

## **Transnet Port Terminals**

an Operating Division of **TRANSNET SOC LTD**

[hereinafter referred to as **Transnet**]

[Registration No. 1990/000900/30]

## **REQUEST FOR PROPOSAL [RFP] [SERVICES]**

**FOR THE PROVISION OF LEASING OF PARK HOMES FOR TRANSNET SOC LTD OPERATING AS TRANSNET PORT TERMINALS AT THE PORT OF RICHARDS BAY FOR A PERIOD OF FIVE (5) YEARS**

|                             |  |
|-----------------------------|--|
| <b>RFP NUMBER</b>           | <b>ICLM RB 744/TPT</b>                     |
| <b>ISSUE DATE:</b>          | <b>17 FEBRUARY 2023</b>                    |
| <b>CLOSING DATE:</b>        | <b>07 MARCH 2023</b>                       |
| <b>CLOSING TIME:</b>        | <b>12:00 PM</b>                            |
| <b>BID VALIDITY PERIOD:</b> | <b>180 Business Days from Closing Date</b> |

### **Note to the bidders:**

*Bidders are required to ensure that electronic bid submissions are done at least a day before the closing date to prevent issues which they may encounter due to their internet speed, bandwidth or the size of the number of uploads they are submitting. Transnet will not be held liable for any challenges experienced by bidders as a result of the technical challenges. Please do not wait for the last hour to submit. A Bidder can upload 30mb per upload and multiple uploads are permitted.*

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Respondent's Signature

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Date & Company Stamp

**RFP FOR THE PROVISION OF  
LEASING OF PARK HOMES FOR TRANSNET SOC LTD OPERATING AS TRANSNET PORT TERMINALS AT  
THE PORT OF RICHARDS BAY FOR A PERIOD OF FIVE (5) YEARS**

**SECTION 1: SBD1 FORM**

**PART A  
INVITATION TO BID**

|   |  |                |                             |  |  |  |                 |
|---|--|----------------|-----------------------------|--|--|--|-----------------|
| <b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF TRANSNET PORT TERMINALS, A DIVISION TRANSNET SOC LTD</b>   |  |                |                             |  |  |  |                 |
| BID NUMBER:   | <b>iCLM RB<br/>744/TPT</b>   | ISSUE<br>DATE: | <b>17 February<br/>2023</b> | CLOSING<br>DATE:                               | <b>07 March<br/>2023</b>                         | CLOSING<br>TIME:   | <b>12:00 pm</b> |
| DESCRIPTION   | <b>PROVISION OF LEASING OF PARK HOMES FOR TRANSNET SOC LTD OPERATING AS TRANSNET PORT TERMINALS AT THE PORT OF RICHARDS BAY FOR A PERIOD OF FIVE (5) YEARS</b> |                |                             |  |  |  |                 |
| <b>BID RESPONSE DOCUMENTS SUBMISSION</b>  |  |                |                             |  |  |  |                 |
| RESPONDENTS ARE TO UPLOAD THEIR BID RESPONSE PROPOSALS ONTO THE TRANSNET SYSTEM AGAINST EACH TENDER SELECTED (please refer to section 2, paragraph 3 for a detailed process on how to upload submissions):<br><a href="https://transnetetenders.azurewebsites.net">https://transnetetenders.azurewebsites.net</a> |  |                |                             |  |  |  |                 |
| <b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</b>   |  |                |                             | <b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b> |  |  |                 |
| CONTACT PERSON  | <b>Zine Mdaki</b>  |                |                             | CONTACT PERSON                                 | <b>n/a</b>                                       |  |                 |
| TELEPHONE NUMBER  | <b>0313618769</b>  |                |                             | TELEPHONE NUMBER                               | <b>n/a</b>                                       |  |                 |
| FACSIMILE NUMBER  | <b>n/a</b>   |                |                             | FACSIMILE NUMBER                               | <b>n/a</b>                                       |  |                 |
| E-MAIL ADDRESS  | <b>zine.mdaki@transnet.net</b>   |                |                             | E-MAIL ADDRESS                                 | <b>n/a</b>                                       |  |                 |
| <b>SUPPLIER INFORMATION</b>   |  |                |                             |  |  |  |                 |
| NAME OF BIDDER  |  |                |                             |  |  |  |                 |
| POSTAL ADDRESS  |  |                |                             |  |  |  |                 |
| STREET ADDRESS  |  |                |                             |  |  |  |                 |
| TELEPHONE NUMBER  | CODE   |                |                             | NUMBER   |  |  |                 |
| CELLPHONE NUMBER  |  |                |                             |  |  |  |                 |
| FACSIMILE NUMBER  | CODE   |                |                             | NUMBER   |  |  |                 |
| E-MAIL ADDRESS  |  |                |                             |  |  |  |                 |
| VAT REGISTRATION<br>NUMBER  |  |                |                             |  |  |  |                 |
| SUPPLIER COMPLIANCE<br>STATUS   | TAX<br>COMPLIANCE<br>SYSTEM PIN:   |                | <b>OR</b>                   | CENTRAL<br>SUPPLIER<br>DATABASE                | UNIQUE REGISTRATION<br>REFERENCE NUMBER:<br>MAAA |  |                 |
| B-BBEE STATUS LEVEL<br>VERIFICATION<br>CERTIFICATE  | TICK APPLICABLE BOX]<br><input type="checkbox"/> Yes <input type="checkbox"/> No   |                |                             | B-BBEE STATUS LEVEL<br>SWORN AFFIDAVIT         |  | TICK APPLICABLE BOX]<br><input type="checkbox"/> Yes <input type="checkbox"/> No |                 |

Respondent's Signature

Date & Company Stamp

|   |  |   |   |
|---|--|---|---|
|   |  |   |   |
| <b>[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES &amp; QSEs) MUST BE SUBMITTED FOR PURPOSES OF COMPLIANCE WITH THE B-BBEE ACT]</b>   |  |   |   |
| <b>1</b> ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?  | <input type="checkbox"/> Yes <input type="checkbox"/> No<br>[IF YES ENCLOSE PROOF] | <b>2</b> ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED? | <input type="checkbox"/> Yes <input type="checkbox"/> No<br>[IF YES, ANSWER QUESTIONNAIRE BELOW ] |
| <b>QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>   |  |   |   |
| IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? <input type="checkbox"/> YES <input type="checkbox"/> NO<br>DOES THE ENTITY HAVE A BRANCH IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO<br>DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO<br>DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO<br>IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? <input type="checkbox"/> YES <input type="checkbox"/> NO<br><br><b>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.</b> |  |   |   |

## PART B

### TERMS AND CONDITIONS FOR BIDDING

|   |
|---|
| <b>1. TAX COMPLIANCE REQUIREMENTS</b>   |
| 1.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.<br>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.<br>1.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.<br>1.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.<br>1.5 IN BIDS WHERE UNINCORPORATED CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.<br>1.6 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED. |

**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: \_\_\_\_\_

\_\_\_\_\_  
Respondent's Signature

\_\_\_\_\_  
Date & Company Stamp

**SECTION 2 : NOTICE TO BIDDERS****1 INVITATION TO BID**

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

|                         |  |
|-------------------------|--|
| <b>DESCRIPTION</b>      | PROVISION OF LEASING OF PARK HOMES FOR TRANSNET SOC LTD OPERATING AS TRANSNET PORT TERMINALS AT THE PORT OF RICHARDS BAY FOR A PERIOD OF FIVE (5) YEARS <b>[the Services]</b>  |
| <b>TENDER ADVERT</b>    | All Transnet tenders are advertised on the National Treasury's e-Tender Publication Portal and the Transnet website. Should one of these media (i.e. National Treasury's e-Tender Publication Portal or Transnet website) not be available, bidders are advised to check on the other media for advertised tenders.  |
| <b>RFP DOWNLOADING</b>  | <p>This RFP may be downloaded directly from National Treasury's e-Tender Publication Portal at <a href="http://www.etenders.gov.za">www.etenders.gov.za</a> free of charge.</p> <p>To download RFP and Annexures:</p> <ul style="list-style-type: none"> <li>Click on "Tender Opportunities";</li> <li>Select "Advertised Tenders";</li> <li>In the "Department" box, select Transnet SOC Ltd.</li> </ul> <p>Once the tender has been located in the list, click on the "Tender documents" tab and process to download all uploaded documents.</p> <p>The RFP may also be downloaded from the Transnet Portal at <a href="https://transnetetenders.azurewebsites.net">https://transnetetenders.azurewebsites.net</a> (please use <b>Google Chrome</b> to access Transnet link/site) free of charge (<i>refer to section 2, paragraph 3 below for detailed steps</i>)</p> |
| <b>COMMUNICATION</b>    | <p>Transnet will publish the outcome of this RFP on the National Treasury e-tender portal and Transnet website with 10 days after the award has been finalised. All unsuccessful bidders have a right to request for reasons for their bid not being successful. This requested must be directed to the contact person stated in the SBD 1 form</p> <p>Any addenda to the RFP or clarifications will be published on the e-tender portal and Transnet website. Bidders are required to check the e-tender portal or Transnet website prior to finalising their bid submissions for any changes or clarifications to the RFP.</p> <p>Transnet will not be held liable if Bidders do not receive the latest information regarding this RFP with the possible consequence of either being disadvantaged or disqualified as a result thereof.</p>                            |
| <b>BRIEFING SESSION</b> | <p>Yes – Compulsory</p> <p>Bidders are required to confirm their attendance and to send their contact details including the number of representatives (where applicable) to the following address: <a href="mailto:zine.mdaki@transnet.net">zine.mdaki@transnet.net</a></p> <p>This is to ensure that Transnet may make the necessary arrangements for the briefing session.</p> <p>Refer to paragraph 2 for details.</p>  |
| <b>CLOSING DATE</b>     | <p><b>12:00 pm on Tuesday 07 March 2023</b></p> <p>Bidders must ensure that bids are uploaded timeously onto the system.</p> <p>As a general rule, if a bid is late, it will not be accepted for consideration.</p> <p><b><i>Bidders are required to ensure that electronic bid submissions are done at least a day before the closing date to prevent issues which they may encounter due to their internet speed, bandwidth or the size of the number of uploads they are submitting. Transnet will</i></b></p>  |

|                        |   |
|------------------------|---|
|                        | <b><i>not be held liable for any challenges experienced by bidders as a result of the technical challenges. Please do not wait for the last hour to submit. A Bidder can upload 30mb per upload and multiple uploads are permitted.</i></b>   |
| <b>VALIDITY PERIOD</b> | <b>180 Business Days from Closing Date</b><br>Bidders are to note that they may be requested to extend the validity period of their bid, at the same terms and conditions, if the internal evaluation process has not been finalised within the validity period. However, once the adjudication body has approved the process and award of the business to the successful bidder(s), the validity of the successful bidder(s)' bid will be deemed to remain valid until a final contract has been concluded.<br>With regard to the validity period of next highest ranked bidders, please refer to Section 2, paragraph 11.12 |

Any additional information or clarification will be published on the e-Tender portal and Transnet website, if necessary.

## 2 FORMAL BRIEFING

A compulsory pre-proposal RFP briefing will be conducted at Commercial Boardroom, Umhlathuze Building, Richards Bay on the **23 February 2023**, at 10:00 am for a period of ± 2 hours. [Respondents to provide own transportation and accommodation]. The briefing session will start punctually and information will not be repeated for the benefit of Respondents arriving late.

- 2.1 *A Certificate of Attendance in the form set out in Section 10 hereto must be completed and submitted with your Proposal as proof of attendance is required for a **compulsory** site meeting and/or RFP briefing.*
- 2.2 Respondents failing to attend the compulsory RFP briefing will be disqualified.
- 2.3 Respondents are encouraged to bring a copy of the RFP to the RFP briefing.

## 3 PROPOSAL SUBMISSION

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

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

- Log on to the Transnet eTenders management platform website/ Portal ([transnetetenders.azurewebsites.net](https://transnetetenders.azurewebsites.net)) Please use **Google Chrome** to access Transnet link/site);
- Click on "ADVERTISED TENDERS" to view advertised tenders;
- Click on "SIGN IN/REGISTER – for bidder to register their information (must fill in all mandatory information);
- Click on "SIGN IN/REGISTER" - to sign in if already registered;
- Toggle (click to switch) the "Log an Intent" button to submit a bid;
- Submit bid documents by uploading them into the system against each tender selected.
- No late submissions will be accepted. The bidder guide can be found on the Transnet Portal [transnetetenders.azurewebsites.net](https://transnetetenders.azurewebsites.net)

## 4 RFP INSTRUCTIONS

- 4.1 Please sign documents [sign, stamp and date the bottom of each page] before uploading them on the system. The person or persons signing the submission must be legally authorised by the respondent to do so.

- 4.2 **All returnable documents tabled in the Proposal Form [Section 5] must be returned with proposals.**
- 4.3 Unless otherwise expressly stated, all Proposals furnished pursuant to this RFP shall be deemed to be offers. Any exceptions to this statement must be clearly and specifically indicated.
- 4.4 Any additional conditions must be embodied in an accompanying letter. Subject only to clause 15 [Alterations made by the Respondent to Bid Prices] of the General Bid Conditions, paragraph 12 below (Legal Review) and Section 6 of the RFP, alterations, additions or deletions must not be made by the Respondent to the actual RFP documents.

## 5 JOINT VENTURES OR CONSORTIUMS

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

Respondents are to note that for the purpose of Evaluation, a JV will be evaluated based on one consolidated B-BBEE score card (a consolidated B-BBEE Status Level verification certificate) as per the B-BBEE Preferential Procurement Regulations, 2022 preference point scoring.

## 6 COMMUNICATION

- 6.1 For specific queries relating to this RFP, an RFP Clarification Request Form should be submitted onto the system and to [Zine Mdaki] before **12:00 pm on 01 March 2023**, substantially in the form set out in Section 8 hereto. In the interest of fairness and transparency, Transnet's response to such a query will be published on the e-tender portal and Transnet website.
- 6.2 After the closing date of the RFP, a Respondent may only communicate with the Zine Mdaki (BEC chairperson), at telephone number 0313618769, email [zine.mdaki@transnet.net](mailto:zine.mdaki@transnet.net) on any matter relating to its RFP Proposal.
- 6.3 Respondents are to note that changes to its submission will not be considered after the closing date.
- 6.4 It is prohibited for Respondents to attempt, either directly or indirectly, to canvass any officer or employee of Transnet in respect of this RFP between the closing date and the date of the award of the business.
- 6.5 Respondents found to be in collusion with one another will be automatically disqualified and restricted from doing business with organs of state for a specified period.
- 6.6 Transnet will publish the outcome of this RFP in the National Treasury e-tender portal and Transnet website with 10 days after the award has been finalised. Respondents are required to check the National Treasury e-tender Portal and Transnet website for the results of the tender process. All unsuccessful



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

## **7 CONFIDENTIALITY**

All information related to this RFP is to be treated with strict confidence. In this regard Respondents are required to certify that they have acquainted themselves with the Non-Disclosure Agreement. All information related to a subsequent contract, both during and after completion thereof, will be treated with strict confidence. Should the need however arise to divulge any information related to this RFP or the subsequent contract, written approval must be obtained from Transnet.

## **8 COMPLIANCE**

The successful Respondent [hereinafter referred to as the **Service provider**] shall be in full and complete compliance with any and all applicable laws and regulations.

## **9 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.

## **10 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 Proposals. In particular, please note that Transnet reserves the right to:

- 10.1 modify the RFP's Goods/Services and request Respondents to re-bid on any such changes;
- 10.2 reject any Proposal which does not conform to instructions and specifications which are detailed herein;
- 10.3 disqualify Proposals submitted after the stated submission deadline [closing date];
- 10.4 award a contract in connection with this Proposal at any time after the RFP's closing date;
- 10.5 award a contract for only a portion of the proposed Goods/Services which are reflected in the scope of this RFP;
- 10.6 split the award of the contract between more than one Supplier/Service provider, should it at Transnet's discretion be more advantageous in terms of, amongst others, cost or developmental considerations;
- 10.7 cancel the bid process;
- 10.8 validate any information submitted by Respondents in response to this bid. This would include, but is not limited to, requesting the Respondents to provide supporting evidence. By submitting a bid, Respondents hereby irrevocably grant the necessary consent to Transnet to do so;
- 10.9 request audited financial statements or other documentation for the purposes of a due diligence exercise;
- 10.10 not accept any changes or purported changes by the Respondent to the bid rates after the closing date and/or after the award of the business, unless the contract specifically provided for it;
- 10.11 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;

10.12 to award the business to the next ranked bidder, provided that he/she is still prepared to provide the required Goods 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 outcome of the tender has been published the outcome of the bid process on the National Treasury e-tender Portal and Transnet website. Bidders may therefore be requested to advise whether they would still be prepared to provide the required Goods at their quoted price.

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

## 11 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. A material deviation from the Standard terms or conditions could result in disqualification.

## 12 SECURITY CLEARANCE

Acceptance of this bid could be subject to the condition that the Successful Respondent, its personnel providing the Goods/Services 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.

## 13 NATIONAL TREASURY'S CENTRAL SUPPLIER DATABASE

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

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

## 14 TAX COMPLIANCE

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

It is a condition of this bid that the tax matters of the successful Respondents be in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the Respondents tax obligations.

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

Where Consortia / Joint Ventures / Sub-contractors are involved, each party must be registered on the Central Supplier Database and their tax compliance status will be verified through the Central Supplier Database.

**Transnet urges its clients, suppliers and the general public to report any fraud or corruption to  
TIP-OFFS ANONYMOUS:**Ethics Helpdesk (Pty) LTD.  
Ethics Management System™**You can choose to be Anonymous or Non-Anonymous on ANY of the platforms**  
**PLEASE RETAIN YOUR REFERENCE NUMBER****AI Voice Bot "Jack"**

Speak to our AI Voice Chat Bot "JACK", you converse with him like chatting to a human, with the option to record a message and speak to an agent at anytime.

**What's App**

Speak to an Agent via What's App.

**Speak to an Agent**

Speak to an Agent via the platform with no call or data charge

**Telegram**

Speak to an Agent via Telegram

**0800 003 056****086 551 4153****reportit@ethicshelpdesk.com****\*120\*0785980808#**

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

### **1 BACKGROUND**

Transnet Port Terminals is a division of Transnet SOC Limited whose core business is to provide cargo handling to a wide spectrum of customers, including shipping lines, freight forwarders and cargo owners. Operations are divided into five major business segments, namely containers, bulk, break bulk, automotive and national port authority. All divisions operating under one umbrella, TPT distinctive reflection of the businesses is portrayed through its commitment amongst others, to value, care and provide to their employees' welfare facilities for safe keeping, change rooms and sanitation. It is the primary duty of TPT under the section 43 of OHS Act No. 85 of 1993, Facilities regulations to ensure, so far as practicable, that workers are not exposed to health and safety risks arising from the business. The WHS Regulation places more specific obligations on a person conducting a business or undertaking in relation to the work environment and facilities for workers, including requirements to:

- Ensure, so far as is reasonably practicable, that the layout of the workplace, lighting and ventilation enables workers to carry out work without risks to health and safety
- Ensure, so far as is reasonably practicable, the provision of adequate facilities for workers, including toilets, drinking water, washing, and eating facilities
- Manage risks associated with remote and isolated work
- Prepare emergency plans.

The mandate of this scope of work is for the acquisition of a five year leasing contract agreement of Park homes with full maintenance.

### **2 EXECUTIVE OVERVIEW**

Whereas Transnet is seeking a partner(s) to provide solutions for its leasing of parkhomes nationally, it also seeks to improve its current processes for providing these Goods/Services to its end user community throughout its locations.

The selected Supplier/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 Supplier/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 Supplier/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 Supplier/Service provider(s).

- 2.3 Transnet must receive proactive improvements from the Supplier/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 Supplier/Service provider's leading edge technology and service delivery systems.
- 2.5 Transnet end users must be able to rely on the chosen Supplier/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**

Provision of new Park homes on a five (5) year leasing contract to Transnet Port Terminals Richards Bay (TPT RCB). **Refer to Annexure A**

### **4 GREEN ECONOMY / CARBON FOOTPRINT**

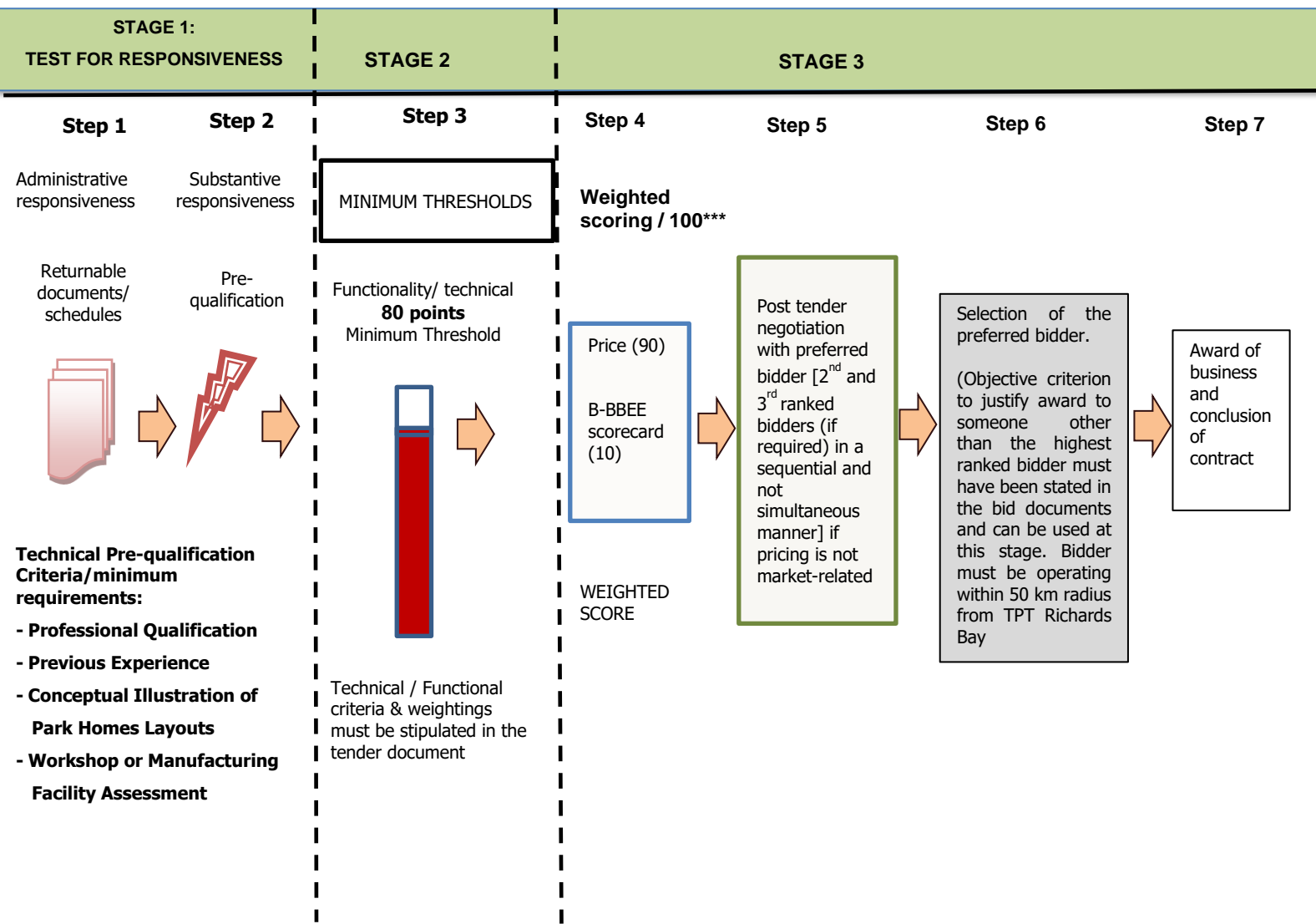
Transnet wishes to have an understanding of your company's position with regard to environmental commitments, including key environmental characteristics such as waste disposal, recycling and energy conservation. *Please submit details of your entity's policies in this regard.*

### **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 Service provider:



NB: Evaluation of the various stages will normally take place in a sequential manner. However, in order to expedite the process, Transnet reserves the right to conduct the different steps of the evaluation process in parallel. In such instances the evaluation of bidders at any given stage must not be interpreted to mean that bidders have necessarily passed any previous stage(s).

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

The test for administrative responsiveness will include the following:

| Administrative responsiveness check   | RFP Reference                |
|---|------------------------------|
| <ul style="list-style-type: none"> <li>Whether the Bid has been lodged on time</li> </ul>   | <i>Section 1 paragraph 3</i> |
| <ul style="list-style-type: none"> <li>Whether all Returnable Documents and/or schedules [where applicable] were completed and returned by the closing date and time</li> </ul> | <i>Section 5</i>             |

|  |                     |
|--|---------------------|
| • Verify the validity of all returnable documents                              | <i>Section 5</i>    |
| • Verify if the Bid document has been duly signed by the authorised respondent | <i>All sections</i> |

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

## 6.2 STEP TWO: Test for Substantive Responsiveness to RFP

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

| Check for substantive responsiveness   | RFP Reference   |
|--|---|
| • 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> |
| • Whether the Bid contains a priced offer as prescribed in the pricing and delivery schedule   | <i>Section 4</i>  |
| • Whether the Bid materially complies with the scope and/or specification given  | <i>All Sections</i>   |
| • Whether any Technical pre-qualification/eligibility criteria set by Transnet have been met as follows: <ul style="list-style-type: none"> <li>- Professional Qualification</li> <li>- Previous Experience</li> <li>- Conceptual Illustration of Park Homes Layouts</li> <li>- Workshop or Manufacturing Facility Assessment</li> </ul> | <i>Section 3 – Scope of Work<br/>Annexure A</i>   |
| • Entity's financial stability   |   |

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

## 6.3 STEP THREE: Minimum Threshold 80 points for Technical Criteria

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

| Eligibility Criteria   | Description   | Scoring guideline | Returnable Schedule |
|--|---|-------------------|---------------------|
| <b>1. Professional Qualification:</b> Bidder is required to submit valid qualification of the professional (Engineer) who will be responsible for approval of all designs, quality control plans, manuals, maintenance plans and any other authorizations requiring such approval. The engineer must be registered, and up to date with Engineering Council of South Africa (ECSA) for a minimum of three months from tender closing date. | <ul style="list-style-type: none"> <li>• Civil Engineering Qualification (National Dip./BEng/B-Tech/Adv. Dip./)</li> <li>• ECSA registered Certificate</li> <li>• AutoCAD/Architectural Software Certificate</li> <li>• CV</li> </ul> | Yes or No         | T2.2-1              |

Respondent's Signature

Date & Company Stamp

| Eligibility Criteria  | Description   | Scoring guideline | Returnable Schedule |
|---|---|-------------------|---------------------|
| <p><b>2. Previous Experience:</b> Service provider is required to submit at least two (2) proofs of experience for the similar works rendered in the past 10 Years. Proof must be submitted in a form of a letter, compiled on a client's letterhead with:</p> <ul style="list-style-type: none"> <li>- Name of the Project</li> <li>- The nature of work (Design, manufacturing and leasing Park homes must be indicated)</li> <li>- Value</li> <li>- Period</li> <li>- Contract term (once off/short/long term)</li> <li>- Name and Surname of Client representative</li> <li>- Cell/Tel and Email</li> <li>- Signed with date of signature.</li> </ul> | <p>Provided two proofs of experience meeting all the requirements as indicated under the description.</p>   | <p>Yes or No</p>  |                     |
| <p><b>3. Conceptual Illustration of Park Homes Layouts:</b> Bidder is required to illustrate their competence by submitting conceptual layouts of Park homes in a Plan view, 3 elevations, cross-section showing material with labelling for at least the:</p> <ul style="list-style-type: none"> <li>a) 12 x 8 Canteen Facility Park Home</li> <li>b) 12 x 6 Park Home (Ablution, Changerooms and Kitchen)</li> </ul>  | <p>Provided minimum of four concepts as per description</p>   | <p>Yes or No</p>  | <p>T2.2-2</p>       |
| <p><b>4. Workshop or Manufacturing Facility Assessment:</b> Bidder must also have a workshop or manufacturing sector where all park homes will be manufactured. Workshop must comply to schedule A of workshop assessment. Bidder must submit proof of address in a form of water/electricity or lease agreement. Lease agreement must be older than 6 months from the tender closing date. Lease agreement to be accompanied by municipal water/electricity statement not older than three months from tender closing date.</p>  | <p>Submit proof of address in a form of municipal water/electricity/lease agreement meeting minimum requirements.</p> <p>Meet minimum requirements of Schedule A as per site assessment</p> | <p>Yes or No</p>  | <p>T2.2-3</p>       |



| Technical Evaluation Criteria  | Points Weightings | Scoring guideline   | Returnable Schedule |
|--|-------------------|---|---------------------|
| <b>5. Competency of the Maintenance Team</b> - Bidder is required to illustrate their competency to satisfy the requirements of the maintenance of park homes by providing qualifications of Electrician, Plumber and fitter who will be responsible for the maintenance requirement of HVAC, Electrical Works and Plumbing. Qualifications to be N3 and trade test for respective disciplines.                          | 30                | <p>Provided three (3) Qualifications with respective trade tests and CV, meeting minimum of 5 years experience = 30 points</p> <p>Provided two (2) Qualifications with respective trade tests and CV, meeting minimum of 5 years experience = 20 points</p> <p>Provided one (1) Qualification with relevant trade test and CV, meeting minimum of 5 years experience = 10 points</p> <p>Provided one or more Qualification(s) with or without relevant trade test and CV, meeting or not meeting minimum of 5 years experience, but not satisfying all requirements that meet the minimum above, or not submitted at all = 0 points</p> | T2.2-4              |
| <b>6. Quality Control</b> - Service provider is required to provide a comprehensive quality control plan informed by ISO 9001 standard for their planned work execution plan quality management. The Quality Control Plan must include:<br>(a) Quality management policy<br>(b) Control plan<br>(c) Sampling<br>(d) Reference standards and company procedure controlled documents<br>(e) Hold points and witness points | 20                | <p>Provided Quality control and management plan as required under the description = 20 points</p> <p>Did not provide Quality control and management plan as required under description = 0 points</p>   | T2.2-5              |
| <b>7. Response time for callouts on breakdowns</b> - Bidder must confirm in writing that they shall respond to emergency callouts for fire, electrical and sewage related faults which are high health, safety and environment risks. The bidder must respond to the call-out within 30 minutes from acknowledging and confirming that they will attend to the matter.   | 10                | <p>Provided confirmation and within required minimum response time = 10 points</p> <p>Did not provide confirmation and not within required minimum response time = 0 points</p>   | T2.2-6              |

| Technical Evaluation Criteria   | Points Weightings | Scoring guideline   | Returnable Schedule |
|---|-------------------|---|---------------------|
| <b>8. Method Statement</b> - Service provider is required to provide a method statement illustrating on how they are going to execute work within provided delivery lead times.<br>Method statement must cover: <ul style="list-style-type: none"> <li>- Governing standards and specifications</li> <li>- Required level of skill</li> <li>- Project Organogram</li> <li>- sourcing of materials</li> <li>- Managing health, Safety, Risk and Environment at the workshop and on site</li> <li>- Production/Fabrication or Manufacturing Process</li> <li>- Handling and Transportation of Park Homes to TPT RCB</li> <li>- Installation and commissioning</li> <li>- Hand interphasing of functions and service requirements of the units</li> <li>- Maintenance</li> </ul> | 20                | Provided, sound and covering ten (10) or more requirements of the method statement = 20 points<br>Provided, sound and covering eight (8) to nine (9) requirements of the method statement = 15 points<br>Provided, sound and covering six (6) to seven (7) requirements of the method statement = 10 points<br>Provided, sound and covering four (4) to five (5) requirements of the method statement = 5 points<br>Provided, sound or not sound and covering three (3), or below, or did not provide requirements of the method statement = 0 points | T2.2-7              |
| <b>9. Delivery Lead Times</b> - Bidder must confirm in writing on company's letterhead their delivery lead times.   | 20                | Delivery lead times within 2 months from PO issue date = 20 points<br>Delivery lead times beyond 2 months but less than 3 months from PO issue date = 15 points<br>Delivery lead times beyond 3 months but less than 4 months from PO issue date = 10 points<br>Delivery lead times beyond 4 months but less than 5 months from PO issue date = 5 Points<br>Delivery lead times beyond 5 months from PO issue date or not confirmed = 0 points  | T2.2-8              |
| <b>Total Weighting:</b>   | <b>100</b>        |   |                     |
| <b>Minimum qualifying score required:</b>   | 80                |   |                     |

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

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

**6.4 STEP FOUR: Evaluation and Final Weighted Scoring****a) Price Criteria** [Weighted score 90 points]:

| Evaluation Criteria | RFP Reference    |
|---------------------|------------------|
| • Commercial offer  | <i>Section 4</i> |

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

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

Where:

$Ps$  = Score for the Bid under consideration

$Pt$  = Price of Bid under consideration

$Pmin$  = Price of lowest acceptable Bid

**b) Broad-Based Black Economic Empowerment criteria** [Weighted score 10 points]

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

**6.5 SUMMARY: Applicable Thresholds and Final Evaluated Weightings**

| Thresholds | Minimum Threshold |
|------------|-------------------|
| Technical  | 80                |

| Evaluation Criteria | Final Weighted Scores |
|---------------------|-----------------------|
| Price               | 90                    |
| B-BBEE - Scorecard  | 10                    |
| <b>TOTAL SCORE:</b> | <b>100</b>            |

**6.6 STEP FIVE: Post Tender Negotiations (if applicable)**

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

**6.7 STEP SIX: 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:

- Geographical location: bidder must be operating within 50 km radius from TPT Richards Bay
- 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 due diligence to assess functional capability and capacity. This could include a site visit;
  - 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

**6.8 STEP SEVEN: Award of business and conclusion of contract**

- Immediately after approval to award the contract has been received, the successful bidder(s) will be informed of the acceptance of his/their Bid by way of a Letter of Award. Thereafter the final contract will be concluded with the successful Respondent(s).
- A final contract will be concluded and entered into with the successful Bidder at the acceptance of a letter of award by the Respondent.

**SECTION 4: PRICING AND DELIVERY SCHEDULE (REFER TO ANNEXURE B)**

*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) Prices must be quoted in South African Rand exclusive 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 pricing schedule and not utilise a different format. Deviation from this pricing schedule could result in a bid being declared non-responsive.
- e) Quantities given are estimates only. Any orders resulting from this RFP will be on an "as and when required" basis.
- f) Prices are to be quoted on a delivered basis to Richards Bay.
- g) 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.
- h) Manufacturing and delivery lead time calculated from date of receipt of purchase order: 8 weeks.
- i) Respondents, if awarded the contract, are required to indicate that their prices quoted would be kept firm and fixed. [Not to be confused with bid validity period Section 2, clause 1]

|            |  |
|------------|--|
| <b>YES</b> |  |
|------------|--|

**1. DISCLOSURE OF CONTRACT INFORMATION****PRICES TENDERED**

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

**JOHANNESBURG STOCK EXCHANGE DEBT LISTING REQUIREMENTS**

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

**DOMESTIC PROMINENT INFLUENTIAL PERSONS (DPIP) OR FOREIGN PROMINENT PUBLIC OFFICIALS (FPPO)**

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

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

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

| The below form contains personal information as defined in the Protection of Personal Information Act, 2013 (the "Act"). By completing the form, the signatory consents to the processing of her/his personal information in accordance with the requirements of the Act. Consent cannot unreasonably be withheld. |                           |   |                |  |   |                   |
|--|---------------------------|---|----------------|--|---|-------------------|
| <b>Is the Respondent</b><br>(Complete with a "Yes" or "No")  |                           |   |                |  |   |                   |
| <b>A DPIP/FPPO</b>   |                           | <b>Closely Related to a DPIP/FPPO</b>                             |                | <b>Closely Associated to a DPIP/FPPO</b> |   |                   |
| <b>List all known business interests, in which a DPIP/FPPO may have a direct/indirect interest or significant participation or involvement.</b>  |                           |   |                |  |   |                   |
| 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) |                   |
|  |                           |   |                |  | <b>Active</b>                                 | <b>Non-Active</b> |
| 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.

**2. NATIONAL RAILWAY SAFETY REGULATOR ACT**

In compliance with the National Railway Safety Regulator Act, 16 of 2002, the successful Respondent [**the Supplier**] shall ensure that the Goods to be supplied to Transnet, under the terms and conditions of a contract between the parties, comply fully with the specifications as set out in Annexure A [*Specifications and Drawings*] of this RFP, and shall also adhere to railway safety requirements and/or regulations [as applicable]. Permission for the engagement of a subcontractor by the Supplier, as applicable, both initially and during the

course of a contract, 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 the contract, to review any safety-related activities, including the coordination of such activities across all parts of the organisation.

**Accepted:**

|            |  |
|------------|--|
| <b>YES</b> |  |
|------------|--|

|           |  |
|-----------|--|
| <b>NO</b> |  |
|-----------|--|

**3. SERVICE LEVELS**

3.1 An experienced account representative(s) is required to work with Transnet's procurement department.

[No sales representatives are needed for individual department or locations]. Additionally, there shall be a minimal number of people, fully informed and accountable for this agreement.

3.2 Transnet will have quarterly reviews with the Service provider's account representative on an on-going basis.

3.3 Transnet reserves the right to request that any member of the Service provider's team involved on the Transnet account be replaced if deemed not to be adding value for Transnet.

3.4 The Service provider guarantees that it will achieve a 95% [ninety-five per cent] service level on the following measures:

- a) Random checks on compliance with quality/quantity/specifications
- b) On-time delivery

If the Service provider does not achieve this level as an average over each quarter, Transnet will receive a 1.5% [one and a half per cent] rebate on quarterly sales payable in the next quarter

3.5 The Service provider must provide a telephone number for customer service calls.

3.6 Failure of the Service provider to comply with stated service level requirements will give Transnet the right to cancel the contract in whole, without penalty to Transnet, giving 30 [thirty] calendar days' notice to the Service provider of its intention to do so.

**Acceptance of Service Levels:**

|            |  |
|------------|--|
| <b>YES</b> |  |
|------------|--|

|           |  |
|-----------|--|
| <b>NO</b> |  |
|-----------|--|

**4. RISK**

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

**4.1 Quality and specification of Goods/Services delivered:**


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**4.2 Continuity of supply:**


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

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

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

SIGNATURE OF WITNESSES

ADDRESS OF WITNESSES

1 \_\_\_\_\_

Name \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

2 \_\_\_\_\_

Name \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

SIGNATURE OF RESPONDENT'S AUTHORISED REPRESENTATIVE: \_\_\_\_\_

NAME: \_\_\_\_\_

DESIGNATION: \_\_\_\_\_

\_\_\_\_\_  
Respondent's Signature\_\_\_\_\_  
Date & Company Stamp



**SECTION 5: PROPOSAL FORM AND LIST OF RETURNABLE DOCUMENTS**

I/We \_\_\_\_\_  
 [name of entity, company, close corporation or partnership] of [full address]

\_\_\_\_\_

carrying on business trading/operating as

represented by \_\_\_\_\_

in my capacity as \_\_\_\_\_

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

| FULL NAME(S) | CAPACITY | SIGNATURE |
|--------------|----------|-----------|
| _____        | _____    | _____     |
| _____        | _____    | _____     |
| _____        | _____    | _____     |
| _____        | _____    | _____     |

I/We hereby offer to supply/provide the abovementioned Goods/Services at the prices quoted in the schedule of prices in accordance with the terms set forth in the documents listed in the accompanying schedule of RFP documents.

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

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

I/We accept that unless Transnet should otherwise decide and so inform me/us in the letter of award, 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.

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

I/We further agree that if, after I/we have been notified of the acceptance of my/our Proposal, I/we fail to enter into a formal contract if called upon to do so, or fail to commence the supply/provision of Goods/Services within 4 [four] weeks thereafter, Transnet may, without prejudice to any other legal remedy which it may have, recover from me/us

\_\_\_\_\_  
 Respondent's Signature

\_\_\_\_\_  
 Date & Company Stamp

any expense to which it may have been put in calling for Proposals afresh and/or having to accept any less favourable Proposal.

Furthermore, I/we agree to a penalty clause/s which will allow Transnet to invoke a penalty against us for non-compliance with material terms of this RFP including the delayed delivery of the Goods/Services due to non-performance by ourselves, , etc.

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

#### ADDRESS FOR NOTICES

The law of the Republic of South Africa shall govern any contract created by the acceptance of this RFP. The *domicilium citandi et executandi* shall be a place in the Republic of South Africa to be specified by the Respondent hereunder, at which all legal documents may be served on the Respondent who shall agree to submit to the jurisdiction of the courts of the Republic of South Africa. Foreign Respondents shall, therefore, state hereunder the name of their authorised representative in the Republic of South Africa who has the power of attorney to sign any contract which may have to be entered into in the event of their Proposal being accepted and to act on their behalf in all matters relating to such contract.

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

Name of Entity: \_\_\_\_\_

Facsimile: \_\_\_\_\_

Address: \_\_\_\_\_

#### NOTIFICATION OF AWARD OF RFP

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

#### VALIDITY PERIOD

Transnet requires a validity period of 180 Business Days [from closing date] against this RFP, excluding the first day and including the last day.

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

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

- (i) Registration number of company / C.C. \_\_\_\_\_
- (ii) Registered name of company / C.C. \_\_\_\_\_
- | (iii) | Full name(s) of director/member(s) | Address/Addresses | ID Number(s) |
|-------|------------------------------------|-------------------|--------------|
|-------|------------------------------------|-------------------|--------------|

\_\_\_\_\_  
Respondent's Signature

\_\_\_\_\_  
Date & Company Stamp

**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        | <b><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></b>  |
| Returnable Documents Used for Scoring | <b><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></b>       |
| Essential Returnable Documents        | <b><i>Failure to provide essential Returnable Documents <u>will</u> result in Transnet affording Respondents a further opportunity to submit by a set deadline. Should a Respondent thereafter fail to submit the requested documents, this may result in a Respondent's disqualification.</i></b> |

**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:

| <b>MANDATORY RETURNABLE DOCUMENTS</b>  | <b>SUBMITTED<br/>[Yes/No]</b> |
|--|-------------------------------|
| Section 1: SBD1 Form   |                               |
| SECTION 4 : Pricing and Delivery Schedule  |                               |
| Technical Pre-Qualification: <ul style="list-style-type: none"> <li>Professional Qualification</li> <li>Previous Experience</li> <li>Conceptual Illustration of Park Homes Layouts</li> <li>Workshop or Manufacturing Facility Assessment</li> </ul> |                               |
| Valid proof of Respondent's compliance to B-BBEE requirements stipulated in Section 9 of this RFP  |                               |
| SECTION 10: Certificate of attendance of compulsory RFP Briefing   |                               |

Respondent's Signature

Date &amp; Company Stamp

**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:

| <b><u>RETURNABLE DOCUMENTS USED FOR SCORING</u></b>   | <b>SUBMITTED<br/>[Yes or No]</b> |
|---|----------------------------------|
| Valid proof of Respondent's compliance to B-BBEE requirements stipulated in Section 9 of this RFP (Valid B-BBEE certificate or Sworn Affidavit) |                                  |
| <b>Competency of the Maintenance Team</b>   |                                  |
| <b>Quality Control</b>  |                                  |
| <b>Response time for callouts on breakdowns</b>   |                                  |
| <b>Method Statement</b>   |                                  |
| <b>Delivery Lead Times</b>  |                                  |

**c) Essential Returnable Documents:**

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

| <b>ESSENTIAL RETURNABLE DOCUMENTS &amp; SCHEDULES</b>   | <b>SUBMITTED<br/>[Yes or No]</b> |
|---|----------------------------------|
| 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 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 9: B-BBEE Preference Claim Form   |                                  |
| SECTION 11: Job-Creation Schedule   |                                  |
| SECTION 12: Protection of Personal Information  |                                  |

**CONTINUED VALIDITY OF RETURNABLE DOCUMENTS**

The successful Respondent will be required to ensure the validity of all returnable documents, including but not limited to its valid proof of B-BBEE status, for the duration of any contract emanating from this 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.

---

 Respondent's Signature

---

 Date & Company Stamp

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

SIGNATURE OF WITNESSES

ADDRESS OF WITNESSES

1 \_\_\_\_\_

Name \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

2 \_\_\_\_\_

Name \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

SIGNATURE OF RESPONDENT'S AUTHORISED REPRESENTATIVE: \_\_\_\_\_

NAME: \_\_\_\_\_

DESIGNATION: \_\_\_\_\_

\_\_\_\_\_  
Respondent's Signature\_\_\_\_\_  
Date & Company Stamp

## SECTION 6: CERTIFICATE OF ACQUAINTANCE WITH RFP, MASTER AGREEMENT & APPLICABLE DOCUMENTS

**By signing this certificate the Respondent is deemed to acknowledge that he/she has made himself/herself thoroughly familiar with, and agrees with all the conditions governing this 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 SOC Ltd 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 for the purpose of calculating tendered prices or any other purpose:**

|   |                                    |
|---|------------------------------------|
| 1 | Transnet's General Bid Conditions  |
| 2 | Master Agreement and SLA attached  |
| 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 any term or condition may result in disqualification.

Bidders accept that an obligation rests on them to clarify any uncertainties regarding any bid to which they intend to respond on, before submitting the bid. **The Bidder agrees that he/she will have no claim or cause of action based on an allegation that any aspect of this 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 the Certificate of Acquaintance with RFP documents included in the RFP as a returnable document, is found not to be true and complete in every respect.

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

SIGNATURE OF WITNESSES

ADDRESS OF WITNESSES

1 \_\_\_\_\_  
Name \_\_\_\_\_

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

2 \_\_\_\_\_  
Name \_\_\_\_\_

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

SIGNATURE OF RESPONDENT'S AUTHORISED REPRESENTATIVE: \_\_\_\_\_

NAME: \_\_\_\_\_

DESIGNATION: \_\_\_\_\_

\_\_\_\_\_  
Respondent's Signature

\_\_\_\_\_  
Date & Company Stamp

**SECTION 7: RFP DECLARATION AND BREACH OF LAW FORM**

NAME OF ENTITY: \_\_\_\_\_

We \_\_\_\_\_ do hereby certify that:

1. Transnet has supplied and we have received appropriate responses to any/all questions [as applicable] which were submitted by ourselves for 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 any and all relevant information relevant to the Goods/Services 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 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;
6. We have complied with all obligations of the Bidder/Supplier as indicated in the Transnet Supplier Integrity which includes but are not limited to ensuring that we take all measures necessary to prevent corrupt practices, unfairness and illegal activities in order to secure or in furtherance to secure a contract with Transnet;
7. We declare that a family, business and/or social relationship **exists / does not exist** [delete as applicable] between an owner / member / director / partner / shareholder of our entity and an employee or board member of the Transnet Group including any person who may be involved in the evaluation and/or adjudication of this Bid;
8. We declare that an owner / member / director / partner / shareholder of our entity **is / is not** [delete as applicable] an employee or board member of Transnet;
9. In addition, we declare that an owner / member / director / partner / shareholder/employee of our entity **has / has not been** [delete as applicable] a former employee or board member of Transnet in the past 10 years. I further declare that if they were a former employee or board member of Transnet in the past 10 years that they **were/were not** involved in the bid preparation or had access to the information related to this RFP; and
10. If such a relationship as indicated in paragraph 7, 8 and/or 9 exists, the Respondent is to complete the following section:

\_\_\_\_\_  
Respondent's Signature\_\_\_\_\_  
Date & Company Stamp

FULL NAME OF OWNER/MEMBER/DIRECTOR/  
PARTNER/SHAREHOLDER/EMPLOYEE:

ADDRESS:

Indicate nature of relationship with Transnet:

***[Failure to furnish complete and accurate information in this regard will lead to the disqualification of a response and may preclude a Respondent from doing future business with Transnet. Information provided in the declarations may be used by Transnet and/or its affiliates to verify the correctness of the information provided]***

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

#### **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 interest<sup>1</sup> 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 |
|-----------|-----------------|---------------------------|
|           |                 |                           |
|           |                 |                           |

<sup>1</sup> 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.



|  |  |  |
|--|--|--|
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

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:

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 consortium<sup>2</sup> 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,

<sup>2</sup> 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.

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.

#### **BREACH OF LAW**

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

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

NATURE OF BREACH:

---

DATE OF BREACH: \_\_\_\_\_

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

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

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

\_\_\_\_\_  
Respondent's Signature\_\_\_\_\_  
Date & Company Stamp

Date &amp; Company Stamp

**SECTION 9 : B-BBEE PREFERENCE POINTS CLAIM FORM**

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

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

**NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022.**

**1. GENERAL CONDITIONS**

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

- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

1.2 The value of this bid is estimated to exceed R50 000 000 (all applicable taxes included) and therefore the 90/10 preference point system shall be applicable. Despite the stipulated preference point system, Transnet shall use the lowest acceptable bid to determine the applicable preference point system in a situation where all received acceptable bids are received outside the stated preference point system.

1.3 Preference points for this bid shall be awarded for:

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

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

|  | POINTS     |
|--|------------|
| <b>PRICE</b>   | <b>90</b>  |
| <b>B-BBEE STATUS LEVEL OF CONTRIBUTION</b>               | <b>10</b>  |
| <b>Total points for Price and B-BBEE must not exceed</b> | <b>100</b> |

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

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

**2. DEFINITIONS**

- (a) **"all applicable taxes"** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- (b) **"B-BBEE"** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (c) **"B-BBEE status level of contributor"** means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (d) **"bid"** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the supply/provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;

- (e) **"Broad-Based Black Economic Empowerment Act"** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (f) **"EME"** means an Exempted Micro Enterprise as defines by Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (g) **"functionality"** means the ability of a bidder to provide goods or services in accordance with specification as set out in the bid documents
- (h) **"Price"** includes all applicable taxes less all unconditional discounts.
- (i) **"Proof of B-BBEE Status Level of Contributor"**
  - i) the B-BBEE status level certificate issued by an authorised body or person;
  - ii) a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice; or
  - iii) any other requirement prescribed in terms of the B-BBEE Act.
- (j) **"QSE"** means a Qualifying Small EEnterprise as defines by Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 ( Act No. 53 of 2003);
- (k) **"rand value"** means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties.

### 3. POINTS AWARDED FOR PRICE

#### 3.1 THE 90/10 PREFERENCE POINT SYSTEMS

A maximum of 90 points is allocated for price on the following basis:

90/10

$$P_s = 90 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

- $P_s$  = Points scored for comparative price of bid under consideration
- $P_t$  = Comparative price of bid under consideration
- $P_{\min}$  = Comparative price of lowest acceptable bid

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

- 4.1 In terms of Transnet SCM Policy on preferential procurement and Procurement Manuals, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

| B-BBEE Status Level of Contributor | Number of points (90/10 system) |
|------------------------------------|---------------------------------|
| 1                                  | 10                              |
| 2                                  | 9                               |
| 3                                  | 6                               |
| 4                                  | 5                               |
| 5                                  | 4                               |
| 6                                  | 3                               |
| 7                                  | 2                               |
| 8                                  | 1                               |
| Non-compliant contributor          | 0                               |

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

| Enterprise       | B-BBEE Certificate & Sworn Affidavit   |
|------------------|--|
| Large            | Certificate issued by SANAS accredited verification agency   |
| QSE              | Certificate issued by SANAS accredited verification agency<br>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)<br>[Sworn affidavits must substantially comply with the format that can be obtained on the DTI's website at <a href="http://www.dti.gov.za/economic_empowerment/bee_codes.jsp">www.dti.gov.za/economic_empowerment/bee_codes.jsp</a> .] |
| EME <sup>3</sup> | Sworn Affidavit signed by the authorised EME representative and attested by a Commissioner of Oaths confirming annual turnover and black ownership<br>Certificate issued by CIPC (formerly CIPRO) confirming annual turnover and black ownership<br>Certificate issued by SANAS accredited verification agency only if the EME is being measured on the QSE scorecard  |

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

## 5. BID DECLARATION

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

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

- 6.1 B-BBEE Status Level of Contribution: . = .....(maximum of 10 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 following enterprises:

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

#### 8. **DECLARATION WITH REGARD TO COMPANY/FIRM**

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

8.2 VAT registration number:.....

8.3 Company registration number:.....

8.4 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

.....

8.6 COMPANY CLASSIFICATION

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

[TICK APPLICABLE BOX]

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

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

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;

Respondent's Signature

Date & Company Stamp



- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If a bidder submitted false information regarding its B-BBEE status level of contributor or any other matter required in terms of the Preferential Procurement Regulations, 2022 which will affect or has affected the evaluation of a bid 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 10: CERTIFICATE OF ATTENDANCE OF COMPULSORY RFP BRIEFING**

It is hereby certified that –

1. \_\_\_\_\_

2. \_\_\_\_\_

Representative(s) of \_\_\_\_\_ *[name of entity]*

attended the 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 \_\_\_\_\_

EMAIL \_\_\_\_\_

**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.

\_\_\_\_\_  
Respondent's Signature

\_\_\_\_\_  
Date & Company Stamp

**SECTION 11: JOB-CREATION SCHEDULE****(Please ensure that you return this schedule with your bid submission)**

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

Note that this undertaking is not required if a NIPP obligation is applicable to a Respondent's bid. **Respondents are required to indicate below whether the NIPP obligation is applicable to their bid:**

|            |  |           |  |
|------------|--|-----------|--|
| <b>YES</b> |  | <b>NO</b> |  |
|------------|--|-----------|--|

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

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

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

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

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

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

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

---

 Respondent's Signature

---

 Date & Company Stamp

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

---

 Respondent's Signature

---

 Date & Company Stamp

**SECTION 12: PROTECTION OF PERSONAL INFORMATION**

1. The following terms shall bear the same meaning as contemplated in Section 1 of the Protection of Person information act, No.4 of 2013.(“POPIA”):  
  
consent; data subject; electronic communication; information officer; operator; person; personal information; processing; record; Regulator; responsible party; special information; as well as any terms derived from these terms.
2. Transnet will process all information by the Respondent in terms of the requirements contemplated in Section 4(1) of the POPIA:  
  
Accountability; Processing limitation; Purpose specification; Further processing limitation; Information quality; Openness; Security safeguards and Data subject participation.
3. The Parties acknowledge and agree that, in relation to personal information that will be processed pursuant to this 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.
4. 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.
5. In responding to this bid, Transnet acknowledges that it will obtain and have access to personal information of the Respondent. Transnet agrees that it shall only process the information disclosed by Respondent in their response to this bid for the purpose of evaluating and subsequent award of business and in accordance with any applicable law.
6. Transnet further agrees that in submitting any information or documentation requested in this 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.
7. Furthermore, Transnet will not otherwise modify, amend or alter any personal data submitted by the Respondent or disclose or permit the disclosure of any personal data to any third party without the prior written consent from the Respondent. Similarly, Transnet requires the Respondent to process any personal information disclosed by Transnet in the bidding process in the same manner.
8. Transnet shall, at all times, ensure compliance with any applicable laws put in place and maintain sufficient measures, policies and systems to manage and secure against all forms of risks to any information that may be shared or accessed pursuant to this RFP (physically, through a computer or any other form of electronic communication).
9. Transnet shall notify the Respondent in writing of any unauthorised access to information, cybercrimes or suspected cybercrimes, in its knowledge and report such crimes or suspected crimes to the relevant authorities in accordance with applicable laws, after becoming aware of such crimes or suspected crime. The Respondent must

take all necessary remedial steps to mitigate the extent of the loss or compromise of personal information and to restore the integrity of the affected personal information as quickly as is possible.

10. The Respondent may, in writing, request Transnet to confirm and/or make available any personal information in its possession in relation to the Respondent and if such personal information has been accessed by third parties and the identity thereof in terms of the POPIA. The Respondent may further request that Transnet correct (excluding critical/mandatory or evaluation information), delete, destroy, withdraw consent or object to the processing of any personal information relating to the Respondent in Transnet's possession in terms of the provision of the POPIA and utilizing Form 2 of the POPIA Regulations.
11. In submitting any information or documentation requested in this 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:**

|            |  |           |  |
|------------|--|-----------|--|
| <b>YES</b> |  | <b>NO</b> |  |
|------------|--|-----------|--|

12. Further, the Respondent declares that they have obtained all consents pertaining to other data subject's personal information included in its submission and thereby indemnifying Transnet against any civil or criminal action, administrative fines or other penalty or loss that may arise as a result of the processing of any personal information that the Respondent submitted.
13. The Respondent declares that the personal information submitted for the purpose of this 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/inforegl/>, click on contact us, click on complaints.IR@justice.gov.za



TRANSNET PORT TERMINALS RICHARDS BAY

TENDER NUMBER:

PROVISION OF ALL NEW PARKHOMES ON A FIVE (5) YEARS LEASING AGREEMENT CONTRACT FOR TRANSNET SOC LTD (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS RICHARDS BAY (HEREINAFTER REFERRED TO AS "TPT RCB")

---

## SCOPE OF WORK

**PROVISION OF ALL NEW PARKHOMES ON A FIVE (5) YEARS LEASING AGREEMENT CONTRACT FOR TRANSNET SOC LTD:**

**TRANSNET PORT TERMINALS RICHARDS BAY (TPT RCB)**



TRANSNET PORT TERMINALS RICHARDS BAY

TENDER NUMBER:

PROVISION OF ALL NEW PARKHOMES ON A FIVE (5) YEARS LEASING AGREEMENT  
CONTRACT FOR TRANSNET SOC LTD (REG. NO 1990/000900/30) OPERATING AS  
TRANSNET PORT TERMINALS RICHARDS BAY (HEREINAFTER REFERRED TO AS "TPT  
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**Table 1: List of Abbreviations**

| Abbreviation | Meaning given to the abbreviation           |
|--------------|---|
| AIA          | Authorised Inspection Authority             |
| BBBEE        | Broad Based Black Economic Empowerment      |
| QA           | Quality Assurance                           |
| SES          | Standard Environmental Specification        |
| SHE          | Safety, Health and Environment              |
| SHEC         | Safety, Health and Environment Co-ordinator |
| SIP          | Site Induction Programme                    |
| SMP          | Safety Management Plan                      |
| SSRC         | Site Safety Review Committee                |
| TPT          | Transnet Port Terminal                      |
| KZN          | Kwa-Zulu Natal                              |
| ECSA         | Engineering Council of South Africa         |
| RCB          | Richards Bay                                |
| PPE          | Personal Protective Equipment               |
| OEM          | Original Equipment Manufacturer             |
| COF          | Certificates of Fitness                     |
| TNPA         | Transnet National Port Authority            |
| TRCB         | Transnet Richards Bay (TPT & TNPA)          |
| SQM          | Square meter                                |

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**Table 2: List of Abbreviations continued**

| Abbreviation | Meaning given to the abbreviation                       |
|--------------|---|
| AIA          | Authorised Inspection Authority                         |
| B-BBEE       | Broad Based Black Economic Empowerment                  |
| CEMP         | Construction Environmental Management Plan              |
| CD           | Compact Disc  |
| CDS          | Contractor Documentation Schedule                       |
| COC          | Certificate of Compliance                               |
| CSHEO        | Contractor's Safety, Health and Environmental Officer   |
| CM           | Construction Manager                                    |
| DTI          | Department of Trade and Industry                        |
| EO           | Environmental Officer                                   |
| HAZOP        | Hazard and Operability Study                            |
| HSSP         | Health and Safety Surveillance Plan                     |
| HVAC         | Heating Ventilation and Air Conditioning                |
| IR           | Industrial Relations                                    |
| IRCC         | Industrial Relations Co-ordinating Committee            |
| JSA          | Job Safety Analysis                                     |
| CIRP         | <i>Contractor's</i> Industrial Relations Practitioner   |
| Native       | Original electronic file format of documentation        |
| NHBRC        | National Home Builder Registration Council              |
| PES          | Project Environmental Specifications                    |
| PIRM         | Project Industrial Relations Manager                    |
| PIRPMP       | Project Industrial Relations Policy and Management Plan |
| PLA          | Project Labour Agreements                               |
| PSIRM        | Project Site Industrial Relations Manager               |
| PSPM         | Project Safety Program Manager                          |
| PSSM         | Project Site Safety Manager                             |
| PrEng        | Professional Engineer                                   |
| ProgEM       | Programme Environmental Manager                         |
| ProjEM       | Project Environmental Manager                           |
| QA           | Quality Assurance                                       |
| reefer       | Refrigerated unit                                       |
| SANS         | South African National Standards                        |
| SES          | Standard Environmental Specification                    |
| SHE          | Safety, Health and Environment                          |
| SHEC         | Safety, Health and Environment Co-ordinator             |
| SIP          | Site Induction Programme                                |
| SMP          | Safety Management Plan                                  |
| SSRC         | Site Safety Review Committee                            |

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## 1. Overview of the work

### 1.1 Executive Overview

Transnet Port Terminals is a division of Transnet SOC Limited whose core business is to provide cargo handling to a wide spectrum of customers, including shipping lines, freight forwarders and cargo owners. Operations are divided into five major business segments, namely containers, bulk, break bulk, automotive and national port authority. All divisions operating under one umbrella, TPT distinctive reflection of the businesses is portrayed through its commitment amongst others, to value, care and provide to their employees' welfare facilities for safe keeping, change rooms and sanitation. It is the primary duty of TPT under the section 43 of OHS Act No. 85 of 1993, Facilities regulations to ensure, so far as practicable, that workers are not exposed to health and safety risks arising from the business. The WHS Regulation places more specific obligations on a person conducting a business or undertaking in relation to the work environment and facilities for workers, including requirements to:

- Ensure, so far as is reasonably practicable, that the layout of the workplace, lighting and ventilation enables workers to carry out work without risks to health and safety
- Ensure, so far as is reasonably practicable, the provision of adequate facilities for workers, including toilets, drinking water, washing, and eating facilities
- Manage risks associated with remote and isolated work
- Prepare emergency plans.

The mandate of this scope of work is for the acquisition of a five years leasing contract agreement of Park homes with full maintenance.

|          |  |  |              |        |     |
|----------|--|--|--------------|--------|-----|
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## 1.2 Main Work Information

Provision all new of Park home on five (5) years leasing contract to Transnet Port Terminals Richards Bay (TPT RCB). The scope of work requires the contractor to:

- Design as per TPT requirements required standards, applicable specifications, manufacture, supply, and assembly to respective designated areas on site.
- Installation of plumbing on site.
- Installation of electrical services on site.
- The earthing and protection of the facilities against lightning.
- The installation of Heating Ventilation and Air Conditioning (HVAC) requirements.
- Installation of fire portable equipment (fire extinguishers) in specific units.
- Provide a comprehensive maintenance service for the facilities over the period of the contract.
- Provide additional park homes on an ad-hoc (as and when required) basis.
- Provide the leasing services to Transnet for a period of 5 years contract.

|          |  |  |              |        |     |
|----------|--|--|--------------|--------|-----|
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## 2. Detailed Scope of Work

### 2.1 Park homes Utilization Specifications

2.1.1 Required Park homes shall be used amongst others, as:

- a) Mess rooms
- b) Ablution & change rooms facilities
- c) Offices
- d) Security Guard Houses
- e) Kitchens
- f) Storerooms

2.1.2 Service provider is required to design all units as per Transnet specifications and all applicable standards respective SANS standards of building regulations informed by particular use of each park home.

2.1.3 The design capacity per section shall be based on utilisation of units per shift.

2.1.4 Manning level per shift is indicated on the table below:

**Table 3: Manning Levels per Shift**

| MANNING LEVELS PER SHIFT (Shift A, Shift B & Shift C – 8 hours each) |          |      |          |      |          |      |        |      |
|--|----------|------|----------|------|----------|------|--------|------|
| Multi-Purpose Terminals  | 6 Series |      | 7 Series |      | Neo Bulk |      | Fleet  |      |
|  | Normal   | Peak | Normal   | Peak | Normal   | Peak | Normal | Peak |
|  | 85       | 95   | 70       | 78   | 55       | 70   | 40     | 45   |
| See next page for Dry Bulk Terminal                                  |          |      |          |      |          |      |        |      |
| Dry Bulk Terminals   | Import   |      | Export   |      | Storage  |      |        |      |
|  | Normal   | Peak | Normal   | Peak | Normal   | Peak |        |      |
|  | 20       | 25   | 32       | 45   | 70       | 80   |        |      |

2.1.5 TPT does not guarantee that the information stated in the table above will be accurate at the time of intent. The information stated below is indicative and is subject to change based on the business demands strategy.

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2.1.6 Service provider must note that space for placing park homes is critical and hence, optimization shall be the driving design requirement to get the most out of each available space.

2.1.7 The current available space has accommodated units as indicated on the table below:

**Table 4: Current Units space allocation**

| Units        | 6 Series | 7 Series & GBB | Neo Bulk | Fleet | Import | Export | Storage | Security |
|--------------|----------|----------------|----------|-------|--------|--------|---------|----------|
| Park Homes   | 12       | 12             | 10       | 10    | 9      | 16     | 16      | 12       |
| <b>Total</b> |          |                |          |       |        |        |         |          |

**Table 5: Current Units Space allocation continued**

| Units        | SHEQ       | IT | Procurement | HR | MPT Keyside |  |  |  |
|--------------|------------|----|-------------|----|-------------|--|--|--|
| Park Homes   | 3          | 1  | 1           | 2  | 3           |  |  |  |
| <b>Total</b> | <b>107</b> |    |             |    |             |  |  |  |

## 2.2 Required units' specifications

2.2.1 Current units design guide general specifications:

**Table 6: Required units design guide general requirement specifications**

| CURRENT PARK HOMES QUANTITY & GENERAL SPECIFICATIONS PER SECTION |   |           |      |          |
|--|---|-----------|------|----------|
| SECTION  | DISCRIPTION                               | QUANTITY  | SIZE | COMMENTS |
| <b>6 Series</b>  | Male – 2 x Ablution and 2 x change room   | 4         | 12x6 |          |
|  | Female - 3 x Ablution and 3 x change room | 6         | 12x6 |          |
|  | Kitchen Messrooms                         | 2         | 12x6 |          |
|  | Total number of Park-homes required       | <b>12</b> |      |          |
| <b>7 Series &amp; GBB</b>  | Male – 2 x Ablution and 2 x change room   | 4         | 12x6 |          |
|  | Female - 2 x Ablution and 2 x change room | 4         | 12x6 |          |
|  | Kitchen and Messrooms                     | 2         | 12x6 |          |
|  | Canteen Facility                          | 2         | 12x8 |          |
|  | Total number of Park-homes required       | <b>12</b> |      |          |
| <b>Neo Bulk</b>  | Male – 3 x Ablution and 3 x change room   | 6         | 12x6 |          |
|  | Female - 1 x Ablution and 1 x change room | 2         | 12x6 |          |
|  | Kitchen and Messrooms                     | 2         | 12x6 |          |



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|         |   |   |    |      |  |
|---------|---|---|----|------|--|
|         |   | Total number of Park-homes required       | 10 |      |  |
| Import  | Male – 1 x Ablution and 1 x change room   |   | 2  | 12x6 |  |
|         | Female - 1 x Ablution and 1 x change room |   | 2  | 12x6 |  |
|         | 1x Ablution                               |   | 1  | 12x6 | Changeroom, showers and toilets for Shincel              |
|         | Kitchen and Messroom                      |   | 2  | 12x6 | Shincel  |
|         | Classrooms                                |   | 1  | 12x6 |  |
|         |   |   | 1  | 12x6 | Coking coal shed   |
|         | Total number of Park-homes required       |   | 9  |      |  |
| Export  | Operations                                | Male –2 x Ablution and 2 x change room    | 4  | 12x6 |  |
|         |   | Female - 2 x Ablution and 2 x change room | 4  | 12x6 |  |
|         |   | Kitchen and Messroom                      | 2  | 12x6 |  |
|         |   | Operations Total                          | 10 |      |  |
|         | Technical                                 | Male –1 x Ablution and 1 x change room    | 2  | 12x6 |  |
|         |   | Female - 1 x Ablution and 1 x change room | 2  | 12x6 |  |
|         |   | Kitchen and Messroom - 1                  | 1  | 12x6 |  |
|         |   | Office - 1                                | 1  | 12x3 |  |
|         |   | Technical Total                           | 6  |      |  |
|         | Total number of Park-homes required       |   | 16 |      |  |
| Storage | Male – Ablution 2, Change Rooms 2,        |   | 4  | 12x6 |  |
|         | Female – Ablution 2, Change Rooms 2,      |   | 4  | 12x6 |  |
|         | Kitchen                                   |   | 2  | 12x6 |  |
|         | Messroom                                  |   | 2  | 12x6 |  |
|         | Weighbridge                               |   | 1  | 6x3  |  |
|         | Tippler 1&2 and Bottom discharge          |   | 3  | 3x3  |  |
|         | Total number of Park-homes required       |   | 16 |      |  |
| Fleet   | MPT Fleet 1                               | Male – 1 x Ablution and 1 x change room   | 4  | 12x6 |  |
|         |   | MPT Total                                 | 4  |      |  |
|         | DBT MPT Fleet 2                           | Male – 3 x Ablution and 2 x change room   | 5  | 12x6 | One ablution to have 2x toilets, 3x urinals, 6x showers. |

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|             |                                     |   |    |      |   |
|-------------|-------------------------------------|---|----|------|---|
|             |                                     | Messroom - 1  | 1  | 12x6 |   |
|             |                                     | DBT Total   | 6  |      |   |
|             | Total number of Park-homes required |   | 10 |      |   |
| SHEQ        |                                     | Induction Area  | 1  | 12x6 |   |
|             |                                     | Ablution – 1 x Male toilets, 1 x shower, 1 x hand wash basin with mirror, 1 x Urinal                      | 1  | 12x6 | To be partitioned for male and female ablution with two opposite doors for main entrance  |
|             |                                     | Ablution – 2 x Female toilets, 1 x shower, 1 x hand wash basin  |    |      |   |
|             |                                     | Offices – 5 x office rooms, 1 x Storeroom, 1 x Kitchen, 1 x storeroom, 1 x unisex toilet.                 | 1  | 12x6 | To be partitioned to create space for 5 offices, 1 kitchen, storeroom and Unisex toilet.  |
|             | Total number of Park-homes required |   | 3  |      |   |
| Procurement |                                     | Site meeting area   | 1  | 12x3 |   |
|             | Total number of Park-home required  |   | 1  |      |   |
| Security    |                                     | Park homes with Kitchen & Toilet  | 6  | 6x3  |   |
|             |                                     | Park homes with no Kitchen & Toilet   | 6  | 3x2  | May vary from 2 meters to 3 meters  |
|             | Total number of Park-homes required |   | 12 |      |   |
| HR          |                                     | Office – Recruitment with 5 x office rooms, 1 x Storeroom, 1 x Kitchen, 1 x storeroom, 1 x unisex toilet. | 1  | 12x6 | To be partitioned to create space for 5 offices, 1 kitchen, storeroom, and unisex toilet. |
|             |                                     | Training - 1  | 1  | 12x6 | Open plan   |
|             | Total number of Park-homes required |   | 2  |      |   |
| IT          |                                     | Storeroom - 1   | 1  | 6x3  | With no windows. Main door to have bugler aluminium gate frame and lock                   |

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|   |  |   |     |     |
|---|--|---|-----|-----|
|   | Total number of Park-homes required      | 1 |     |     |
| MPT Keyside   | 6 – Series Park homes with small Kitchen | 1 | 6x6 |     |
|   | 7 – Series Park homes with small Kitchen | 1 | 6x6 |     |
|   | Neobulk – Park homes with small Kitchen  | 1 | 6x6 |     |
|   | Total number of Park-homes required      | 3 |     |     |
| Total number of Park-homes required for the entire Port of Richards Bat TPT |  |   |     | 107 |

2.2.2 Table 6 above shall be used for unit's requirement specifications and quotation purposes.

2.2.3 All proposed designs shall be based on manning numbers per shift unit's utilization and anticipated quantity of 93 units.

2.2.4 The service provider has the flexibility to combine and or stack to story levels standardized park homes for space optimization where applicable.

2.2.5 Summary of minimum required units:

**Table 7: Summary of Required Units**

| Unit Size (meters) | Quantity   |
|--------------------|------------|
| 12 x 8             | 2          |
| 12 x 6             | 83         |
| 12 x 3             | 2          |
| 6 x 6              | 3          |
| 6 x 3              | 8          |
| 3 x 3              | 3          |
| 3 x 2              | 6          |
| <b>TOTAL</b>       | <b>107</b> |

## 2.3 Accessories specifications

Detailed Specifications of units' facilities:

### a) Kitchens – 12 x 6 Units

- Fit cupboards as per estimated numbers per shift.
- The top surface of the cupboards must be granite (2.5 x 1 sqm minimum).
- The floor must be rubberized/aluminium diamond sheeting, or equivalent.
- Install air conditions and Extraction fans according to the building regulation SANS 10400-O.
- Supply and install hydro boils (2 of 7.5 L) or equivalent.
- 2 of double sink basins.

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- Allocate and install taps according to the number of sinks.
- Install minimum of 6 electric socket plugs along the unit wall and three (3) socket plugs for microwaves.
- Top cupboards to accommodate microwave placement.
- Certificate of compliance to be issued for all electrical works and plumbing; and
- Sitting space plan arrangement to allow placement of benches.

## b) Male Ablution Rooms– 12 x 6 Units

- 3 x fully plumbed toilet.
- 1x fully plumbed disabled person toilet.
- 3 x fully plumbed urine basin.
- 1x fully plumbed outside concrete double basin for hands wash.
- 6 x fully plumbed hand wash basin (stainless steel or ceramic).
- 11 x fully plumbed showers with close doors.
- 1 x fully plumbed disabled person shower with close door.
- 2.5m – 3m length x 1m height mirror coverage above basins positioned as per design standard.
- Size, and install water geysers as per the provided park-home functionality requirements in respect to shift patterns and number of users per shift.
- Install air conditions and Extraction fans according to the building regulation SANS 10400-O; and
- Change room space to allow placement of lockers and benches with privacy partitioning wall.

## c) Female Ablution Rooms – 12 x 6 Units

- 3 x fully plumbed toilet.
- 1x fully plumbed disabled person toilet.
- 6 x fully plumbed hand wash basin (stainless steel or ceramic).
- 1x fully plumbed outside concrete double basin for hands wash.
- 11 x fully plumbed showers with close doors.
- 1 x fully plumbed disabled person shower with close door.
- 2.5m – 3m length x 1m height mirror coverage above basins positioned as per design standard.
- Size, and install water geysers as per the provided park-home functionality requirements in respect to shift patterns and number of users per shift.
- Install air conditions and Extraction fans according to the building regulation SANS 10400-O; and
- Change room space to allow placement of lockers and benches.

## d) Unisex Ablution – 12 x 3 Units

- 1 x fully plumbed toilet.
- 1 x fully plumbed shower.

|          |  |  |               |     |
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- 1x fully plumbed outside concrete double basin for hands wash.
- Size, and install water geysers as per the provided park-home functionality requirements in respect to shift patterns and number of users per shift.

## e) MPT Key Side – 6x3

- Supervisor Office
- Eating Area and Kitchen
- 7.5 Litre hydro Boil
- Air conditioner as per HVAC standards regulations.

## f) MPT Key Side – 6x3 units

- Cubicles to accommodate a minimum of 6 workers
- Ergonomic eating arrangement
- Seating equipment
- Electrical wiring to allow charging and power access

## g) Security – 2-3 x 2-3 units

- 1 x fully plumbed toilet.
- 1 x fully plumbed shower; and
- Sink with single basin; and
- Air conditioner as per HVAC standards regulations.

## h) Canteen Facility – 12 x 8 units

- Single story modular canteen park home
- Sufficient space for eating
- Ablution facility to cater for food service provider (disabled capable toilet, Shower, and wash basins)
- A kitchen area partition on the ground floor
- 1x Office room
- Storage space/room
- Size, and install water geysers as per the provided park-home functionality requirements in respect to shift patterns and number of users per shift.
- Access stairway to the first story.

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### i) Change Rooms – 12 x 6 units (Male and Females)

- Park home to have a bridge connection door to allow coupling of change rooms with ablution park homes.
- Bridge connection doors must open to inside with door stoppers for perfect fit functionality.
- Park home to have privacy retaining wall place at minimum of 1 m and parallel to the main door.
- The wall must off-set from park home main walls by 2m.
- Perpendicular to the privacy retaining wall, install a total of 8 hand wash basins protruding from the wall, and placed back-to-back in a series number of 4 each side.
- In between the basins, divide by a wall and place mirrors (2.5 – 3 m span) both sides, and extending a height of 1m at minimum.

2.3.1 Bidder must assess, identify, design and install a floor raise by about 150mm high for all areas designated for change room lockers to avoid lockers corrosion due to cleaning water and chemical detergents.

### j) IT Storeroom Unit – 6x3

- IT to be a sealed unit with one entrance and a security gate.
- Install air vents as per HVAC requirements

## 2.4 Structural Build Specifications – Chassis and floor

- 2.4.1 Load bearing capacity to 250 kg/m<sup>2</sup> at minimum.
- 2.4.2 Acid washed and Painted NC paint as per TPT or industry practice.
- 2.4.3 Lip channels to be as per engineer's design recommendations.
- 2.4.4 Adjustable Tripod Jacks for levelling and positioning.
- 2.4.5 40x40x3mm Angle Stiffeners
- 2.4.6 18mm C+C Pine Shutter ply (green strip) or equivalent for flooring
- 2.4.7 Chassis design drawings to be approved by the presiding ECSA registered engineer.
- 2.4.8 Bridge connection for ablution to change rooms fully enclosed and sealed at the connection joints.

## 2.5 Structural Build Specifications – Walls

- 2.5.1 2mm Thick Aluminium powder coated charcoal white extrusions for corners and Roof Channels.
- 2.5.2 Inner and outer wall skins to be white chromadek (corrosion proof).
- 2.5.3 40mm Polystyrene chromadek Double Skin wall Panel – 15DV with 0.4mm chromadek skins.

## 2.6 Structural Build Specifications – Windows

- 2.6.1 All windows to be designed and installed as per the building regulation minimum requirements for respective park homes functionality.

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2.6.2 PT120 powder coated white aluminium Windows with Solid Square bars 12.5x12.5mm burglar bars or equivalent.

### 2.7 Structural Build Specifications – Doors

2.7.1 40mm Polystyrene chromadek Double Skin wall Panel – 15DV with 0.4mm minimum chromadek skins.

2.7.2 Panel to be clad with Aluminium powder coated charcoal grey door and framed with 1.2mm Aluminium powder coated profile with 3 lever Union mortice lock set

### 2.8 Structural Build Specifications - Ceilings

2.8.1 40mm Polystyrene chromadek Double Skin ceiling Panel – 40mm Polystyrene 15DV with 0.4mm chromadek skins. Underside of ceiling to be clad with 2mm Thick Aluminium powder coated white.

### 2.9 Structural Build Specifications – Roof Sheeting

2.9.1 0.58mm Colour plus charcoal galvanized IBR profile Roof sheeting or equivalent or more robust spec.

### 2.10 Structural Build Specifications – Vinyl

2.10.1 2mm Homogenous vinyl (Blue)

### 2.11 Structural Build specifications – Units additional requirements

2.11.1 All kitchens and mess rooms to come with awning veranda.

2.11.2 Minimum dimensions to be 1.5m perpendicular to the unit X 2m parallel to the unit.

2.11.3 All units to have gutters for rainwater collection.

2.11.4 All Park homes to have 600mm length x 300mm width x 50mm height concrete outdoor tiles at minimum for all areas with no well-prepared (tiles/paved/tarred) floor.

2.11.5 Bidder must allow installation of veranda costs in each park for similar dimensions as above for as and when requested.

2.11.6 Service provider must make provisions for ramp access on both sides perpendicular to the entrance.

2.11.7 Ramp to be covered by diamond pattern aluminium sheeting.

### 2.12 Electrical and lighting Specifications

2.12.1 The *Contractor* is to design the electrical layout of the facility.

2.12.2 The design must include a three (3) phase distribution board with earth leakage protection and all the necessary isolators.

2.12.3 The design must also consider all lighting, air conditioning, geysers, offices, and kitchen requirements.

2.12.4 Lighting must be provided throughout the facility.

2.12.5 The lighting must be compatible with the environment it is installed in and meet minimum OHSACT lux levels.

2.12.6 Service provider is advised to use durable LED lighting.

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- 2.12.7 Outdoor lighting must also be provided on the outside above the doors of the park home facility operated by a light dependable resistor (LDR).
- 2.12.8 The ablution locker space must have extractor fans for cooling while mess/meeting area and office space must be air conditioned using split unit air conditioners.
- 2.12.9 Geysers using heat pumps, capable of supplying enough hot water for the employees must be installed at the facility.
- 2.12.10 Offices must have either four (4) 220 V plugs or two (2) double 220 V plugs.
- 2.12.11 The design must incorporate two (2) tier power skirting for all the offices with one of the skirting being used for electrical and the other available for communications (installed by others).
- 2.12.12 Power skirting must be provided for the kitchen. The kitchen must have four (4) 220 V plugs, hydro boils being part of the kitchen requirements.
- 2.12.13 A single, not several, connection point must be provided for the final electrical connection. The *Contractor* must survey the Site for the existing electrical services and provide the single connection point as close as feasible to the existing electrical services.
- 2.12.14 Multiple sockets plug to be provided in various wall positions for easy use like charging phones. All socket plugs to be 220V, three-point plugin ports.
- 2.12.15 Certificates of Compliance (COCs) must be provided for all electrical works
- 2.12.16 Service provider to account for at least 30 meters for main electrical connections.

## 2.13 Plumbing

- 2.13.1 The Contractor must survey the Site for the existing plumbing services and provide the single connection point as close as feasible to the existing plumbing services.
- 2.13.2 The plumbing design must account for both the male and female ablutions, including the showers and geysers
- 2.13.3 Geysers sufficient of supplying enough hot water for the employees (100 in quantity) during shift changes must be installed at the facility in accordance with building regulation under plumbing works. It is the responsibility of the contractor to compute the required number of geysers sizes and quantity.
- 2.13.4 The plumbing must be pressure tested for leaks. A certificate of compliance must be issued for the plumbing works.
- 2.13.5 The residual design responsibility and overall responsibility for the total design solution for the works rests with the Contractor.
- 2.13.6 Service provider to account for at least 30 meters for main connections.

## 2.14 Site installation

- 2.14.1 Service provider shall supply to site and install units as per the method statement and QCP plan.
- 2.14.2 Service provider must carry out installation of units in a way which may not interfere with the business operation
- 2.14.3 No installation shall be conducted without approval by the presiding project leader.
- 2.14.4 Final commissioning shall be approved by the project leader and hand units to end user.
- 2.14.5 Service provider to note that all craneage, rigging and transport of units shall be at their own provision and cost.

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- 2.14.6 It is service provider's responsibility to assess the site, locate connection points, identify, and note requirements to integrate the plumbing of park homes into the existing Transnet system.
- 2.14.7 Service provider is required to provide a method statement illustrating on how they are going to execute work within provided delivery lead times.  
Method statement must cover:
- Governing standards and specifications
  - Required level of skill
  - Project Organogram
  - sourcing of materials
  - Managing health, Safety, Risk and Environment at the workshop and on site
  - Production/Fabrication or Manufacturing Process
  - Handling and Transportation of Park Homes to TPT RCB
  - Installation and commissioning
  - Hand interphasing of functions and service requirements of the units
  - Maintenance
- 2.14.8 Bidder must confirm in writing as a binding commitment on their company letterhead that they shall respond to emergency callouts for fire, electrical and sewage related faults which are high health, safety, and environment risks. The bidder must respond to the call-out within 30 minutes from acknowledging and confirming that they will attend to the matter.

## 3. Leasing Agreement and Comprehensive Maintenance Plan Requirements

### 3.1 Leasing Agreement

- 3.1.1 Service provider is required to, for the span of the contract, lease park homes with maintenance plan to Transnet.
- 3.1.2 Monthly leasing fee shall include scheduled inspections, maintenance of all units and all accessories in them.
- 3.1.3 Service provider to clearly state the leasing fees on the pricing schedule provided which will be inclusive of the maintenance plan
- 3.1.4 All items with warranties and guarantees shall be replaced at the cost of the contractor when non-functional, unless otherwise identified as broken or misuse by Transnet employees.
- 3.1.5 Claims for damages shall be carried out according to the process which will be clarified on the SLA document with the successful bidder.

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### 3.2 Maintenance Plan

3.2.1 The contractor is required for the period of the contract, to maintain the facility and always sustain it in an acceptable condition for use as part of the leasing agreement.

Comprehensive maintenance must cover and not limited to:

- a) All plumbing work
  - b) All electrical work including lighting bulbs (power saving or LEDs)
  - c) All HVAC systems
  - d) Corrosion Protection of the facility
  - e) Structural integrity
  - f) All ablution facilities
  - g) Semesterly high-pressure water cleaning of all park homes.
- 3.2.2 Contractor to carry out monthly inspection, compile and submit a monthly inspection report during SLA meetings. This report shall also include the cost incurred due to damages in all park homes.
- 3.2.3 Service provider to confirm in writing through guarantee & warranties schedule that the support maintenance service shall be provided in swift response, and within an hour to problems related to electrical faults with high risks, fire, drainage systems blockage, etc.
- 3.2.4 Failure to conform to the above requirement will result in contract breach, which will eventually invoke issuing of non-conformance.
- 3.2.5 The provided contact details must be available in alignment to TPT shifts and service response to callouts of serious breakdowns as indicated under 3.8.8 must be provided on 24 hrs. basis.
- 3.2.6 All critical spares to be kept readily available for any reported issue which would affect the business (Bulbs, valves, plumbing rubber seals, etc.) in accordance with maintenance strategy of the Service provider.
- 3.2.7 The contractor must illustrate their inventory management plan for critical spares and maintenance plan under method statement.
- 3.2.8 To satisfy this requirement, the service provider will be required to provide relevant information pertaining their resources: Electrician, Plumber, Mechanical Fitter, and assistants.

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### 3.3 Emergency call-outs Maintenance Plan

- 3.3.1 Service provider shall be required to, for a period of the contract, have a standby team to carry out all emergency maintenance services when needed.
- 3.3.2 The team shall comprise of a skilled trade tested plumber, skilled trade tested electrician, and two assistants.
- 3.3.3 This service is required as and when serious failures occur.
- 3.3.4 Monthly fees of leasing the unit shall include this services requirement.

### 3.4 Ad-hoc Services of park homes leasing agreement

- 3.4.1 Service Provider will be required to provide leasing of park homes as and when required when Transnet requires additional park homes in addition to the prescribed number in the contract.
- 3.4.2 The pricing schedule attached shall indicate a directive breakdown of standardized units required with accessories, which will be used to indicate the costs thereof, to acquire additional park homes.

### 3.5 Hygiene and Cleaning Services

- 3.5.1 Service provider must pressure wash all park homes every six months.
- 3.5.2 Costs for high pressure washing must be included in the leasing fee.

## 4. General Information and Specifications

### 4.1 Communication & Operational Readiness

- 4.1.1 The service provider is required to have an office and a workshop for repairs of the units within Municipality of Richards Bay.
- 4.1.2 Address of the operational office shall be provided to TPT prior kick-off meeting, and TPT representative shall validate and verify the geographical location against business requirements
- 4.1.3 Failure to establish working offices within Richards Bay municipality one week post award will lead to termination of contract.
- 4.1.4 Communication media in a form of an email, telephone number, etc. shall be provided with credentials of a contact person to report problems experienced on the facility
- 4.1.5 These Park homes to have TPT corporate branding, which is a TPT logo that will be on the visible side of the park home. Service Provider may have their own logo on the park home together with Transnet logo.

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## 5. Engineering and Contractor's Design

### 5.1 Procedure for submission and acceptance of Contractor's design:

5.1.1 The Contractor shall address the following procedures:

- All designs done by the Contractor must comply with all relevant SANS and SABS standards and must be approved by a Professional Engineer (PrEng).
- A hardcopy of the design, approved by a PrEng, must be supplied to the Project Manager for approval.
- After the approval both a hard copy of the design as well as external storage (USB) with Adobe Acrobat (PDF) and "Native" (DWG and parasolid if possible or deemed required by the project manager) file format of the design must be supplied to the Project Manager.

5.1.2 Acceptance of documentation by the Project Manager in no way relieves the Contractor of his professional indemnity responsibility for the correctness of information, or conformance with the requirements of the Works Information. This responsibility rests solely with the Contractor.

### 5.2 Review and Acceptance of Contractor Documentation

5.2.1 The Contractor submits documentation as the 'Works Information' requires to the Project Manager for review and acceptance. The Approval of relevant documents will have a lead time of eight (8) working days, from the Client to the Contractor. In undertaking the 'Works' (including all incidental services required), the Supplier shall conform and adhere to the requirements of TPT Document Control.

### 5.3 Use of Contractor's design

5.3.1 The Contractor grants the Employer a licence to use the copyright in all design data presented to the Employer in relation to the works for any purpose in connection with the construction, re-construction, refurbishment, repair, maintenance and extension of the works with such licence being capable of transfer to any third party without the consent of the Contractor.

5.3.2 The Contractor vests in the Employer full title guarantee in the intellectual property and copyright in the design data created in relation to the works as follows:

- The Contractor grants the Employer a licence to use the copyright in all design data presented to the Employer in relation to the works for any future tenders and construction of modular facilities.

### 5.4 As-built drawings, operating manuals and maintenance schedules

5.4.1 2 x hard copies (full size)

5.4.2 2 x CD ROMs with Adobe Acrobat (PDF) and "DWG" file formats.

5.4.3 All drawings to have TPT LOGO and state the grant of use of contractor's design as stated on 5.3 above.

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## 6. Construction

### 6.1 Temporary works, Site services & construction constraints

#### 6.1.1 Employer's Site entry and security control, permits, and Site regulations:

- a) The Contractor complies with the Employer's Site entry and security control, permits, and Site regulations.
- b) The Employer arranges for ID cards to all Contractors' employees for access/egress of personnel (and Equipment) within the Site boundaries.

#### 6.1.2 The Contractor complies with the following requirements of the Employer:

All Contractor staff entering the Richards Bay Terminal facility will undertake an alcohol breathalyser on a daily basis

- All relevant PPE must be worn by Site personnel when entering the Port.
- All vehicle permits must be obtained prior to site access
- All relevant personnel inductions must be done prior to site access being granted.

#### 6.1.3 Restrictions to access on Site, roads, walkways and barricades:

- a) The Contractor is specifically excluded from entering the Employer's Operational Areas which are adjacent to the Site and Working Area.
- b) The Contractor plans and organizes his work in such a manner so as to cause the least possible disruption to the Employer's operations.
- c) The Contractor ensures the safe passage of Contractor's traffic to and from the Site and Working Areas at all times that includes providing flagmen, protective barriers, signage, etc. for the protection, direction and control of traffic.
- d) The Contractor ensures that none of his personnel and Equipment will be allowed to move outside of his allocated Site and Working Areas. To this end, access routes are allocated and coordinated by the Project Manager.
- e) The Contractor ensures that all his construction personnel and Equipment remains within his allocated and fenced off construction area.
- f) The Contractor's personnel working within Richards Bay Terminal complies with TPT National Port Authority (TNPA) operational safety requirements and are equipped with all necessary PPE, high visibility apparel and, when working within two meters of the quay wall, floating apparel.

#### 6.1.4 The Contractor complies with the following requirements of the Employer:

- a) Access/egress permissions and restrictions for all personnel and equipment will apply
- b) All personnel to remain within the site boundary at all times
- c) The Contractor keeps daily records of his people engaged on the Site and Working Areas (including Subcontractors) with access to such daily records available for inspection by the Project Manager at all reasonable times.
- d) Health and safety facilities on Site to comply with the OSH ACT.

|          |   |  |               |     |
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- e) The Contractor provides a notice board in terms of TPT requirements at a location to be approved by the Project Manager on site.
- f) The Contractor provides progress photographs at weekly intervals in electronic format to the Project Manager.
- g) The Contractor does not advertise the contract or the project to any third party, nor communicate directly with the media (in any jurisdiction) whatsoever without the express written notification and consent of the Project Manager.

## 6.1.5 Site services and facilities:

- a) For the duration of the Contract, the Project Manager will provide an area, free of charge, of the Contractor to establish his offices, lay down areas, stores, workshops, and other Contractor's Equipment when needed.
- b) The Project Manager provides the Contractor with a connection to the Employer's water-borne sewerage network. Where no suitable connection to a sewerage system is feasible, portable chemical type toilets may be used.
- c) All costs for preparation of the site establishment area are for the Contractor's account.
- d) The Contractor is responsible for his own connection to the Employer's services and for the reticulation of his services from the connection point. The cost of meters, connections, reticulation and all other usage costs associated with the provision of services are for the Contractor's account.
- e) The Contractor provides, at his own cost, a sufficient number of toilets and maintains them in a clean and sanitary working condition.
- f) The Contractor provides temporary lighting and fencing around every section occupied by him during the construction of the works.
- g) Such fencing demarcates and secures the construction area. The fencing is erected before any work starts and is removed only upon completion of the work in the area.
- h) The Contractor includes for all costs for such lighting and fencing, including access control into and out of these restricted areas.
- i) Wherever the Contractor provides facilities (either his own or for the Project Manager and/or Supervisor) and all items of Equipment, involving, inter alia, offices, accommodation, laboratories, Materials storage, compound areas etc., within the Working Areas, then the Contractor makes good and provides full reinstatement to the land (including all apparatus of the Employer and Others in, on or under the land) and surrounding areas to its original standard, upon dismantling of such facilities and items of Equipment.
- j) Upon completion, and within one month of the date of acceptance of the works, the Contractor completely removes from the Site and Working Area all his Equipment, including the foundations of any structures, stores, office accommodation or any

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other asset belonging to him, and leaves the Site and Working Areas in a tidy condition to the satisfaction of the Project Manager.

- k) No excess or discarded materials or Equipment may be buried or dumped within the port boundary.
- l) Demolition of all temporary structures, surfaces, etc., shall be first approved by the Project Manager prior to the work being carried out.
- m) The Employer does not provide any security for the Site and Working Areas. The Contractor provides same and indemnifies and hold indemnified the Project Manager and Employer against any claims and actions that may arise out of Site and Working Areas security.
- n) No housing is available for the Contractor's employees. The Contractor makes his own arrangements to house his employees and transports them to site in a closed vehicle specifically designed for passenger transport (bus or similar), accepted by the Project Manager.
- o) The Contractor shall provide everything else necessary for providing the Works
- p) Wherever the Employer provides facilities (including, inter alia, temporary power, water, waste disposal, telecommunications etc.) for the Contractor's use within the Working Areas and the Contractor adapts such facilities for use, then the Contractor makes good and provides full reinstatement to the land (including all apparatus of the Employer and Others in, on or under the land) and surrounding areas to its original standard upon dismantling of such facilities and hand-back to the Employer.

6.1.6 Facilities provided by the Contractor:

- a) The Contractor ensures that this site establishment area is compliant with the relevant safety regulations and restrictions, is clearly sign posted, and has a suitable security fence, lighting and the necessary access control gates.
- b) Wherever the Contractor provides facilities (either his own or for the Project Manager and/or Supervisor) and all items of Equipment, involving, inter alia, offices, accommodation, laboratories, Materials storage, compound areas, within the Working Areas, then the Contractor makes good and provides full reinstatement to the land (including all apparatus of the Employer and Others in, on or under the land) and surrounding areas to its original standard, upon dismantling of such facilities and items of Equipment.
- c) Unless expressly stated as a responsibility of the Employer as stated under Site services and facilities, all residual requirements for the provision of facilities and all items of Equipment necessary for the Contractor to Provide the Works remains the responsibility of the Contractor.

6.1.7 Underground services, other existing services, cable and pipe trenches and covers:

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- a) The Contractor establishes the location of the various existing services situated within the Site and Working Areas and records all such information on a "marked-up" drawing(s) which remains available for reference at all times.
- b) The Contractor exercises due care and attention in carrying out any excavation work to avoid damage or disruption to existing services. The Contractor according consults the Project Manager prior to undertaking any excavation work.
- c) Should the Contractor fail to exercise the requisite care and attention in carrying out the excavation work, the Contractor will be held liable for any claims arising out of damage caused by such excavation.

6.1.8 Where the Contractor encounters existing [underground services / existing services cables / pipe trenches] [state as appropriate], the Contractor undertakes the following:

- a) Notify the Project Supervisor immediately and await further instructions

6.1.9 Control of noise, dust, water and waste

- a) Before moving Equipment onto the Site and Working Areas and commencing operations, the Contractor submits his proposed methods of construction which demonstrate the measures taken to avoid and or reduce any nuisance arising from dust and noise for acceptance by the Project Manager.

## 6.2 Completion, testing, commissioning and correction of Defects

6.2.1 6.2.1 The work to be done by the Completion Date.

- a) On or before the Completion Date the Contractor shall have done everything required to Provide the Works including the work listed below which is to be done before the Completion Date and in any case before the dates stated. The Project Manager cannot certify Completion until all the work listed below has been done and is also free of Defects, which would have, in his opinion, prevented the Employer from using the works and others from doing their work.
- b) The Employer to take over a section of the works before Completion of park homes has been certified. In this event, the Contractor will handover this portion as deemed completed and all necessary legislative requirements is deemed to have been met for early occupation of the partial area.
- c) The Contractor ensures that the Project Manager has a full and accurate dossier of As-built documents that represent the Mechanical, Electrical and General Construction Works and Layouts status of the completed works (to include Plant within the works) to present to the Employer.
- d) The Contractor complies with the following constraints and procedures of the Employer where the Project Manager arranges access for the Contractor after Completion:

|          |  |  |               |     |
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**Table 8: Examples of works to be completed table**

| Item of work                      | To be completed by |
|-----------------------------------|--------------------|
| Park homes Design & manufacturing |                    |
| Park homes Site installation      |                    |
| <b>Balance of works</b>           |                    |

6.2.2 Use of the works before Completion has been certified.

The Contractor ensures that the Project Manager has a full and accurate dossier of As-built documents that represent the Mechanical, Electrical and General Construction Works and Layouts status of the completed works (to include Plant within the works) to present to the Employer.

## 7. Plant, Materials Standards and Workmanship

### 7.1 Investigation, Survey and site clearance

7.1.1 7.1.1 The *Contractor* carries out the following investigations at the Site:

- The *Contractor* must survey where the existing electrical services are located in the Site and provide the single connection point as close as feasible to the existing electrical services.
- The *Contractor* must survey where the existing plumbing services are located in the Site and provide the single connection point as close as feasible to the existing plumbing services.

### 7.2 Building Works

7.2.1 The progress of works will be measured by an Activity Schedule as proposed.

**Table 9: Description of Task**

|    |   |
|----|---|
| 1  | Submission of Design                                  |
| 2  | Approval of Design (TPT) - (lead time 8 working days) |
| 3  | Establish Site Laydown area (if required)             |
| 4  | Remove old facility/equipment/scrapes if applicable   |
| 5  | Prepare new foundations                               |
| 6  | Supply new Facility                                   |
| 7  | Install New Facility                                  |
| 8  | Establish services to new facility                    |
| 9  | Handover / Acceptance of facility                     |
| 10 | De-establish Site                                     |
| 11 | Handover technical drawings / documents               |

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7.2.2 The above milestones are for site work. The Contractor still has the responsibility to provide the most optimum schedule to achieve the completions of works in the shortest of periods.

## 7.3 Existing services

7.3.1 As soon as any underground service not shown on the drawings is discovered, it shall be brought to the attention of the Project Manager. A contractor's tractor shall not uplift any such service unless he is instructed to do so.

7.3.2 The Contractor shall be held responsible for any damage to known services (i.e., services that are within the site of the works and are shown on the drawing) and he shall take all necessary measures to protect them. In the event of a service being damaged, the Contractor shall immediately notify the Project Manager. The Contractor shall not repair any such service unless he is instructed to do so.

### 7.3.3 Making good of existing surfaces

The Contractor shall ensure that all surfaces that are damaged during the construction are to be repaired to a satisfactory condition and to match the existing surface. Any damage to the adjacent surfaces shall be repaired by the Contractor to the satisfaction of the Project Manager.

### 7.3.4 Materials

All vegetation, trees, etc. resulting from site clearance shall be removed off site to a disposal dump to be selected by the Contractor. The haulage, dump costs and any levies etc. shall be deemed to be included in his tendered rates. Burning of materials on site shall not be permitted.

### 7.3.5 Cement

Common cements, complying with SANS 50197-1 shall be used for all concrete work. On no account shall masonry cements be used for concrete work, even if the strength designations are the same as for common cements.

### 7.3.6 Coastal Zone

In this application, which is within one kilometre of the sea, one or more of the following Portland cementations binders shall be used in all applications:

7.3.6.1 Blast furnace cement, Type III/A, certified as containing not less than 40% and not more than 50% milled granulated blast furnace slag (MGBS), or a blend of Type 1 Portland cement with not less than 40% and not more than 50% MGBS. MGBS shall comply with SANS 1491 Part 1.

7.3.6.2 Fly ash cement Type II/B-V or Portland fly ash cement Type II/B-W certified as containing not less than 25% and not more than 30% fly ash shall comply with SANS 1491 Part 2.

Alkali Reactive Concrete

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7.3.6.3 Alkali Reactive Aggregates shall not be used in this project. The equivalent Na<sub>2</sub>O content of the concrete shall not exceed 2, 0 kg/m<sup>3</sup> where % Na<sub>2</sub>O equivalent = % Na<sub>2</sub>O + (0,658 x % K<sub>2</sub>O).

## 7.3.7 Aggregates

7.3.7.1 Fine and coarse aggregate shall comply with the relevant clauses of SANS 1083.

7.3.7.2 Where aggregates have constituents, which, in the opinion of the Supervisor, may give rise to damage due to alkali-aggregate reactions, the provisions of PS: C2.3 shall be applicable.

7.3.7.3 Evidence of compliance of the aggregates with the requirements of PS: C3.1 & C3.2 shall be furnished as early as practical. If required by the Project Manager, the Contractor shall submit 40 kg samples for approval at least 6 weeks prior to the start of concrete construction. No aggregate shall be delivered for use in the works until approval is given.

## 7.3.8 Curing Period

7.3.8.1 The curing period for concrete containing only CEM 1 shall be 7 days.

7.3.8.2 The curing period for concrete containing CEM 1 plus cement extenders (MGBS, FA) shall be 10 days.

7.3.8.3 The curing period will start on completion of the concrete pour and for formed surfaces shall include the time for which forms are still in place after the pour. Rivets shall be driven with pressure tools whenever possible and pneumatic hammers shall be used in preference to hand driving.

7.3.8.4 All field rivets must be supplied with shanks of suitable length for pneumatic riveting.

7.3.8.5 Bolts shall be of such a length as to accommodate a full nut when tightening up, and project at least two thread pitches beyond the nut. Excessive projection of threads beyond the nuts should be avoided.

7.3.8.6 All bolts having countersunk heads shall have strong feathers forged on the neck and head to prevent turning and the bolt holes shall be cut to receive same. All nuts and bolts (excluding countersunk bolts) shall be furnished with circular washers of sufficient thickness, the outside diameter being at least twice the nominal diameter of the bolt, and washers fitted correctly.

7.3.8.7 Where bolt heads or nuts are seated on bevelled surfaces of beams or channel flanges, bevelled washers must be inserted.

## 7.3.9 Joints and mating Surfaces of Members

7.3.9.1 Mating surfaces of members to be joined by high tensile steel bolts in friction grip shall be cleaned and primed as specified for the rest of the steelwork. Mating surfaces shall lay flat against each other to eliminate gaps which may allow ingress of water. After joining, the edges shall be sealed with an approved brand of Butyl/ Rubber sealing compound by means of a suitable caulking gun or shall be seal welded.

7.3.10 Other joints shall be formed by one of the following methods:

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7.3.10.1 The mating surfaces of members shall be blast cleaned, primed and protected prior to sub-assembly by the liberal application of caulking compound. While the compound is still wet, the members shall be bolted together and caulking compound which is squeezed out shall be completely removed.

7.3.10.2 The mating surfaces shall be protected with the full corrosion protection system as specified, the surfaces joined together and the joint so formed shall be sealed with butyl rubber sealer.

7.3.10.3 After being cleaned and primed the surface shall be joined together and the joint so formed shall be seal welded.

7.3.10.4 The primer coating on mating surfaces must be applied not more than 4 hours after cleaning and the edges must be sealed within 3 weeks of assembly of the part.

### 7.3.11 Fabricated Parts

All fabricated parts shall be properly fitted during assembly to result in properly aligned equipment having a neat appearance. Fabrications of load bearing members shall have no abrupt changes in cross section and regions of severe stress concentration. All sharp corners accessible by personnel during erection or operation shall be ground, rounded, or removed by other methods. Burrs, welding spatter and stubs of welding wire shall be removed.

## 8. Safety

### 8.1 Safety Requirements

8.1.1 Contractor to comply with Health and Safety Acts and its regulations.

8.1.2 Refer to Occupational Health & Safety Act 85 of 1993 ("OHSA") for guidance.

8.1.3 Service provider must have a safety file submitted to the safety department for assessment.

8.1.4 All employees must be medically fit with report confirm that they may commence work in TPT premises.

8.1.5 Supplier to adhere to all environmental rules and regulations as explained in detail under management and start up topic

8.1.6 All personnel involved to have all relevant PPE requirement at all times

## 9. Compliance with Statutory and other requirements

### 9.1 Compliance

Bidders shall comply with all legislation, but not limited to the following:

9.1.1 Occupational Health & Safety Act 85 of 1993 ("OHSA").

9.1.2 International Health Regulation Act 28 of 1974.

9.1.3 Hazardous Substances Act 15 of 1973.

9.1.4 The Compensation for Occupational Injuries and Disease Act, 1993 (Act No.130 of 1993) ("COIDA").

|          |  |  |               |     |
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- 9.1.5 All material aspects of all applicable legislation, provincial ordinances and local authority by-laws, including all relevant regulations promulgated in terms thereof, which affects the maritime business.
- 9.1.6 The basic conditions of Employment Act No.75 of 1997.
- 9.1.7 Criminal Procedure Act No.51 of 1977
- 9.1.8 National Ports Act No.12 of 2005 and enabling legislation thereto, including the Port Rules.
- 9.1.9 Control of Access to Public Premises and Vehicle Act, No 53 of 1985.
- 9.1.10 Legal Succession to the South African Transport Services Act No.9 of 1989 (but excluding any tariff provided for in such regulations).
- 9.1.11 Any other Transportation laws or directives that govern TPT's Transportation and Handling Services.
- 9.1.12 Merchant Shipping Act no.57 of 1951, the Maritime Security Regulations 2004 read in conjunction with the International Ship and Port Facility Security Code and Maritime Occupational Safety Regulations (1994), as amended.
- 9.1.13 Codes of Good practice embodied in the Broad Based Black Economic Empowerment Act No.53 of 2003:
- 9.1.14 Customs and Excise Act No.91 of 1964:
- 9.1.15 National Road Traffic Act and Regulations Act 93 of 1996 (as amended from time to time).
- 9.1.16 The National Railway Safety Regulator Act No.16 of 2002,
- 9.1.17 The Labour Relations Act No.66 of 1995 and the Regulations thereto.

## 10. Guiding Specifications

**Table 10: Schedule of EEAM Specifications**

| Item No. | Specification Number | Title of Specification                               | Revision | Date      |
|----------|----------------------|--|----------|-----------|
| 6        | EEAM-Q-006           | Structural steel Work                                |          |           |
| 8        | EEAM-Q-008           | Corrosion Protection                                 |          |           |
| 9        | EEAM-Q-009           | Quality Management                                   |          |           |
| 10       | EEAM-Q-010           | Specification for reinforced Concrete and Structural |          |           |
| 12       | EEAM-Q-012           | General Electrical Equipment                         | 1        | 10-Sep-12 |
| 13       | EEAM-Q-013           | Commissioning & Handover                             |          |           |
| 15       | EEAM-Q-015           | Elec Tech Data Sheet                                 |          |           |
| 16       | EEAM-Q-016           | General Requirements and Conditions                  |          |           |
| 17       | EEAM-Q-017           | Medium voltage switchgear and control                |          |           |
| 18       | EEAM-Q-018/021/030   | Specification for Electrical Equipment               |          |           |
| 20       | EEAM-Q-020           | Tests on Electrical Equipment                        |          |           |
| 21       | EEAM-Q-021           | Electronic Equipment                                 |          |           |
| 23       | EEAM-Q-023           | Specification for RBT -electrical Equipment          |          |           |
| 24       | EEAM-Q-024           | General Conditions of Contract                       |          |           |
| 30       | EEAM-Q-029           | Specification for purchase of air conditions         |          |           |

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## 11. Penalties

### 11.1 Penalty Levels

11.1.1 The Service provider must provide TPT with the maintenance and inspection reports on monthly basis during SLA meetings, failure to comply may position the service provider incompetent to render services and lead to contract termination or any applicable issuing of non-conformance (NCR).

11.1.2 Fines or withholding of payments shall be exercised where the service provider has demonstrated poor quality of work.

## 12. Contract Management and start up

### 12.1 Contract Management

For the term of the contract, service provider is obliged to provide services at required cost, time and quality as per contractual agreement. Monthly service level agreement meetings shall be held as per agreement to measure performance of the service provider, monitor and reflect of funds usage, conflicts resolutions and processes optimization to save costs. Service provider shall be responsible to monitor spend of the contractor from their side as well in order to ensure that target value of the contract is not exceeded.

### 12.2 Management meetings

Regular meetings of a general nature may be convened and chaired by the *Project Manager* as follows:

**Table 11: Example of meetings schedule planning**

| Title and purpose | Approximate time & interval | Location | Attendance by: |
|-------------------|-----------------------------|----------|----------------|
|-------------------|-----------------------------|----------|----------------|

### 12.3 Safety risk Assessment

12.3.1 The Contractor complies with the following Safety Management Plan (SMP):

- Site Cardinal Rules
- Site General Rules
- H&S disciplinary procedure
- H&S performance reporting
- Workplace Observations and audits
- Employment process
- Mobilisation
- Project Site Induction
- Hazard Management on Site
- Risk Assessments
- Daily Safe Task Instructions
- Occupational Health and Hygiene



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- Safe Systems of Work
  - Incident Management
  - Site Management
- 12.3.2 The Contractor ensures that its Subcontractors comply with the requirements of the SMP.
- 12.3.3 The Contractor makes the SMP available to its employees and Subcontractors in the language of this contract and other local languages as required.
- 12.3.4 All health and safety matters associated with the works will be dealt with in accordance with specifications respectively to this Works Information.
- 12.3.5 The Contractor takes all responsibility to ensure that all personnel employed by the Contractor is medically fit to perform work on site, and that adequate measures are in place to ensure proper medical checks are done.
- 12.3.6 All container type site accommodation must be appropriately secured and tied down to prevent it from being blown over in strong winds.
- 12.3.7 The Health and Safety Plan must comprise of the following:
- Legal and site-specific requirements
  - Hazard Identification, Risk Assessment and Risk Control
  - Policies Mandated by the Employer
  - Injury Management
  - Health and Safety Communication and Consultative Processes
  - Education, Training and Competency
  - Measurement and Review
  - Health and Safety Alignment Meetings
- 12.3.8 The Contractor's Safety, Health and Environmental Officer must submit weekly reports and data as required by the Project Site Safety Manager (PSSM).
- 12.3.9 The Supervisor is responsible for health and safety on the Site and Working Areas and reports to the Project Manager with specific tasks to:
- Implement the Employer's safety management system
  - Monitor Contractor's compliance to the CHSMP
  - Ensure risk is at an acceptable level
  - Ensure the Contractor's workforce and Construction Management Team is competent
- 12.3.10 The Contractor complies with the requirements of the Site Safety Review Committee (SSRC) with respect to his own activities and others on the Site and Working Areas.

## 12.4 Environmental constraints and management

12.4.1 The Contractor performs the works and all construction activities within the Site and Working Areas in accordance with the provisions of the specification and the relevant government legislation

### 12.4.1.1 Effluent Management

All effluent water from the camp / office Sites shall be disposed of in a properly designed and constructed system, situated so as not to adversely affect water sources (streams, rivers, pans dams etc.). Only domestic type wastewater shall be allowed to enter this drain.

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## 12.4.1.2 Waste Management Objective

To ensure that all waste generated during construction and commissioning of the facilities is properly disposed of.

Examples of typical construction waste which, could be expected on the Site are indicated in the following table.

**Table 12: Example of construction waste classification**

| WASTE  | CLASSIFICATION |               |
|--|----------------|---------------|
|  | HAZARDOUS      | NON-HAZARDOUS |
| Clean soil   |                | X             |
| Construction debris contaminated by oil or organic compounds | X              |               |
| Empty drums (depends on prior use)                           | X              | X             |
| Empty paint and coating containers                           |                | X             |
| Waste paint and/or solvent                                   | X              |               |
| Waste oil  | X              |               |
| Phenolic waste   | X              |               |
| Waste concrete   |                | X             |
| Rubble (not contaminated by oil or organic compounds)        |                | X             |
| Waste containing appreciable properties of fibrous asbestos  | X              |               |
| Sewerage sludge  | X              |               |
| Scrap metal  |                | X             |
| Explosive waste  | X              |               |
| Waste timber   |                | X             |
| Waste Cable  |                | X             |
| PCB waste  | X              |               |
| Waste plastic  |                | X             |
| Aerosol containers   | X              |               |
| Batteries, light bulbs, circuit boards, etc.                 | X              | X             |
| Domestic waste   |                | X             |

## 12.4.1.3 Scope

The standard applies to all construction, commissioning and Site activities that may lead to the generation of waste.

## 12.4.1.4 Approach



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Waste is grouped into general or hazardous, depending on its characteristics. The classification determines handling methods and the ultimate disposal of the Material.

General waste to be expected during construction includes the following:

Trash (wastepaper, plastics, cardboard, etc.) and food waste from offices, warehouses and construction personnel.

Uncontaminated construction debris such as used wood and scrap metal.

Uncontaminated soil and non-hazardous rubble from excavation or demolition.

Hazardous waste is waste, which has the potential, even in low concentrations, to have a significant adverse effect on public health and/or the environment. This would be on account of its inherent chemical and physical characteristics, such as toxic, ignitable, corrosive, carcinogenic or other property.

#### 12.4.1.5 Waste avoidance and minimisation

A ladder approach to waste management is encouraged. Waste should preferably be managed in the following order:

Prevent: by waste avoidance and minimisation during production

Recycle: waste recycling, recovery and utilisation

Treat: waste treatment in order to reduce toxicity and to minimise the quantities of waste

Disposal: waste disposal, probably by incineration, destruction or landfill

#### 12.4.1.6 Waste Management

The *Contractor* is responsible for the removal from Site of all waste generated through the *Contractor's* activities. The *Contractor* shall ensure that all waste is removed to appropriate licensed waste management facilities.

The classification of waste determines handling methods and the ultimate disposal of the Material. The *Contractor* shall manage hazardous wastes that are anticipated to be generated by his operations as follows:

- a) Characterise the waste to decide if it is general or hazardous
- b) Obtain and provide an acceptable container with label
- c) Place hazardous waste material in container
- d) Inspect the container on a regular basis as prescribed by the *Contractor's* waste environment management plan
- e) Track the accumulation time for the waste
- f) Haul the full container to the disposal Site
- g) Provide documentary evidence of proper disposal of the waste

Information on each hazardous substance will be available to all persons on Site with the EO. Training and education about the proper use, handling, and disposal of the material will be available to all workers who will be handling the Material.

The EO must be informed of all activities that involve the use of hazardous substances to facilitate prompt response in the event of a spill or release.

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The *Contractor* shall manage NON-HAZARDOUS / GENERAL WASTE that are anticipated to be generated by operations as follows:

Determine if waste is non-hazardous and obtain containers for waste storage

Notify waste hauler when container is full so that it can be removed and replaced with an empty

On the Project, however, waste generating entities are directed to control the generation of non-hazardous waste by:

- a) Eliminating waste generation or reducing the total volume
- b) Reducing the degree of contamination of waste generated
- c) Reclaiming materials otherwise considered waste

The *Contractor* shall therefore recycle NON-HAZARDOUS / GENERAL WASTE that are anticipated to be generated by its operations as follows:

Obtain and label recycling containers for:

- Office Waste
- Aluminium and steel cans
- Glass Bottles
- Scrap Metals
- Waste Timber

And locate them within temporary office building and trailers

Establish recycled material collection schedule

Arrange for full bins to be hauled away

Spent batteries, circuit boards, and bulbs, while non-hazardous, require special collection and handling.

#### 12.4.1.7 Oil / Toxic Spillages

To eliminate / control fuel, oil and other toxic spillage on site.

#### 12.4.1.8 Spill Response

The *Contractor* shall comply with the regulations of the Water Act (Act 36 of 1998), the *Hazardous Substances Act* (Act 115 of 1973), and the *Environment Conservation Act* (Act 73 of 1989).

The *Contractor* shall provide details for approval of its spill response plan in the event of any spills of fuel, oils, solvents, paints or other hazardous Materials. The plan will show measures to be taken to remove contaminated soils from Site and demonstrate complete removal of contamination.

The *Contractor* shall instruct construction personnel on the following spill prevention and containment responsibilities:

Repair all leaks of hydrocarbons or chemicals as soon as possible

Take all reasonable means to prevent spills or leaks

Do not allow sumps receiving oil or oily water to overflow

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Prevent storm water run-off from contamination by leaking or spilled drums of oil or chemicals

Do not discharge oil or contaminants into storm sewer system

If a spill to land occurs, the *Contractor* is responsible for:

Immediate action to stop or reduce the spill and contain it

Actions necessary to prevent the spill from contaminating groundwater or off-Site surface water

Disposal of contaminated Material to location designated thereto

Any spill to water has the potential to disperse quickly; therefore, the spill must be contained immediately using appropriate containment Equipment.

If a spill to water occurs, the *Contractor* is responsible for:

- Immediate action to stop or reduce the spill and contain it
- Notifying the appropriate on-Site authorities
- Actions necessary to prevent the spread of the contamination by deploying booms and/or absorbent Material
- Proper disposal of spilled Material

## 12.5 Dust Management

### 12.5.1 Objective

The *Contractor* (associated with activities such as earthworks, geotechnical surveys, piling, storm water drainage, construction of roads and railways, foundations, brick building, operating workshops, fencing, erecting construction camps, and batch plant activities, etc.) shall submit a dust control plan for approval by the EO.

#### 12.5.1.1 Scope

Control of dust on the construction Site and access roads

#### 12.5.1.2 Dust Management

Material in transit should be loaded and contained within the load bin of the vehicle in such a way as to prevent any spillage onto the roads and the creation of dust clouds. If necessary, the load bin of the vehicle shall be covered with a tarpaulin to prevent dust.

Dust to be controlled on unsurfaced access roads and Site roads using sprayed water. The *Contractor* is responsible for managing dust generated as a result of his activities. The CM will be responsible for the dust control of the Site and Working Areas.

Some dust control measures, which are normally applied during construction, are presented in this section for inclusion by the *Contractor* in the *Contractor's* dust control method statement.

These dust-mitigating procedures include the following:

- Limit vehicle speeds on unpaved roads to 20 km/h
- Wash the paved surfaces within the construction area twice a week
- Minimise haulage distances

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- Apply water to gravel roads with a spraying truck when required
- Environmentally friendly soil stabilisers may be used as additional measures to control dust on gravel road and construction area
- Dust suppression measures will also apply to inactive construction areas. (An inactive construction Site is one on which construction will not occur for a month or more.)
- Construction Material being transported by trucks must be suitable moistened or covered to prevent dust generation.
- Strip and store topsoil in separate stockpiles with mounds not exceeding 2m in height to, among other things, to prevent wind-blown dust.
- Minimise disturbance of natural vegetation during right-of-way construction (e.g., transmission lines and erection of fences) to reduce potential erosion, run-off, and air-borne dust.
- Implement a system of reporting excessive dust conditions by construction personnel (as instructed through Environmental Awareness Training).
- Water for dust control shall be taken only from approved sources.

### 12.6 Storm Water and Dewatering Management

#### 12.6.1 Objective

To ensure that storm water and dewatering drainage across the Site occurs in a manner that will negate contamination by oils, fuels, litter and other waste and that will prevent erosion of the construction terrace.

##### 12.6.1.1 Scope

All dewatering activities

##### 12.6.1.2 Storm Water and Dewatering Management

Water is a valuable resource in the area. Both the quality and quantity of water used by the *Contractor* should be considered in making resource conservation plans.

Potential construction phase impacts on surface water and groundwater are associated with construction are run-off and percolation, dewatering activities, and miscellaneous liquid wastes associated with construction activities.

In general, construction activities may affect water quality and/or quantity of ground water and/or surface water of the area.

The *Contractor* shall be aware that, apart from run-off from overburden emplacements and stockpiles, storm water can also be contaminated from batch plants, *workshops*, vehicle wash-down pads, etc., and that contaminants during construction can include hydrocarbons from fuels and lubricants, sewerage from Employee ablutions, even excess fertiliser from rehabilitation areas, etc.

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The *Contractor* shall take cognisance of the fact that discharges to controlled waters such as the sea, rivers, or groundwater or to sewerage systems are controlled under the South African Water Legislation.

## 12.6.1.3 Surface run-off

Construction activities such as surface grading and excavation will disturb surface areas on Site. This will increase the potential for soil erosion and subsequent sediment transport during periods of precipitation run-off or when excavation dewatering is required. Construction activities also have the potential to change local surface drainage and sediment transport patterns, Site floodplain delineation, and percolation rates into the soil.

## 12.6.1.4 Dewatering

Dewatering during the groundwork produces a surface water discharge that may require collection and sedimentation. Dewatering has also the potential to effect groundwater quality and quantity.

## 12.6.1.5 Wastewater

Liquid wastes including used solvents, used lubricating oils, chemical flushing agents, spill clean-up wastes, painting wastes, and concrete mixing drum washings, etc., have the potential to affect surface water and groundwater quality.

## 12.6.1.6 General

12.6.1.6.1 Temporary drainage must be established on Site during the construction period and until permanent drainage is in place. Contractors are responsible for maintaining the temporary drainage in their areas. The Contractors must provide secondary drainage that prevents erosion

12.6.1.6.2 Contractors must affect good housekeeping in their areas to prevent contamination of drainage water

## 12.6.1.7 The *Contractor* shall clear stagnant water

12.6.1.7.1 Specific water Management measures (surface and groundwater) for incorporation by the Contractor in the CEMP include the following:

12.6.1.7.2 The Contractor shall ensure that no contaminated surface water shall flow off Site as a result of Contractor operations. Silt traps shall be constructed to ensure retention of silt on site and cut-off ditches shall be constructed to ensure no run-off from the SITE except at points where silt traps are provided.

12.6.1.7.3 If applicable, the Contractor shall be responsible for collection, management, and containment within the Site boundaries of all dewatering from all general Site preparation activities. The dewatering water shall be contained within the Site boundaries by sequentially pumping or routing water to and from sub-areas within

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the Site as the construction activities proceed. No discharge of dewatering water to off Site land or surface water bodies will be allowed.

12.6.1.7.4 On Site drainage shall be accomplished through gravity flow. The surface drainage system shall consist of mild overland slopes, ditches, and culverts. The graded areas adjacent to buildings shall be sloped away with a 5% slope. Other areas shall have a minimum slope of 0, 2% or as otherwise indicated.

12.6.1.7.5 Ditches shall be designed to carry a 25-years storm event with velocities in accordance to minimise erosion. Erosion protection shall consist of suitable stabilising surfaces in all ditches

12.6.1.7.6 Culverts shall be designed to ensure passage of the 25-year storm peak run-off flow.

12.6.1.7.7 Both structural and non-structural (vegetative) erosion control measures will be designed, implemented, and properly maintained in accordance with best management practices which will include the following:

12.6.1.7.8 Scheduling of activities to minimise the amount of disturbed area at any one time

12.6.1.7.9 Implementation of re-vegetation as early as feasible

12.6.1.7.10 Limiting construction traffic and/or avoidance thereof on access roads and areas to be graded to the extent feasible at drainage ditches.

12.6.1.7.11 Compacting loose soil as soon as possible after excavation, grading, or filling

12.6.1.7.12 Using silt fences, geo-textiles, temporary riprap, soil stabilisation with gravel, diversionary beams or swales, small sedimentation basins, and gravelled roads to minimise transport of sediment

12.6.1.7.13 Implementing the erosion and sedimentation control plan and ensuring that construction personnel are familiar with and adhere to the plan

12.6.1.7.14 Managing run-off during construction

12.6.1.7.15 The Contractor shall be responsible for checking and maintaining all erosion and sedimentation controls

## 12.7 Fire prevention

### 12.7.1 Objective

To minimise the risk of uncontrolled fires.

#### 12.7.1.1 Scope

All activities on or near the Site that could initiate an uncontrolled fire.

#### 12.7.1.2 Fire control

Fires shall only be allowed in facilities or Equipment specially constructed for this purpose. A firebreak shall be cleared and maintained around the perimeter of the camp and office Sites.

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All conditions incorporated in the requirements of the Occupational Health and Safety Act shall also be implemented.

## 12.8 Provision of drinking water

Water for human consumption shall be available at the Site offices and at other convenient locations on site. The generally acceptable standard is that a supply of drinking water shall be available within 200m of any point on the construction Site.

## 12.9 Programming constraints

12.9.1 The Contractor shows on his Accepted Programme and all subsequently revised programmes schedules showing the critical path or paths and all necessary logic diagrams demonstrating sequence of operations.

12.9.2 The Contractor's programme shows duration operations in working days.

12.9.3 The Contractor's programme shows the following levels:

- Level 1 Master Schedule – defines the major operations and interfaces between engineering design, procurement, fabrication and assembly of units and Materials, transportation, construction, testing and pre-commissioning, commissioning and Completion.
- Level 2 Project Schedule – summary schedules 'rolled up' from Level 3 Project Schedule described below
- Level 3 Project Schedule – detailed schedules generated to demonstrate all operations identified on the programme from the starting date to Completion. The Project Manager notifies any subsequent layouts and corresponding filters on revised programmes
- Level 4 Project Schedule – detailed discipline specialty level developed and maintained by the Contractor relating to all operations identified on the programme representing the daily activities by each discipline
- A narrative status report, which includes an S-curve of overall progress; critical action items (top 10) and deviations from the Accepted Programme and action plan to rectify.

12.9.4 The Contractor shows on each revised programme he submits to the Project Manager a resource histogram showing planned progress versus actual, deviations from the Accepted Programme and any remedial actions proposed by the Contractor.

12.9.5 The Contractor submits programme report information to the Project Manager at a weekly interval in addition to the intervals for submission of revised programmes stated under Contract Data Part One.

12.9.6 The Contractor's weekly programme narrative report includes:

- Level 4 Project Schedule – showing two separate bars for each task i.e. the primary bar must reflect the current forecast dates and the secondary bar the latest Accepted programme.

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- 3-week Look ahead Schedule - showing two separate bars for each task i.e. the primary bar must reflect the current forecast dates and the secondary bar the latest Accepted programme.
- Manpower Histogram – reflecting actual, forecasted and planned activities.

## 12.10 Contractor's management, supervision and key people

12.10.1 The Contractor provides an Organogram of all his key people (both as required by the Employer and as independently stated by the Contractor under Contract Data Part Two) and how such key people communicate with the Project Manager and the Supervisor and their delegates all as stated C3.1 Employer's Works Information.

## 13. Technical Evaluation

### 13.1 Technical Evaluation Criteria

- a) See Annexure for Detailed Technical Evaluation

TPT reserves the rights to request site visit of the service provider before work is awarded for verification purposes.

## 14. Pricing

### 14.1 Pricing Conditions

- a) See Pricing Schedule for Pricing conditions and pricing table.



## 15. Site Information

### 15.1 Site Conditions

The groundwater table has been recorded at between 0.8 m and 1.5 m below ground level across the site during winter.

- Altitude – sea level
- Ambient temperature – 5 to 45 °C
- Relative humidity – frequently 100%
- Air Pollution – heavily saline and dust laden; industrial and locomotive fumes; ignitable dusts
- General wind velocities – up to 60km/ h
- Storm wind velocities – up to 180 km /
- Climate data for Richards Bay based on monthly averages for the 30-year period: 1961-1990 (SAW, 2005) 2



|   |  |  |   |                   |           |                        |                            |   |                            |  |  |
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| <div><div>TRANSNEF</div><div><div>port terminals</div></div></div> |  | PROVISION OF ALL NEW PARKHOMES ON A FIVE (5) YEARS LEASING AGREEMENT CONTRACT FOR TRANSNET SOC LTD |   |                   |           |                        |                            | <div><div>TRANSNEF</div><div><div>port terminals</div></div></div> |                            |  |  |
| TECHNICAL EVALUATION  |  |  |   |                   |           |                        |                            |   |                            |  |  |
|   |  |  |   |                   |           |                        |                            |   |                            |  |  |
| CRITERIA  |  | DESCRIPTION  | WEIGHT<br>(Points) %  | SCORING PRINCIPAL |           | RETURNABLE<br>SCHEDULE | Company #1<br>ScoreComment |   | Company #4<br>ScoreComment |  |  |
| 1. Professional Qualification   | 1.1 Bidder is required to submit valid qualification of the professional (Engineer) who will be responsible for approval of all designs, quality control plans, manuals, maintenance plans and any other authorizations requiring such approval. The engineer must be registered and up to the date with ECSA for a minimum of three months from tender closing date.  | Y/N  | Cumulative 5 years similar work experience testimonial letter(s) with the following:  |                   | Y/N       | T2.2 - 1               |                            |   |                            |  |  |
|   |  |  | a) Civil Engineering Qualification (National Dip./BEng/B-Tech/Adv. Dip./)   |                   |           |                        |                            |   |                            |  |  |
|   |  |  | b) ECSA Reg. Certificate  |                   |           |                        |                            |   |                            |  |  |
|   |  |  | c) AutoCAD/Architectural Software Certificate   |                   |           |                        |                            |   |                            |  |  |
| 2. Previous Experience  | 2.1 Service provider is required to submit at least two (2) proofs of experience for the similar works rendered in the past 10 Years. Proof must be submitted in a form of a letter, compiled on a client's letterhead with:<br>- Name of the Project<br>- The nature of work (Design, manufacturing and leasing Park homes must be indicated)<br>- Value<br>- Period<br>- Contract term (once off/<br>- Name and Surname of Client representative<br>- Cell/Tel and Email<br>- Signed with date of signature.   | Y/N  | Proof of Experience   |                   | Y/N       | T2.2 - 1               |                            |   |                            |  |  |
|   |  |  | Provided two proofs of experience meeting all the requirements as indicated under 2.1 description   |                   |           |                        |                            |   |                            |  |  |
|   |  |  |   |                   |           |                        |                            |   |                            |  |  |
|   |  |  |   |                   |           |                        |                            |   |                            |  |  |
| 3. Conceptual Illustration of Park Homes Layouts  | 3.1 Bidder is required to illustrate their competence by submitting conceptual layouts of Park homes in a Plan view, 3 elevations, cross-section showing material with labelling for at least the:<br>- 12 x 8 Canteen Facility Park Home<br>- 12 x 6 Park Home (Ablution, Changerooms, Kitchens)  | Y/N  | Provided minimum of four concepts as per 4.1 description  |                   | Y/N       | T2.2 - 2               |                            |   |                            |  |  |
| 4. Workshop or Manufacturing Facility Assessment  | 4.1 Bidder must also have a workshop or manufacturing sector where all park homes will be manufactured. Workshop must comply to schedule A of workshop assessment. Bidder must submit proof of address in a form of water/electricity or lease agreement. Lease agreement must be older than 6 months from the tender closing date. Lease agreement to be accompanied by municipal water/electricity statement not older than three months from tender closing date.   | Y/N  | a) Submit proof of address in a form of municipal water/electricity/lease agreement meeting minimum requirements.<br>b) Meet minimum requirements of Schedule A |                   | Y/N       | T2.2 - 3               |                            |   |                            |  |  |
| 5. Competency of the Maintenance Team   | 5.1 Bidder is required to illustrate their competency to satisfy the requirements of the maintenance of park homes by providing qualifications of Electrician, Plumber and fitter who will be responsible for the maintenance requirement of HVAC, Electrical Works and Plumbing. Qualifications to be N3 and trade test for respective disciplines.   | 30   | Competence of Maintenance Team  |                   |           | T2.2 - 4               |                            |   |                            |  |  |
|   |  |  | a) Provided three (3) Qualifications with respective trade tests and CV, meeting minimum of 5 years experience  |                   | 30 Points |                        |                            |   |                            |  |  |
|   |  |  | b) Provided two (2) Qualifications with respective trade tests and CV, meeting minimum of 5 years experience  |                   | 20 Points |                        |                            |   |                            |  |  |
|   |  |  | c) Provided one (1) Qualification with relevant trade test and CV, meeting minimum of 5 years experience  |                   | 10 Points |                        |                            |   |                            |  |  |
| 6. Quality Control  | 6.1 Service provider is required to provide a comprehensive quality control plan informed by ISO 9001 standard for their planned work execution plan quality management. The QCP must include Quality management policy, control plan, sampling, reference standards and company procedure controlled documents, hold points and witness points  | 20   | Workshop, tools and cranes assessment compliance  |                   |           | T2.2 - 5               |                            |   |                            |  |  |
|   |  |  | Provided Quality control and management plan as require under description   |                   | 20 Points |                        |                            |   |                            |  |  |
|   |  |  | Did not provide Quality control and management plan as require under description  |                   | 0 Points  |                        |                            |   |                            |  |  |
|   |  |  |   |                   |           |                        |                            |   |                            |  |  |
| 7. Response time for callouts on breakdowns   | 7.1 Bidder must confirm in writing that they shall respond to emergency call-outs for fire, electrical and sewage related faults which are high health, safety and environment risks. The bidder must respond to the call-out within 30 minutes from acknowledging and confirming that they will attend to the matter.   | 10   | Response time for callouts on breakdowns  |                   |           | T2.2 - 6               |                            |   |                            |  |  |
|   |  |  | Provided confirmation and within required minimum response time   |                   | 10 Points |                        |                            |   |                            |  |  |
|   |  |  | Did not provide confirmation and within required minimum response time  |                   | 0 Points  |                        |                            |   |                            |  |  |
|   |  |  |   |                   |           |                        |                            |   |                            |  |  |
| 8. Method Statement   | 8.1 Service provider is required to provide a method statement illustrating on how they are going to execute work within provided delivery lead times.<br>Method statement must cover<br><br>- Governing standards and specifications<br>- Required level of skill<br>- Project Organogram<br>- sourcing of materials<br>- Managing health, Safety, Risk and Environment at the workshop and on site<br>- Production/Fabrication or Manufacturing Process<br>- Handling and Transportation of Park Homes to TPT RCB<br>- Installation and commissioning<br>- Hand interphasing of functions and service requirements of the units<br>- Maintenance | 20   | Provided, sound and covering ten (10) or more requirements of the method statement  |                   | 20 Points | T2.2 - 7               |                            |   |                            |  |  |
|   |  |  | Provided, sound and covering eight (8) to nine (9) requirements of the method statement   |                   | 15 Points |                        |                            |   |                            |  |  |
|   |  |  | Provided, sound and covering six (6) to seven (7) requirements of the method statement  |                   | 10 Points |                        |                            |   |                            |  |  |
|   |  |  | Provided, sound and covering four (4) to five (5) requirements of the method statement  |                   | 5 Points  |                        |                            |   |                            |  |  |
| 9. Delivery Lead Times  | 9.1 Bidder must confirm in writing on company's letterhead their delivery lead times.  | 20   | Warrantees and Workmanship  |                   |           | T2.2 - 8               |                            |   |                            |  |  |
|   |  |  | Delivery lead times within 2 months from PO issue date.   |                   | 20 Points |                        |                            |   |                            |  |  |
|   |  |  | Delivery lead times beyond 2 months but less than 3 months from PO issue date.  |                   | 15 Points |                        |                            |   |                            |  |  |
|   |  |  | Delivery lead times beyond 3 months but less than 4 months from PO issue date.  |                   | 10 Points |                        |                            |   |                            |  |  |
|   |  |  | Delivery lead times beyond 4 months but less than 5 months from PO issue date.  |                   | 5 Points  |                        |                            |   |                            |  |  |
|   |  |  | Delivery lead times beyond 5 months from PO issue date or not confirmed.  |                   | 0 Points  |                        |                            |   |                            |  |  |
|   |  | 100  |   |                   |           |                        |                            |   |                            |  |  |
| Technical Qualification Threshold = 80 Points   |  |  |   |                   |           |                        |                            |   |                            |  |  |



ANNEXURE B: PRICING SCHEDULE - PROVISION OF ALL NEW PARKHOMES ON A FIVE (5) YEARS LEASING AGREEMENT CONTRACT FOR TRANSNET SOC LTD

PRICING SCHEDULE



| 1. LEASING PRICES WITH COMPREHENSIVE PLANNED MAINTENANCE (MONTHLY FEE)                                 |                                      |            |          |                       |                  |
|--|--------------------------------------|------------|----------|-----------------------|------------------|
| ITEM   | DESCRIPTION                          | UNIT PRICE | QUANTITY | UTILIZATION IN MONTHS | PRICE (EXCL VAT) |
| 1,1  | Park homes units (12x8)              |            | 1        | 60                    | R                |
| 1,2  | Park homes units (12x6)              |            | 40       | 60                    | R                |
| 1,3  | Park homes units (12x3)              |            | 29       | 60                    | R                |
| 1,4  | Park homes units (6x6)               |            | 1        | 60                    | R                |
| 1,5  | Park homes units (6x3)               |            | 10       | 60                    | R                |
| 1,6  | Park homes units (3x3)               |            | 3        | 60                    | R                |
| 1,7  | Park homes units (3x2)               |            | 6        | 60                    | R                |
| 2. ONCE- OFF ACTIVITIES (SITE ESTABLISHMENT AND SITE DE-ESTABLISHMENT)                                 |                                      |            |          |                       |                  |
| 2,1  | Supply to Site and Establishment     |            | 90       | 1                     | R                |
| 2,2  | De-establishment (Removal from Site) |            | 90       | 1                     | R                |
| 3. WASHING OF PARK HOMES   |                                      |            |          |                       |                  |
| 3,1  | Semester washing of Park Homes       |            | 90       | 10                    | R                |
| ESTIMATED CONTRACT VALUE   |                                      |            |          |                       |                  |
|  |                                      |            |          | UTILIZATION           |                  |
| 1. LEASING PRICES WITH COMPREHENSIVE PLANNED MAINTENANCE (MONTHLY FEE)                                 |                                      |            |          | 60                    | R                |
| 2. ONCE- OFF ACTIVITIES (SITE ESTABLISHMENT AND SITE DE-ESTABLISHMENT)                                 |                                      |            |          | 1                     | R                |
| 3. WASHING OF PARK HOMES   |                                      |            |          | 10                    | R                |
|  |                                      |            |          | SUB-TOTAL             | R                |
|  |                                      |            |          | 15% VAT               | R                |
|  |                                      |            |          | TOTAL                 | R                |
| NOTES: Pricing Conditions  |                                      |            |          |                       |                  |
| a) Price must be fixed and firm excluding VAT.   |                                      |            |          |                       |                  |
| b) Bidder must adhere to pricing schedule format   |                                      |            |          |                       |                  |
| c) Any deviation or use of non-official provided pricing schedule shall render the bidder disqualified |                                      |            |          |                       |                  |

|                             |  |
|-----------------------------|--|
| <b>Contract Code</b>        |  |
| <b>Contract Description</b> |  |
| <b>Contract Term</b>        |  |

|                         |  |
|-------------------------|--|
| <b>Vendor's Details</b> |  |
| <b>Name:</b>            |  |
| <b>Address:</b>         |  |
|                         |  |
|                         |  |
|                         |  |

|                                |                                  |
|--------------------------------|----------------------------------|
| <b>Vendor's Representative</b> | <b>Transnet's Representative</b> |
| <b>Initials and Surname:</b>   | <b>Initials and Surname:</b>     |
|                                |                                  |
| <b>Designation:</b>            | <b>Designation:</b>              |
|                                |                                  |
| <b>Signature and Date:</b>     | <b>Signature and Date:</b>       |
|                                |                                  |

|                                |                                  |
|--------------------------------|----------------------------------|
| <b>Vendor's Representative</b> | <b>Transnet's Representative</b> |
| <b>Initials and Surname:</b>   | <b>Initials and Surname:</b>     |
|                                |                                  |
| <b>Designation:</b>            | <b>Designation:</b>              |
|                                |                                  |
| <b>Signature and Date:</b>     | <b>Signature and Date:</b>       |
|                                |                                  |



## Schedule A – Workshop or Manufacturing Sector Assessment

| Health and Safety |  |     |    |     |         |
|-------------------|--|-----|----|-----|---------|
| Item              | Questionnaire - Safety   | Yes | No | N/A | Comment |
| 1                 | Workshop address marching provided address on the tender documents?  |     |    |     |         |
| 2                 | Adequate security on the premises of the provided address?   |     |    |     |         |
| 3                 | Emergency assembly area available with a designated sign and out of obstructions?  |     |    |     |         |
| 4                 | Floor markings and signs are correct, visible and in accordance with NOSA standard regulating workshop standards?                                |     |    |     |         |
| 5                 | Fire system or portable system present, with designated signs, valid and clearly showing renewal dates?  |     |    |     |         |
| 6                 | Floor space free of spillages and slippery substances?   |     |    |     |         |
| 7                 | Workshop operational with employees observing PPE requirements?  |     |    |     |         |
| 8                 | First aid box available with applicable sign, free of obstructions, appointed first aider and safety wrap clearly indicated on the notice board? |     |    |     |         |
|                   | <b>Questionnaire - Health</b>  |     |    |     |         |
| 9                 | Is ventilation present and adequate?   |     |    |     |         |
| 10                | Waste management practice in place and adhered to?   |     |    |     |         |
| 11                | Works Ergonomics well observed and mitigated accordingly?  |     |    |     |         |
| 12                | Welfare facilities including wash basins available and complying to hygiene regulations?   |     |    |     |         |
| 13                | Mess rooms available and complying to hygiene regulations?   |     |    |     |         |
| 14                | Ablution facilities available and adhering to hygiene regulations?   |     |    |     |         |
| 15                | All human resources medicals up to date and valid?   |     |    |     |         |
| 17                | Emergency numbers clearly indicated in adequate font and size on the notice board?   |     |    |     |         |
|                   | <b>Questionnaire – Technical Requirements</b>  |     |    |     |         |
| 18                | Workshop is dedicated for the type of work to be carried out?  |     |    |     |         |
| 19                | All tools placed orderly and easy to identify?   |     |    |     |         |
| 20                | Tools Register available and up to date?   |     |    |     |         |
| 21                | Material Storage area well designated?   |     |    |     |         |
| 22                | All lifting tools have tags and kept properly?   |     |    |     |         |
| 23                | Relevant machines in place and operational?  |     |    |     |         |
| 24                | All machines have operating procedures clearly placed next to operational position?  |     |    |     |         |

## T2.2 – 1 Professional Qualification

1.1 Bidder is required to submit valid qualification of the professional (Engineer) who will be responsible for approval of all designs, quality control plans, manuals, maintenance plans and any other authorizations requiring such approval. The engineer must be registered and up to the date with ECSA for a minimum of three months from tender closing date.

- a) Civil Engineering Qualification (National Dip./BEng/B-Tech/Adv. Dip./)
- b) ECSA Reg. Certificate
- c) AutoCAD/Architectural Software Certificate
- d) CV

1.2 Service provider is required to submit at least two (2) proofs of experience for the similar works rendered in the past 10 Years. Proof must be submitted in a form of a letter, compiled on a client's letterhead with:

- Name of the Project
- The nature of work (Design, manufacturing and leasing Park homes must be indicated)
- Value
- Period
- Contract term (once off/
- Name and Surname of Client representative
- Cell/Tel and Email
- Signed with date of signature.

### Attached submissions to this schedule:

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Signed

\_\_\_\_\_

Date

\_\_\_\_\_

Name

\_\_\_\_\_

Position

\_\_\_\_\_

Tenderer

\_\_\_\_\_

## T2.2 –2 Conceptual Illustration of Park Homes Layout

3.1 Bidder is required to illustrate their competence by submitting conceptual layouts of Park homes in a Plan view, 3 elevations, cross-section showing material with labelling for at least the:

- 12 x 8 Canteen Facility Park Home
- 12 x 6 Park Home (Ablution, Changerooms, Kitchens)

### Attached submissions to this schedule:

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Signed

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Date

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Name

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Position

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Tenderer

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**T2.2 – 3 Workshop or Manufacturing Facility Assessment**

4.1 Bidder must also have a workshop or manufacturing sector where all park homes will be manufactured. Workshop must comply to schedule A of workshop assessment. Bidder must submit proof of address in a form of water/electricity or lease agreement. Lease agreement must be older than 6 months from the tender closing date. Lease agreement to be accompanied by municipal water/electricity statement not older than three months from tender closing date.

**Attached submissions to this schedule:**  
  
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Signed  
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Date  
.....

Name  
.....

Position  
.....

Tenderer  
.....

## **T2.2 – 4 Competency of Maintenance Team**

5.1 Bidder is required to illustrate their competency to satisfy the requirements of the maintenance of park homes by providing qualifications of Electrician, Plumber and fitter who will be responsible for the maintenance requirement of HVAC, Electrical Works and Plumbing. Qualifications to be N3 and trade test for respective disciplines.

### **Attached submissions to this schedule:**

.....

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Signed

.....

Date

.....

Name

.....

Position

.....

Tenderer

.....



**T2.2 – 5 Quality Control**

Service provider is required to provide a comprehensive quality control plan informed by ISO 9001 standard for their planned work execution plan quality management. The QCP must include Quality management policy, control plan, sampling, reference standards and company procedure-controlled documents, hold points and witness points:

**Attached submissions to this schedule:**

Signed

Date

Name

Position

Tenderer

**T2.2 – 6 Response Time for callouts on Breakdowns**

Bidder must confirm in writing that they shall respond to emergency callouts for fire, electrical and sewage related faults which are high health, safety and environment risks. The bidder must respond to the call-out within 30 minutes from acknowledging and confirming that they will attend to the matter.

|   |
|---|
| <b>Attached submissions to this schedule:</b> |
| .....   |
| .....   |
| .....   |
| .....   |
| .....   |
| .....   |

|          |       |          |       |
|----------|-------|----------|-------|
| Signed   | ..... | Date     | ..... |
| Name     | ..... | Position | ..... |
| Tenderer | ..... |          |       |

## T2.2 – 7 Method Statement

Service provider is required to provide a method statement illustrating on how they are going to execute work within provided delivery lead times.

Method statement must cover:

- Governing standards and specifications
- Required level of skill
- Project Organogram
- sourcing of materials
- Managing health, Safety, Risk and Environment at the workshop and on site
- Production/Fabrication or Manufacturing Process
- Handling and Transportation of Park Homes to TPT RCB
- Installation and commissioning
- Hand interphasing of functions and service requirements of the units
- Maintenance

### Attached submissions to this schedule:

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Signed

.....

Date

.....

Name

.....

Position

.....

Tenderer

.....

TRANSNET PORT TERMINALS RICHARDS BAY

TENDER NUMBER:

PROVISION OF ALL NEW PARKHOMES ON A FIVE (5) YEARS LEASING AGREEMENT CONTRACT FOR TRANSNET SOC LTD (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS RICHARDS BAY (HEREINAFTER REFERRED TO AS "TPT RCB")

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**T2.2 – 8 Delivery Lead Times**

Bidder must confirm in writing on company's letterhead their delivery lead times.

**Attached submissions to this schedule:**

Signed

Date

Name

Position

Tenderer

## **MASTER AGREEMENT**

entered into by and between

**TRANSNET SOC LTD OPERATING AS TRANSNET PORT TERMINALS**

and

**TBC**

**FOR THE PROVISION OF :**

**LEASING OF PARK HOMES FOR TRANSNET SOC LTD OPERATING AS  
TRANSNET PORT TERMINALS AT THE PORT OF RICHARDS BAY FOR A  
PERIOD OF FIVE (5) YEARS**

|                          |                        |
|--------------------------|------------------------|
| <b>Agreement Number</b>  | <b>iCLM RB 744/TPT</b> |
| <b>Commencement Date</b> | <b>TBC</b>             |
| <b>Expiry Date</b>       | <b>TBC</b>             |

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SCHEDULE 1 – WORK ORDER



## 1 INTRODUCTION

This Agreement is entered into by and between:

**Transnet SOC Ltd** [Registration Number 1990/000900/30] operating as **Transnet Port Terminals** whose registered address is **202 Anton Lembede Street, Durban, 4000**, Republic of South Africa  
[**Transnet Port terminals**]

and

**TBC** [Registration Number TBC] whose registered address is TBC [**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 Services 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 TBServices 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 provision of Services 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 TBC 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 TBC;
- 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 Services to 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 Services;
- 2.23 **Service(s)** means Leasing Of Park Homes, 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 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 38 [*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 of this Agreement is TBC and the duration shall be for a five [05] year period, expiring on TBC, or it shall terminate on the date the funds are depleted or on whichever event that comes first, 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 25.9 [*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 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 in line with the POPI Act.

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 Service Provider's 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 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 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 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 Service Provider's B-BBEE status.
- d) Notwithstanding any other reporting requirement in terms hereof, the Service Provider undertakes to provide any B-BBEE data (underlying data relating to the 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 Service Provider Default and may be dealt with in accordance with the provisions of clause 25.9.
- e) In the event there is a change in the Service Provider's B-BBEE status, then the provisions of clause 25.9 shall apply.

#### **13.2 Green Economy/Carbon Footprint**

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

### **14 JOB-CREATION**

- 14.1 In terms of Section 11 of the RFP, the Supplier has undertaken to create new jobs (either by them or their subcontractor).

### **15 PENALTIES**

#### **15.1 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.

| No | ITEM  | Penalty   | Frequency    |
|----|---|-----------|--------------|
| 1  | Suitable replacement support personnel not provided in time           | R5 000.00 | Per Incident |
| 2  | Failure to execute an instruction or piece of task                    | R5 000.00 | Per Incident |
| 3  | Personnel not complying or found to breach TPT policies or procedures | R1 000.00 | Per Incident |
| 4  | Non-attendance of SLA quarterly meeting by the Supplier               | R2 500.00 | Per Quarter  |
| 5  | Personnel not equipped with suitable laptops or PC's at all times     | R2 000.00 | Per Incident |

#### 15.2 Non-compliance penalties for Job Creation

- a) Breach of job creation 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 job creation 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 between the committed and delivered jobs. For every job not created, a penalty of 2% of the contract value will be applied.

##### **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.

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.

## **16 FEES AND EXPENSES RELATING TO SERVICES**

- 16.1 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.
- 16.2 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].
- 16.3 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.
- 16.4 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.

## **17 INVOICES AND PAYMENT**

- 17.1 Transnet shall pay the Service Provider the amounts stipulated in each Purchase Order/Work Order, subject to the terms and conditions of this Agreement.
- 17.2 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 17.5 below.

- 17.3 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.
- 17.4 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.
- 17.5 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 Service Provider's statement together with the relevant valid and undisputed Tax Invoice(s) and supporting documentation.
- 17.6 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.
- 17.7 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.

## 18 PRICE ADJUSTMENTS

- 18.1 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.
- 18.2 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 Services.
- 18.3 Pursuant to clause 18.2 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.
- 18.4 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 35 of the Master Agreement [Dispute Resolution].
- 18.5 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.

- 18.6 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.

## **19 WARRANTIES APPLICABLE TO SERVICES**

- 19.1 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.

- 19.2 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 19.3 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.

- 19.3 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.
- 19.4 The Service Provider will remedy any defect within 30 [thirty] calendar days of being notified of that defect by Transnet in writing.
- 19.5 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.
- 19.6 The Service Provider shall advise Transnet of the effects of any steps proposed by Transnet pursuant to clause 19.5 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 38.2 *[Amendment and Change Control]*.
- 19.7 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.
- 19.8 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.
- 19.9 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.

19.10 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.

## **20 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 19 above.

## **21 DEFECTIVE GOODS**

- 21.1 Notwithstanding any certificate and/or receipt that may have been issued by or on behalf of Transnet either in South Africa or overseas, Goods will be accepted at the place of delivery or at the port of shipment, as specified in this Agreement, only as regards outward condition of packages and Transnet retains the right to reject the Goods supplied, on or after arrival at the place to which they are consigned, or after they have been placed in use in South Africa, should they be found defective.
- 21.2 If Goods are rejected owing to latent defects becoming apparent during machining operations or other preparation necessary on the part of Transnet before they can be put into use, the Supplier shall bear all expenses incurred by Transnet in carrying out such necessary operations.
- 21.3 If such Goods are rejected, the Supplier will pay the following costs:
- a) for Goods purchased in South Africa on an ex works basis, the cost of transport from the Supplier's works in South Africa to the named destination where the Goods have been rejected by Transnet, plus handling charges and storage, if leviable; or
  - b) for Goods manufactured overseas, the Supplier shall pay all replacement costs including the overseas inland transport cost, freight and insurance charges incurred plus railage or other inland transport costs from the South African port to the place where the Goods have been rejected by Transnet, including handling charges, storage, landing charges, customs duty and surcharges, if leviable.
- 21.4 If Transnet requires rejected Goods to be replaced, the Supplier shall, when called upon to do so, arrange prompt replacement of the Goods within the prescribed manufacturing lead times for such Goods, as indicated in Schedule 1.
- 21.5 If Goods are found to be defective but the defects are, in the opinion of Transnet, not of so serious a nature as to warrant total rejection of the Goods, the Supplier shall, when called upon to do so, remedy or make good such defects at its own cost, or Transnet may remedy or make good

such defects at the request of the Supplier and recover from the Supplier all costs or expenses reasonably incurred by it in doing so.

- 21.6 Should the Supplier fail, when called upon to remedy or make good such defects within a reasonable time or to request Transnet to do so, Transnet may proceed to remedy or make good such defects and thereafter recover from the Supplier all such costs and expenses as aforementioned.
- 21.7 Any amount recoverable from the Supplier in terms of this clause may, without prejudice to any other legal remedies available to Transnet, be deducted in whole or in part from any monies in the hands of Transnet which are due for payment to the Supplier.

## **22 TOTAL OR PARTIAL FAILURE TO PERFORM**

22.1 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.

22.2 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 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.

22.3 Whenever, in any case not covered by clause 22.1 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 21.1 [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 Services, and in such event, the supply of the remaining portion shall remain subject in all respects to these conditions.

## **23 NON CONFORMANCE OF SERVICES PROCURED**

23.1 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 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.

- 23.2 Failure by the Service Provider to fully comply with NCR within the period stated in sub-clause 22.1 above, shall entitle Transnet to further conditions to which the 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.

## **24 RIGHTS ON CANCELLATION**

- 24.1 If this Agreement or Purchase Order is cancelled in whole or in part in terms of clause 22.2 [*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 Service Provider's default.
- 24.2 Any amount which may be recoverable from the Service Provider in terms of clause 24.1 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.

## **25 BREACH AND TERMINATION**

- 25.1 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.
- 25.2 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.
- 25.3 To the extent that any of the Deliverables and property referred to in clause 25.2 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.
- 25.4 In the event that this Agreement is terminated by the Service Provider under clause 6 [Term and Cancellation], or in the event that a Work Order is terminated by Transnet under clause 25 [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.

- 25.5 If either Party [**the Defaulting Party**] commits a material breach of this Agreement and fails to remedy such breach within 7 [seven] 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.
- 25.6 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.
- 25.7 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.
- 25.8 Notwithstanding this clause 25.4, Transnet may cancel this Agreement without cause by giving 30 [thirty] calendar days prior written notice thereof to the Service Provider, or
- 25.9 The provisions of clauses 2 [Definitions], 19 [Warranties], 24 [Rights on Cancellation], 28 [Confidentiality], 31 [Limitation of Liability], 32 [Intellectual Property Rights], 35 [Dispute Resolution] and 39.1 [Governing Law] shall survive termination or expiry of this Agreement.

## **26 CESSIONS AND ASSIGNMENTS AS PER NT INSTRUCTION NOTE 08 OF 2022/2023**

- 26.1 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.
- 26.2 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.

## **27 FORCE MAJEURE**

- 27.1 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.

- 27.2 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.

## **28 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.
- 28.1 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.
- 28.2 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.
- 28.3 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.
- 28.4 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.
- 28.5 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.
- 28.6 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.

## **29 CONFIDENTIALITY**

29.1 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.

29.2 The duties and obligations with regard to Confidential Information in this clause 29.3 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.

29.3 This clause 29.3 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.

### **30 INSURANCES**

- 30.1 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.
- 30.2 The Service Provider shall arrange insurance with reputable insurers and will produce to Transnet evidence of the existence of the policies within 30 [thirty] calendar days of signature.
- 30.3 Subject to clause 30.4 below, if the Service Provider fails to effect adequate insurance under this clause 30.4, 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.
- 30.4 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 30.1 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.

### **31 LIMITATION OF LIABILITY**

- 31.1 The Service Provider's liability under this clause 31.5 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.
- 31.2 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.
- 31.3 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 31.3 shall be limited to direct damages.
- 31.4 Subject always to clauses 31.1 and 31.2 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.

- 31.5 Subject to clauses 31.1 to 31.4 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.
- 31.6 If for any reason the exclusion of liability in clause 31.5 above is void or unenforceable, either Party's total liability for all loss or damage under this Agreement shall be as provided in clause 31.3 above.
- 31.7 Nothing in this clause 31.5 shall be taken as limiting the liability of the Parties in respect of clauses 29 [*Confidentiality*] and 32 [*Intellectual Property Rights*].

## **32 INTELLECTUAL PROPERTY RIGHTS**

### **32.1 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 Services.

### **32.2 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.

### **32.3 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.

### **32.4 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.

### **32.5 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.

### **33 NON-WAIVER**

- 33.1 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.
- 33.2 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.

### **34 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.

### **35 DISPUTE RESOLUTION**

- 35.1 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.
- 35.2 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.
- 35.3 Such dispute shall be finally resolved in accordance with the rules of AFSA by an arbitrator or arbitrators appointed by AFSA.
- 35.4 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 35.

35.5 This clause 35 is severable from the rest of this Agreement and shall remain in effect even if this Agreement is terminated for any reason.

35.6 This clause 35 shall not preclude either Party from seeking urgent relief in a court of appropriate jurisdiction, where grounds for urgency exist.

### 36 ADDRESSES FOR NOTICES

36.1 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: TPT 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: .....

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

36.3 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.

### **37 WHOLE AND ONLY AGREEMENT**

- 37.1 The Parties hereby confirm that this Agreement constitutes the whole and only agreement between them with regard to the subject matter of this Agreement.
- 37.2 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.

### **38 AMENDMENT AND CHANGE CONTROL**

- 38.1 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.
- 38.2 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 35 [*Dispute Resolution*].

### **39 GENERAL**

#### **39.1 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.

#### **39.2 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 35 [*Dispute Resolution*] above.

### 39.3 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.

## 40 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<br><b>TRANSNET SOC LTD</b><br>duly authorised hereto | For and on behalf of<br>.....<br>duly authorised hereto |
| Name:   | Name:   |
| Position:   | Position:   |
| Signature:  | Signature:  |
| Date:   | Date:   |
| Place:  | Place:  |

|                             |                             |
|-----------------------------|-----------------------------|
| <b>AS WITNESS:</b><br>Name: | <b>AS WITNESS:</b><br>Name: |
| Signature:                  | Signature:                  |

|                             |                             |
|-----------------------------|-----------------------------|
| <b>AS WITNESS:</b><br>Name: | <b>AS WITNESS:</b><br>Name: |
| Signature:                  | Signature:                  |



| SERVICE LEVEL AGREEMENT (SLA) - PROVISION OF ALL NEW PARKHOMES ON A FIVE (5) YEARS LEASING AGREEMENT CONTRACT FOR TRANSNET SOC LTD |                        |                      |        |   |                  |             |   |  |   |   |   |                                 |                                  |                                  |            |       |            |      |          |
|--|------------------------|----------------------|--------|---|------------------|-------------|---|--|---|---|---|---------------------------------|----------------------------------|----------------------------------|------------|-------|------------|------|----------|
| No.  |                        | % of Weight          |        | DESCRIPTION   | PARTY            |             | WHEN  | FREQUENCY                              | KPI   | MEASUREMENT   | COMMUNICATION MODE /<br>FORMAT  | SENT TO                         | MEASUREMENT                      |                                  | TRANSNET   |       | Company #2 |      | COMMENTS |
|  |                        |                      |        |   | SERVICE PROVIDER | TPT         |   |  |   |   |   |                                 | WEIGHT                           | Score                            | Percentage | Score | Percentage |      |          |
| 1  | Safety Requirements    | Eligibility (Yes/No) | YES/NO | a) Ensure that all park Homes units leased to TPT RCB complies with relevant building regulations safety requirements in regard to structural design safety, Electrical Protection, Plumbing and any other safety related factors as per governing legislation and regulations. | ✓                |             | hand-over start date  | Throughout the lease agreement period  | Safety reports, safety briefing, risk assessment minutes reports  | Safety Reports, Fleet Safety Assessment reports   | Email   | TPT                             | YES/NO                           | YES                              | YES        | YES   | YES        |      |          |
|  |                        |                      |        | b) Ensure all contractor employees are inducted and fit to be exposed and work at TPT RCB Premises  | ✓                |             | Prior to site visit   | Anually until the end of the contract. | Safety file review and reports  | Safety Reports, Fleet Safety Assessment reports   | Email   | TPT                             |                                  |                                  |            |       |            |      |          |
| 2  | Planning               | 20%                  | 20%    | a) Plan and schedule park homes maintenance plan schedules.   | ✓                |             | once-off  | Once-off                               | Monthly submission of maintenance reports   | %Planned/Available & %Actual/Planned per shift  | Fax/Email   | TPT Park homes manager          | 1=0%<br>2=10%<br>3=15%<br>4= 20% |                                  |            |       | 0%         |      |          |
| 3  | Maintenance            | 40%                  | 20%    | a) Contractor to generate a checklist of maintenance tasks, based on the specific requirements of each vehicle.   | ✓                |             | Acquisition date of Equipment   | Once off                               | Maintenance checklist for each vehicle  | Available Maintenance Checklist vs. Required Maintenance Checklist  | N/A   | N/A                             | 1=0%<br>2=10%<br>3=15%<br>4= 20% |                                  |            |       | 0%         |      |          |
|  |                        |                      | 20%    | b) Conduct inspections of all park homes as per maintenance plan sechedule  | ✓                |             | As per maintenance plan schedule  | Contractor scheduled maintenance plan  | Maintenance checklist for each park home  | Planeed vs. completed maintenance plan  | Email   | TPT                             | 1=0%<br>2=10%<br>3=15%<br>4= 20% |                                  |            |       | 0%         |      |          |
| 5  | Reporting              | 20%                  | 10%    | a) Provide reports of damaged items or accessories of all park homes units  | ✓                |             | 2 months after park homes hand over   | monthly there after                    | Reporting of all damaged items.   |   | Monthly reports   | E-Mail/Fax                      | Material Handling Manager        | 1=0%<br>2=5%<br>3=7.5%<br>4= 10% |            |       |            | 0.0% |          |
|  |                        |                      | 10%    | b) Provide reports of stolen items or accessories of all park homes units with security confirmation of theft report  | ✓                |             | 3 months after park homes hand over   | monthly there after                    | Reporting of all damaged items.   | Monthly reports   | E-Mail/Fax/Hand over  | Material Handling Manager       | 1=0%<br>2=5%<br>3=7.5%<br>4= 10% |                                  |            |       | 0.0%       |      |          |
| 7  | Damage & Claims        | 15%                  | 15%    | a) Generate detailed claim and complete claim forms for damaged and stolen items  | ✓                |             | 4 months after park homes hand over   | As and when required                   | Timeous notification of details of damages and/ or theft  | 100% notification of damages and thefts   | E-Mail  | Supervisor and Security Manager | 1=0%<br>2=5%<br>3=10%<br>4= 15%  |                                  |            |       | 0.0%       |      |          |
| 8  | Invoicing and Payments | 5%                   | 2.5%   | a) Invoice TPT and submit with supporting documentation(weighbridge certificate etc.) for all activities undertaken to execute agreed services  | ✓                |             | 30 days   | Monthly or After Delivery of Services  | Submit accurate invoice(s) with clear item details, 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 hand delivered monthly. | Relevant Finance Department     | 1=0%<br>2=1%<br>3=2%<br>4= 2.5%  |                                  |            |       | 0%         |      |          |
|  |                        |                      | 2.5%   | b) Receive and check documentation, arrange electronic payment, and TPT Finance to advise Service Provider via remittance advice of payment details.  |                  | ✓           | Documents submitted during the month will be paid, 30 days from date of statement | Monthly or After Delivery of Services  | Authorization of invoices for payment within 30 days.   | Monthly statement to confirm payment of invoices.   | Telephonic and e-mail to facilitate payment queries.  | Service Providers Finance Dept. | 1=0%<br>2=1%<br>3=2%<br>4= 2.5%  | 4                                | 2.5%       |       |            |      |          |
|  | TOTAL                  | 100%                 | 100%   |   |                  |             |   |  |   |   |   |                                 |                                  |                                  |            |       |            |      |          |
|  |                        |                      |        | SCALE :   |                  | 1 = Poor    | 2 = Need Improvement  | 3 = Acceptable                         | 4= Excellent  |   |   |                                 |                                  |                                  |            |       |            |      |          |
|  |                        |                      |        |   |                  |             |   |  |   |   |   |                                 | 0                                | 100%                             |            | 100%  |            | 0%   |          |
| Service Provider/ Entity   |                        |                      |        | Action Items  |                  | Target Date |   | Responsible Person                     |   |   |   |                                 |                                  |                                  |            |       |            |      |          |
|  |                        |                      |        |   |                  |             |   |  |   |   |   |                                 |                                  |                                  |            |       |            |      |          |
|  |                        |                      |        |   |                  |             |   |  |   |   |   |                                 |                                  |                                  |            |       |            |      |          |
|  |                        |                      |        |   |                  |             |   |  |   |   |   |                                 |                                  |                                  |            |       |            |      |          |
|  |                        |                      |        |   |                  |             |   |  |   |   |   |                                 |                                  |                                  |            |       |            |      |          |
|  |                        |                      |        |   |                  |             |   |  |   |   |   |                                 |                                  |                                  |            |       |            |      |          |
|  |                        |                      |        |   |                  |             |   |  |   |   |   |                                 |                                  |                                  |            |       |            |      |          |

## SERVICE LEVEL AGREEMENT - REVIEW OF MEASUREMENT

Between TPT (the Client) and XXXXXXXX (the Service Provider)



The purpose of this SLA team is to manage the contract per terminal and to report all findings on a monthly basis

### Summary of the supply service level agreement

Chairperson: XXXXXX XXXXX Telephone : 021 449 xxxx E-mail : XXXXXXXXXX

2012

| SERVICE                | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar |
|------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Date of Meeting        |     |     |     |     |     |     |     |     |     |     |     |     |
| 1 Planning             |     |     |     |     |     |     |     |     |     |     |     |     |
| 2 Delivery             |     |     |     |     |     |     |     |     |     |     |     |     |
| 3 Invoicing & Payments |     |     |     |     |     |     |     |     |     |     |     |     |
| 4 Reporting            |     |     |     |     |     |     |     |     |     |     |     |     |
| 5 Documentation        |     |     |     |     |     |     |     |     |     |     |     |     |
| 6 Training             |     |     |     |     |     |     |     |     |     |     |     |     |
| 7 Damage & Claims      |     |     |     |     |     |     |     |     |     |     |     |     |
| SERVICE AGGREGATE (%)  |     |     |     |     |     |     |     |     |     |     |     |     |

### SERVICE LEVEL ACCEPTANCE GUIDE

<65% Not Acceptable >65% Room for improvement >85% Acceptable 100% Excellent

### ACTIONS TO IMPROVE THE SERVICE

| No | What should be improved? | How do we improve it? | By whom? | By when? | Rate |
|----|--------------------------|-----------------------|----------|----------|------|
| 1  |                          |                       |          |          |      |
| 2  |                          |                       |          |          |      |

#### DISTRIBUTION

|                   |  |
|-------------------|--|
| TPT               |  |
| Service Provider: |  |
| Additional / CC   |  |

## **ANNEXURE F**

### **GENERAL BID CONDITIONS**

**[June 2023]**

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## 1 DEFINITIONS

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

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

## 2 GENERAL

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

## 3 SUBMITTING OF BID DOCUMENTS

- 3.1 A Bid, which shall hereinafter include reference to an RFP or RFQ, shall be submitted to Transnet no later than the closing date and time specified in accordance with the directions issued in the Bid Documents. Late Bids will not be considered.
- 3.2 The Bid Documents must be completed in their entirety and Respondents are required to complete 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](https://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](http://www.etenders.gov.za) and may also be downloaded from the Transnet website at [www.transnet.net](http://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 (Zine Mdaki), no communication on a question affecting the subject of a Bid shall take place between Respondents or other potential service providers or any member of the Bid Adjudication Committee or official of Transnet during the period between the closing date for the receipt of the Bid and the date of the notification of the successful Respondent(s). A Bid, in respect of which any such unauthorised communication has occurred, may be disqualified.

## **11 RETURNABLE DOCUMENTS**

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

## **12 DEFAULTS BY RESPONDENTS**

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

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

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

### **13 CURRENCY**

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

### **14 PRICES SUBJECT TO CONFIRMATION**

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

### **15 ALTERATIONS MADE BY THE RESPONDENT TO BID PRICES**

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

### **16 EXCHANGE AND REMITTANCE**

- 16.1 The Respondent should note that where the whole or a portion of the contract or order value is to be remitted overseas, Transnet shall, if requested to do so by the Supplier/Service Provider, effect payment overseas directly to the foreign principal or manufacturer of such percentage of the contract or order value as may be stipulated by the Respondent in its Bid Documents.
- 16.2 It is Transnet's preference to enter into Rand-based agreements. Transnet would request, therefore, that the Respondent give favourable consideration to obtaining forward exchange cover on the foreign currency portion of the Agreement at a cost that is acceptable to Transnet to protect itself against any currency rate fluctuation risks for the duration of any resulting contract or order.
- 16.3 The Respondent who desires to avail itself of the aforementioned facility must at the time of bidding furnish the information called for in the Exchange and Remittance section of the Bid Documents and also furnish full details of the principals or manufacturer to whom payment is to be made.
- 16.4 The South African Reserve Bank's approval is required before any foreign currency payments can be made to or on behalf of Respondents.
- 16.5 Transnet will not recognise any claim for adjustment of the order and/or contract price if the increase in price arises after the date on which the Goods/Services were to be delivered, as set out in the order and/or contract, or any subsequent agreement between the parties.
- 16.6 Transnet reserves the right to request a pro-forma invoice/tax invoice in order to ensure compliance with the contract and Value-Added Tax Act no. 89 of 1991 [VAT Act].

## **17 ACCEPTANCE OF BID**

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

## **18 NOTICE TO UNSUCCESSFUL RESPONDENTS**

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

## **19 TERMS AND CONDITIONS OF CONTRACT**

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

## **20 CONTRACT DOCUMENTS**

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

## **21 LAW GOVERNING CONTRACT**

The law of the Republic of South Africa shall govern the contract created by the acceptance of a Bid. The *domicilium citandi et executandi* shall be a place in the Republic of South Africa to be specified by the Respondent in its Bid at which all legal documents may be served on the Respondent who shall agree to submit to the jurisdiction of the courts of the Republic of South Africa. A foreign Respondent shall, therefore, state in its Bid the name of its authorised representative in the Republic of South Africa who is empowered to sign any contract which may be entered into in the event of its Bid being accepted and to act on its behalf in all matters relating to the contract.



## **22 IDENTIFICATION**

If the Respondent is a company, the full names of the directors shall be stated in the Bid. If the Respondent is a close corporation, the full names of the members shall be stated in the Bid. If the Respondent is a partnership or an individual trading under a trade name, the full names of the partners or of such individual, as the case may be, shall be furnished.

## **23 RESPONDENT'S SAMPLES**

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

## **24 SECURITIES**

- 24.1 The successful Respondent, when called upon to do so, shall provide security to the satisfaction of Transnet for the due fulfilment of a contract or order. Such security shall be in the form of a Deed of Suretyship [Deed of Suretyship] furnished by an approved bank, building society, insurance or guarantee corporation carrying on business in South Africa.
- 24.2 The security may be applied in whole or part at the discretion of Transnet to make good any loss or damage which Transnet may incur in consequence of a breach of the contract or any part thereof.
- 24.3 Such security, if required, shall be an amount which will be stipulated in the Bid Documents.
- 24.4 For the purpose of clause 24.124.1 above, Transnet will supply a Deed of Suretyship form to the successful Respondent for completion and no guarantee in any other form will be accepted. A copy of such form will be supplied to Respondents on request. For this purpose a Deed of Suretyship form will be provided which shall be completed and returned to Transnet or a designated official by the successful Respondent within 30 [thirty] calendar days from the date of the letter of acceptance. No payment will be made until the form, duly completed, is delivered to Transnet. Failure to return the Deed of Suretyship within the prescribed time shall, save where prior extension has been granted, entitle Transnet without notice to the Supplier/Service Provider to cancel the contract with immediate effect.
- 24.5 Additional costs incurred by Transnet necessitated by reason of default on the part of the Supplier/Service Provider in relation to the conditions of this clause 244 will be for the account of the Supplier/Service Provider.

## **25 PRICE AND DELIVERY BASIS FOR GOODS**

- 25.1 Unless otherwise specified in the Bid Documents, the prices quoted for Goods must be on a Delivered Duty Paid [latest ICC Incoterms] price basis in accordance with the terms and at the delivery point or

points specified in Transnet's Bid Documents. Bids for supply on any other basis of delivery are liable to disqualification. The lead time for delivery stated by the Respondent must be inclusive of all non-working days or holidays, and of periods occupied in stocktaking or in effecting repairs to or overhauling plant, which would ordinarily occur within the delivery period given by the Respondent.

25.2 Respondents must furnish their Bid prices in the Price Schedule of the Bid Documents on the following basis:

- a) Local Supplies - Prices for Goods to be manufactured, produced or assembled in the Republic of South Africa, or imported supplies held in South Africa, to be quoted on a Delivered RSA named destination basis.
- b) Imported Supplies - Prices for Goods to be imported from all sources to be quoted on a Delivered Duty Paid [latest ICC Incoterms] basis, to end destination in South Africa, unless otherwise specified in the Bid Price Schedule.

## **26 EXPORT LICENCE**

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

## **27 QUALITY OF MATERIAL**

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

## **28 DELETION OF ITEMS EXCLUDED FROM BID**

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

## **29 VALUE-ADDED TAX**

29.1 In respect of local supplies, i.e. Goods to be manufactured, produced or assembled in the Republic of South Africa, or imported supplies held or already in transit to South Africa, the prices quoted by the Respondent are to be inclusive of VAT which must be shown separately at the standard rate on the Tax Invoice.

29.2 In respect of foreign Services rendered:

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

## **30 IMPORTANT NOTICE TO RESPONDENTS REGARDING PAYMENT**

30.1 Method of Payment

- a) The attention of the Respondent is directed to the Terms and Conditions of Contract which set out the conditions of payment on which Bid price(s) shall be based.
- b) However, in addition to the foregoing the Respondent is invited to submit offers based on alternative methods of payment and/or financing proposals.

- c) The Respondent is required to give full particulars of the terms that will be applicable to its alternative offer(s) and the financial merits thereof will be evaluated and taken into consideration when the Bid is adjudicated.
- d) The Respondent must, therefore, in the first instance, tender strictly in accordance with clause 30.1 (a) above. Failure to comply with clause 30.1 (a) above may preclude a Bid from further consideration.

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

#### 30.2 Conditional Discount

Respondents offering prices which are subject to a conditional discount applicable for payment within a specific period are to note that the conditional period will be calculated as from the date of receipt by Transnet of the Supplier/Service Provider's month-end statement reflecting the relevant Tax Invoice(s) for payment purposes, provided the conditions of the order or contract have been fulfilled and the Tax Invoice is correct in all respects as referred to in the contract or order. Incomplete and/or incorrect Tax Invoices shall be returned and the conditional period will be recalculated from the date of receipt of the correct documentation.

### 31 CONTRACT QUANTITIES AND DELIVERY REQUIREMENTS

#### 31.1 Contract Quantities

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

#### 31.2 Delivery Period

##### a) Period Contracts and Fixed Quantity Requirements

It will be a condition of any resulting contract/order that the delivery period embodied therein will be governed by the provisions of the Terms and Conditions of Contract.

##### b) Progress Reports

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

##### c) Emergency Demands as and when required

If, due to unforeseen circumstances, supplies of the Goods/Services covered by the Bid are required at short notice for immediate delivery, the Supplier/Service Provider will be given first right of refusal for such business. If it is unable to meet the desired critical delivery period,

Transnet reserves the right to purchase such supplies as may be required to meet the emergency outside the contract if immediate delivery can be offered from any other source. The *Total or Partial Failure to Perform the Scope of Supply* section in the Terms and Conditions of Contract will not be applicable in these circumstances.

### **32 PLANS, DRAWINGS, DIAGRAMS, SPECIFICATIONS AND DOCUMENTS**

#### **32.1 Copyright**

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

#### **32.2 Drawings and specifications**

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

#### **32.3 Respondent's drawings**

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

#### **32.4 Foreign specifications**

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

### **33 BIDS BY OR ON BEHALF OF FOREIGN RESPONDENTS**

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

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

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

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

- a) Such Power of Attorney must comply with Rule 63 (Authentication of documents executed outside the Republic for use within the Republic) of the Uniform Rules of Court: Rules regulating the conduct of the proceedings of the several provincial and local divisions of the Supreme Court of South Africa.
  - b) The Power of Attorney must be signed by the principal under the same title as used in the Bid Documents.
  - c) If a Power of Attorney held by the South African representative or agent includes matters of a general nature besides provision for the entering into and signing of a contract with Transnet, a certified copy thereof should be furnished.
  - d) The Power of Attorney must authorise the South African representative or agent to choose the *domicilium citandi et executandi*.
- 33.5 If payment is to be made in South Africa, the foreign Supplier/Service Provider [i.e. the principal, or its South African agent or representative], must notify Transnet in writing whether, for payment by electronic funds transfer [EFT]:
- a) funds are to be transferred to the credit of the foreign Supplier/Service Provider's account at a bank in South Africa, in which case the name and branch of such bank shall be furnished; or
  - b) funds are to be transferred to the credit of its South African agent or representative, in which case the name and branch of such bank shall be furnished.
- 33.6 The attention of the Respondent is directed to clause 24 above [Securities] regarding the provision of security for the fulfilment of contracts and orders and the manner and form in which such security is to be furnished.

#### **34 DATABASE OF RESTRICTED SUPPLIERS**

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

#### **35 CONFLICT WITH ISSUED RFX DOCUMENT**

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

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## **ANNEXURE G**

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

### **INTEGRITY PACT**

Between

**TRANSNET SOC LTD**

Registration Number: 1990/000900/30

("Transnet")

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

## **PREAMBLE**

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

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

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

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

## **1 OBJECTIVES**

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

## **2 COMMITMENTS OF TRANSNET**

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

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

### 3 OBLIGATIONS OF THE BIDDER / SUPPLIER

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



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

#### **4 INDEPENDENT BIDDING**

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

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

## **5 DISQUALIFICATION FROM BIDDING PROCESS**

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

## **6 DATABASE OF RESTRICTED SUPPLIERS**

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

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

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

## **7 PREVIOUS TRANSGRESSIONS**

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

## 8 SANCTIONS FOR VIOLATIONS

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

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

## 9 CONFLICTS OF INTEREST

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

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

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

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

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

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

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

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

## 10 DISPUTE RESOLUTION

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

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

## 11 GENERAL

- 11.1 This Integrity Pact is governed by and interpreted in accordance with the laws of the Republic of South Africa.
- 11.2 The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the law relating to any civil or criminal proceedings.
- 11.3 The validity of this Integrity Pact shall cover all the bidding processes and will be valid for an indefinite period unless cancelled by either Party.
- 11.4 Should one or several provisions of this Integrity Pact turn out to be invalid the remainder of this Integrity Pact remains valid.
- 11.5 Should a Bidder / Supplier be confronted with dishonest, fraudulent or corruptive behaviour of one or more Transnet employees, Transnet expects its Bidders / Suppliers to report this behaviour directly to a senior Transnet official / employee or alternatively by using Transnet's "Tip-Off Anonymous" hotline number 0800 003 056, whereby your confidentiality is guaranteed.

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

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## **ANNEXURE H**

### **NON DISCLOSURE AGREEMENT**

**[April 2020]**

**THIS AGREEMENT is made between**

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

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

**and**

**the Company as indicated in the RFP bid response hereto**

**WHEREAS**

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

**IT IS HEREBY AGREED**

**1. INTERPRETATION**

In this Agreement:

- 1.1 **Agents** mean directors, officers, employees, agents, professional advisers, contractors or sub-contractors, or any Group member;
- 1.2 **Bid or Bid Document** means Transnet's Request for Information [**RFI**] Request for Proposal [**RFP**] or Request for Quotation [**RFQ**], as the case may be;
- 1.3 **Confidential Information** means any information or other data relating to one party [the **Disclosing Party**] and/or the business carried on or proposed or intended to be carried on by that party and which is made available for the purposes of the Bid to the other party [the **Receiving Party**] or its Agents by the Disclosing Party or its Agents or recorded in agreed minutes following oral disclosure and any other information otherwise made available by the Disclosing Party or its Agents to the Receiving Party or its Agents, whether before, on or after the date of this Agreement, and whether in writing or otherwise, including any information, analysis or specifications derived from, containing or reflecting such information but excluding information which:
  - 1.3.1 is publicly available at the time of its disclosure or becomes publicly available [other than as a result of disclosure by the Receiving Party or any of its Agents contrary to the terms of this Agreement]; or
  - 1.3.2 was lawfully in the possession of the Receiving Party or its Agents [as can be demonstrated by its written records or other reasonable evidence] free of any restriction as to its use or disclosure prior to its being so disclosed; or

- 1.3.3 following such disclosure, becomes available to the Receiving Party or its Agents [as can be demonstrated by its written records or other reasonable evidence] from a source other than the Disclosing Party or its Agents, which source is not bound by any duty of confidentiality owed, directly or indirectly, to the Disclosing Party in relation to such information;
- 1.4 **Group** means any subsidiary, any holding company and any subsidiary of any holding company of either party; and
- 1.5 **Information** means all information in whatever form including, without limitation, any information relating to systems, operations, plans, intentions, market opportunities, know-how, trade secrets and business affairs whether in writing, conveyed orally or by machine-readable medium.

## 2. CONFIDENTIAL INFORMATION

- 2.1 All Confidential Information given by one party to this Agreement [the **Disclosing Party**] to the other party [the **Receiving Party**] will be treated by the Receiving Party as secret and confidential and will not, without the Disclosing Party's written consent, directly or indirectly communicate or disclose [whether in writing or orally or in any other manner] Confidential Information to any other person other than in accordance with the terms of this Agreement.
- 2.2 The Receiving Party will only use the Confidential Information for the sole purpose of technical and commercial discussions between the parties in relation to the Bid or for the subsequent performance of any contract between the parties in relation to the Bid.
- 2.3 Notwithstanding clause 2.1 above, the Receiving Party may disclose Confidential Information:
- 2.3.1 to those of its Agents who strictly need to know the Confidential Information for the sole purpose set out in clause 2.2 above, provided that the Receiving Party shall ensure that such Agents are made aware prior to the disclosure of any part of the Confidential Information that the same is confidential and that they owe a duty of confidence to the Disclosing Party. The Receiving Party shall at all times remain liable for any actions of such Agents that would constitute a breach of this Agreement; or
- 2.3.2 to the extent required by law or the rules of any applicable regulatory authority, subject to clause 2.4 below.
- 2.4 In the event that the Receiving Party is required to disclose any Confidential Information in accordance with clause 2.3.2 above, it shall promptly notify the Disclosing Party and cooperate with the Disclosing Party regarding the form, nature, content and purpose of such disclosure or any action which the Disclosing Party may reasonably take to challenge the validity of such requirement.
- 2.5 In the event that any Confidential Information shall be copied, disclosed or used otherwise than as permitted under this Agreement then, upon becoming aware of the same, without prejudice to any rights or remedies of the Disclosing Party, the Receiving Party shall as soon as practicable notify the Disclosing Party of such event and if requested take such steps [including the institution of legal proceedings] as shall be necessary to remedy [if capable of remedy] the default and/or to prevent further unauthorised copying, disclosure or use.
- 2.6 All Confidential Information shall remain the property of the Disclosing Party and its disclosure shall not confer on the Receiving Party any rights, including intellectual property rights over the Confidential Information whatsoever, beyond those contained in this Agreement.



### **3. RECORDS AND RETURN OF INFORMATION**

- 3.1 The Receiving Party agrees to ensure proper and secure storage of all Information and any copies thereof.
- 3.2 The Receiving Party shall keep a written record, to be supplied to the Disclosing Party upon request, of the Confidential Information provided and any copies made thereof and, so far as is reasonably practicable, of the location of such Confidential Information and any copies thereof.
- 3.3 The Company shall, within 7 [seven] days of receipt of a written demand from Transnet:
  - 3.3.1 return all written Confidential Information [including all copies]; and
  - 3.3.2 expunge or destroy any Confidential Information from any computer, word processor or other device whatsoever into which it was copied, read or programmed by the Company or on its behalf.
- 3.4 The Company shall on request supply a certificate signed by a director as to its full compliance with the requirements of clause 3.3.2 above.

### **4. ANNOUNCEMENTS**

- 4.1 Neither party will make or permit to be made any announcement or disclosure of its prospective interest in the Bid without the prior written consent of the other party.
- 4.2 Neither party shall make use of the other party's name or any information acquired through its dealings with the other party for publicity or marketing purposes without the prior written consent of the other party.

### **5. DURATION**

The obligations of each party and its Agents under this Agreement shall survive the termination of any discussions or negotiations between the parties regarding the Bid and continue thereafter for a period of 5 [five] years.

### **6. PRINCIPAL**

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

### **7. ADEQUACY OF DAMAGES**

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

### **8. PRIVACY AND DATA PROTECTION**

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

## **9. GENERAL**

- 9.1 Neither party may assign the benefit of this Agreement, or any interest hereunder, except with the prior written consent of the other, save that Transnet may assign this Agreement at any time to any member of the Transnet Group.
- 9.2 No failure or delay in exercising any right, power or privilege under this Agreement will operate as a waiver of it, nor will any single or partial exercise of it preclude any further exercise or the exercise of any right, power or privilege under this Agreement or otherwise.
- 9.3 The provisions of this Agreement shall be severable in the event that any of its provisions are held by a court of competent jurisdiction or other applicable authority to be invalid, void or otherwise unenforceable, and the remaining provisions shall remain enforceable to the fullest extent permitted by law.
- 9.4 This Agreement may only be modified by a written agreement duly signed by persons authorised on behalf of each party.
- 9.5 Nothing in this Agreement shall constitute the creation of a partnership, joint venture or agency between the parties.
- 9.6 This Agreement will be governed by and construed in accordance with South African law and the parties irrevocably submit to the exclusive jurisdiction of the South African courts.

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