wheelbarrows and placed at the designated area to be removed by the Bobcat.
- xi. **CV305** – ore spillage underneath the tail to the head section of the belt is removed by the plant cleaners using spades, scrapers, and wheelbarrows and placed at the designated area to be removed by the Bobcat.
- xii. **Tipplers** - House Keeping being done inside and all-around all the Tipplers. Enough resources to be allocated for dust bagging and vacuum truck activities. TPT representative will confirm the required resources based on the need.

4.1.2 Stock Yard

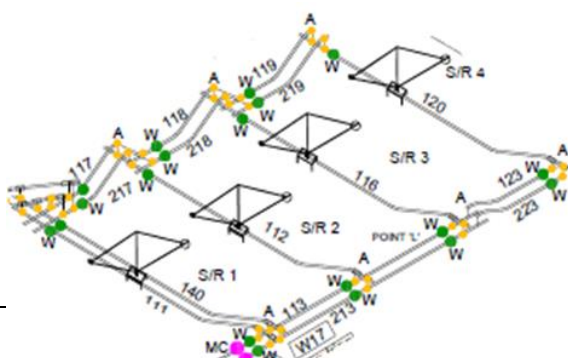


Figure 3: Stock Yard Layout

a. Description

The BTS has four Stacker/Reclaimers, which are used for the efficient handling of Iron Ore in the stockyard area. Each Stacker/Reclaimer is complimented by a singular conveyor belt which supplies the Stacker/Reclaimer with Iron Ore from the tippers and transports Iron Ore from the Stacker/Reclaimer to the shipping route, an exception is for Stacker/Reclaimer 1, which has dual conveyor belts.

- ✓ Stacker/Reclaimer 1 – CV111 & CV140
- ✓ Stacker/Reclaimer 2 – CV112
- ✓ Stacker/Reclaimer 3 – CV116
- ✓ Stacker/Reclaimer 4 – CV120
- ✓ Car Wash facilities

b. Operation

Each Stacker/Reclaimer is operated using a computer system guided by an operator. Iron ore received by the Stacker/Reclaimer is 'stacked' into a stockpile heap in the stockyard. Stacker/Reclaimer 'reclaims' iron ore from a stockpile heap in the stockyard to supply the Ship Loaders with iron ore via the conveyor system.

c. Industrial Cleaning Requirements

Stacker/Reclaimer

- i. Slew deck – ore spillage is removed by the Plant cleaners using spades and scrapers to transfer it to the ground.
- ii. Boom plates – ore spillage is removed by the Plant cleaners using spades and scrapers to transfer it to the ground.
- iii. Stacker Chutes - ore spillage inside the chutes is removed by the plant cleaners utilizing spades, picks, scrapers, jack-hammer, and water hose. The Plant cleaners remove the ore spillage in the chutes until the chute liners are exposed or visible. The water hose is used to ensure that the chute is thoroughly cleaned. The TPT BTS Supervisor communicates with the Central Control Room Operator and Stock Yard Supervisor to operate the belt to remove the ore spillage removed from the chute and dumped onto the belt.
- iv. Drag Chain – ore spillage is removed by the Plant cleaners using spades to transfer it to the ground.
- v. Tow Bar Latch - ore spillage is removed by the Plant cleaners using spades to transfer it to the ground; and
- vi. Tripper Car - ore spillage is removed by the plant cleaners using spades to transfer it to the ground.

Train Route, Ship Route & Yard Belts

The train route conveyors supply the Stacker/Reclaimer with iron ore that is tipped at the Tipplers, the following conveyors perform this task:

- ✓ CV117 & CV217
- ✓ CV118 & CV218
- ✓ CV119 & CV219

Whilst the following stockyard conveyor belts receive the iron ore from their respective train route conveyor to transport it to their respective Stacker/Reclaimer:

- ✓ **CV111 & CV140 – Special focus area**
- ✓ CV112
- ✓ CV116
- ✓ CV120

During the reclaiming process or direct loading of iron ore, the stockyard conveyor belts supply the following ship route belts with iron ore which interlink with a contingent of conveyor belts to transport the iron ore to the Ship Loaders:

- ✓ CV123 & CV223
 - ✓ CV113 & CV213
- i. Tail and Head section – ore spillage is removed under the belts by the plant cleaners using spades, scrapers, and wheelbarrows and makes ore heaps in the designated area. The TPT BTS Supervisor arranges for the ore heaps to be removed by the Bobcat, Front-End Loader, and Tipper Truck.
 - ii. Belt – ore spillage along the belt on the Saldanha and Langebaan side is removed by the plant cleaners using spades, scrapers, and wheelbarrows and making ore heaps in the designated area. The TPT BTS Supervisor arranges for the ore heaps to be removed by the Bobcat, Front-End Loader, and Tipper Truck; and
 - iii. Transfer, diverter, and spillage chutes - ore spillage inside the chutes is removed by the Plant cleaners utilizing spades, picks, scrapers, jack-hammer, and water hose. The Plant cleaners remove the ore spillage in the chutes until the chute liners are exposed or visible. The water hose is used to ensure that the chute is thoroughly cleaned. The TPT BTS Supervisor communicates with the Central Control Room Operator and Stock Yard Supervisor to operate the belt to remove the ore spillage removed from the chute and dumped onto the belt.

d. Stockyard:

- i. House Keeping to be done on all the equipment and all around the stockyard area and the Terminal at large.
- ii. Enough resources to be allocated for the screening area, terminal wash bays, Terminal signs, stockyard markers, and tools store
- iii. TPT representative will confirm the required resources based on the need.

4.1.3 Special Focus Area: CV111 & CV140

Description

Stacker/Reclaimer 1 is the only stacker/reclaimer with dual yard belts, CV111, and CV140.

a. Operation

CV111 is used to supply and receive iron ore to/from Stacker/Reclaimer 1, whilst CV140 is used for direct loading.

b. Industrial Cleaning Requirements

- i. Tail and Head section – ore spillage is removed under and between the belts by the Plant cleaners using spades, scrapers, and wheelbarrows to make ore heaps in the designated area. The TPT BTS Supervisor arranges for the ore heaps to be removed by the Bobcat, Front-End Loader, and Tipper Truck; and

- ii. Belt – ore spillage under, between, and along the belts on the Saldanha and Langebaan side is removed by the plant cleaners using spades, scrapers, and wheelbarrows to make ore heaps in the designated area. The TPT BTS Supervisor arranges for the ore heaps to be removed by the Bobcat, Front-End Loader, and Tipper Truck.

4.1.4 Ship Side

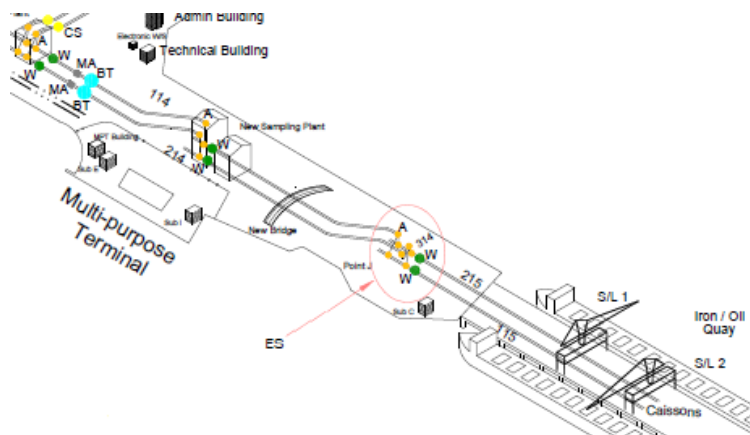


Figure 4: Ship Side Layout

a. Description

The ship side consists of dual conveyor belts, a Sampling Plant, Point J, and two Ship Loaders situated at the quayside of the Terminal. Each Ship Loader is capable of loading a vessel on both the Langebaan Side and Saldanha Side. The iron ore transported by the conveyor system from the stockyard and train side is supplied to both ship loaders via their respective belts. As stated previously, the ship side consists of:

- ✓ CV114 & CV214;
- ✓ Old Sampling Plant
- ✓ New Sampling Plant – responsible for the quality testing functions on Iron Ore being transported to the ship loaders;
- ✓ Point J – CV314, transfer chutes, diverters chutes etc.
- ✓ Ship Loader 1 & CV115; and
- ✓ Ship Loader 2 & CV215.

b. Operation

Once the iron ore has been reclaimed using the Stacker/Reclaimer or has been directly transported to the Ship Loader by bypassing the Stacker/Reclaimer or CV140, the Ship Loaders receive the iron ore and load the iron ore onto the berthed vessel. The loading rate peaks at 10 000 tph and there are currently four methods/techniques of loading the vessels:

- ✓ Single Loading – utilizing a singular Ship Loader to load the vessel;
- ✓ Dual Loading – making use of both Ship Loaders in loading the vessel;
- ✓ Staggered Loading – means both Ship Loaders are loading separate/different berthed vessels at the same time and
- ✓ Direct Loading – Loading directly from the tippers to the vessel without stacking the ore

c. Industrial Cleaning Requirements

Ship Loader

- i. Slew deck – ore spillage is removed by the Plant cleaners using spades and scrapers to transfer it to the ground.
- ii. Boom plates – ore spillage is removed by the Plant cleaners using spades and scrapers to transfer it to the ground.
- iii. Ship Loader Chutes - ore spillage inside the chutes is removed by the plant cleaners utilizing spades, picks, scrapers, jack-hammer, and water hose. The Plant cleaners remove the ore spillage in the chutes until the chute liners are exposed or visible. The water hose is used to ensure that the chute is thoroughly cleaned. The TPT BTS Supervisor communicates with the Central Control Room Operator and Stock Yard Supervisor to operate the belt to remove the ore spillage removed from the chute and dumped it onto the belt; and
- iv. Tripper Car - ore spillage is removed by the plant cleaners using spades to transfer it to the ground.

▪ Quay Side

- i. Caissons at the quay side.
- ii. SFF Pipe Cleaning
- iii. House Keeping to be done all around the quayside as well as on all the equipment
- iv. Enough resources to be allocated for SFF pipe cleaning and vacuum truck activities
- v. Enough resources to be allocated for housekeeping to be done at the Reverse Osmosis Plant and its subsections in the Terminals
- vi. TPT representative will confirm the required resources based on the need.

▪ Ship Side Belts (CV114, CV115, CV214 & CV215)

- i. Tail and Head section – ore spillage is removed under and between the belts by the Plant cleaners using spades, scrapers, and wheelbarrows and making ore heaps in the designated area. The TPT BTS Supervisor arranges for the ore heaps to be removed by the Bobcat, Front-End Loader, and Tipper Truck;
- ii. Belt – ore spillage under, between, and along the belts on the Saldanha and Langebaan side is removed by the plant cleaners using spades, scrapers, and wheelbarrows and make ore heaps in the designated area. The TPT BTS Supervisor arranges for the ore heaps to be removed by the Bobcat, Front-End Loader, and Tipper Truck; and
- iii. Transfer, diverter, and spillage chutes - ore spillage inside the chutes is removed by the Plant cleaners utilizing spades, picks, scrapers, jack-hammer, and water hose. The Plant cleaners remove the ore spillage in the chutes until the chute liners are exposed or visible. The water hose is used to ensure that the chute is thoroughly cleaned. The TPT BTS Supervisor communicates with the Central Control Room Operator and Stock Yard Supervisor to operate the belt to remove the ore spillage removed from the chute and dumped onto the belt.

New Sampling Plant and Point J

Ore spillage is removed by plant cleaners using spades, scrapers, and wheelbarrows and makes ore heaps in the designated area. The TPT BTS Supervisor arranges for the ore heaps to be removed by the Bobcat, Front-End Loader, and Tipper Truck.

4.1.5 RESOURCE REQUIREMENTS

a. During the week (Monday to Friday):

Normal working hours (07h00 to 15h30) and Maintenance window days (07h00 – 19h00) the resource will be-

- i. 1 x competent and qualified Site Manager
- ii. 1 x competent and qualified Chief Supervisors
- iii. 7 x Supervisors competent and qualified
- iv. 1 x safety officer competent and qualified
- v. 72 x Plant cleaners

After hours shift (15h30 – 19h00) and Night Shift (19h00 – 07h00), the resource will be-

- i. 1 x Supervisor
- ii. 1 x Safety Officer
- iii. 12 x Plant cleaners

b. During Weekends (Day & Night) and Public Holidays (Day & Night):

Weekends and Public Holidays (07h00 – 19h00 & 19h00 – 07h00) the resource will be-

- i. 1 x Supervisor
- ii. 1 x Safety Officer and
- iii. 12 x Plant cleaners

NB: The Service Provider is required to cater for extra labour that will enable all the planned resources to be relieved to provide and meet TPT's minimum requirements while adhering to all rules and regulations as stipulated in the Basic Conditions of Employment Act.

4.1.6 SHIFT PATTERN

Mondays – Fridays:

- ✓ 07:00 – 15:30 (Normal Shift)
- ✓ 15h30 – 19h00 (after hours),
- ✓ 07:00 – 19:00 (Maintenance window days),
- ✓ 19:00 – 07:00 (Night Shift).

Saturdays – Sundays & Public Holidays:

- ✓ 07:00 – 19:00 (Day Shift),
- ✓ 19:00 – 07:00 (Night Shift) &

Ad Hoc services are as per TPT BTS requirement and as & when TPT requires the service.

Note: Ad Hoc refers to required Heavy Industrial Plant Cleaning Services as a result of an emergency/unplanned event.

5.1. SUPERVISION

- 5.1.1 The Service Provider shall ensure that all labour and work are supervised by a competent person(s) at all times.
- 5.1.2 The Service Provider shall ensure that supervisory requirements are adhered to as per clause 3.18.
- 5.1.3 The supervisor(s) is/are solely responsible for the safety and productivity/performance of his/her staff.
- 5. 1.4 The supervisor(s) shall ensure that he/she attends the relevant meetings as per request by TPT BTS, i.e., morning meeting, planning meeting, etc.
- 5. 1.5 Furthermore, the supervisor(s) shall ensure that all necessary reports and/or documents required for such meetings are presented to the TPT BTS Supervisor (or TPT BTS Representative acting on behalf of the TPT BTS Supervisor).
- 5. 1.6 The supervisor(s) shall ensure that all plant cleaners are on time and ready for the day's job.
- 5. 1.7 The supervisor(s) shall ensure that the required quantity of labour is at all times supplied and if it is not met, the supervisor(s) must make the necessary arrangements to meet the required labour quantity and will be expected to have the required number of workers within 2 hours ready to commence on work and constantly update the TPT BTS Supervisor (or TPT BTS Representative acting on behalf of the TPT BTS Supervisor);
- 5. 1.8 The supervisor(s) shall ensure that all Plant cleaners are equipped with the required PPE.
- 5. 1.9 The supervisor(s) shall ensure that all Plant cleaners under his/her supervision are informed of the plant cleaning requirements, as well as to conduct mini-Hira and point out all the dangers, before starting with any plant cleaning activities.
- 5.1.10 The supervisor(s) shall ensure that the lockout procedure is adhered to at all times when working next to or on TPT assets/equipment, i.e. conveyor belts, stacker/reclaimers, etc.;
- 5.1.11 The supervisor(s) shall ensure that the plant cleaning activities are done according to the planned cleaning schedule and any deviations must be lodged and reported to the TPT BTS Supervisor (or TPT BTS Representative acting on behalf of the TPT BTS Supervisor).
- 5.1.12 The supervisor(s) shall manage the time of the workers effectively to ensure high levels of productivity at all times.
- 5.1.13 The supervisor(s) is/are responsible for ensuring that the workers take their breaks at the allocated times and ensure that break durations are always kept.
- 5.1.14 Cleaning under a conveyor belt, chute, and material handling equipment is a physical activity, therefore, the supervisor(s) shall ensure that the workers take a safe stance and rest at intervals to avoid back injuries.
- 5.1.15 The supervisor(s) shall ensure that arrangements are made to transport workers in and around the plant to the area(s) of work to ensure that there is minimal time wasted between work time and start, break, and/or knock-off time.
- 5.1.16 The service provider shall ensure that enough labour is sourced to allow for shift rotation that will enable all its employees to be well-rested and comply with all legal requirements of the Republic of South Africa including but not limited to the Basic Conditions of Employment Act
- 5.1.17 To adhere to clause 4.1.16 the service provider must have enough employees to adequately support TPT.
- 5.1.18 The supervisor(s) shall ensure any near-miss(s) and/or incident(s) is/are reported to the TPT BTS Supervisor (or TPT BTS Representative acting on behalf of the TPT BTS Supervisor) immediately; and
- 5.1.19 Once plant cleaning activities are complete, the supervisor(s) shall ensure safety guards and devices are all in the normal position and ensure all workers are present and well clear from the conveyor belt.

c. Example of the roster

Normal Operation - Allocation of Staff - Annexure 1		
Shift Pattern Weekly	Role	Quantity
07:00 – 15:30 07:00 – 19:00	Plant cleaners	72
	Site Manager	1
	Chief Supervisors	1
	Supervisors	7
	Safety Officer	1
Total		82 (All Inclusive)
Shift Pattern Weekly after hours	Role	Quantity
15h30 -19h00	Plant cleaners	12
	Safety Officer	1
	Supervisors	1
Total		14
Shift Pattern Night, Weekends & Public Holidays	Role	Quantity
07h00 – 19h00 19h00 – 07h00	Plant cleaners	12
	Safety Officer	1
	Supervisors	1
Total		14 (Per Shift)
Shutdown - Allocation of Staff (See Annexure 2 – Example of the roster)		
Shift	Role	Quantities
07:00 – 19:00 19:00 – 07:00	Plant cleaners	80 (Minimum of 20 and maximum of 80)
	Supervisors	8 (Minimum of 2 and maximum of 8)
	Chief Supervisor	2 (Day and Night shifts)
	Safety Officer	2 (Day and Night shifts)
Total		92 (All Inclusive maximum)
ADHOC		
Shift	Role	Quantities
As per TPT requirement at the time the service is required	Supervisors	Minimum of 1 Supervisor for 10 Plant cleaners and maximum of 4 Supervisors
	Plant cleaners	Minimum of 5 and maximum of 40 Plant Cleaners
		44 (All Inclusive maximum)

- 5.1.20 TPT Supervisor/representative reserves the right to request the service provider to allocate resources for other activities such as carrying consumables from the store and moving furniture, other than plant cleaning in the Terminal as and when required by the business from the total resources that are planned for the shift.

6. QUALITY AND SERVICE

- 6.1.1 The Service Provider shall ensure that all labour, i.e. supervisory, skilled and semi-skilled, utilized in rendering the services are medically fit and have the relevant documents, namely:
- 6.1.2 Valid RSA Identification Document.
- 6.1.4 Valid Medical Certificates.
- 6.1.5 Basic training working at heights and safety harness awareness (NOSA or similar accredited courses)
- 6.1.6 Furthermore, the Service Provider must ensure that it obtains all permits necessary to carry out the required services.
- 6.1.7 The Service Provider shall further ensure that all employees deployed on-site have clear criminal records, be of sober habits, and are medically fit.
- 6.1.8 The documents referred to in clauses 6.1.2 – 6.1.4 above will not be used for evaluation purposes but must be submitted before the commencement of the work.
- 6.1.9 The costs associated with obtaining these certificates shall be for the successful Service Provider's account.
- 6.1.10 The Service Provider shall be fully responsible to TPT for the acts and omissions of its employees, permitted sub-Service Providers, and agents. Furthermore, the Service Provider shall be solely liable for any damage caused to TPT property or injury caused to TPT Employees due to the negligence of its employees, permitted sub-Service Providers, and agents. TPT shall be entitled to deduct the amount so involved from any payment due to the Service Provider.

7. TECHNICAL FUNCTIONAL REQUIREMENT

- 7.1.1 Compliance with this RFP - Completeness of response and returnable documents.
- The Service Provider should have experience in delivering Heavy Industrial Cleaning Services for bulk commodity/material (**Supporting Documents** – Two written references with cumulative experience of three(3)years but not less than one(1) year
- 7.1.2 The Service Provider shall have available **two (2) 22-seater vehicles** to satisfy transport requirements and to (**Supporting documents** to be provided - Proof of Ownership or Proof of Rental or Intention to Lease or Buy, from a legitimate car rental company signed.
- 7.1.3 The Service Provider shall have available four (4) drivers holding valid code C1 driver's license and PDP (**Supporting documents** to be provided – **certified four (4) valid C1 driver's license copies and PDP**
- 7.1.4 The Service Provider is required to submit a certificate of membership from the National Contract Cleaners Association (NCCA) OR Black Economic Empowerment Cleaning Association (BEECA) OR Cleaning Association of South Africa (CASA), confirming that the Service Provider is an existing member of at least one of the respective bodies. Supporting documents to be provided - copy of a valid membership certificate
- 7.1.5 The Service Provider must confirm that the resource requirements will be satisfied by the commencement date of the contract.
- 7.1.6 The Service Provider is required to provide the written confirmation of compliance with the scope of work

- 7.1.7 The service provider is required to provide confirmation that within one week of award they will have a broad form of Public Liability cover with a minimum limit of indemnity of R5 Million (five million rands) per incident, From underwriter confirming insurance cover / certified copy of insurance policy). Kindly note that the aforementioned document will not form part of the evaluation criteria but must be submitted as a mandatory returnable document
- 7.1.8 The Service Provider is required to provide valid proof of registration from the Compensation for Occupational Injuries and Diseases (COID), from the Department of Labour.

8 SAFETY AND COMPLIANCE

- 8.1 The Service Provider shall comply with all applicable safety laws and regulations including all instructions received from TPT Management and TPT Supervisory Personnel.
- 8.2 The Service Provider shall comply with the terminal Safety, Health, Environment, and Quality Standard Operating Procedures (SOP) as required by the TIMS SOP'S.
- 8.3 The Service Provider shall be required to undergo TPT's safety induction training program before commencing work on the TPT site.
- 8.4 The Service Provider must ensure compliance with TPT's Security and emergency policies, procedures, and regulations.
- 8.5 There shall be zero tolerance of any form of substance abuse i.e., alcohol, drugs, etc. The Service Provider and/or its employees shall be required to submit to random drug and alcohol testing.
- 8.6 The Service Provider shall ensure that its employees present on the TPT site are furnished with (at its own cost) and wear safety clothing or personal protective equipment (E.g., reflective jackets, safety boots, hard hats, etc.), clothing as well as identity tags.
- 8.7 The service provider shall ensure that upon award of business a comprehensive safety file is completed according to TPT's SHEQ department requirements, the service provider will not be allowed to commence work on-site without the completion of the safety file and approval from the SHEQ Manager and Operations Manager. The safety file shall be submitted for approval 7 working days before commencement of work on-site.
- 8.8 For completion of the safety file please refer to **TPT's SHE** specification.
- 8.9 The Service Provider shall ensure that the Heavy Industrial Cleaning Service is carried out as required by this scope of work.
- 8.10 The Service Provider shall ensure that clauses 3.3 - 3.5 are adhered to at all times for the duration of the contract, and in the event, the Service Provider fails to adhere to the mentioned clauses, clause 4.7 is complied with, of which failure to do so will evoke the necessary penalties.
- 8.11 The Service Provider shall ensure that clauses 3.14 & 3.15 are adhered to at all times for the duration of the contract, and in the event, the Service Provider fails to adhere to mentioned clauses, the necessary penalties will be initiated against the Service Provider.
- 8.12 The Service Provider's Site Manager shall be required to attend pre-plan meetings convened by the Operations Department in the Port of Saldanha, as well as all operational meetings during loading activities.
- 8.13 Before any service requirement, the Operations Department will convene a pre-plan meeting with the Service Provider and will share the customer's demands and/or requirements.

9 PROCEDURE OF WORK ACTIVITIES

- 9.1.1 Demand for the Heavy Industrial Plant Cleaning Services will be controlled and managed by the Operations Department.

- 9.1.2 The Service Provider shall be required to attend pre-plan meetings convened by the Operations Department in the Port of Saldanha, as well as all operational meetings during loading activities.
- 9.1.3 Before any service requirement, the Operations Department will convene a pre-plan meeting with the Service Provider and will share the customer's demands and/or requirements.
- 9.1.4 Once agreed upon, the Service Provider will ensure that it meets its obligations.
- 9.1.5 Procurement will be informed accordingly.
- 9.1.6 The Service Provider shall ensure that all services are fully supervised by a dedicated supervisor(s) and the Service Provider must regularly liaise with the TPT BTS Supervisor and/or TPT BTS Representative in respect of the operational activities that are taking or will take place, which has an impact on the services the Service Provider renders.
- 9.1.7 The Service Provider may not cede, assign, makeover, or delegate any of its rights and/or obligations to any third party without the prior written consent of TPT.

10 GENERAL SERVICE PROVIDER OBLIGATIONS

- 10.1.1 The Service Provider shall be fully responsible to TPT for the acts and omissions of persons directly or indirectly employed by them.
- 10.1.2 The Service Provider shall be held fully responsible for any damages, such as property, asset, facility, reputational and/or financial, committed against TPT by the Service Provider for the duration of the contract.
- 10.1.3 The Service Provider must comply with the requirements stated in this RFP.
- 10.1.4 Tools to be provided by TPT: Spades, Picks, Wheelbarrows, Long-Arm Scrapers, Jack-Hammers, High-Pressure Water Pipes and Lighting Device(s)/Equipment.

11 COMPLIANCE WITH STATUTORY AND OTHER REQUIREMENTS

In performing the Services, the Service Provider shall comply with all material aspects of all applicable legislation, including (without limitation) the provisions of:

- i. All South African law affects the provision for Heavy Industrial Cleaning services.
- ii. Occupational Health & Safety Act 85 of 1993 ("OHSA").
- iii. The Compensation for Occupational Injuries and Disease Act, 1993 (Act No.130 of 1993).
- iv. All material aspects of all applicable legislation, provincial ordinances, and local authority by-laws, including all relevant regulations promulgated in terms thereof, affect the Maritime business.
- v. The Basic Conditions of Employment Act No. 75 of 1997.
- vi. The Labour Relations Act No. 66 of 1995 and the Regulations thereto.
- vii. National Ports Act No. 12 of 2005 and enabling legislation thereto, including the Port Rules.
- viii. Control of Access to Public Premises and Vehicle Act, No. 53 of 1985.
- ix. National Road Traffic Act and Regulations Act 93 of 1996 (as amended from time to time).
- x. All TRANSNET policies and procedures; and
- xi. The in-house specific policies, procedures, NOSA guidelines, rules, and regulations of the Terminal as have been published or evolved according to the provisions of Section 37 (2) of the Occupational Health and Safety Act 85/1993 and provisions in it.



ANNEXURE 1: EXAMPLE - HEAVY INDUSTRIAL PLANT CLEANING TEAM WEEK ROSTER										
DAY	SHIFT	TIME	HOURS	QUANTITY	ROLE SPLIT	TIME	HOURS	QUANTITY	ROLE SPLIT	COMMENTS
Monday	Day	07H00 - 15H30	8.5	82	* 72X Plant Cleaners * 7 X Supervisors * 1 X Safety Officer * 1 X Chief Supervisor * 1 X Site Manager	15H30 - 19H00	3.5	14	*12 X Plant Cleaners * 1 X Supervisor * 1 X Safety Officer From the 82 only 68 employees go home, the 14 stays behind.	No maintenance window taking place
	Night	19h00 - 07H00	12	14	*12 X Plant Cleaners * 1 X Supervisor * 1 X Safety Officer					
Tuesday	Day	07H00 - 19H00	12	82	* 72X Plant Cleaners * 7 X Supervisors * 1 X Safety Officer * 1 X Chief Supervisor * 1 X Site Manager					Maintenance window day
	Night	19h00 - 07H00	12	14	*12 X Plant Cleaners * 1 X Supervisor * 1 X Safety Officer					
Wednesday	Day	07H00 - 19H00	12	82	* 72X Plant Cleaners * 7 X Supervisors * 1 X Safety Officer * 1 X Chief Supervisor * 1 X Site Manager					Maintenance window day
	Night	19h00 - 07H00	12	14	*12 X Plant Cleaners * 1 X Supervisor * 1 X Safety Officer					
Thursday	Day	07H00 - 19H00	12	82	* 72X Plant Cleaners * 7 X Supervisors * 1 X Safety Officer * 1 X Chief Supervisor * 1 X Site Manager					Maintenance window day
	Night	19h00 - 07H00	12	14	*12 X Plant Cleaners * 1 X Supervisor * 1 X Safety Officer					
Friday	Day	07H00 - 15H30	8.5	82	* 72X Plant Cleaners * 7 X Supervisors * 1 X Safety Officer * 1 X Chief Supervisor * 1 X Site Manager	15H30 - 19H00	3.5	14	*12 X Plant Cleaners * 1 X Supervisor * 1 X Safety Officer From the 82 only 68 employees go home, the 14 stays behind.	No maintenance window taking place
	Night	19h00 - 07H00	12	14	*12 X Plant Cleaners * 1 X Supervisor * 1 X Safety Officer					
Saturday	Day	07H00 - 19H00	12	14	*12 X Plant Cleaners * 1 X Supervisor * 1 X Safety Officer					Public Holidays will be rostered like the weekend
	Night	19h00 - 07H00	12	14	*12 X Plant Cleaners * 1 X Supervisor * 1 X Safety Officer					
Sunday	Day	07H00 - 19H00	12	14	*12 X Plant Cleaners * 1 X Supervisor * 1 X Safety Officer					Public Holidays will be rostered like the weekend
	Night	19h00 - 07H00	12	14	*12 X Plant Cleaners * 1 X Supervisor * 1 X Safety Officer					

NB!!	This is just an example not the exact days on which maintenance may take place
	On Public Holidays the rostering will be the same as on weekends

ANNEXURE 2: INDUSTRIAL PLANT CLEANING TEAM SHUT DOWN ROSTER EXAMPLE						
DAY	SHIFT	TIME	HOURS	QUANTITY	ROLE SPLIT	COMMENTS
Monday	Day	07H00 - 19H00	12	As per TPT requirement	* Plant Cleaners * Supervisors * 1 x Safety Officer	Role split quantities will be as per TPT requirement
	Night	19h00 - 07H00	12	As per TPT requirement	* Plant Cleaners * Supervisors * 1 x Safety Officer	Role split quantities will be as per TPT requirement
Tuesday	Day	07H00 - 19H00	12	As per TPT requirement	* Plant Cleaners * Supervisors * 1 x Safety Officer	Role split quantities will be as per TPT requirement
	Night	19h00 - 07H00	12	As per TPT requirement	* Plant Cleaners * Supervisors * 1 x Safety Officer	Role split quantities will be as per TPT requirement
Wednesday	Day	07H00 - 19H00	12	As per TPT requirement	* Plant Cleaners * Supervisors * 1 x Safety Officer	Role split quantities will be as per TPT requirement
	Night	19h00 - 07H00	12	As per TPT requirement	* Plant Cleaners * Supervisors * 1 x Safety Officer	Role split quantities will be as per TPT requirement
Thursday	Day	07H00 - 19H00	12	As per TPT requirement	* Plant Cleaners * Supervisors * 1 x Safety Officer	Role split quantities will be as per TPT requirement
	Night	19h00 - 07H00	12	As per TPT requirement	* Plant Cleaners * Supervisors * 1 x Safety Officer	Role split quantities will be as per TPT requirement
Friday	Day	07H00 - 19H00	12	As per TPT requirement	* Plant Cleaners * Supervisors * 1 x Safety Officer	Role split quantities will be as per TPT requirement
	Night	19h00 - 07H00	12	As per TPT requirement	* Plant Cleaners * Supervisors * 1 x Safety Officer	Role split quantities will be as per TPT requirement
Saturday	Day	07H00 - 19H00	12	As per TPT requirement	* Plant Cleaners * Supervisors * 1 x Safety Officer	Role split quantities will be as per TPT requirement
	Night	19h00 - 07H00	12	As per TPT requirement	* Plant Cleaners * Supervisors * 1 x Safety Officer	Role split quantities will be as per TPT requirement
Sunday	Day	07H00 - 19H00	12	As per TPT requirement	* Plant Cleaners * Supervisors * 1 x Safety Officer	Role split quantities will be as per TPT requirement
	Night	19h00 - 07H00	12	As per TPT requirement	* Plant Cleaners * Supervisors * 1 x Safety Officer	Role split quantities will be as per TPT requirement

ANNEXURE 3 - PRICING SCHEDULE: MAINTENANCE WINDOW DAYS

No.	Deliverable/Description of Services	Resource Designation/ Title of Resource	No. of Resources	Estimated No. of Shifts	Shift/Night Shift Allowance	Resource Rate per Hour (excl. VAT) Year 1	Resource Rate per Hour (excl. VAT) Year 2	Total (excl. VAT) [ZAR] Year 1	Total (excl. VAT) [ZAR] Year 2	Total (excl. VAT) [ZAR] Year 3	
1	Industrial Plant cleaning services (Maintenance Window Days x 3)	Plant Cleaners Day	72	07h00-19h00							
		Plant Cleaners Night	12	19h00-07h00							
2		Site Manager Day	1	07h00-19h00							
3		Chief Supervisor Day	1	07h00-19h00							
		Chief Supervisor Night	1	19h00-07h00							
4		Supervisors Day	7	07h00-19h00							
		Supervisors Night	1	19h00-07h00							
5		Safety officer Day	1	07h00-19h00							
		Safety Officer	1	19h00-07h00							
VAT 15% (if applicable)											
Discount(s)											
Total Inclusive of VAT (where applicable)											

ANNEXURE 4 - PRICING SCHEDULE: NO MAINTENANCE WINDOW DAYS

No.	Deliverable/Description of Services	Resource Designation/ Title of Resource	Salary Band equivalent in accordance Dept. Labour legislative "Hourly Fee Rates for Staff	No of Resources	Estimated No. of Hours	Shift/Night Shift Allowance	Resource Rate per Hour (excl. VAT)	Total (excl. VAT) [ZAR]	Total (excl. VAT) [ZAR]	Total (excl. VAT) [ZAR]
								Year 1	Year 2	Year 3
1	Industrial Plant cleaning services (No Maintenance Window Days x 2)	Plant Cleaners Day		72	07h00-15h30					
		Plant Cleaners Day (Remain behind from day shift)		12	15h30-19h00					
		Plant Cleaners Night		12	19h00-07h00					
2		Site Manager Day		1	07h00-19h00					
3		Chief Supervisor Day		1	07h00-15h30					
				1	15h30-19h00					
		Chief Supervisor Night			19h00-07h00					
4		Supervisors Day		7	07h00-15h30					
		Supervisor Day (Remain behind from day shift)		1	15h30-19h00					
		Supervisors Night		1	19h00-07h00					
5		Safety officer Day		1	07h00-19h00					
		Safety Officer Night		1	19h00-07h00					
VAT 15% (if applicable)										
Discount(s)										
Total Inclusive of VAT (where applicable)										

ANNEXURE 5 - PRICING SCHEDULE: WEEKENDS AND PUBLIC HOLIDAYS

No.	Deliverable/Description of Services	Resource Designation/ Title of Resource	Salary Band equivalent in accordance Dept. Labour legislative "Hourly Fee Rates for Staff	No of Resources	Estimated No. of Hours	Shift/Night Shift Allowance	Resource Rate per Hour (excl. VAT)	Total (excl. VAT) [ZAR] Year 1	Total (excl. VAT) [ZAR] Year 2	Total (excl. VAT) [ZAR] Year 3
1	Industrial Plant cleaning services (Weekends and Public Holidays)	Plant Cleaners Day		12	07h00-19h00					
		Plant Cleaners Night		12	19h00-07h00					
		Chief Supervisor Day		1	07h00-19h00					
		Chief Supervisor Night		1	19h00-07h00					
2		Supervisors Day		1	07h00-19h00					
		Supervisors Night		1	19h00 – 07h00					
3		Safety officer Day		1	07h00-19h00					
		Safety officer Night		1	19h00 – 07h00					
VAT 15% (if applicable)										
Discount(s)										
Total Inclusive of VAT (where applicable)										

ANNEXURE 6 - PRICING SCHEDULE: SHUT DOWN REQUIREMENTS

No.	Deliverable/Description of Services	Resource Designation/ Title of Resource	Salary Band equivalent in accordance Dept. Labour legislative "Hourly Fee Rates for Staff	No of Resources	Estimated No. of Hours	Shift/Night Shift Allowance	Resource Rate per Hour (excl. VAT)	Total (excl. VAT) [ZAR] Year 1	Total (excl. VAT) [ZAR] Year 2	Total (excl. VAT) [ZAR] Year 3
1	Industrial cleaning services shut allocation (Additional Required Resources)	Plant Cleaners Day		80 (minimum of 20 and maximum 80)	07h00-19h00					
		Plant Cleaners Night			19h00-07h00					
2		Supervisors Day		8 (1 for 10 Plant cleaners)	07h00-19h00					
		Supervisors Night			19h00 – 07h00					
3		Safety officer Day		1	07h00-19h00					
		Safety officer Night		1	19h00 – 07h00					
VAT 15% (if applicable)										
Discount(s)										
Total Inclusive of VAT (where applicable)										

ANNEXURE 7 - PRICING SCHEDULE: ADHOC REQUIREMENTS

No.	Deliverable/Description of Services	Resource Designation/ Title of Resource	Salary Band equivalent in accordance Dept. Labour legislative "Hourly Fee Rates for Staff	No of Resources	Estimated No. of Hours	Shift/Night Shift Allowance	Resource Rate per Hour (excl. VAT)	Total (excl. VAT) [ZAR] Year 1	Total (excl. VAT) [ZAR] Year 2	Total (excl. VAT) [ZAR] Year 3
1	Industrial cleaning services – Adhoc	Plant Cleaners Day		40 (minimum of 5 and maximum 40)	07h00-19h00					
		Plant Cleaners Night			19h00-07h00					
2		Supervisors Day		4 (minimum of 1 Supervisor for 10 Plant cleaners and maximum of 4 Supervisors)	07h00-19h00					
		Supervisors Night			19h00 – 07h00					
VAT 15% (if applicable)										
Discount(s)										
Total Inclusive of VAT (where applicable)										

IRON ORE HEAVY INDUSTRIAL PLANT CLEANING SERVICES

	TASK	PARTY		WHEN	FREQUENCY	KPI	MEASUREMENT	COMMUNICATION MODE / FORMAT	SENT TO	MEASUREMENT			COMMENTS / NOTES
		SP	TPT							WEIGHT	MONTHLY RATING (SP)	MONTHLY RATING (TPT)	
Service delivery	Ensure resources availability as per the agreement: (Submitting of the attendance - Delivery notes) Maintenance window days 79 Plant Cleaners - Day shift 13 Plant Cleaners - Night Shift Non Maintenance window days 79 Plant Cleaners - Day shift 153 Plant Cleaners - Night Shift Weekend and Public Holidays 13 Plant Cleaners - Day shift 13 Plant Cleaners - Night Shift	X		Daily	08H00am	Signed Attendance Register	100% records available to TPT everyday between 08H00 and 10H00am	Email or Submit a copy of attendance register	OPS	10			
	Ensure Transport availability as per the agreement: 2 x 22 Seater Vehicles day shift 1 x 22 seater night shift	X		Every Shift	07H00 to 19H00 and 19H00 - 07H00	Daily Compliance/Audit	100% Transport available	Daily Recording	OPS	10			
	Ensure plant cleaning report with evidence of before and after pictures is submitted for each shift as per the agreement:	X		Every Shift	08H00am	Daily Plant Cleaning Report with evidence of before and after pictures submitted to TPT OPS	100% Report with evidence(Before and After Pictures)	Email Daily Report	OPS	5			
	Employee compliance to PPE i.Safety Boots ii.Hard Hats iii.Reflective jackets iv. Gloves v. Safety Glasses vi. Dust Mask viii. Overalls	X		Every Shift	Ongoing Visual inspection/Audit	TPT will conduct visual inspections/audits to ensure that the employees are neat and use correct PPE in the areas worked	Condition, visibility, neatness of PPE will be visually inspected by TPT TPT will communicate with the service provider if any issues noted. The service provider shall ensure that the PPE is in good condition	Visual inspections/audit	OPS	5			
	Emergency requirements (Adhoc)	X		Within 2 hours of notification 24/7	As and when occurred required	Response time	Attendance register and Delivery note	Register	OPS	10			
	Replacement or repairs to damaged or lost equipment provided tools and facilities (turn around time)	X		Monthly	Ongoing As and when applicable	Daily shift inspection Reports to be submitted to OPS every Friday before 10H00am TPT will verify that all equipment were repaired and in working condition/ effectiveness thereof	100% Equipment effectiveness	Email or hard copy	OPS	5			
	Hygienic compliance to OHS Act of the facilities provided by TPT: a. Mess Room b. Shower Unit c. Changing room	X		Every Shift	Fridays	Daily shift inspection Reports to be submitted to be filed TPT will verify that all 3 facilities were washed on fridays	Clean Facilities	Visual inspections Daily shift inspection registers	OPS	5			
Safety requirements	Maintain a comprehensive up to date safety file with all relevant information (Employee information, Medicals, etc.)	X		Monthly	Ongoing	File is maintained and updated with all information	100% records available on request by TPT	Safety File	SHERQ	5			
	TPT Safety Induction - Ensure that all employees have valid safety induction	X		Monthly	Ongoing	File is maintained and all employees inductions are up to date	100% records available on request by TPT	Safety File Employees	SHERQ	5			
	Submission of Mini-HIRA for all tasks performed on site	X		Every Shift	Ongoing	conducted prior to every task, high risk/hazard with major impact to be reported to TPT immediately	100% Mini HIRA records submitted to TPT upon request	Hand in Mini-Hira	OPS	5			
	Provide proof that each employee has undergone the necessary medical examination and has a valid medical	X		The valid documentation must be sent prior to expiry date	Annually	Submit medical examination certificates	0% documentation outstanding	Safety File	SHERQ	5			
	Incident/ occurrence requirements	X		Immediately or before the end of shift.	As and when occurred	Response time	100% records available on request by TPT as well as the investigation documents completed within 7 days	Email – Repot Hand deliver - Register and investigation documents	SHEQ	5			

Invoicing and Payments	Invoice TPT and submit with supporting documentation for all activities undertaken to execute agreed services	X		Monthly	Monthly	Submit accurate tax invoice(s) with clear details of services delivered and supporting documentation . Provide a monthly statement to reflect all payments made and outstanding.	100% on time submission of invoices with accurate and reconciled supporting documents. Monthly statement to support invoices.	Monthly statement and hard copy of invoice(s) with supporting documentation	TPT Finance Department	5			
	Receive and reconcile the supplier account with all the supporting documentation, Arrange for electronic payment to supplier.		X	30 days from date of statement	Monthly	Timeous payment to supplier as per their payment terms.	Monthly statement to confirm payment of invoices.	Payment remittance advise	Suppliers Finance Dept.	5			

Legends: 1 = VERY POOR (Below 50%)
2 = POOR (50% - 59%)
3 = AVERAGE (60% - 69%)
4 = GOOD (70% - 85%)
5 = EXCELLENT (86% - 100%)

TOTAL	85	0	0
--------------	-----------	----------	----------

RATING SCALE	1 = Poor	2 = Not Acceptable	3 = Acceptable	4 = Good	5 = Excellent	Overall Total %	0	0
RATING SCALE	2 = Poor	4 = Not Acceptable	6 = Acceptable	8 = Good	10 = Excellent			

Service provider	
Name & Surname	
Signature	
Date	

TPT Project Owner	
Name & Surname	
Signature	
Date	

Procurement	
Name & Surname	
Signature	
Date	

TPT Finance	
Name & Surname	
Signature	
Date	

With reference to the Standard Terms and Conditions of Contract, Reference Number GSM/XX/XX/XX dated , ("Contract") between Transnet SOC Ltd ("Transnet") and (the Service Provider pursuant to which you have agreed to perform certain services for and on behalf of Transnet subject to such Contract.

The defined terms in the Contract will, unless otherwise indicated, have the same meaning in this Schedule of Requirements. In consideration of the mutual covenant and agreements contained in the Contract and in this Schedule of Requirements, it is agreed as follows:

1. Description of the Services

The scope of Services to be performed by the SERVICE PROVIDER is the provision of heavy industrial plant cleaning services for thirty-six (36) months. The details for the Services to be provided are as stipulated in clause 2 below.

2. Scope of Services

2.1 Deliverables

The SERVICE provider shall:

.....

3. Contract Manager/s & Personnel to provide the Services

Transnet Contract Manager	
Designation	
Operating Division	
Address	
Telephone	
Email	

Service Provider's Account Manager	
Designation	
Address	
Telephone	
Email	

4. Performance Review Meetings

Contract management and performance review meetings will be held as required by Transnet's Contract Manager.

5. Fees & Disbursements

5.1 In consideration of the performance of the Services by the SERVICE PROVIDER pursuant to this Work Order, Transnet will pay to it an amount not exceeding R 0 000 000.00 (excluding/including VAT) over the three six (36) month period.

IN WITNESS of which this Schedule of Requirements has been duly executed by the parties.

SIGNED for and on behalf of

.....

Signature.....

Name.....

Position.....

Date.....

SIGNED for and on behalf of

Transnet SOC Ltd

Signature.....

Name.....

Position.....

Date.....

APPENDIX 1

Address for Notices

Any notice or communications between the parties to be given under this Agreement shall be deemed to have been received at the following times:

- i. by email transmission – when the sender receives confirmation of receipt;
- ii. by hand delivery - immediately upon receipt by the recipient.

Any notice or communications between the parties shall be delivered to the addresses set out below:

The Service Provider

Addressee:

Xxxxxxx

Attention: Xxxxxxx

Physical Address:

101....

Midrand

1682

Postal Address:

101....

Midrand

1682

email:

xxxxxxx@cccccccc

Transnet

Addressee:

Transnet SOC Ltd

Attention : Group Legal Counsel

Physical Address:

08th Floor

Carlton Centre

150 Commissioner Street

Johannesburg

2001

Postal Address:

P.O. Box 72501

Parkview

email:

xxxxxx@transnet.net

Either party may, by a notice given in accordance with this Schedule 1, change its address or email address for the purpose of this Schedule 1.

APPENDIX 2

Non- Disclosure Agreement

Date: 20--

I (*name*)

Of (*address*)
.....
.....

Undertake to Transnet SOC Ltd ("Transnet") that:

1. I shall keep confidential and not to disclose or make available to any third party, except with the express prior written consent of Transnet, any Confidential Information relating to Transnet business, assets, customers or staff which is disclosed to me or to which I may have access during the course of providing Services to Transnet ("my assignment"); and
2. Upon termination of my assignment, I shall return to Transnet all documents, books, discs, tapes or other records (in whatever medium) which I may have in my possession, custody or control and which are the property of Transnet, its customers, staff or agents and any copies thereof.

For the purposes of this Confidentiality Agreement, "Confidential Information" shall mean any information in whatever form including, without limitation, any information relating to systems, operations, plans, intentions, market opportunities, know-how, trade secrets and business affairs of the Transnet Group or its customers, whether in writing, conveyed orally or by machine-readable medium.

I understand that this Confidentiality Agreement shall survive the termination of my assignment.

SIGNED at _____ on _____ 20--

(*Signature*)

in the presence of:-

Witness name:

Witness Signature:

Witness address:
.....



MASTER AGREEMENT

entered into by and between

TRANSNET SOC LTD

and

.....

**FOR THE PROVISION OF HEAVY INDUSTRIAL PLANT CLEANING SERVICES
FOR BULK COMMODITY/MATERIAL**

Agreement Number

Commencement Date

Expiry Date

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SCHEDULE 1 – WORK ORDER / SCHEDULE OF REQUIREMENTS

1 INTRODUCTION

This Agreement is entered into by and between:

Transnet SOC Ltd [Registration Number 1990/000900/30] whose registered address is
....., Republic of South Africa [**Transnet**]

and

..... [Registration Number] whose registered address is
..... [**the Service Provider**].

NOW THEREFORE, IT IS AGREED:

- 1.1 Transnet hereby appoints the Service Provider to provide, and Transnet undertakes to accept the supply of Provision of Service provided for herein, as formally agreed between the Parties and in accordance with the Schedule of Requirements / Work Orders issued as a schedule to this Agreement; and
- 1.2 the Service Provider hereby undertakes to provide the Services provided for herein, as formally agreed between the Parties and in accordance with the Schedule of Requirements issued as a schedule to this Agreement.

2 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:

- 2.1 **AFSA** means the Arbitration Foundation of South Africa;
- 2.2 **Agreement** means this Agreement and its associated schedules and/or annexures and/or appendices, and/or schedules, including the Schedule of Requirements/Work Orders, the technical specifications for the Services and such special conditions as shall apply to this Agreement, together with the General Tender Conditions and any additional provisions in the associated bid documents tendered by the Service Provider [as agreed, in writing, between the Parties], which collectively and exclusively govern the supply of Provision of Service and provision of ancillary Services by the Service Provider to Transnet;
- 2.3 **Assignment** refers to the transfer of rights and obligations in a contract from an assigner to an assignee.
- 2.4 **Background Intellectual Property** means all Intellectual Property introduced and required by either Party to give effect to their obligations under this Agreement owned in whole or in part by or licensed to either Party or their affiliates prior to the Commencement Date or developed after the Commencement Date otherwise pursuant to this Agreement;
- 2.5 **Business Day(s)** means Mondays to Fridays between 07:30 and 16:00, excluding public holidays as proclaimed in South Africa;
- 2.6 **Cession** refers to the transfer of only the rights a service provider has in terms of a contract from it to a third party.

- 2.7 **Commencement Date** means, notwithstanding the signature date of this Agreement;
- 2.8 **Confidential Information** means any information or other data, whether in written, oral, graphic or in any other form such as in documents, papers, memoranda, correspondence, notebooks, reports, drawings, diagrams, discs, articles, samples, test results, prototypes, designs, plans, formulae, patents, or inventor's certificates, which a Party discloses or provides to the other Party [intentionally or unintentionally, or as a result of one Party permitting the representative of the other Party to visit any of its premises], or which otherwise becomes known to a Party, and which is not in the public domain and includes, without limiting the generality of the term:
- a) information relating to methods of operation, data and plans of the disclosing Party;
 - b) the contents of this Agreement;
 - c) private and personal details of employees or clients of the disclosing Party or any other person where an onus rests on the disclosing Party to maintain the confidentiality of such information;
 - d) any information disclosed by either Party and which is clearly marked as being confidential or secret;
 - e) information relating to the strategic objectives and planning of the disclosing Party relating to its existing and planned future business activities;
 - f) information relating to the past, present and future research and development of the disclosing Party;
 - g) information relating to the business activities, business relationships, products, services, customers, clients and Subcontractors of the disclosing Party where an onus rests on the disclosing Party to maintain the confidentiality of such information;
 - h) information contained in the software and associated material and documentation belonging to the disclosing Party;
 - i) technical and scientific information, Know-How and trade secrets of a disclosing Party including inventions, applications and processes;
 - j) Copyright works;
 - k) commercial, financial and marketing information;
 - l) data concerning architecture, demonstrations, tools and techniques, processes, machinery and equipment of the disclosing Party;
 - m) plans, designs, concepts, drawings, functional and technical requirements and specifications of the disclosing Party;
 - n) information concerning faults or defects in Goods, equipment, hardware or software or the incidence of such faults or defects; and
 - o) information concerning the charges, fees and/or costs of the disclosing Party or its authorised Subcontractors, or their methods, practices or service performance levels actually achieved;
- 2.9 **Copyright** means the right in expressions, procedures, methods of operations or mathematical concepts, computer program codes, compilations of data or other material, literary works, musical works, artistic works, sound recordings, broadcasts, program carrying signals, published editions,

photographic works, or cinematographic works of the copyright owner to do or to authorise the doing of certain acts specified in respect of the different categories of works;

- 2.10 **Data** means all data, databases, documents, information, graphics, text or other material in an electronic or tangible medium which the Parties to this Agreement generate, collect, process, store or transmit in relation to their business;
- 2.11 **Designs** mean registered Designs and/or Design applications and will include the monopoly right granted for the protection of an independently created industrial design including designs dictated essentially by technical or functional considerations as well as topographies of integrated circuits and integrated circuits;
- 2.12 **Expiry Date** means ;
- 2.13 **Foreground Intellectual Property** means all Intellectual Property developed by either Party pursuant to this Agreement;
- 2.14 **ICC Incoterms** means the the latest version of commercial trade terms as published by the International Chamber of Commerce, Paris [ICC], which are otherwise referred to as purchase terms and which define precisely the responsibilities, costs and risks of the buyer [**Transnet**] and the seller [**the Supplier**]. Incoterms are only applicable to contracts involving the import or export of Goods from one country to another and for the purpose of this Agreement, if applicable, shall mean the designated Incoterm as stipulated in Schedule 1 hereto. Further details of the Incoterm [purchase terms] for this Agreement, if applicable, can be viewed at the International Business Training website - <http://www.i-b-t.net/incoterms.html>;
- 2.15 **Intellectual Property** means Patents, Designs, Know-How, Copyright and Trade Marks and all rights having equivalent or similar effect which may exist anywhere in the world and includes all future additions and improvements to the Intellectual Property;
- 2.16 **Know-How** means all Confidential Information of whatever nature relating to the Intellectual Property and its exploitation as well as all other Confidential Information generally relating to Transnet's field of technology, including technical information, processing or manufacturing techniques, Designs, specifications, formulae, systems, processes, information concerning materials and marketing and business information in general;
- 2.17 **Parties** mean the Parties to this Agreement together with their subsidiaries, divisions, business units, successors-in-title and assigns;
- 2.18 **Party** means either one of these Parties;
- 2.19 **Patents** mean registered Patents and Patent applications, once the latter have proceeded to grant, and includes a right granted for any inventions, products or processes in all fields of technology;
- 2.20 **Permitted Purpose** means any activity or process to be undertaken or supervised by a Staff member of one Party during the term of this Agreement, for which purpose authorised disclosure of the other Party's Confidential Information or Intellectual Property is a prerequisite in order to enable such activity or process to be accomplished;
- 2.21 **Price(s)** means the agreed Price(s) for the Servicesto be purchased from the Service Provider by Transnet, as detailed in the Schedule of Requirements, issued in accordance with this Agreement, as amended by mutual agreement between the Parties and in accordance with the terms and conditions in this Agreement from time to time;

- 2.22 **Purchase Order(s)** means official orders issued by an operating division of Transnet to the Service Provider for the supply of Goods or Services;
- 2.23 **Service(s)** means heavy industrial plant cleaning services , the Service(s) provided to Transnet by the Service Provider, pursuant to the Work Order(s) in terms of this Agreement;
- 2.24 **Service Level Agreement** or **SLA** means the processes, deliverables, key performance indicators and performance standards relating to the Services to be provided by the Service Provider;
- 2.25 **Service Provider Materials** means all works of authorship, products and materials [including, but not limited to, data, diagrams, charts, reports, specifications, studies, inventions, software, software development tools, methodologies, ideas, methods, processes, concepts and techniques] owned by, or licensed to, the Service Provider prior to the Commencement Date or independently developed by the Service Provider outside the scope of this Agreement at no expense to Transnet, and used by the Service Provider in the performance of the Services;
- 2.26 **Staff** means any partner, employee, agent, consultant, independent associate or contractor, Subcontractor and the staff of such Subcontractor, or other authorised representative of either Party;
- 2.27 **Schedule of Requirements** means Schedule 1 hereto;
- 2.28 **Subcontract** means any contract or agreement or proposed contract or agreement between the Service Provider and any third party whereby that third party agrees to provide to the Supplier the Goods or related Services or any part thereof or material used in the manufacture of the Goods or any part thereof;
- 2.29 **Subcontractor** means the third party with whom the Service Provider enters into a Subcontract;
- 2.30 **Tax Invoice** means the document as required by Section 20 of the VAT Act, as may be amended from time to time;
- 2.31 **Trade Marks** mean registered Trade Marks and Trade Mark applications and include any sign or logo, or combination of signs and/or logos capable of distinguishing the goods or services of one undertaking from those of another undertaking;
- 2.32 **VAT** means Value-Added Tax chargeable in terms of the VAT Act, 89 of 1991, as may be amended from time to time; and
- 2.33 **VAT Act** means the Value Added Tax Act, No 89 of 1991, as may be amended from time to time.
- 2.34 **Work Order(s)** means a detailed scope of work for a Service required by Transnet, including **timeframes**, Deliverable, Fees and costs for the supply of the Service to Transnet, which may be appended to this Agreement from time to time.

3 INTERPRETATION

- 3.1 Clause headings in this Agreement are included for ease of reference only and do not form part of this Agreement for the purposes of interpretation or for any other purpose. No provision shall be construed against or interpreted to the disadvantage of either Party hereto by reason of such Party having or being deemed to have structured or drafted such provision.
- 3.2 Any term, word or phrase used in this Agreement, other than those defined under the clause heading "*Definitions*" shall be given its plain English meaning, and those terms, words, acronyms, and phrases used in this Agreement will be interpreted in accordance with the generally accepted meanings accorded thereto.

- 3.3 A reference to the singular incorporates a reference to the plural and *vice versa*.
- 3.4 A reference to natural persons incorporates a reference to legal persons and *vice versa*.
- 3.5 A reference to a particular gender incorporates a reference to the other gender.

4 NATURE AND SCOPE

- 4.1 This Agreement is an agreement under the terms and conditions of which the Service Provider will arrange for the supply/provision to Transnet of the Services which meet the requirements and specifications of Transnet, the delivery of which is controlled by means of Purchase Orders to be issued by Transnet and executed by the Service Provider in accordance with this Agreement.
- 4.2 Such Purchase Orders and deliveries to Transnet shall be agreed between the Parties from time to time, subject to the terms of the Schedule of Requirements/Work Order.
- 4.3 Each properly executed Purchase Order forms an inseparable part of this Agreement as if it were fully incorporated into the body of this Agreement.
- 4.4 During the period of this Agreement, both Parties can make written suggestions for amendments to the Schedule of Requirements/Work Orders in accordance with procedures set out in clause 362 [*Amendment and Change Control*]. A Party will advise the other Party within 14 [fourteen] Business Days, or such other period as mutually agreed, whether the amendment is acceptable.
- 4.5 Insofar as any term, provision or condition in the Schedule of Requirements/Work Order conflicts with a like term, provision or condition in this Agreement and/or a Purchase Order, the term or provision or condition in this Master Agreement shall prevail, unless such term or provision or condition in this Master Agreement has been specifically revoked or amended by mutual written agreement between the Parties.
- 4.6 Time will be of the essence and the Service Provider will perform its obligations under this Agreement in accordance with the timeframe(s) [if any] set out in the relevant schedule, save that the Service Provider will not be liable under this clause if it is unable to meet such obligation within the time required as a direct result of any act or omission by Transnet and it has used its best endeavours to advise Transnet of such act or omission. In the event of such delay, any time deadlines detailed in the relevant schedule shall be extended by a period equal to the period of that delay.

5 AUTHORITY OF PARTIES

- 5.1 Nothing in this Agreement will constitute or be deemed to constitute a partnership between the Parties, or constitute or be deemed to constitute the Parties as agents or employees of one another for any purpose or in any form whatsoever.
- 5.2 Neither Party shall be entitled to, or have the power or authority to:
 - a) enter into an agreement in the name of the other; or
 - b) give any warranty, representation or undertaking on the other's behalf; or
 - c) create any liability against the other or bind the other's credit in any way or for any purpose whatsoever.

6 DURATION/TERM AND CANCELLATION

- 6.1 Notwithstanding the date of signature hereof, the Commencement Date if this Agreement is and the duration shall be for a [.....] year period, expiring on, unless:
- a) this Agreement 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
 - b) this Agreement is extended at Transnet's option for a further period to be agreed by the Parties.
- 6.2 Notwithstanding clause 239 [*Breach and Termination*], either Party may cancel this Agreement without cause by giving 30 [thirty] calendar days prior written notice thereof to the other Party, provided that in such instance, this Agreement will nevertheless be applicable in respect of all Purchase Orders which have been placed prior to the date of such cancellation.

7 RISK MANAGEMENT

- 7.1 Where Transnet determines appropriate, within 2 weeks from the date of contract signature, the Parties are to meet to prepare and maintain a contract Risk Register. The Risk Register shall include a description of the risks and a description of the actions which are to be taken to avoid or reduce these risks which both Parties shall jointly determine.
- 7.2 Contract progress meetings shall be held monthly, or unless otherwise agreed between the Parties in writing. The purposes of these progress meetings shall be to capture the number of late deliverables against agreed milestones, actual costs against payment plans, performance issues or concerns, contract requirements not achieved, the status of previous corrective actions and risk management. Minutes of meetings shall be maintained and signed off between the Parties throughout the contract period

8 TRANSNET'S OBLIGATIONS

- 8.1 Transnet undertakes to promptly comply with any reasonable request by the Service Provider for information, including information concerning Transnet's operations and activities, that relates to the Services as may be necessary for the Service Provider to provide the Goods/Services, but for no other purpose. However, Transnet's compliance with any request for information is subject to any internal security rules and requirements and subject to the observance by the Service Provider of its confidentiality obligations under this Agreement.
- 8.2 The Service Provider shall give Transnet reasonable notice of any information it requires.
- 8.3 Transnet agrees to provide the Service Provider or its Personnel such access to and use of its facilities as is necessary to allow the Service Provider to perform its obligations under this Agreement.

9 GENERAL OBLIGATIONS OF THE SERVICE PROVIDER

- 9.1 The Service Provider shall:
- a) respond promptly to all complaints and enquiries from Transnet;
 - b) inform Transnet immediately of any dispute or complaint arising in relation to the storage or delivery of the Goods;

- c) conduct its business in a professional manner which will reflect positively upon the Service Provider and the Supplier's/Service Provider's products/services;
- d) keep full records clearly indicating all transactions concluded by the Service Provider relating to the delivery of the Services and keep such records for at least 5 [five] years from the date of each such transaction;
- e) obtain, and at all times maintain in full force and effect, any and all licences, permits and the like required under applicable laws for the provision of the Services and ancillary Services and the conduct of the business and activities of the Service Provider;
- f) observe and ensure compliance with all requirements and obligations as set out in the labour and related legislation of South Africa, including the Occupational Health and Safety Act, 85 of 1993, as may be amended from time to time;
- g) observe and ensure compliance with all requirements and objectives of the Transnet Supplier Integrity Pact as agreed to in response to the RFP. The general purpose of the Supplier 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;
- h) comply with all applicable environmental legislation and regulations, demonstrate sound environmental performance and have an environmental management policy which ensures that its products, including the Services or ancillary Services are procured, produced, packaged, delivered and are capable of being used and ultimately disposed of in a way that is environmentally appropriate; and
- i) ensure the validity of all renewable certifications, including but not limited to its B-BBEE Verification Certificate, throughout the entire term of this Agreement. Should the Service Provider fail to present Transnet with such renewals as they become due, Transnet shall be entitled, in addition to any other rights and remedies that it may have in terms of the Agreement, to terminate this Agreement forthwith without any liability and without prejudice to any claims which Transnet may have for damages against the Service Provider.

9.2 The Service Provider acknowledges and agrees that it shall at all times:

- a) render the supply of the Services and ancillary Services (if applicable) and perform all its duties with honesty and integrity;
- b) communicate openly and honestly with Transnet regarding the supply and performance of the Services and demonstrate a commitment to effecting the supply and performing ancillary Services timeously, efficiently and at least to the required standards;
- c) endeavour to provide the highest possible standards of service and workmanship, with a reasonable degree of care and diligence;
- d) use its best endeavours and make every diligent effort to meet agreed deadlines;
- e) treat its own Staff, as well as all Transnet's Staff, with fairness and courtesy and respect for their human rights;

- f) practice and promote its own internal policies aimed at prohibiting and preventing unfair discrimination;
 - g) treat all enquiries from Transnet in connection with the supply of the Services and/or ancillary Services with courtesy and respond to all enquiries promptly and efficiently. Where the Service Provider is unable to comply with the provisions of this clause, the Service Provider will advise Transnet of the delay and the reasons therefor and will keep Transnet informed of progress made regarding the enquiry;
 - h) when requested by Transnet, provide clear and accurate information regarding the Supplier's/Service Provider's own policies and procedures, excluding Know-How and other Confidential Information, except where a non-disclosure undertaking has been entered into between the Parties;
 - i) not allow a conflict of interest to develop between its own interests [or the interests of any of its other customers] and the interests of Transnet;
 - j) not accept or offer, nor allow, induce or promote the acceptance or offering of any gratuity, enticement, incentive or gift that could reasonably be regarded as bribery or an attempt to otherwise exert undue influence over the recipient;
 - k) not mislead Transnet or its officers, employees and stakeholders, whether by act or omission;
 - l) not otherwise act in an unethical manner or do anything which could reasonably be expected to damage or tarnish Transnet's reputation or business image;
 - m) immediately report to Transnet any unethical, fraudulent or otherwise unlawful conduct of which it becomes aware in connection with Transnet or the supply of Services or ancillary Services to Transnet;
 - n) ensure that at all times, during the currency of this Agreement, it complies with all obligations and commitments in terms of the provisions of the Income Tax Act, No 58 of 1962, the VAT Act or any other tax legislation relating to their liability for Income Tax, VAT, Pay as You Earn or any other tax. The Service Provider shall further ensure Tax Clearance Compliance, for the duration of this Agreement;
 - o) not victimise, harass or discriminate against any employee of either Party to this Agreement or any applicant for employment with either Party to this Agreement due to their gender, race, disability, age, religious belief, sexual orientation or part-time status. This provision applies, but is not limited to employment, upgrading, work environment, demotion, transfer, recruitment, recruitment advertising, termination of employment, rates of pay or other forms of compensation and selection for training.
 - p) shall ensure that its employees, agents and Subcontractors will not breach any applicable discrimination legislation and any amendments and re-enactments thereof.
- 9.3 In compliance with the National Railway Safety Regulator Act, 16 of 2002, as may be amended from time to time, the Supplier shall ensure that the Services and ancillary Services, to be supplied to Transnet under the terms and conditions of this Agreement, comply fully with the Specifications as set forth in Schedule 1 hereto, and shall thereby adhere [as applicable] to railway safety requirements and/or regulations. Permission for the engagement of a Subcontractor by the Supplier, as applicable, shall be subject to a review of the capability of the proposed Subcontractor to comply

with the specified railway safety requirements and/or regulations. The Supplier and/or its Subcontractor shall grant Transnet access, during the term of this Agreement, to review any safety-related activities, including the coordination of such activities across all parts of its organisation.

10 SERVICE PROVIDER'S PERSONNEL

- 10.1 The Service Provider's Personnel shall be regarded at all times as employees, agents or Subcontractors of the Service Provider and no relationship of employer and employee shall arise between Transnet and any Service Provider Personnel under any circumstances regardless of the degree of supervision that may be exercised over the Personnel by Transnet.
- 10.2 The Service Provider warrants that all its Personnel will be entitled to work in South Africa or any other country in which the Services are to be performed.
- 10.3 The Service Provider will ensure that its Personnel comply with all reasonable requirements made known to the Service Provider by Transnet concerning conduct at any Transnet premises or any other premises upon which the Services are to be performed [including but not limited to security regulations, policy standards and codes of practice and health and safety requirements]. The Service Provider will ensure that such Personnel at all times act in a lawful and proper manner in accordance with these requirements.
- 10.4 Transnet reserves the right to refuse to admit or to remove from any premises occupied by or on behalf of it, any Service Provider Personnel whose admission or presence would, in the reasonable opinion of Transnet, be undesirable or who represents a threat to confidentiality or security or whose presence would be in breach of any rules and regulations governing Transnet's Personnel, provided that Transnet notifies the Service Provider of any such refusal [with reasons why]. The reasonable exclusion of any such individual from such premises shall not relieve the Service Provider from the performance of its obligations under this Agreement.
- 10.5 The Service Provider agrees to use all reasonable endeavours to ensure the continuity of its Personnel assigned to perform the Services. If any re-assignment by the Service Provider of those Personnel is necessary, or if Transnet advises that any such Personnel assigned are in any respect unsatisfactory, including where any such Personnel are, or are expected to be or have been absent for any period, then the Service Provider will promptly supply a replacement of equivalent calibre and experience, and any such replacement shall be approved by Transnet prior to commencing provision of the Services, such approval not to be unreasonably withheld or delayed.

11 SUBCONTRACTING

- 11.1 The Service Provider may only enter into a subcontracting arrangement or replace a subcontractor with the approval of Transnet.
- 11.2 If the Service Provider subcontracts a portion of the contract to another person without declaring it to Transnet reserves the right to penalise the Service Provider up to 10% of the value of the contract.
- 11.3 Where the Service Provider seeks to replace a subcontractor Transnet shall be entitled to obtain representations or input from the initial subcontractor who was part of the tender process whose credentials were used in the Service Provider's tender submission. Transnet shall consider input from all parties concerned, in order to take a decision on the proposed replacement of the subcontractor. The subcontracting arrangement or contract remains between the Service Provider (main contractor) and the subcontractor.

- 11.4 Should Transnet approve the Supplier'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.
- 11.5 The Service Provider may not subcontract in such a manner that the the overall value of the contract is reduced to below the stipulated minimum threshold.
- 11.6 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.

12 PAYMENT TO SUB-CONTRACTORS

- 12.1 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:
 - 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.
- 12.2 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.
- 12.3 The Service Provider remains liable for its contractual obligations under the Agreement, including all services rendered by the sub-contractor.
- 12.4 This clause does not establish any contractual relationship between Transnet and any sub-contractor of the Service Provider, whatsoever.

13 B-BBEE AND SOCIO-ECONOMIC OBLIGATIONS

- 13.1 **B-BBEE Scorecard**
 - a) Transnet fully endorses and supports the Broad-Based Black Economic Empowerment Programme and is strongly of the opinion that all South African business enterprises have an equal obligation to redress the imbalances of the past.
 - b) In response to this requirement, the Service Provider shall submit to Transnet's Contract Manager or such other designated person details of its B-BBEE status in terms of the latest Codes of Good Practice issued in terms of the B-BBEE Act and proof thereof at the beginning of March each year during the currency of this Agreement.
 - c) The Service Provider undertakes to notify and provide full details to Transnet in the event there is:
 - (i) a change in the Supplier's/Service Provider's B-BBEE status which is less than what it was at the time of its appointment including the impact thereof; and

- (ii) a corporate or internal restructure or change in control of the Service Provider which has or likely to impact negatively on the Supplier's/ Service Provider's B-BBEE status.
- d) Notwithstanding any other reporting requirement in terms hereof, the Supplier Service Provider undertakes to provide any B-BBEE data (underlying data relating to the Supplier /Service Provider which has been relied upon or utilised by a verification agency or auditor for the purposes of issuing a verification certificate in respect of the Service Provider B-BBEE status) which Transnet may request on written notice within 30 (thirty) calendar days of such request. A failure to provide such data shall constitute a Supplier/ Service Provider Default and may be dealt with in accordance with the provisions of clause 239.
- e) In the event there is a change in the Supplier's/ Service Provider's B-BBEE status, then the provisions of clause 239 shall apply.

13.2 **Green Economy/Carbon Footprint**

- a) The Service Provider has in its bid provided Transnet with an understanding of the Supplier's/Service Provider's position with regard to issues such as waste disposal, recycling and energy conservation.

14 PENALTIES

14.1 **Penalties for Non-compliance to Service Level Agreement**

Where the Service Provider fails to deliver the Services within the agreed and accepted milestone timelines and provided that the cause of the delay was not due to a fault of Transnet, penalties shall be imposed at

14.2 **Non-compliance penalties for subcontracting**

- a) Breach of subcontracting obligations provides Transnet cause to terminate the contract in certain cases where there is a material Non-compliance.
- b) If the Service Provider fails to achieve its subcontracting commitments as per their bid submission ("a **Non-Compliance**"), the Service Provider shall pay a Non-Compliance penalty ("Non-compliance Penalty") to Transnet in respect of such Non-compliance.
- c) Such penalty shall be calculated based on the difference in value between the committed and delivered subcontracting value (i.e. 100% of the undelivered subcontracting value) plus an additional 10% (ten per cent) of such difference.

Non-compliance Penalty Certificate:

- d) If any Non-compliance Penalty arises, the Supplier Development Manager shall issue a Non-compliance Penalty Certificate 90 business days before the expiry of the contract indicating the Non-compliance Penalties which have accrued during that period.
- e) A Non-compliance Penalty Certificate shall be prima facie proof of the matters to which it relates. If the Service Provider disputes any of the amounts set out in a Non-compliance Penalty Certificate:
 - the dispute shall be resolved in accordance with the provisions of the Agreement; and
 - if pursuant to that referral, it is determined that the Service Provider owes any amount to Transnet pursuant to the Non-compliance Penalty Certificate, then the Service Provider shall pay such amount to Transnet within 10 (ten) Business Days of the

determination made pursuant to such determination and an accompanying valid Tax Invoice.

Payment of Non-compliance Penalties:

- f) Subject to Clause (e) above, the Service Provider shall pay the Non-compliance Penalty indicated in the Non-compliance Penalty Certificate within 10 (ten) Business Days of Transnet issuing a valid Tax Invoice to the Service Provider for the amount set out in that certificate. If Transnet does not issue a valid Tax Invoice to the Service Provider for Non-compliance Penalties accrued during any relevant period, those Non-compliance Penalties shall be carried forward to the next period.
- g) The Service Provider shall pay the amount due within 10 (ten) days after receipt of a valid Tax Invoice from Transnet, failing which Transnet shall, without prejudice to any other rights of Transnet under this Agreement, be entitled to call for payment which may be in any form Transnet deems reasonable and/or appropriate.
- h) Should the Service Provider fail to pay any Non Compliance Penalties within the time indicated above (as applicable), Transnet shall be entitled to deduct (set off) the amount not paid by the Service Provider from the account of the Service Provider in the ensuing month.
- i) The Non Compliance Penalties set forth in this Clause are stated exclusive of VAT. Any VAT payable on Non Compliance Penalties will be for the account of the Service Provider.

15 FEES AND EXPENSES RELATING TO SERVICES

- 15.1 In consideration of the provision of the Services, Transnet will pay to the Service Provider the Fees detailed in the relevant schedule or Work Order.
- 15.2 Transnet will not be invoiced for materials used in the provision of the Services save for those materials [if any] set out in the Work Order and accepted by Transnet or in any relevant Work Order [which will be invoiced to Transnet at cost].
- 15.3 Unless otherwise agreed in a schedule or Work Order, Transnet will reimburse to the Service Provider all reasonable and proper expenses incurred directly and solely in connection with the provision of the Services, provided that all such expenses:
 - a) are agreed by Transnet in advance;
 - b) are incurred in accordance with Transnet's standard travel and expenses policies;
 - c) are passed on to Transnet at cost with no administration fee; and
 - d) will only be reimbursed if supported by relevant receipts.
- 15.4 All Tax Invoices relating to Fees, out of pocket expenses and, if applicable, travel and accommodation costs, will provide the detail for each of the Personnel carrying out the Services and incurring the expenses, and the Tax Invoice will, where appropriate, include VAT as a separate item.

16 INVOICES AND PAYMENT

- 16.1 Transnet shall pay the Service Provider the amounts stipulated in each Purchase Order/Work Order, subject to the terms and conditions of this Agreement.

- 16.2 Transnet shall pay such amounts to the Service Provider upon receipt of a valid and undisputed Tax Invoice together with the supporting documentation, as specified in the Schedule of Requirements appended hereto, once the valid and undisputed Tax Invoices or such portions of the Tax Invoices which are valid and undisputed become due and payable to the Service Provider for the delivery of the Services ordered, in terms of clause 16.5 below.
- 16.3 Transnet may, pending an investigation, withhold any payments to the Service Provider, in the case where irregular expenditure has been identified in the particular contract and that there is reasonable suspicion that the Service Provider is involved or was aware that the contract transgressed any legislation.
- 16.4 All Prices set out in this Agreement and the Schedule of Requirements hereto are to be indicated inclusive and exclusive of VAT, which will be payable at the applicable rate in ZAR.
- 16.5 Unless otherwise provided for in the Schedule of Requirements appended to this Agreement, Tax Invoices shall be submitted together with a month-end statement. Payment against such month-end statement shall be made by Transnet within 30 [thirty] calendar days after date of receipt by Transnet of the Supplier's/Service Provider's statement together with the relevant valid and undisputed Tax Invoice(s) and supporting documentation.
- 16.6 Where the payment of any Tax Invoice, or any part of a Tax Invoice which is not in dispute, is not made in accordance with this clause, the Service Provider shall be entitled to charge interest on the outstanding amount, at The Standard Bank of South Africa's prime rate of interest in force, for the period from the due date of payment until the outstanding amount is paid.
- 16.7 The Service Provider shall remain the owner of all plant, material, machinery, equipment and the like [collectively, **the Supplier's Goods**] provided to Transnet until Transnet has paid in full for the Supplier's Goods, it being specifically agreed that Transnet shall acquire no rights [including liens] of whatsoever nature in such Supplier's Goods until date of final payment by Transnet. Subject to the foregoing, all risk and benefit to the Supplier's Goods shall pass from the Supplier to Transnet on delivery of the Supplier's Goods by the Supplier to Transnet.

17 PRICE ADJUSTMENTS

- 17.1 Prices for Services supplied in terms of this Agreement shall be subject to review as indicated in the Schedule of Requirements/Works Order annexed hereto.
- 17.2 No less than 2 [two] months prior to any proposed Price adjustment, the Parties shall commence negotiations for Prices for the next period or as otherwise indicated in Schedule 1 hereto. The Parties shall have regard for market-related pricing of equivalent goods, continuous improvement initiatives, costs [including labour, raw materials and transport/delivery], order size and frequency and changes to the specification of the Goods/Services.
- 17.3 Pursuant to clause 17.2 above, the Service Provider shall keep full and accurate records of all costs associated with the supply of the Services to Transnet, in a form to be approved in writing by Transnet. The Service Provider shall produce such records to Transnet for inspection at all reasonable times on request and such records may, at Transnet's option, be audited by Transnet or its designated representatives.

- 17.4 Should Transnet and the Service Provider fail to reach an agreement on Price for the successive period, either Party shall be entitled to submit this matter to dispute resolution in accordance with clause 39 of the Master Agreement [Dispute Resolution].
- 17.5 If during the period of this Agreement Transnet can purchase similar Services of a like quality from another supplier at a total delivered cost to a Transnet facility that is lower than the total delivered cost of the Services purchased hereunder from the Service Provider, Transnet may notify the Service Provider of such total delivered cost and the Service Provider shall have an opportunity to adjust the Price of the Services purchased hereunder, on such a basis as to result in the same total delivered cost to Transnet, within 30 [thirty] calendar days of such notice. If the Service Provider fails to do so or cannot legally do so, Transnet may (i) purchase the Services from such other supplier in which case the obligations, including, but not limited to, any purchase and sale requirements and/or commitments, if any, of Transnet and the Service Provider hereunder shall be reduced accordingly; (ii) terminate this Agreement without any penalty, liability or further obligation; or (iii) continue purchases under this Agreement.
- 17.6 If during the period of this Agreement the Service Provider sells any materials which are the same as, equivalent to, or substantially similar to the Services herein, at a total delivered cost to a third party lower than the total delivered cost to a Transnet facility, then the Service Provider has an opportunity to adjust its Price for the Services purchased hereunder within 30 [thirty] calendar days so that the Price is the same or lower than the total delivered cost of such third party. If the Service Provider fails to do so or cannot legally do so, Transnet may (i) purchase the Services from any other such supplier, in which case the obligations, including, but not limited to, any purchase and sale requirements and/or commitments, if any, of Transnet and the Service Provider hereunder shall be reduced accordingly; or (ii) terminate this Agreement without any penalty, liability or further obligation. Within 30 [thirty] calendar days of the Commencement Date of this Agreement or at any time Transnet so requests, the Service Provider shall certify in writing to Transnet that it is in compliance with this clause and shall provide all information that Transnet reasonably requests in order to verify such compliance.

18 WARRANTIES APPLICABLE TO SERVICES

- 18.1 The Service Provider warrants to Transnet that:
- a) it has full capacity and authority to enter into and to perform this Agreement and that this Agreement is executed by a duly authorised representatives of the Service Provider;
 - b) it will discharge its obligations under this Agreement and any annexure, appendix or schedule hereto with all due skill, care and diligence;
 - c) it will be solely responsible for the payment of remuneration and associated benefits, if any, of its Personnel and for withholding and remitting income tax for its Personnel in conformance with any applicable laws and regulations;
 - d) it will procure licences for Transnet in respect of all Third Party Material detailed in the Work Order(s), and will procure the right for Transnet to take such copies [in whole or in part] of such Third Party Materials as it may reasonably require for the purposes of back-up for archiving and disaster recovery; and
 - e) the use or possession by Transnet of any Materials will not subject Transnet to any claim for infringement of any Intellectual Property Rights of any third party.

- 18.2 The Service Provider warrants that it will perform its obligations under this Agreement in accordance with the Service Levels as defined in the relevant schedule. Transnet may at its discretion audit compliance with the Service Levels, provided that any such audit is carried out with reasonable prior notice and in a reasonable way so as not to have an adverse effect on the performance of the Services. Without prejudice to clause 18.3 below, in the event that the Service Provider fails to meet the Service Levels, Transnet may claim appropriate service credits or invoke a retention of Fees as detailed in the relevant schedule and/or Work Order.
- 18.3 The Service Provider warrants that for a period of 90 [ninety] calendar days from Acceptance of the Deliverables they will, if properly used, conform in all material respects with the requirements set out in the relevant schedule. The Service Provider will at its expense remedy any such non-conformance as soon as possible but in any event within 30 [thirty] calendar days of notification by Transnet. In the event that the Service Provider fails or is unable to remedy such non-conformance within such time-scale, Transnet will be entitled to employ a third party to do so in place of the Service Provider and any excess charges or costs incurred by Transnet as a result shall be paid by the Service Provider.
- 18.4 The Service Provider will remedy any defect within 30 [thirty] calendar days of being notified of that defect by Transnet in writing.
- 18.5 The Service Provider will not be liable to remedy any problem arising from or caused by any modification made by Transnet to the Deliverables, or any part thereof, without the prior approval of the Service Provider.
- 18.6 The Service Provider shall advise Transnet of the effects of any steps proposed by Transnet pursuant to clause 18.5 above, including but not limited to any cost implications or any disruption or delay in the performance of the Services. The Parties agree that any changes to the Services, including the charges for the Services or any timetables for delivery of the Services, will be agreed in accordance with the change control procedure, as set out in clause 362 [*Amendment and Change Control*].
- 18.7 The Service Provider warrants that:
- a) it has, using the most up-to-date software available, tested for [and deleted] all commonly known viruses in the Materials and for all viruses known by the Service Provider at the date of the relevant Work Order; and
 - b) at the time of delivery to Transnet, the Materials do not contain any trojan horse, worm, logic bomb, time bomb, back door, trap door, keys or other harmful components.
- The Service Provider agrees that, in the event that a virus is found, it will at its own expense use its best endeavours to assist Transnet in reducing the effect of the virus and, particularly in the event that a virus causes loss of operational efficiency or loss of data, to assist Transnet to the same extent to mitigate such losses and to restore Transnet to its original operating efficiency.
- 18.8 The Service Provider undertakes to comply with South Africa's general privacy protection in terms of Section 14 of the Bill of Rights in connection with this Agreement and shall procure that its Personnel shall observe the provisions of Section 14 [as applicable] or any amendments and re-enactments thereof and any regulations made pursuant thereto.
- 18.9 The Service Provider warrants that it has taken all reasonable precautions to ensure that, in the event of a disaster, the impact of such disaster on the ability of the Service Provider to comply with

its obligations under this Agreement will be reduced to the greatest extent possible, and that the Service Provider shall ensure that it has appropriate, tested and documented recovery arrangements in place.

18.10 In compliance with the National Railway Safety Regulator Act, 16 of 2002, the Service Provider shall ensure that the Services, to be supplied to Transnet under the terms and conditions of this Agreement, comply fully with the specifications as set forth in Schedule 1 hereto, and shall thereby adhere [as applicable] to railway safety requirements and/or regulations. Permission for the engagement of a Subcontractor by the Service Provider [as applicable] shall be subject to a review of the capability of the proposed Subcontractor to comply with the specified railway safety requirements and/or regulations. The Service Provider and/or its Subcontractor shall grant Transnet access, during the term of this Agreement, to review any safety-related activities, including the coordination of such activities across all parts of its organisation.

19 THIRD PARTY INDEMNITY

The Service Provider hereby indemnifies and shall hold Transnet harmless against any direct damages suffered by or claims arising against Transnet in respect of clause **Error! Reference source not found.** above.

20 TOTAL OR PARTIAL FAILURE TO PERFORM

- 20.1 In the case of Goods to be specially manufactured for it, if Transnet at any time ascertains that:
- a) no manufacturing of the Goods specified in a Purchase Order has commenced and there is little or no prospect, in Transnet's opinion, that manufacturing will commence within a reasonable time; or
 - b) delivery of any of the Goods is being or is likely to be delayed beyond the promised delivery date(s), and there is little or no prospect of the Purchase Order(s) being carried out within reasonable adherence to the promised delivery rate(s) or time(s),
- then Transnet may, irrespective of the cause of the delay, by notice to the Supplier, cancel as from a future date specified in such notice the whole or any part of this Agreement or Purchase Order in respect of which the Goods to be supplied have not been completed by that date, without incurring any liability by reason of such cancellation except as provided in this clause.
- 20.2 The Service Provider shall thereupon, as soon as possible after such date, deliver to Transnet the Services[if any] already completed, and payment for the part performance shall be made on a pro rata basis, provided the uncompleted part is not an integral or essential part of the completed Goods/Services. Where an integral or essential part of the work has not been completed, the amount to be paid to the Service Provider will be calculated on the basis of Transnet's enrichment. The Service Provider shall, wherever practicable, supply Transnet with the necessary drawings and/or specifications to enable it to complete the work.
- 20.3 Whenever, in any case not covered by clause 20.1 above, the Supplier fails or neglects to execute the work or to deliver any portion of the Services as required by the terms of this Agreement or Purchase Order, or if any Services are rejected on any of the grounds mentioned in clause **Error! Reference source not found.**⁵ [Defective Goods], Transnet may cancel this Agreement or Purchase Order in so far as it relates to the unexecuted work or the undelivered or rejected portion

of the Goods/Services, and in such event, the supply of the remaining portion shall remain subject in all respects to these conditions.

21 NON CONFORMANCE OF SERVICES PROCURED

- 21.1 *In the case of Services manufactured for and procured by Transnet from the Service Provider in terms of this Agreement, being found not to conform to the Transnet standards, specifications and requirements, Transnet at any time may be entitled to raise a Non Conformance Report (NCR) against a Service Provider whose Goods/ Services do not conform to Transnet standards, specifications and requirements directing the Service Provider to investigate and remedy the non-conformance within the stipulated time frame as may be determined by Transnet at its discretion.*
- 21.2 *Failure by the Service Provider to fully comply with NCR within the period stated in sub-clause 26.1 above, shall entitle Transnet to further conditions to which the Supplier/ Service Provider must discharge in order to close the NCR or to terminate the order without giving the Service Provider written notice of termination in terms of this Agreement.*

22 RIGHTS ON CANCELLATION

- 22.1 If this Agreement or Purchase Order is cancelled in whole or in part in terms of clause 206 [*Total or Partial Failure to Perform*], Transnet may execute or complete this Agreement with any other entity and do so on such terms as it may deem proper, or may procure other comparable Services in substitution for those neglected to be manufactured or supplied or rejected as aforesaid, and may recover from the Supplier the difference between the cost of such Services and the Price [if the latter was lower] as well as any costs and expenses [including any additional transport costs] which Transnet may have had to incur in consequence of the Supplier's/Service Provider's default.
- 22.2 Any amount which may be recoverable from the Service Provider in terms of clause 22.1 above, without prejudice to any other legal remedies available to Transnet, may be deducted in whole or in part from any monies in the hands of Transnet and due for payment to the Service Provider.

23 BREACH AND TERMINATION

- 23.1 Termination in accordance with clause 6 [Term and Cancellation] shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to either Party and all provisions which are to survive this Agreement or impliedly do so shall remain in force and in effect.
- 23.2 On termination of this Agreement or a Work Order, the Service Provider will immediately deliver up, and procure that its Personnel will immediately deliver up to Transnet, all Deliverables and property belonging to Transnet [or, in the event of termination of a Work Order, such as is relevant to that Work Order] which may be in the possession of, or under the control of the Service Provider, and certify to Transnet in writing that this has been done.
- 23.3 To the extent that any of the Deliverables and property referred to in clause 23.2 above are in electronic form and contained on non-detachable storage devices, the Service Provider will provide Transnet with unencrypted copies of the same on magnetic media and will irretrievably destroy and delete copies so held.
- 23.4 In the event that this Agreement is terminated by the Service Provider under clause **Error! Reference source not found.** [Term and Cancellation], or in the event that a Work Order is terminated by Transnet under clause **Error! Reference source not found.**9 [Breach and

Consequences of Termination], Transnet will pay to the Service Provider all outstanding Fees [apportioned on a pro rata basis] relating to the work undertaken by the Service Provider up until the date of such termination. Transnet will also pay the costs of any goods and materials ordered by the Service Provider in relation to the such work for which the Service Provider has paid or is legally obliged to pay, in which case, on delivery of such goods or materials, the Service Provider will promptly deliver such goods and materials to Transnet or as it may direct.

- 23.5 If either Party [**the Defaulting Party**] commits a material breach of this Agreement and fails to remedy such breach within 30 [thirty] calendar days of written notice thereof, the other Party [hereinafter **the Aggrieved Party**], shall be entitled, in addition to any other rights and remedies that it may have in terms of this Agreement, to terminate this Agreement forthwith without any liability and without prejudice to any claims which the Aggrieved Party may have for damages against the Defaulting Party.
- 23.6 Either Party may terminate this Agreement forthwith by notice in writing to the other Party when the other Party is unable to pay its debts as they fall due or commits any act or omission which would be an act of insolvency in terms of the Insolvency Act, 24 of 1936 [as amended from time to time], or if any action, application or proceeding is made with regard to it for:
- a) a voluntary arrangement or composition or reconstruction of its debts;
 - b) its winding-up or dissolution;
 - c) the appointment of a liquidator, trustee, receiver, administrative receiver or similar officer;
 - d) any similar action, application or proceeding in any jurisdiction to which it is subject.
- 23.7 Transnet may terminate this Agreement at any time within 2 [two] months of becoming aware of a change of control of the Service Provider by notice in writing to the Service Provider. For the purposes of this clause, **control** means the right to direct the affairs of a company whether by ownership of shares, membership of the board of directors, agreement or otherwise.
- 23.8 Notwithstanding this clause 239, Transnet may cancel this Agreement without cause by giving 30 [thirty] calendar days prior written notice thereof to the Service Provider, or
- 23.9 The provisions of clauses 2 [Definitions], **Error! Reference source not found.**2 [Warranties], 228 [Rights on Cancellation], 263 [Confidentiality], 295 [Limitation of Liability], 36 [Intellectual Property Rights], 339 [Dispute Resolution] and 37.1 [Governing Law] shall survive termination or expiry of this Agreement.

24 CESSIONS AND ASSIGNMENTS AS PER NT INSTRUCTION NOTE 08 OF 2022/2023

- 24.1 The Service Provider is not allowed to cede its rights for payment in terms of this Agreement without prior written approval from Transnet. Cession shall only be applicable as follows:
- a) Cession must only be applicable to the transfer of right to payment for Services delivered/rendered by a Service Provider to an FSP or State Institutions;
 - b) The written request for cession must be by the Service Provider and not a third party; and
 - c) The written request by the Service Provider must be accompanied by the cession agreement.
- 24.2 The Service Provider is prohibited from transferring its rights and obligations to perform under this contract. Assignments are against the principles of section 217 of the Constitution mainly, fairness, transparency and competitiveness.

25 FORCE MAJEURE

- 25.1 Neither Party shall have any claim against the other Party arising from any failure or delay in the performance of any obligation of either Party under this Agreement caused by an act of force majeure such as acts of God, fire, flood, war, lockout, government action, laws or regulations, terrorism or civil disturbance, defaults or other circumstances or factors beyond the reasonable control of either Party, and to the extent that the performance of obligations of either Party hereunder is delayed by virtue of the foregoing, any period stipulated for any such performance shall be reasonably extended. Transnet may however rely on strikes, industrial dispute and riots as a ground of force majeure.
- 25.2 Each Party will take all reasonable steps by whatever lawful means that are available to resume full performance as soon as practicable and will seek agreement to modification of the relevant provisions of this Agreement in order to accommodate the new circumstances caused by the act of *force majeure*. If a Party fails to agree with such modifications proposed by the other Party within 90 [ninety] calendar days of the act of *force majeure* first occurring, either Party may thereafter terminate this Agreement with immediate notice.

26 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;
 - 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.
- 26.1 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.
- 26.2 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.
- 26.3 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.
- 26.4 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.
- 26.5 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 that it cannot be reconstructed to its original form, linking it to any particular individual or organisation.

26.6 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.

27 CONFIDENTIALITY

27.1 The Parties hereby undertake the following with regard to Confidential Information:

- a) not to divulge or disclose to any person whomsoever in any form or manner whatsoever, either directly or indirectly, any Confidential Information of the other without the prior written consent of such other Party, other than when called upon to do so in accordance with a statute, or by a court having jurisdiction, or by any other duly authorised and empowered authority or official, in which event the Party concerned shall do what is reasonably possible to inform the other of such a demand and each shall assist the other in seeking appropriate relief or the instituting of a defensive action to protect the Confidential Information concerned;
- b) not to use, exploit, permit the use of, directly or indirectly, or in any other manner whatsoever apply the Confidential Information disclosed to it as a result of this Agreement, for any purpose whatsoever other than for the purpose for which it is disclosed or otherwise than in strict compliance with the provisions in this Agreement;
- c) not to make any notes, sketches, drawings, photographs or copies of any kind of any part of the disclosed Confidential Information without the prior written consent of such other Party, except when reasonably necessary for the purpose of this Agreement, in which case such copies shall be regarded as Confidential Information;
- d) not to de-compile, disassemble or reverse engineer any composition, compilation, concept application, item, component de-compilation, including software or hardware disclosed and shall not analyse any sample provided by Transnet, or otherwise determine the composition or structure or cause to permit these tasks to be carried out except in the performance of its obligations pursuant to this Agreement;

- e) not to exercise less care to safeguard Transnet Confidential Information than the Party exercises in safeguarding its own competitive, sensitive or Confidential Information;
- f) Confidential Information disclosed by either Party to the other or by either Party to any other party used by such party in the performance of this Agreement, shall be dealt with as "restricted" or shall be dealt with according to any other appropriate level of confidentiality relevant to the nature of the information concerned, agreed between the Parties concerned and stipulated in writing for such information in such cases;
- g) the Parties shall not make or permit to be made by any other person subject to their control, any public statements or issue press releases or disclose Confidential Information with regard to any matter related to this Agreement, unless written authorisation to do so has first been obtained from the Party first disclosing such information;
- h) each Party shall be entitled to disclose such aspects of Confidential Information as may be relevant to one or more technically qualified employees or consultants of the Party who are required in the course of their duties to receive the Confidential Information for the Permitted Purpose provided that the employee or consultant concerned has a legitimate interest therein, and then only to the extent necessary for the Permitted Purpose, and is informed by the Party of the confidential nature of the Confidential Information and the obligations of the confidentiality to which such disclosure is subject and the Party shall ensure such employees or consultants honour such obligations;
- i) each Party shall notify the other Party of the name of each person or entity to whom any Confidential Information has been disclosed as soon as practicable after such disclosure;
- j) each Party shall ensure that any person or entity to which it discloses Confidential Information shall observe and perform all of the covenants the Party has accepted in this Agreement as if such person or entity has signed this Agreement. The Party disclosing the Confidential Information shall be responsible for any breach of the provisions of this Agreement by such person or entity; and
- k) each Party may by written notice to the other Party specify which of the Party's employees, officers or agents are required to sign a non-disclosure undertaking.

27.2 The duties and obligations with regard to Confidential Information in this clause 273 shall not apply where:

- a) a Party can demonstrate that such information is already in the public domain or becomes available to the public through no breach of this Agreement by that Party, or its Staff; or
- b) was rightfully in a Party's possession prior to receipt from the other Party, as proven by the first-mentioned Party's written records, without an infringement of an obligation or duty of confidentiality; or
- c) can be proved to have been rightfully received by a Party from a third party without a breach of a duty or obligation of confidentiality; or
- d) is independently developed by a Party as proven by its written records.

27.3 This clause 273 shall survive termination for any reason of this Agreement and shall remain in force and effect from the Commencement Date of this Agreement and 5 [five] years after the termination of this Agreement. Upon termination of this Agreement, all documentation furnished to the Service Provider by Transnet pursuant to this Agreement shall be returned to Transnet including, without

limitation, all corporate identity equipment including dyes, blocks, labels, advertising matter, printing matter and the like.

28 INSURANCES

- 28.1 Without limiting the liability of the Service Provider under this Agreement, the Service Provider shall take out insurance in respect of all risks for which it is prudent for the Service Provider to insure against, including any liability it may have as a result of its activities under this Agreement for theft, destruction, death or injury to any person and damage to property. The level of insurance will be kept under review by Transnet, on an annual basis, to ensure its adequacy, provided that any variation to the level of such insurance shall be entirely at the discretion of the Service Provider.
- 28.2 The Service Provider shall arrange insurance with reputable insurers and will produce to Transnet evidence of the existence of the policies on an annual basis within 30 [thirty] calendar days after date of policy renewals.
- 28.3 Subject to clause 28.4 below, if the Service Provider fails to effect adequate insurance under this clause 28.4, it shall notify Transnet in writing as soon as it becomes aware of the reduction or inadequate cover and Transnet may arrange or purchase such insurance on behalf of the Service Provider. The Service Provider shall promptly reimburse Transnet for any premiums paid provided such insurance protects the Service Provider's liability. Transnet assumes no responsibility for such insurance being adequate to protect all of the Service Provider's liability.
- 28.4 In the event that the Service Provider receives written notice from its insurers advising of the termination of its insurance cover referred to in clause 28.1 above or if the insurance ceases to be available upon commercially reasonable terms, the Service Provider shall immediately notify Transnet in writing of such termination and/or unavailability, whereafter either the Service Provider or Transnet may terminate this Agreement on giving the other Party not less than 30 [thirty] calendar days prior written notice to that effect.

29 LIMITATION OF LIABILITY

- 29.1 The Service Provider's liability under this clause 29.1 shall be in addition to any warranty or condition of any kind, express or implied by law or otherwise, relating to the Services or ancillary Services, including the quality of the Services or ancillary Services or any materials delivered pursuant to this Agreement.
- 29.2 Neither Party excludes or limits liability to the other Party for:
- a) death or personal injury caused by its negligence, [including its employees', agents' or Subcontractors' negligence]; or
 - b) fraud or theft.
- 29.3 The Service Provider shall indemnify and keep Transnet indemnified from and against liability for damage to any Transnet property [whether tangible or intangible] or any other loss, costs or damage suffered by Transnet to the extent that it results from any act of or omission by the Service Provider or its Personnel in connection with this Agreement. The Service Provider's liability arising out of this clause 29.3 shall be limited to direct damages.
- 29.4 Subject always to clauses 29.1 and 29.2 above, the liability of either the Service Provider or Transnet under or in connection with this Agreement, whether for negligence, misrepresentation, breach of contract or otherwise, for direct loss or damage arising out of each Default or series of

related Defaults shall not exceed 100% [one hundred per cent] of the Fees paid under the schedule or Work Order to which the Default(s) relates.

- 29.5 Subject to clauses 29.1 to 29.4 above, in no event shall either Party be liable to the other for indirect or consequential loss or damage or including indirect or consequential loss of profits, business, revenue, goodwill or anticipated savings of an indirect nature or loss or damage incurred by the other Party as a result of third party claims.
- 29.6 If for any reason the exclusion of liability in clause 29.5 above is void or unenforceable, either Party's total liability for all loss or damage under this Agreement shall be as provided in clause 29.3 above.
- 29.7 Nothing in this clause 295 shall be taken as limiting the liability of the Parties in respect of clauses 263 [*Confidentiality*] and 306 [*Intellectual Property Rights*].

30 INTELLECTUAL PROPERTY RIGHTS

30.1 Title to Confidential Information

- a) Transnet will retain all right, title and interest in and to its Confidential Information and Background Intellectual Property and the Service Provider acknowledges that it has no claim of any nature in and to the Confidential Information and Background Intellectual Property that is proprietary to Transnet. For the avoidance of doubt all the Service Provider's Background Intellectual Property shall remain vested in the Service Provider.
- b) Transnet shall grant to the Service Provider an irrevocable, royalty free, non-exclusive licence to use Transnet's Background Intellectual Property only for the Permitted Purpose. This licence shall not permit the Service Provider to sub-license to other parties.
- c) The Service Provider shall grant to Transnet an irrevocable, royalty free, non-exclusive licence to use the Service Provider's Background Intellectual Property for the Permitted Purpose. This licence shall not permit Transnet to sub-license to other parties.
- d) The Service Provider shall grant Transnet access to the Service Provider's Background Intellectual Property on terms which shall be *bona fide* negotiated between the Parties for the purpose of commercially exploiting the Foreground Intellectual Property, to the extent that such access is required.
- e) The above shall not pertain to any software licenses procured by the Service Provider from third parties and used in the supply of the Goods/Services.

30.2 Title to Intellectual Property

- a) All right, title and interest in and to Foreground Intellectual Property prepared, conceived or developed by the Service Provider, its researchers, agents and employees shall vest in Transnet and the Service Provider acknowledges that it has no claim of any nature in and to the Foreground Intellectual Property. The Service Provider shall not at any time during or after the termination or cancellation of this Agreement dispute the validity or enforceability of such Foreground Intellectual Property, or cause to be done any act or anything contesting or in any way impairing or tending to impair any part of that right, title and interest to any of the Foreground Intellectual Property and shall not counsel or assist any person to do so.
- b) Transnet shall be entitled to seek protection in respect of the Foreground Intellectual Property anywhere in the world as it shall decide in its own absolute discretion and the

Service Provider shall reasonably assist Transnet in attaining and maintaining protection of the Foreground Intellectual Property.

- c) Where the Foreground Intellectual Property was created by the Service Provider or its researchers, agents and employees and where Transnet elects not to exercise its option to seek protection or decides to discontinue the financial support of the prosecution or maintenance of any such protection, Transnet shall notify the Service Provider who shall have the right of first refusal to file or continue prosecution or maintain any such applications and to maintain any protection issuing on the Foreground Intellectual Property.
- d) No consideration shall be paid by Transnet to the Service Provider for the assignment of any Foreground Intellectual Property from the Service Provider to Transnet, over and above the sums payable in terms of this Agreement. The Service Provider undertakes to sign all documents and do all things as may be necessary to effect, record and perfect the assignment of the Foreground Intellectual Property to Transnet.
- e) Subject to anything contrary contained in this Agreement and/or the prior written consent of Transnet [which consent shall not be unreasonably withheld], the Service Provider shall under no circumstances be entitled as of right, or to claim the right, to use Transnet's Background Intellectual Property and/or Foreground Intellectual Property.

30.3 **Title to Improvements**

Any improvements, developments, adaptations and/or modifications to the Foreground Intellectual Property, and any and all new inventions or discoveries, based on or resulting from the use of Transnet's Background Intellectual Property and/or Confidential Information shall be exclusively owned by Transnet. The Service Provider shall disclose promptly to Transnet all such improvements, developments, adaptations and/or modifications, inventions or discoveries. The Service Provider hereby undertakes to sign all documents and do all things as may be necessary to effect, record and perfect the assignment of such improvements, developments, adaptations and/or modifications, inventions or discoveries to Transnet and the Service Provider shall reasonably assist Transnet in attaining, maintaining or documenting ownership and/or protection of the improved Foreground Intellectual Property.

30.4 **Unauthorised Use of Confidential Information**

The Service Provider shall not authorise any party to act on or use in any way any Confidential Information belonging to Transnet whether or not such party is aware of such Confidential Information, and shall promptly notify Transnet of the information if it becomes aware of any party so acting, and shall provide Transnet the information with such assistance as Transnet reasonably requires, at Transnet's cost and expense, to prevent such third party from so acting.

30.5 **Unauthorised Use of Intellectual Property**

- a) The Service Provider agrees to notify Transnet in writing of any conflicting uses of, and applications of registrations of Patents, Designs and Trade Marks or any act of infringement, unfair competition or passing off involving the Intellectual Property of Transnet of which the Service Provider acquires knowledge and Transnet shall have the right, as its own option, to proceed against any party infringing its Intellectual Property.
- b) It shall be within the sole and absolute discretion of Transnet to determine what steps shall be taken against the infringer and the Service Provider shall co-operate fully with Transnet,

at Transnet's cost, in whatever measure including legal action to bring any infringement of illegal use to an end.

- c) The Service Provider shall cooperate to provide Transnet promptly with all relevant ascertainable facts.
- d) If proceedings are commenced by Transnet alone, Transnet shall be responsible for all expenses but shall be entitled to all damages or other awards arising out of such proceedings. If proceedings are commenced by both Parties, both Parties will be responsible for the expenses and both Parties shall be entitled to damages or other awards arising out of proceedings.

31 NON-WAIVER

- 31.1 Failure or neglect by either Party, at any time, to enforce any of the provisions of this Agreement, shall not in any manner be construed to be a waiver of any of that Party's rights in that regard and in terms of this Agreement.
- 31.2 Such failure or neglect shall not in any manner affect the continued, unaltered validity of this Agreement, or prejudice the right of that Party to institute subsequent action.

32 PARTIAL INVALIDITY

If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, or shall be required to be modified, the validity, legality and enforceability of the remaining provisions shall not be affected thereby.

33 DISPUTE RESOLUTION

- 33.1 Should any dispute of whatsoever nature arise between the Parties concerning this Agreement, the Parties shall try to resolve the dispute by negotiation within 10 [ten] Business Days of such dispute arising.
- 33.2 If the dispute has not been resolved by such negotiation, either of the Parties may refer the dispute to AFSA and notify the other Party accordingly, which proceedings shall be held in Johannesburg.
- 33.3 Such dispute shall be finally resolved in accordance with the rules of AFSA by an arbitrator or arbitrators appointed by AFSA.
- 33.4 This clause constitutes an irrevocable consent by the Parties to any proceedings in terms hereof, and neither of the Parties shall be entitled to withdraw from the provisions of this clause or claim at any such proceedings that it is not bound by this clause 33.
- 33.5 This clause 339 is severable from the rest of this Agreement and shall remain in effect even if this Agreement is terminated for any reason.
- 33.6 This clause 339 shall not preclude either Party from seeking urgent relief in a court of appropriate jurisdiction, where grounds for urgency exist.

34 ADDRESSES FOR NOTICES

- 34.1 The Parties to this Agreement select the physical addresses and fax numbers, as detailed hereafter, as their respective addresses for giving or sending any notice provided for or required in terms of this Agreement, provided that either Party shall be entitled to substitute such other address or fax number, as may be, by written notice to the other:

a) **Transnet**

(i) For legal notices:
.....
.....

Fax No.
Attention: Group Legal Department

(ii) For commercial notices:
.....
.....

Fax No.
Attention:

b) **The Service Provider**

(i) For legal notices:
.....
.....

Fax No.
Attention:

(ii) For commercial notices:
.....
.....

Fax No.
Attention:

34.2 Any notice shall be addressed to a Party at its physical address, or delivered by hand, or sent by fax or email.

34.3 Any notice shall be deemed to have been given:

- a) if hand delivered, on the day of delivery;
- b) if faxed, on the date and time of sending of such fax, as evidenced by a fax confirmation printout, provided that such notice shall be confirmed by prepaid registered post on the date of dispatch of such fax, or, should no postal facilities be available on that date, on the next Business Day; or
- c) if sent by email, on the date and time received, provided that such notice shall be confirmed by prepaid registered post on the date of dispatch of such email, or, should no postal facilities be available on that date, on the next Business Day.

35 WHOLE AND ONLY AGREEMENT

35.1 The Parties hereby confirm that this Agreement constitutes the whole and only agreement between them with regard to the subject matter of this Agreement.

35.2 The Parties hereby confirm that this Agreement replaces all other agreements which exist or may have existed in any form whatsoever between them, with regard to the subject matter dealt

with in this Agreement, any annexures appended hereto and the Schedule of Requirements/Work Order.

36 AMENDMENT AND CHANGE CONTROL

- 36.1 Any amendment or change of any nature made to this Agreement and the Schedule of Requirements thereof shall only be valid if it is in writing, signed by both Parties and added to this Agreement as an addendum hereto. In this regard a Change Notice must first be defined and issued by the requesting Party. A Change Notice Response must then be issued by responding Party. A formal approval of the Change Request will then trigger the issue of the addendum to this Agreement.
- 36.2 In the event the Parties cannot agree upon changes, the Parties shall in good faith seek to agree any proposed changes using the dispute resolution procedures in clause 339 [*Dispute Resolution*].

37 GENERAL

37.1 Governing Law

This Agreement is exclusively governed by and construed in accordance with the laws of the Republic of South Africa and is subject to the jurisdiction of the courts of the Republic of South Africa.

37.2 Change of Law

In this Agreement, unless the context otherwise requires, references to a statutory provision include references to that statutory provision as from time to time amended, extended or re-enacted and any regulations made under it, provided that in the event that the amendment, extension or re-enactment of any statutory provision or introduction of any new statutory provision has a material impact on the obligations of either Party, the Parties will negotiate in good faith to agree such amendments to this Agreement as may be appropriate in the circumstances. If, within a reasonable period of time, the Service Provider and Transnet cannot reach agreement on the nature of the changes required or on modification of Prices, delivery schedules, warranties, or other terms and conditions, either Party may seek to have the matter determined in accordance with clause 339 [*Dispute Resolution*] above.

37.3 Counterparts

This Agreement may be signed in any number of counterparts, all of which taken together shall constitute one and the same instrument. Either Party may enter into this Agreement by signing any such counterpart.

38 DATABASE OF RESTRICTED SUPPLIER

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.

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

For and on behalf of TRANSNET SOC LTD duly authorised hereto	For and on behalf of duly authorised hereto
Name:	Name:
Position:	Position:
Signature:	Signature:
Date:	Date:
Place:	Place:

AS WITNESS: Name:	AS WITNESS: Name:
Signature:	Signature:

AS WITNESS: Name:	AS WITNESS: Name:
Signature:	Signature:



GENERAL BID CONDITIONS

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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 **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 and submit their Bid submissions by uploading them into the system against each tender selected. The bidder guide can be found on the Transnet Portal transnetetenders.azurewebsites.net.

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

A bid fee is not applicable. The Bid Documents may be downloaded directly from National Treasury's e-Tender Publication Portal at www.etenders.gov.za and may also be downloaded from the Transnet website at www.transnet.net free of charge.

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 upload questions onto the Transnet e-Tender Submission Portal or 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 contact person listed in the RFX Document.

10 UNAUTHORISED COMMUNICATION ABOUT BIDS

Respondents may at any time communicate with the contact person listed in the RFX Document on any matter relating to its Bid but, in the absence of written authority from the delegated individual (BEC chairperson), no communication on a question affecting the subject of a Bid shall take place between Respondents or other potential Supplier 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

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, 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 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 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 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 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 in relation to the conditions of this clause 244 will be for the account of the Supplier.

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'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 VALUE-ADDED TAX

28.1 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.

28.2 In respect of foreign Services rendered:

- a) the invoicing by a South African supplier on behalf of its foreign principal rendering such Service represents a Service rendered by the principal; and
- b) the Supplier's Tax Invoice(s) for the local portion only [i.e. the "commission" for the Services rendered locally] must show the VAT separately.

29 IMPORTANT NOTICE TO RESPONDENTS REGARDING PAYMENT

29.1 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 29.1 (a) above. Failure to comply with clause 29.1 (a) above may preclude a Bid from further consideration.

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

29.2 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'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.

30 CONTRACT QUANTITIES AND DELIVERY REQUIREMENTS

30.1 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.

30.2 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 may be required to submit periodical progress reports with regard to the delivery of the Goods

c) Emergency Demands as and when required

If, due to unforeseen circumstances, supplies of the Goods covered by the Bid are required at short notice for immediate delivery, the Supplier 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.

31 PLANS, DRAWINGS, DIAGRAMS, SPECIFICATIONS AND DOCUMENTS

31.1 Copyright

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

31.2 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 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.

31.3 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.

31.4 Foreign specifications

The Respondent quoting for Goods 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.

32 BIDS BY OR ON BEHALF OF FOREIGN RESPONDENTS

32.1 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.

32.2 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.

32.3 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.

32.4 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*.
- 32.5 If payment is to be made in South Africa, the foreign Supplier [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'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.
- 32.6 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.

33 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.

34 CONFLICT WITH ISSUED RFX DOCUMENT

- 34.1 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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