



TRANSNET NATIONAL PORTS AUTHORITY  
TENDER NUMBER: TNPA/2022/02/0097/RFP  
DESCRIPTION OF THE SERVICES: DETAILED CONDITION ASSESSMENT ON FOUR (4) TUGS THAT ARE LOCATED  
IN THE PORTS OF SALDANHA, CAPE TOWN & DURBAN

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## **Transnet National Ports Authority**

an Operating Division of **TRANSNET SOC LTD**

[Registration Number 1990/000900/30]

## **REQUEST FOR PROPOSAL (RFP)**

**FOR THE: DETAILED CONDITION ASSESSMENT ON FOUR (4) TUGS THAT ARE  
LOCATED IN THE PORTS OF SALDANHA, CAPE TOWN & DURBAN**

<b>RFP NUMBER</b>	<b>: TNPA/2022/02/0097/RFP</b>
<b>ISSUE DATE</b>	<b>: 11 APRIL 2022</b>
<b>COMPULSORY BRIEFING</b>	<b>: 20 APRIL 2022</b>
<b>CLOSING DATE</b>	<b>: 10 MAY 2022</b>
<b>CLOSING TIME</b>	<b>: 10:00 am</b>
<b>TENDER VALIDITY PERIOD</b>	<b>: 12 weeks from closing date</b>



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## T1.1 TENDER NOTICE AND INVITATION TO TENDER

### SECTION 1: NOTICE TO TENDERERS

#### 1. INVITATION TO TENDER

Responses to this Tender [hereinafter referred to as a **Tender**] are requested from persons, companies, close corporations or enterprises [hereinafter referred to as a Tenderer].

<b>DESCRIPTION</b>	<b>Detailed condition assessment of four (4) Tugs that are located in the ports of Saldanha, Cape Town &amp; Durban</b>
<b>TENDER DOWNLOADING</b>	<b>This Tender may be downloaded directly from the National Treasury eTender Publication Portal at <a href="http://www.etenders.gov.za">www.etenders.gov.za</a> FREE OF CHARGE.</b>

<b>COMPULSORY TENDER CLARIFICATION MEETING</b>	<p>A Compulsory Tender Clarification Meeting will be conducted at <b>Transnet National Ports Authority (TNPA) Jetty 1, V&amp;A Waterfront, Victoria Basin Cape Town, 8001</b> on the <b>20<sup>th</sup> April 2022</b> at 10:00am [10 O'clock] for a period of ± 2 (two) hours. [Tenderers to provide own transportation and accommodation].</p> <p>The Compulsory Tender Clarification Meeting will start punctually and information will not be repeated for the benefit of Tenderers arriving late.</p> <p>A Site visit/walk will take place, tenderers are to note:</p> <ul style="list-style-type: none"> <li>•Tenderers are required to wear safety shoes, goggles, long sleeve shirts, high visibility vests and hard hats.</li> <li>•Tenderers without the recommended PPE will not be allowed on the site walk.</li> <li>•Tenderers and their employees, visitors, clients and customers entering Transnet Offices, Depots, Workshops and Stores will have to undergo breathalyser testing.</li> <li>•All forms of firearms are prohibited on Transnet properties and premises.</li> <li>•The relevant persons attending the meeting must ensure that their identity documents, passports or drivers licences are on them for inspection at the access control gates.</li> </ul> <p>Certificate of Attendance in the form set out in the Returnable Schedule T2.2-01 hereto must be completed and submitted with your Tender as proof of attendance is required for a compulsory site meeting and/or tender briefing.</p>
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	<p>Tenderers are required to bring this Returnable Schedule T2.2-01 to the Compulsory Tender Clarification Meeting to be signed by the Employer's Representative.</p> <p>Tenderers failing to attend the compulsory tender briefing will be disqualified.</p>
<b>CLOSING DATE</b>	<p><b>10:00am 10 May 2022</b></p> <p>Tenderers must ensure that tenders are uploaded timeously onto the system. If a tender is late, it will not be accepted for consideration.</p>

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

b) The tender offers to this tender will be opened as soon as possible after the closing date and time. Transnet shall not, at the opening of tenders, disclose to any other company any confidential details pertaining to the Tender Offers / information received, i.e. pricing, delivery, etc. The names and locations of the Tenderers will be divulged to other Tenderers upon request.

c) Submissions must not contain documents relating to any Tender other than that shown on the submission.

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### **3. CONFIDENTIALITY**

All information related to this RFP is to be treated with strict confidentiality. In this regard Tenderers 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 gleaned from provision of the Works, which is either directly or indirectly related to Transnet's business, written approval to divulge such information must be obtained from Transnet.

### **4. DISCLAIMERS**

Tenderers are hereby advised that Transnet is not committed to any course of action as a result of its issuance of this Tender and/or its receipt of a tender offer. In particular, please note that Transnet reserves the right to:

- 4.1. Award the business to the highest scoring Tenderer/s unless objective criteria justify the award to another tenderer.
- 4.2. Not necessarily accept the lowest priced tender or an alternative Tender;
- 4.3. Go to the open market if the quoted rates (for award of work) are deemed unreasonable;
- 4.4. Should the Tenderers be awarded business on strength of information furnished by the Tenderer, which after conclusion of the contract is proved to have been incorrect, Transnet reserves the right to terminate the contract;
- 4.5. Request audited financial statements or any other documentation for the purposes of a due diligence exercise;
- 4.6. Not accept any changes or purported changes by the Tenderer to the tender rates after the closing date;
- 4.7. Verify any information supplied by a Tenderer by submitting a tender, the Tenderer/s hereby irrevocably grant the necessary consent to the Transnet to do so;
- 4.8. Conduct the evaluation process in parallel. The evaluation of Tenderers at any given stage must therefore not be interpreted to mean that Tenderers have necessarily passed any previous stage(s);
- 4.9. Unless otherwise expressly stated, each tender lodged in response to the invitation to tender shall be deemed to be an offer by the Tenderer. The Employer has the right in its sole and unfettered discretion not to accept any offer.



4.10. Not be held liable if tenderers do not provide the correct contact details during the clarification session and do not receive the latest information regarding this RFP with the possible consequence of being disadvantaged or disqualified as a result thereof.

4.11. Transnet reserves the right to exclude any Tenderers from the tender process who has been convicted of a serious breach of law during the preceding 5 [five] years including but not limited to breaches of the Competition Act 89 of 1998, as amended. Tenderers are required to indicate in tender returnable [clause 12 on T2.2-14], [**Breach of Law**] whether or not they have been found guilty of a serious breach of law during the past 5 [five] years.

5. Transnet will not reimburse any Tenderer for any preparatory costs or other work performed in connection with this Tender, whether or not the Tenderer is awarded a contract.

**6. NATIONAL TREASURY’S CENTRAL SUPPLIER DATABASE**

Tenderer 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. The CSD can be accessed at <https://secure.csd.gov.za/>. Tenderer are required to provide the following to Transnet in order to enable it to verify information on the CSD:

Supplier Number..... and Unique registration reference number.....(**Tender Data**)

**Transnet urges its clients, suppliers and the general public  
to report any fraud or corruption to  
TIP-OFFS ANONYMOUS: 0800 003 056 OR [Transnet@tip-offs.com](mailto:Transnet@tip-offs.com)**

## T1.2 TENDER DATA

The conditions of tender are the Standard Conditions of Tender as contained in Annex C of the CIDB Standard for Uniformity in Engineering and Construction Works Contracts. The Standard for Uniformity in Construction Procurement was first published in Board Notice 62 of 2004 in Government Gazette No 26427 of 9 June 2004. It was subsequently amended in Board Notice 67 of 2005 in Government Gazette No 28127 of 14 October 2005, Board Notice 93 of 2006 in Government Gazette No 29138 of 18 August 2006, Board Notice No 9 of 2008 in Government Gazette No 31823 of 30 January 2009, Board Notice 86 of 2010 in Government Gazette No 33239 of 28 May 2010, Board Notice 136 of 2015 in Government Gazette 38960 of 10 July 2015 and Board Notice 423 of 2019 in Government Gazette No 42622 of 8 August 2019.

This edition incorporates the amendments made in Board Notice 423 of 2019 in Government Gazette 42622 of 8 August 2019. (see [www.cidb.org.za](http://www.cidb.org.za)).

The Standard Conditions of Tender make several references to Tender data for detail that apply specifically to this tender. The Tender Data shall have precedence in the interpretation of any ambiguity or inconsistency between it and the Standard Conditions of Tender.

Each item of data given below is cross-referenced in the left-hand column to the clause in the Standard Conditions of Tender to which it mainly applies.

Clause	Data
C.1.1	The <i>Employer</i> is <b>Transnet SOC Ltd (Reg No. 1990/000900/30)</b>
C.1.2	The tender documents issued by the <i>Employer</i> comprise: <b>Part T: The Tender</b> Part T1: Tendering procedures Part T2 : Returnable documents <b>Part C: The contract</b> Part C1: Agreements and contract data Part C2: Pricing data
	T1.1 Tender notice and invitation to tender T1.2 Tender data T2.1 List of returnable documents T2.2 Returnable schedules C1.1 Form of offer and acceptance C1.2 Contract data (Part 1 & 2) C1.3 Form of Securities C2.1 Pricing instructions C2.2 Pricing Schedule

	Part C3: Scope of work	C3.1 Scope of Services
C.1.4	The Employer's agent is:	Commodity Specialist
	Name:	Qetelo Mpanza
	Address:	Transnet National Ports Authority eMendi Administration Building N2 Neptune Road, Off Club Road Port Of Ngqura, Gqeberha, 6001
	Tel No.	0761012777
	E – mail	Qetelo.Mpanza@transnet.net
C.2.1	Only those tenderers who satisfy the following eligibility criteria are eligible to submit tenders:	
	<b>1. Stage One</b>	
	a) An authorised representative of the tendering entity or a representative of a tendering entity that intends to form a Joint Venture (JV) must attend the compulsory clarification meeting in terms C2.7	
	<b><i>Any tenderer that fails to meet the stipulated pre-qualifying criteria will be regarded as an unacceptable tender.</i></b>	
	<b>2. Stage Two - Functionality:</b>	
	Only those tenderers who obtain the minimum qualifying score for functionality will be evaluated further in terms of price and the applicable preference point system. The minimum qualifying for score for functionality is 60 points.	
	The evaluation criteria for measuring functionality and the points for each criteria and, if any, each sub-criterion are as stated in C.3.11.3 below.	
	<b><i>Any tenderer that fails to meet the stipulated pre-qualifying criteria will be regarded as an unacceptable tender.</i></b>	
C.2.12	No alternative tender offers will be considered.	
C.2.13.3	Each tender offer shall be in the <b>English Language</b> .	
C.2.13.5	The <i>Employer's</i> details and identification details that are to be shown on each tender offer are as follows:	
C.2.15.1	Identification details:	The tender documents must be uploaded with: <ul style="list-style-type: none"> <li>▪ Name of Tenderer: (insert company name)</li> <li>▪ Contact person and details: (insert details)</li> <li>▪ The Tender Number: TNPA/2022/02/0097/RFP</li> <li>▪ The Tender Description</li> </ul>

Documents must be marked for the attention of:  
***Employer's Agent:***

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C.2.13.9 Telephonic, telegraphic, facsimile or e-mailed tender offers will not be accepted.

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C.2.15 The closing time for submission of tender offers is:  
Time: **10:00am** on the **10 May 2022**  
Location: The Transnet e-Tender Submission Portal: [www.transnet.net](http://www.transnet.net)

**NO LATE TENDERS WILL BE ACCEPTED**

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C.2.16 The tender offer validity period is **12 weeks** after the closing date. Tenderers are to note that they may be requested to extend the validity period of their tender, on the same terms and conditions, if Transnet's internal evaluation and governance approval processes has not been finalised within the validity period.

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C.2.23 The tenderer is required to submit with his tender:

1. A valid Tax Clearance Certificate issued by the South African Revenue Services.  
**Tenderers also to provide Transnet with a TCS PIN to verify Tenderers compliance status.**
2. A valid B-BBEE Certificate from a Verification Agency accredited by the South African Accreditation System [SANAS], or a sworn affidavit confirming annual turnover and level of black ownership in case of all EMEs and QSEs with 51% black ownership or more together with the tender;
3. Proof of registration on the Central Supplier Database;
4. Letter of Good Standing with the Workmen's compensation fund by the tendering entity or separate Letters of Good Standing from all members of a newly constituted JV.

**Note:** Refer to Section T2.1 for List of Returnable Documents

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C3.11 The minimum number of evaluation points for functionality is: **60**

The procedure for the evaluation of responsive tenders is Functionality, Price and Preference:

**Only those tenderers who attain the minimum number of evaluation points for Functionality will be eligible for further evaluation, failure to meet the minimum threshold will result in the tender being disqualified and removed from any further consideration.**

**Functionality Criteria**

The functionality criteria and maximum score in respect of each of the criteria are as follows

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Functionality criteria	Sub-criteria	Maximum number of points
T2.2-02 Project Organogram, Management & CV's	CV's of Key Staff members indicating work experience and include valid qualification certificates for the below personnel: <ul style="list-style-type: none"> <li>• Naval Architect – Degree in Naval Architect registered with RINA, Minimum 5 Years working experience</li> <li>• Chief Engineer Officer (STCW)- Degree in Mechanical Engineering or Diploma in Marine Engineering or Complete S4, Registerer Pr.Eng. Mechanical Engineer, minimum 3 years eperience</li> <li>• Marine Radio Technician- Diploma in Electrical Engineering (Electronics) or BTech (Elec. Eng) Electronics, minimum 2 years working experience</li> <li>• Marine Surveyor- Diploma in Marine Surveying., minimum 6 years working experience, Registered with International Instituted of Marine Surveyor (IIMS) or International Association of Classification Societies (IACS).</li> </ul>	<b>35</b>
T2.2-03 Previous Experience	Submitted a table listing similar projects covering the DRY-DOCKING OF MARINE CRAFT. The Project list <b>must include</b> the (1) Project Description (2) Client's Company Name (3) Client's Contact Details (email & telephone), (4) Value, and Location of the works and status of the project (completed or in Progress)	<b>35</b>
T2.2-04 Method Statement	The Method statement shall include the following as a minimum of the critical elements in terms of <b>Scope of Work</b> but not limited to the following: <ul style="list-style-type: none"> <li>• Bridge and Navigation Equipment</li> <li>• Electrical Monitoring and Alarm system</li> <li>• Deck Machinery</li> <li>• Accommodation (i.e. cabins, galley, messroom, WC)</li> </ul>	<b>20</b>
T2.2-05 Programme	Proposed programme showing a detailed schedule clearly indicating all activities and their sequence and showing input / engagement required from the Employer and other critical External Stakeholders	<b>5</b>

T2.2-06 Health and Safety Management	Bidder to submit required documents or required information to ensure SHE compliance in terms of scope of work. Included are: Baseline Risk Assessment, which as minimum includes: (a) Identify the risks and hazards to which persons may be exposed to (b) Analysis and evaluation of identified risks/hazards (c) Measures to mitigate, reduce or control the risks and hazards identified Roles & responsibilities for implementation of control	<b>5</b>
<b>Maximum possible score for Functionality</b>	<b>100</b>	

Functionality shall be scored independently by not less than 3 (three) evaluators and averaged in accordance with the following schedules:

- T2.2-02 Project Organogram, Management & CV's
- T2.2-03 Previous Experience
- T2.2-04 Method Statement
- T2.2-05 Programme
- T2.2-06 Health and Safety Management

Each evaluation criteria will be assessed in terms of scores of 0,20,40, 60, 80 or 100

The scores of each of the evaluators will be averaged, weighted and then totalled to obtain the final score for functionality, unless scored collectively. (See CIDB Inform Practice Note #9).

**Note: Any tender not complying with the above-mentioned requirements, will be regarded as non-responsive and will therefore not be considered for further evaluation. This note must be read in conjunction with Clause C.2.1.**

C3.11 Only tenders that achieve the minimum qualifying score for functionality will be evaluated further in accordance with the 80/20 preference points systems as described in Preferential Procurement Regulations 6.

80 where the financial value of one or more responsive tenders received have a value equal to or below R50 million, inclusive of all applicable taxes,

Up to 100 minus W1 tender evaluation points will be awarded to tenderers who

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complete the preferencing schedule and who are found to be eligible for the preference claimed. **Should the BBEE rating not be provided, tenderers with no verification will score zero points for preferencing.**

**Note:** Transnet reserves the right to carry out an independent audit of the tenderers scorecard components at

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C.3.13 Tender offers will only be accepted if:

1. The tenderer or any of its directors/shareholders is not listed on the Register of Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the public sector;
2. the tenderer does not appear on Transnet's list for restricted tenderers and National Treasury's list of Tender Defaulters;
3. the tenderer has fully and properly completed the Compulsory Enterprise Questionnaire and there are no conflicts of interest which may impact on the tenderer's ability to perform the contract in the best interests of the Employer or potentially compromise the tender process and persons in the employ of the state.
4. Transnet reserves the right to award the tender to the tenderer who scores the highest number of points overall, unless there are **objective criteria** which will justify the award of the tender to another tenderer. Objective criteria include but are not limited to the outcome of a due diligence exercise to be conducted. The due diligence exercise may take the following factors into account inter alia;  
the tenderer:
  - a) is not under restrictions, or has principals who are under restrictions, preventing participating in the employer's procurement,
  - b) can, as necessary and in relation to the proposed contract, demonstrate that he or she possesses the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and the personnel, to perform the contract,
  - c) has the legal capacity to enter into the contract,
  - d) is not insolvent, in receivership, under Business Rescue as provided for in chapter 6 of the Companies Act, 2008, bankrupt or being wound up, has his affairs administered by a court or a judicial officer, has suspended his business activities, or is subject to legal proceedings in respect of any of the foregoing,
  - e) complies with the legal requirements, if any, stated in the tender data and

f) is able, in the option of the employer to perform the contract free of conflicts of interest.

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C.3.17 The number of paper copies of the signed contract to be provided by the Employer is 1 (one).

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## T2.1 List of Returnable Documents

### 2.1.1 These schedules are required for pre-qualification and eligibility purposes:

T2.2-01 **Stage One: Eligibility Criteria Schedule** - Certificate of attendance at Compulsory Tender Clarification Meeting

### 2.1.2 Stage Two: these schedules will be utilised for evaluation purposes:

T2.2-02 **Evaluation Schedule:** Project Organogram, Management & CV's

T2.2-03 **Evaluation Schedule:** Previous Experience

T2.2-04 **Evaluation Schedule:** Method Statement

T2.2-05 **Evaluation Schedule :** Programme

T2.2-06 **Evaluation Schedule :** Health and Safety Management

T2.2-07 Health and Safety Questionnaire

### 2.1.3 Returnable Schedules:

#### General:

T2.2-08 Authority to submit tender

T2.2-09 Record of addenda to tender documents

T2.2-10 Risk Elements

#### Agreement and Commitment by Tenderer:

T2.2-11 Non-Disclosure Agreement

T2.2-12 RFP Declaration Form

T2.2-13 RFP – Breach of Law

T2.2-14 Certificate of Acquaintance with Tender Document

T2.2-15 Service Provider Integrity Pact

T2.2-16 Supplier Code of Conduct

T2.2-17 Agreement in terms of Protection of Personal Information Act, 4 of 2013 ("POPIA")

T2.2-18 Compulsory Enterprise Questionnaire

## 2.2 C1.1 Offer portion of Form of Offer & Acceptance

## 2.3 C1.2 Contract Data

## 2.5 C2.1 Pricing Instructions

## 2.6 C2.2 Pricing Schedule

## T2.2-01: Eligibility Criteria Schedule:

### Certificate of Attendance at Tender Clarification Meeting

This is to certify that

.....  
(Company Name)

Represented  
by:

.....  
(Name and  
Surname)

Was represented at the compulsory tender clarification meeting

Held at:	Transnet National Ports Authority (TNPA), Jetty 1, V&A Waterfront, Victoria Basin Cape Town, 8001	
On (date)	<b>20 April 2022</b>	Starting time: 10:00am

#### Particulars of person(s) attending the meeting:

Name

Signature

Capacity

#### Attendance of the above company at the meeting was confirmed:

Name

Signature

.....  
**For and on Behalf of the  
Employers Agent.**

Date

## **T2.2-02: Evaluation Schedule: Project Organogram, Management & CV's**

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

1. A comprehensive and detailed **organogram** that shows the structure and composition of their management structure involved in the *works*, inclusive of the key staff/professionals, identified in the Contract Data Part two.
2. Detailed CV's providing the following: explain these in detail
  - a) **Naval Architect** – *Degree in Naval Architect registered with RINA, Minimum 5 Years working experience*
  - b) **Chief Engineer Officer (STCW)**- *Degree in Mechanical Engineering or Diploma in Marine Engineering or Complete S4 (Marine Engineering), Registerer Pr.Eng. Mechanical Engineer, minimum 3 years eperience*
  - c) **Marine Radio Technician**- *Diploma in Electrical Engineering (Electronics) or BTech (Elec. Eng) Electronics, minimum 2 years working experience*
  - d) **Marine Surveyor**- *Diploma in Marine Surveying., minimum 6 years working experience, Registered with International Instituted of Marine Surveyor (IIMS) or International Association of Classification Societies (IACS).*

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- e) The following table is to be populated by the tenderer identifying the resources for the key roles for the *works*. Attached submissions to this returnable.

<b>Key Person Role</b>	<b>Name of Resource</b>
a) Naval Architect	
b) Chief Engineer Officer (STCW)	
c) Marine Radio Technician	
d) Marine Surveyor	

The scoring of the Project Organogram, Management & CV's will be as follows:

Score 0	Tenderer failed to provide information
Score 20	Inadequate organization chart, Key staff do not have suitable levels of relevant experience and qualifications or equivalent specialized training. Incomplete list of Key staff and Management structure
Score 40	Key staff has limited recommended levels of relevant experience. Organization chart show incomplete list of Key staff and management structure
Score 60	Key staff have highly acceptable levels of relevant experience (Naval Architect has a minimum 5 Years working experience, and a Marine Surveyor has a 6 years minimum experience). Organization chart showing onsite and off-site management and Key staff have reasonable experience of issues pertinent to the project. Key staff have provided all relevant and required professional registration/certification
Score 80	Key staff have highly acceptable levels of relevant experience (Naval Architect has a minimum 5 Years working experience, Chief Engineer has a minimum 3 years' experience, Marine Surveyor has a 6 years minimum experience). Organization chart showing onsite and off-site management and Key staff have reasonable experience of issues pertinent to the project. Key staff have provided all relevant and required professional registration/certification
Score 100	All Key staff have highly acceptable levels of relevant experience (Naval Architect has a minimum 5 Years working experience, Chief Engineer has a minimum 3 years' experience, Marine Radio Technician has a minimum 2 years' experience, and a Marine Surveyor has a 6 years minimum experience). Organization chart showing onsite and off-site management and Key staff have reasonable experience of issues pertinent to the project. Key staff have provided all relevant and required professional registration/certification

## T2.2-03: Evaluation Schedule: Previous Experience

### Note to tenderers:

Tenderers are required to demonstrate their overall experience in the delivery of similar works, and to this end shall supply a sufficiently detailed reference list with contact details of existing customers and also demonstrate their relevant experience with regards to the the Marine Engineering/ Ship Repair industry.

The tenderer to submit the following:

- Previous experience based on similar work (specific to this scope).
- Reference letter(s) for previous vessel condition assessment projects or similar projects.
- Bidder must submit reference letter(s) from client(s) on clients' company letterhead signed by the client confirming the work performed with a clear indication of clients' impression of the work performed.

### Index of documentation attached to this schedule:

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The table below indicate the method of scoring that will be followed to evaluate the previous experience submitted by the Tenderer:

<b>Score 0</b>	Tenderer Failed to provide information
<b>Score 20</b>	The Tenderer generally have < 3 years of experience and have undertaken no projects of a similar nature within the last 5 years. No / insufficient references provided to substantiate experience indicated.
<b>Score 40</b>	The Tenderer generally have ≤3 years of experience and have undertaken <3 projects of a similar nature within the last 5 years. No/insufficient traceable references provided to substantiate experience indicate
<b>Score 60</b>	The Tenderer generally have >6 years of experience and have undertaken >4 projects of a similar nature. Sufficient and traceable references provided to substantiate experience indicated.
<b>Score 80</b>	The Tenderer generally have >8 years of experience and have undertaken >5 projects of a similar nature. Sufficient and traceable references provided to substantiate experience indicated
<b>Score 100</b>	The Tenderer generally have >10 years of experience and have undertaken >6 projects of a similar nature. Sufficient and traceable references provided to substantiate experience indicated.

## **T2.2-04: Evaluation Schedule: Method Statement**

Note to tenderers:

Method statement - The tenderers must sufficiently demonstrate the approach/methodology that will be employed to cover the scope of the project.

The Method statement should address all the aspects of the Scope of Work in detail. The Method statement shall include the following as a minimum of the critical elements in terms of Scope of Works but not limited to:

- a) Bridge and Navigation Equipment
- b) Electrical Monitoring and Alarm system
- c) Deck Machinery
- d) Accommodation (i.e. cabins, galley, messroom, WC)
- e) Main and Auxiliary engine room machinery
- f) Hull and Superstructure
- g) Propulsion system
- h) Steelwork & Paintwork

The table below will be used as guidelines for scoring / evaluating the method statement submitted by the Tenderer:

Category	Category Criteria	Detail for submission	Maximum Points to score
<p><b>Method Statement</b></p>	<p>The Method statement shall include the following as a minimum of the critical elements in terms of <b>Scope of Services</b> but not limited to the following:</p> <ul style="list-style-type: none"> <li>a) Bridge and Navigation Equipment</li> <li>b) Electrical Monitoring and Alarm system</li> <li>c) Deck Machinery</li> <li>d) Accommodation (i.e. cabins, galley, messroom, WC)</li> <li>e) Main and Auxiliary engine room machinery</li> <li>f) Hull and Superstructure                             <ul style="list-style-type: none"> <li>g) Propulsion system</li> <li>h) Steelwork &amp; Paintwork</li> </ul> </li> </ul>	<p>The tenderer has submitted no information or inadequate information to determine a score = 0</p>	<p><b>20</b></p>
		<p>The methodology/approach and work alignment to project schedule is poorly presented, generic and not tailored to address the specific project objectives and methodology = 20</p>	
		<p>The methodology approach is generic and not tailored to address the specific project objectives and methodology. The methodology approach does not adequately deal with the critical characteristics of the project = 40</p>	
		<p>The methodology approach is specifically tailored to address the specific project objectives and methodology and is sufficiently flexible to accommodate changes that may occur during execution. The methodology approach adequately deals with all the critical elements of the scope of Services = 60</p>	
		<p>The methodology approach is specifically tailored to address the specific project objectives and methodology and is sufficiently flexible to accommodate changes that may occur during execution. The methodology approach exceeds the critical elements of the scope of Services = 80</p>	
		<p>The important issues are approached in an innovative and efficient way, indicating that the tenderer has outstanding knowledge of state-of-the-art approaches to the critical elements of the scope of services. The methodology approach details ways to improve the project outcomes and the quality of the outputs = 100</p>	

## T2.2-05: Evaluation Schedule: Programme

### Note to *consultants*:

#### Programme

The *Consultant* details the programme for evaluation and attaches it to this schedule. In addition, the *Consultant* is to provide an electronic copy of the programme in Primavera or MS Project.

The *Consultant* shall indicate the following:-

- Ability to execute the works in terms of the Employer's requirements, indicating the order and timing of the construction activities that will take place in order to provide the work
- Schedule showing Starting, Completion, Sectional Completion and Key Dates as listed in Contract Data Part One -"Data provided by the Employer" and are logically linked to activities in the schedule and to be driven by activities. All activities to be logically tied using a clearly defined critical path method (CPM)
- All activity durations to be realistic and based on quantities and activities that can be measured in days. The calendar on the schedule should represent the actual work week/month used. e.g. weekends as nonworking periods
- Against each activity or grouping of activities, the *Consultant* indicates their "time risk allowances" and float shown. The Time Risk Allowances must be clearly defined and basis that were applied in calculating these durations. The *Consultant* owns these allowances
- Provisions for quality requirements & Health & Safety requirements, Clearly outlining how the *consultant* plans to provide the Works
- At a minimum, a Level 2 Programme is developed electronically and a hard copy to be supplied with the Tender document. This Schedule development should be in Ms project. Primavera would be an added advantage.
- The level of detail on the schedule should include, but not limited to, Key Milestones, Sectional Completion Milestones and Close-out activities
- The *Consultant* to submit a schedule narrative explaining the schedule development, exclusions and assumptions applied on the schedule. This should include the bases used on production rates applied on the schedule

The table below indicate the method of scoring that will be followed to evaluate the programme submitted by the Consultant:

<b>Score 0</b>	<i>Consultant failed to submit the schedule</i>
<b>Score 20</b>	<i>Consultant has submitted insufficient information</i>
<b>Score 40</b>	<ul style="list-style-type: none"> <li>• <i>Consultant shows limited suitability and capacity to meet the project requirements</i></li> <li>• <i>Programme does not show order and timing. Programme duration not realistic</i></li> <li>• <i>Consultant failed to display the ability to execute the works in terms of the Employer's requirements</i></li> </ul>
<b>Score 60</b>	<p><i>Consultant has demonstrated reasonable knowledge the development of:</i></p> <ul style="list-style-type: none"> <li>• <i>Ability to execute the Works in terms of the Employer's requirements, indicating the order and timing of the construction activities that will take place in order to provide the works</i></li> <li>• <i>Schedule showing durations of activities, Major Milestone, Planned Start Date &amp; Planned Completion Date</i></li> <li>• <i>All activities to be logically tied using critical path method (CPM)</i></li> <li>• <i>Level 2 schedule</i></li> <li>• <i>Estimated Project Duration: weeks</i></li> <li>• <i>Schedule narrative explaining the schedule development, exclusions and assumptions applied on the schedule.</i></li> <li>• <i>Time risk allowance against each task group indicated</i></li> </ul>
<b>Score 80</b>	<p><i>Consultant has demonstrated good knowledge in scheduling:</i></p> <ul style="list-style-type: none"> <li>• <i>Ability to execute the works in terms of the Employer's requirements,</i></li> <li>• <i>Indicating the order and timing of the construction activities that will take place in order to provide the Works</i></li> <li>• <i>Schedule showing durations of activities, Major Milestone, Planned Start Date &amp; Planned Completion Date</i></li> <li>• <i>All activities to be logically tied using critical path method (CPM)</i></li> <li>• <i>Level 2 schedule</i></li> <li>• <i>Estimated Project Duration: weeks</i></li> <li>• <i>Time risk allowance against each task group indicated</i></li> <li>• <i>Schedule narrative explaining the schedule development, exclusions and assumptions applied on the schedule</i></li> </ul>
<b>Score 100</b>	<p><i>Consultant has demonstrated good knowledge in scheduling:</i></p> <ul style="list-style-type: none"> <li>• <i>Ability to execute the Works in terms of the Employer's requirements, indicating the order and timing of the construction activities that will take place in order to provide the works</i></li> <li>• <i>Schedule showing durations of activities, Major Milestone, Planned Start Date &amp; Planned Completion Date</i></li> <li>• <i>All activities to be logically tied using critical path method (CPM)</i></li> <li>• <i>Level 2 schedule</i></li> <li>• <i>Estimated Project Duration: weeks</i></li> </ul>

	<ul style="list-style-type: none"><li>• Time risk allowance against each task group indicated</li><li>• Excellent narrative explaining the schedule development covering more than required aspect.</li><li>• Schedule provides alternative opportunities accelerated implementation</li></ul>
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## **T2.2-06: Evaluation Schedule: Health and Safety Management**

*Consultant* to submit required documents or required information to ensure SHE compliance in terms of the scope of work.

Baseline Risk Assessment, which as minimum includes:

- (a) Identify the risks and hazards to which persons may be exposed to
- (b) Analysis and evaluation of identified risks/hazards
- (c) Measures to mitigate, reduce or control the risks and hazards identified
- (d) Roles & responsibilities for implementation of control measures.

The scoring of the *Consultant's* Health and Safety criteria is as follows:

Category	Category Criteria	Detail for submission	Scoring	
<b>Compliance to Health and Safety</b>	Consultant to submit required documents or required information to ensure SHE compliance in terms of scope of services.	SHE Plan is aligned to the submitted method statement with Risk Assessments and Environmental Management Plan all aligned to submitted Method Statement adequately deals with all the critical elements of the scope of Services	100	<b>5</b>
	Included are: Baseline Risk Assessment, which as minimum includes:	SHE Plan is aligned to the scope of services and includes a Baseline Risk Assessment that exceeds the minimum elements.	80	
	(a) Identify the risks and hazards to which persons may be exposed to	SHE Plan is aligned to the scope of services and includes a Baseline Risk Assessment that adequately deals with all the minimum elements.	60	
	(b) Analysis and evaluation of identified risks/hazards	SHE Plan is aligned to the scope of services and includes a Baseline Risk Assessment that does not deal with all the minimum elements.	40	
	(c) Measures to mitigate, reduce or control the risks and hazards identified	SHE Plan is poorly presented, generic and not tailored to address the specific project objectives baseline risk assessment.	20	
	(d) Roles & responsibilities for implementation of control measures.	No risk assessment submitted/ risk assessment does not conform to requirements.	0	

**Attached submissions to this schedule:**

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**T2.2-07: Health and Safety Questionnaire**

<b>1. SAFE WORK PERFORMANCE</b>			
1A. Injury Experience / Historical Performance - Alberta			
Use the previous three years injury and illness records to complete the following:			
Year			
Number of medical treatment cases			
Number of restricted work day cases			
Number of lost time injury cases			
Number of fatal injuries			
Total recordable frequency			
Lost time injury frequency			
Number of worker manhours			
1 - Medical Treatment Case	Any occupational injury or illness requiring treatment provided by a physician or treatment provided under the direction of a physician		
2 – Restricted Work Day Case	Any occupational injury or illness that prevents a worker from performing any of his/her craft jurisdiction duties		
3 – Lost Time injury Cases	Any occupational injury that prevents the worker from performing any work for at least one day		
4 – Total Recordable Frequency	Total number of Medical Treatment, Restricted Work and Lost Time Injury cases multiplied by 200,000 then divided by total manhours		
5- Lost Time Injury Frequency	Total number of Lost Time Injury cases multiplied by 200,000 then divide by total manhours		
1B. Workers’ Compensation Experience			
Use the previous three years injury and illness records to complete the following (if applicable):			
Industry Code:		Industry Classification:	
Year			
Industry Rate			
Contractor Rate			
% Discount or Surcharge			
Is your Workers’ Compensation account in good standing? (Please provide letter of confirmation)		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>2. CITATIONS</b>			
2A.	Has your company been cited, charged or prosecuted under Health, Safety and/or Environmental Legislation in the last 5 years? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, provide details:		
	<hr/> <hr/> <hr/>		
2B.	Has your company been cited, charged or prosecuted under the above Legislation in another Country, Region or State? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, provide details:		
	<hr/> <hr/> <hr/>		



**3. CERTIFICATE OF RECOGNITION**

Does your company have a Certificate of Recognition?  
 Yes  No If Yes, what is the Certificate No. \_\_\_\_\_ Issue Date \_\_\_\_\_

**4. SAFETY PROGRAM**

Do you have a written safety program manual?  Yes  No  
 If Yes, provide a copy for review  
 Do you have a pocket safety booklet for field distribution?  Yes  No  
 If Yes, provide a copy for review  
 Does your safety program contain the following elements:

	YES	NO		YES	NO
CORPORATE SAFETY POLICY	<input type="checkbox"/>	<input type="checkbox"/>	EQUIPMENT MAINTENANCE	<input type="checkbox"/>	<input type="checkbox"/>
INCIDENT NOTIFICATION POLICY	<input type="checkbox"/>	<input type="checkbox"/>	EMERGENCY RESPONSE	<input type="checkbox"/>	<input type="checkbox"/>
RECORDKEEPING & STATISTICS	<input type="checkbox"/>	<input type="checkbox"/>	HAZARD ASSESSMENT	<input type="checkbox"/>	<input type="checkbox"/>
REFERENCE TO LEGISLATION	<input type="checkbox"/>	<input type="checkbox"/>	SAFE WORK PRACTICES	<input type="checkbox"/>	<input type="checkbox"/>
GENERAL RULES & REGULATIONS	<input type="checkbox"/>	<input type="checkbox"/>	SAFE WORK PROCEDURES	<input type="checkbox"/>	<input type="checkbox"/>
PROGRESSIVE DISCIPLINE POLICY	<input type="checkbox"/>	<input type="checkbox"/>	WORKPLACE INSPECTIONS	<input type="checkbox"/>	<input type="checkbox"/>
RESPONSIBILITIES	<input type="checkbox"/>	<input type="checkbox"/>	INVESTIGATION PROCESS	<input type="checkbox"/>	<input type="checkbox"/>
PPE STANDARDS	<input type="checkbox"/>	<input type="checkbox"/>	TRAINING POLICY & PROGRAM	<input type="checkbox"/>	<input type="checkbox"/>
ENVIRONMENTAL STANDARDS	<input type="checkbox"/>	<input type="checkbox"/>	COMMUNICATION PROCESSES	<input type="checkbox"/>	<input type="checkbox"/>
MODIFIED WORK PROGRAM	<input type="checkbox"/>	<input type="checkbox"/>			

**5. TRAINING PROGRAM**

5A. Do you have an orientation program for new hire employees?  Yes  No  
 If Yes, include a course outline. Does it include any of the following:

	YES	NO		YES	NO
GENERAL RULES & REGULATIONS	<input type="checkbox"/>	<input type="checkbox"/>	CONFINED SPACE ENTRY	<input type="checkbox"/>	<input type="checkbox"/>
EMERGENCY REPORTING	<input type="checkbox"/>	<input type="checkbox"/>	TRENCHING & EXCAVATION	<input type="checkbox"/>	<input type="checkbox"/>
INJURY REPORTING	<input type="checkbox"/>	<input type="checkbox"/>	SIGNS & BARRICADES	<input type="checkbox"/>	<input type="checkbox"/>
LEGISLATION	<input type="checkbox"/>	<input type="checkbox"/>	DANGEROUS HOLES & OPENINGS	<input type="checkbox"/>	<input type="checkbox"/>
RIGHT TO REFUSE WORK	<input type="checkbox"/>	<input type="checkbox"/>	RIGGING & CRANES	<input type="checkbox"/>	<input type="checkbox"/>
PERSONAL PROTECTIVE EQUIPMENT	<input type="checkbox"/>	<input type="checkbox"/>	MOBILE VEHICLES	<input type="checkbox"/>	<input type="checkbox"/>
EMERGENCY PROCEDURES	<input type="checkbox"/>	<input type="checkbox"/>	PREVENTATIVE MAINTENANCE	<input type="checkbox"/>	<input type="checkbox"/>
PROJECT SAFETY COMMITTEE	<input type="checkbox"/>	<input type="checkbox"/>	HAND & POWER TOOLS	<input type="checkbox"/>	<input type="checkbox"/>
HOUSEKEEPING	<input type="checkbox"/>	<input type="checkbox"/>	FIRE PREVENTION & PROTECTION	<input type="checkbox"/>	<input type="checkbox"/>
LADDERS & SCAFFOLDS	<input type="checkbox"/>	<input type="checkbox"/>	ELECTRICAL SAFETY	<input type="checkbox"/>	<input type="checkbox"/>
FALL ARREST STANDARDS	<input type="checkbox"/>	<input type="checkbox"/>	COMPRESSED GAS CYLINDERS	<input type="checkbox"/>	<input type="checkbox"/>
AERIAL WORK PLATFORMS	<input type="checkbox"/>	<input type="checkbox"/>	WEATHER EXTREMES	<input type="checkbox"/>	<input type="checkbox"/>



TRANSNET NATIONAL PORTS AUTHORITY  
 TENDER NUMBER: TNPA/2022/02/0097/RFP  
 DESCRIPTION OF THE SERVICES: DETAILED CONDITION ASSESSMENT ON FOUR (4) TUGS THAT ARE LOCATED IN THE PORTS OF SALDANHA, CAPE TOWN & DURBAN

5B. Do you have a program for training newly hired or promoted supervisors?  Yes  No  
 (If Yes, submit an outline for evaluation. Does it include instruction on the following:

	Yes	No		Yes	No
EMPLOYER RESPONSIBILITIES	<input type="checkbox"/>	<input type="checkbox"/>	SAFETY COMMUNICATION	<input type="checkbox"/>	<input type="checkbox"/>
EMPLOYEE RESPONSIBILITIES	<input type="checkbox"/>	<input type="checkbox"/>	FIRST AID/MEDICAL PROCEDURES	<input type="checkbox"/>	<input type="checkbox"/>
DUE DILIGENCE	<input type="checkbox"/>	<input type="checkbox"/>	NEW WORKER TRAINING	<input type="checkbox"/>	<input type="checkbox"/>
SAFETY LEADERSHIP	<input type="checkbox"/>	<input type="checkbox"/>	ENVIRONMENTAL REQUIREMENTS	<input type="checkbox"/>	<input type="checkbox"/>
WORK REFUSALS	<input type="checkbox"/>	<input type="checkbox"/>	HAZARD ASSESSMENT	<input type="checkbox"/>	<input type="checkbox"/>
INSPECTION PROCESSES	<input type="checkbox"/>	<input type="checkbox"/>	PRE-JOB SAFETY INSTRUCTION	<input type="checkbox"/>	<input type="checkbox"/>
EMERGENCY PROCEDURES	<input type="checkbox"/>	<input type="checkbox"/>	DRUG & ALCOHOL POLICY	<input type="checkbox"/>	<input type="checkbox"/>
INCIDENT INVESTIGATION	<input type="checkbox"/>	<input type="checkbox"/>	PROGRESSIVE DISCIPLINARY POLICY	<input type="checkbox"/>	<input type="checkbox"/>
SAFE WORK PROCEDURES	<input type="checkbox"/>	<input type="checkbox"/>	SAFE WORK PRACTICES	<input type="checkbox"/>	<input type="checkbox"/>
SAFETY MEETINGS	<input type="checkbox"/>	<input type="checkbox"/>	NOTIFICATION REQUIREMENTS	<input type="checkbox"/>	<input type="checkbox"/>

**6. SAFETY ACTIVITIES**

Do you conduct safety inspections? Yes No Weekly Monthly Quarterly

Describe your safety inspection process (include participation, documentation requirements, follow-up, report distribution).  
 \_\_\_\_\_  
 \_\_\_\_\_

Who follows up on inspection action items? \_\_\_\_\_

Do you hold site safety meetings for field employees? If Yes, how often?  
 Yes No Daily Weekly Biweekly

Do you hold site meetings where safety is addressed with management and field supervisors?  
 Yes No Weekly Biweekly Monthly

Is pre-job safety instruction provided before to each new task?  Yes  No

Is the process documented?  Yes  No

Who leads the discussion? \_\_\_\_\_

Do you have a hazard assessment process?  Yes  No

- Are hazard assessments documented? If yes, how are hazard assessments communicated and implemented on each project? Who is responsible for leading the hazard assessment process?  
 \_\_\_\_\_  
 \_\_\_\_\_

Does your company have policies and procedures for environmental protection, spill clean-up, reporting, waste disposal, and recycling as part of the Health & Safety Program?  
 Yes  No

How does your company measure its H&S success?  

- Attach separate sheet to explain



**7. SAFETY STEWARDSHIP**

7A Are incident reports and report summaries sent to the following and how often?

	Yes	No	Monthly	Quarterly	Annually
Project/Site Manager	<input type="checkbox"/>				
Managing Director	<input type="checkbox"/>				
Safety Director/Manager	<input type="checkbox"/>				
/Chief Executive Officer	<input type="checkbox"/>				

7B How are incident records and summaries kept? How often are they reported internally?

	Yes	No	Monthly	Quarterly	Annually
Incidents totaled for the entire company	<input type="checkbox"/>				
Incidents totaled by project	<input type="checkbox"/>				
• Subtotaled by superintendent	<input type="checkbox"/>				
• Subtotaled by foreman	<input type="checkbox"/>				

7C How are the costs of individual incidents kept? How often are they reported internally?

	Yes	No	Monthly	Quarterly	Annually
Costs totaled for the entire company	<input type="checkbox"/>				
Costs totaled by project	<input type="checkbox"/>				
• Subtotaled by superintendent	<input type="checkbox"/>				
• Subtotaled by foreman/general foreman	<input type="checkbox"/>				

7D Does your company track non-injury incidents?

	Yes	No	Monthly	Quarterly	Annually
Near Miss	<input type="checkbox"/>				
Property Damage	<input type="checkbox"/>				
Fire	<input type="checkbox"/>				
Security	<input type="checkbox"/>				
Environmental	<input type="checkbox"/>				

**8 PERSONNEL**

List key health and safety officers planned for this project. Attach resume.

Name	Position/Title	Designation

Supply name, address and phone number of your company's corporate health and safety representative. Does this individual have responsibilities other than health, safety and environment?

Name	Address	Telephone Number

Other responsibilities:

**9 REFERENCES**

List the last three company's your form has worked for that could verify the quality and management commitment to your occupational Health & Safety program

Name and Company	Address	Phone Number

## T2.2-08: Authority to submit a Tender

Indicate the status of the tenderer by ticking the appropriate box hereunder. The tenderer must complete the certificate set out below for his category of organisation or alternatively attach a certified copy of a company / organisation document which provides the same information for the relevant category as requested here.

A - COMPANY	B - PARTNERSHIP	C - JOINT VENTURE	D - SOLE PROPRIETOR
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### A. Certificate for Company

I, \_\_\_\_\_, chairperson of the board of directors of \_\_\_\_\_, hereby confirm that by resolution of the board taken on \_\_\_\_\_ (date), Mr/Ms \_\_\_\_\_, acting in the capacity of \_\_\_\_\_, was authorised to sign all documents in connection with this tender offer and any contract resulting from it on behalf of the company.

Signed

Date

Name

Position

Chairman of the Board of Directors

### B. Certificate for Partnership

We, the undersigned, being the **key partners** in the business trading as \_\_\_\_\_ hereby authorise Mr/Ms \_\_\_\_\_, acting in the capacity of \_\_\_\_\_, to sign all documents in connection with the tender offer for Contract \_\_\_\_\_ and any contract resulting from it on our behalf.

Name	Address	Signature	Date

NOTE: This certificate is to be completed and signed by the full number of Partners necessary to commit the Partnership. Attach additional pages if more space is required.

**C. Certificate for Joint Venture**

We, the undersigned, are submitting this tender offer in Joint Venture and hereby authorise Mr/Ms \_\_\_\_\_, an authorised signatory of the company \_\_\_\_\_, acting in the capacity of lead partner, to sign all documents in connection with the tender offer for Contract \_\_\_\_\_ and any contract resulting from it on our behalf.

This authorisation is evidenced by the attached power of attorney signed by legally authorised signatories of all the partners to the Joint Venture.

**Furthermore we attach to this Schedule a copy of the joint venture agreement which incorporates a statement that all partners are liable jointly and severally for the execution of the contract and that the lead partner is authorised to incur liabilities, receive instructions and payments and be responsible for the entire execution of the contract for and on behalf of any and all the partners.**

Name of firm	Address	Authorising signature, name (in caps) and capacity

**D. Certificate for Sole Proprietor**

I, \_\_\_\_\_, hereby confirm that I am the sole owner of the business trading as \_\_\_\_\_.

Signed \_\_\_\_\_ Date \_\_\_\_\_

Name \_\_\_\_\_ Position Sole Proprietor

## T2.2-09: Record of Addenda to Tender Documents

The tenderer hereby confirms that the following communications were received from the *Employer* before the submission of this tender offer, amending the tender documents and have been taken all the Addenda into account in this tender offer:

	Date	Title or Details of Addenda
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		

Attach additional pages if more space is required.



## T2.2-11 NON-DISCLOSURE AGREEMENT

**THIS AGREEMENT** is made effective as of ..... day of ..... 20..... by and between:

**Note to tenderers: This Non-Disclosure Agreement is to be completed and signed by an authorised signatory:**

**Transnet SOC Ltd** (Registration No. 1990/000900/30), a company incorporated and existing under the laws of South Africa, having its principal place of business at Carlton Centre, 150 Commissioner Street, Johannesburg, 2001, South Africa,

**and**

..... (Registration No. ....), a private company incorporated and existing under the laws of South Africa having its principal place of business at

.....  
.....

### WHEREAS

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

## T2.2-13: RFP DECLARATION FORM

NAME OF COMPANY: \_\_\_\_\_

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

1. Transnet has supplied and we have received appropriate tender offers to any/all questions (as applicable) which were submitted by ourselves for tender clarification purposes;
2. we have received all information we deemed necessary for the completion of this Tender;
3. at no stage have we received additional information relating to the subject matter of this tender from Transnet sources, other than information formally received from the designated Transnet contact(s) as nominated in the tender documents;
4. we are satisfied, insofar as our company is concerned, that the processes and procedures adopted by Transnet in issuing this tender and the requirements requested from tenderers in responding to this tender have been conducted in a fair and transparent manner; and
5. furthermore, we acknowledge that a direct relationship exists between a family member and/or an owner / member / director / partner / shareholder (unlisted companies) of our company and an employee or board member of the Transnet Group as indicated below:

*[Respondent to indicate if this section is not applicable]*

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

ADDRESS:

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Indicate nature of relationship with Transnet:

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

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 company in the forthcoming adjudication process, we shall notify Transnet immediately in writing of such circumstances.

6. We accept that any dispute pertaining to this tender will be resolved through the Ombudsman process and will be subject to the Terms of Reference of the Ombudsman. The Ombudsman process must first be exhausted before judicial review of a decision is sought. (Refer "Important Notice to respondents" below).
7. We further accept that Transnet reserves the right to reverse a tender award or decision based on the recommendations of the Ombudsman without having to follow a formal court process to have such award or decision set aside.
8. We have acquainted ourselves and agree with the content of T2.2-15 "Service Provider Integrity Pact".

For and on behalf of ..... duly authorised thereto
Name:
Signature:
Date:

### IMPORTANT NOTICE TO TENDERERS

- Transnet has appointed a Procurement Ombudsman to investigate any material complaint in respect of tenders exceeding R5,000,000.00 (five million S.A. Rand) in value. Should a Tenderer have any material concern regarding an tender process which meets this value threshold, a complaint may be lodged with Transnet's Procurement Ombudsman for further investigation.
- It is incumbent on the Tenderer to familiarise himself/herself with the Terms of Reference for the Transnet Procurement Ombudsman, details of which are available for review at Transnet's website [www.transnet.net](http://www.transnet.net).
- An official complaint form may be downloaded from this website and submitted, together with any supporting documentation, within the prescribed period, to [procurement.ombud@transnet.net](mailto:procurement.ombud@transnet.net)

- For transactions below the R5,000,000.00 (five million S.A. Rand) threshold, a complaint may be lodged with the Chief Procurement Officer of the relevant Transnet Operating Division.
- All Tenderers should note that a complaint must be made in good faith. If a complaint is made in bad faith, Transnet reserves the right to place such a tenderer on its List of Excluded Bidders.

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## T2.2-13: REQUEST FOR PROPOSAL – BREACH OF LAW

NAME OF COMPANY: \_\_\_\_\_

I / We \_\_\_\_\_ do hereby certify that ***I/we have/have not been*** 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 Tenderer is required to disclose excludes relatively minor offences or misdemeanours, e.g. traffic offences.

*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 Tenderer from the tendering process, should that person or company have been found guilty of a serious breach of law, tribunal or regulatory obligation.

Signed on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF TENDERER

## T2.2-14: Certificate of Acquaintance with Tender Documents

NAME OF TENDERING ENTITY:

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1. By signing this certificate I/we acknowledge that I/we have made myself/ourselves thoroughly familiar with, and agree with all the conditions governing this RFP. This includes those terms and conditions of the Contract, the Supplier Integrity Pact, Non-Disclosure Agreement etc. contained in any printed form stated to form part of the documents thereof, but not limited to those listed in this clause.
2. I/we furthermore agree that Transnet SOC Ltd shall recognise no claim from me/us for relief based on an allegation that I/we overlooked any TENDER/contract condition or failed to take it into account for the purpose of calculating my/our offered prices or otherwise.
3. I/we understand that the accompanying Tender will be disqualified if this Certificate is found not to be true and complete in every respect.
4. For the purposes of this Certificate and the accompanying Tender, I/we understand that the word "competitor" shall include any individual or organisation, other than the Tenderer, whether or not affiliated with the Tenderer, who:
  - a) has been requested to submit a Tender in response to this Tender invitation;
  - b) could potentially submit a Tender in response to this Tender invitation, based on their qualifications, abilities or experience; and
  - c) provides the same Services as the Tenderer and/or is in the same line of business as the Tenderer
5. The Tenderer has arrived at the accompanying Tender 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 Tendering.
6. In particular, without limiting the generality of paragraph 5 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
  - a) prices;
  - b) geographical area where 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 Tender;
  - e) the submission of a Tender which does not meet the specifications and conditions of the TENDER; or
  - f) Tendering with the intention not winning the Tender.

- 
7. 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 Services to which this TENDER relates.
  8. The terms of the accompanying Tender have not been, and will not be, disclosed by the Tenderer, directly or indirectly, to any competitor, prior to the date and time of the official Tender opening or of the awarding of the contract.
  9. I/We am/are aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to Tenders and contracts, Tenders 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. In addition, Tenderers that submit suspicious Tenders 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.

Signed on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

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SIGNATURE OF TENDERER

## **T2.2-15 Service Provider Integrity Pact**

**Important Note: All potential tenderers must read this document and certify in the RFP Declaration Form that that have acquainted themselves with, and agree with the content.**

**The contract with the successful tenderer will automatically incorporate this Integrity Pact and shall be deemed as part of the final concluded contract.**

### **INTEGRITY PACT**

Between

#### **TRANSNET SOC LTD**

Registration Number: 1990/000900/30

("Transnet")

and

The Contractor (hereinafter referred to as the "Tenderer/Service Providers/Contractor")

## **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 Tenderers/Service Providers/Contractors.

In order to achieve these goals, Transnet and the Tenderer/Service Provider/Contractor hereby enter into this agreement hereinafter referred to as the "Integrity Pact" which will form part of the Tenderer's/Service Provider's/Contractor'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 Tenderers/Service Providers/Contractor's 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 Tenderer/Service Provider/Contractor 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 Tenderers/Service Providers/Contractors 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 Tenderer, either for themselves or for any person, organisation or third party related to the contract in exchange for an advantage in the tendering process, Tender evaluation, contracting or implementation process related to any contract.

- 2.2 Transnet will, during the registration and tendering process treat all Tenderers/ Service Providers/Contractor with equity, transparency and fairness. Transnet will in particular, before and during the registration process, provide to all Tenderers/ Service Providers/Contractors the same information and will not provide to any Tenderers/Service Providers/Contractors confidential/additional information through which the Tenderers/Service Providers/Contractors could obtain an advantage in relation to any tendering process.
- 2.3 Transnet further confirms that its employees will not favour any prospective Tenderers/Service Providers/Contractors in any form that could afford an undue advantage to a particular Tenderer during the tendering stage, and will further treat all Tenderers/Service Providers/Contractors participating in the tendering process in a fair manner.
- 2.4 Transnet will exclude from the tender process such employees who have any personal interest in the Tenderers/Service Providers/Contractors participating in the tendering process.

### **3 OBLIGATIONS OF THE TENDERER / SERVICE PROVIDER**

- 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 Tenderer/Service Provider/Contractor commits itself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of its Tender or during any ensuing contract stage in order to secure the contract or in furtherance to secure it and in particular the Tenderer/Service Provider/Contractor commits to the following:
- a) The Tenderer/Service Provider/Contractor 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 tendering process or to any third person any material or other benefit or payment, in order to obtain in exchange an advantage during the tendering process; and
  - b) The Tenderer/Service Provider/Contractor 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 tendering process, or to any person, organisation or third party related to the contract in exchange for any advantage in the tendering, evaluation, contracting and implementation of the contract.
- 3.3 The Tenderer/Service Provider/Contractor will not collude with other parties interested in the contract to preclude a competitive Tender price, impair the transparency, fairness and progress of the tendering process, Tender evaluation, contracting and implementation of the contract. The Tenderer / Service Provider further commits itself to delivering against all agreed upon conditions as stipulated within the contract.
- 3.4 The Tenderer/Service Provider/Contractor will not enter into any illegal or dishonest agreement or understanding, whether formal or informal with other Tenderers/Service Providers/Contractors. This applies in particular to certifications, submissions or non-submission of documents or actions that are restrictive or to introduce cartels into the tendering process.
- 3.5 The Tenderer/Service Provider/Contractor will not commit any criminal offence under the relevant anti-corruption laws of South Africa or any other country. Furthermore, the Tenderer/Service Provider/Contractor 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 Tenderer/Service Provider/Contractor 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 tendering process. Similarly, the Tenderer / Service Provider / Contractor of South African nationality shall furnish the name and address of the foreign principals, if any, involved directly or indirectly in the registration or tendering process.
- 3.7 The Tenderer/Service Provider/Contractor will not misrepresent facts or furnish false or forged documents or information in order to influence the tendering process to the advantage of the Tenderer/Service Provider/Contractor or detriment of Transnet or other competitors.
- 3.8 Transnet may require the Tenderer/Service Provider/Contractor 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 Tenderer/Service Provider/Contractor will not instigate third persons to commit offences outlined above or be an accessory to such offences.
- 3.10 The Tenderer/Service Provider/Contractor 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 TENDERING**

- 4.1 For the purposes of that Certificate in relation to any submitted Tender, the Tenderer declares to fully understand that the word "competitor" shall include any individual or organisation, other than the Tenderer, whether or not affiliated with the Tenderer, who:
- a) has been requested to submit a Tender in response to this Tender invitation;
  - b) could potentially submit a Tender in response to this Tender invitation, based on their qualifications, abilities or experience; and
  - c) provides the same Goods and Services as the Tenderer and/or is in the same line of business as the Tenderer.
- 4.2 The Tenderer has arrived at his submitted Tender 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 tendering.
- 4.3 In particular, without limiting the generality of paragraph 5 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 Tender;
  - e) the submission of a Tender which does not meet the specifications and conditions of the RFP; or
  - f) tendering with the intention of not winning the Tender.
- 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 tender relates.
- 4.5 The terms of the Tender as submitted have not been, and will not be, disclosed by the Tenderer, directly or indirectly, to any competitor, prior to the date and time of the official Tender opening or of the awarding of the contract.
- 4.6 Tenderers are aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to Tenders and contracts, Tenders 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.
- 4.7 Should the Tenderer find any terms or conditions stipulated in any of the relevant documents quoted in the Tender unacceptable, it should indicate which conditions are unacceptable and offer alternatives by written submission on its company letterhead, attached to its submitted Tender. 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.

## **5 DISQUALIFICATION FROM TENDERING PROCESS**

- 5.1 If the Tenderer/Service Provider/Contractor has committed a transgression through a violation of section 3 of this Integrity Pact or in any other form such as to put its reliability or credibility as a Tenderer/Service Provider/Contractor into question, Transnet may reject the Tenderer's / Service Provider's / Contractor's application from the registration or tendering process and remove the Tenderer/Service Provider/Contractor from its database, if already registered.

- 5.2 If the Tenderer/Service Provider/Contractor has committed a transgression through a violation of section 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 Tenderer/Service Provider/Contractor from future tendering 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 Tenderer/Service Provider/Contractor 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 Tenderer/Service Provider/Contractor 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 TRANSNET'S LIST OF EXCLUDED TENDERERS (BLACKLIST)**

- 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 Tender shall be awarded to a Tenderer 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 Tenderer should it be established, at any time, that a tenderer 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 (CPM included) 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 Service Provider or Contractor to Transnet may not subcontract any portion of the contract to a blacklisted company.
- 6.7 Grounds for blacklisting include: If any person/Enterprise which has submitted a Tender, concluded a contract, or, in the capacity of agent or subcontractor, has been associated with such Tender or contract:
  - a) Has, in bad faith, withdrawn such Tender after the advertised closing date and time for the receipt of Tenders;
  - b) has, after being notified of the acceptance of his Tender, failed or refused to sign a contract when called upon to do so in terms of any condition forming part of the Tender documents;
  - c) has carried out any contract resulting from such Tender 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) caused Transnet damage, or to incur costs in order to meet the contractor's requirements and which could not be recovered from the contractor;
  - h) has litigated against Transnet in bad faith.
- 6.8 Grounds for blacklisting include a company/person recorded as being a company or person prohibited from doing business with the public sector on National Treasury's database of Restricted Service Providers or Register of Tender Defaulters.
- 6.9 Companies associated with the person/s guilty of misconduct (i.e. entities owned, controlled or managed by such persons), any companies subsequently formed by the person(s) guilty of the misconduct and/or an existing company where such person(s) acquires a controlling stake may be considered for blacklisting. The decision to extend the blacklist to associated companies will be at the sole discretion of Transnet.

## **7 PREVIOUS TRANSGRESSIONS**

- 7.1 The Tenderer/Service Provider/Contractor 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 Tenderer's/Service Provider's/Contractor's database or any tendering process.
- 7.2 If it is found to be that the Tenderer/Service Provider/Contractor made an incorrect statement on this subject, the Tenderer/Service Provider/Contractor can be rejected from the registration process or removed from the Tenderer/Service Provider/Contractor database, if already registered, for such reason (refer to the Breach of Law Returnable Form contained in the 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 Tenderer/Service Provider/Contractor from the tendering process or call off the pre-contract negotiations without giving any compensation

- the Tenderer/Service Provider/Contractor. However, the proceedings with the other Tenderer/ Service Provider/Contractor may continue;
- b) Immediately cancel the contract, if already awarded or signed, without giving any compensation to the Tenderer/Service Provider/Contractor;
  - c) Recover all sums already paid by Transnet;
  - d) Encash the advance bank guarantee and performance bond or warranty bond, if furnished by the Tenderer/Service Provider/Contractor, in order to recover the payments, already made by Transnet, along with interest;
  - e) Cancel all or any other contracts with the Tenderer/Service Provider/Contractor; and
  - f) Exclude the Tenderer/ Service Provider/Contractor from entering into any Tender with Transnet in future.

## **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 tendering / 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 Tender committee member or any person involved in the sourcing process must be declared in a prescribed form.

9.3 If a Tenderer/Service Provider/Contractor 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 Tender which will be considered for the Tender process, the Tenderer/Service Provider/ Contractor:

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

- 9.4 The Tenderer/Service Provider/Contractor 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 Tenderer/Service Provider/Contractor.

## 10 DISPUTE RESOLUTION

10.1 Transnet recognises that trust and good faith are pivotal to its relationship with its Tenderer / Service Provider / Contractor. When a dispute arises between Transnet and its Tenderer / Service Provider / Contractor, 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 blacklisting 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 Tenderer / Service Provider / Contractor make a false statement either in giving evidence or on an affidavit;
- c) **Scurrilous allegations:** where a Tenderer / Service Provider / Contractor makes allegations regarding a senior Transnet employee which are without proper foundation, scandalous, abusive or defamatory; and
- d) **Abuse of court process:** when a Tenderer / Service Provider / Contractor abuses the court process in order to gain a competitive advantage during a Tender 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 tendering processes and will be valid for an indefinite period unless cancelled by either Party.

DESCRIPTION OF THE SERVICES: DETAILED CONDITION ASSESSMENT ON FOUR (4) TUGS THAT ARE LOCATED IN THE PORTS OF SALDANHA, CAPE TOWN & DURBAN

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- 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 Tenderer/Service Provider/Contractor be confronted with dishonest, fraudulent or corruptive behaviour of one or more Transnet employees, Transnet expects its Tenderer/Service Provider/Contractor 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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I ..... duly authorised by the tendering entity, hereby certify that the tendering entity are **fully acquainted** with the contents of the Integrity Pact and further **agree to abide by it** in full.

Signature .....

Date .....

## T2.2-16 : Supplier Code of Conduct

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

- The Transnet Procurement Policy – A guide for Tenderers.
- Section 217 of the Constitution - the five pillars of Public PSCM (Procurement and Supply Chain Management): fair, equitable, transparent, competitive and cost effective;
- The Public Finance Management Act (PFMA);
- The Broad Based Black Economic Empowerment Act (BBBEE)
- The Prevention and Combating of Corrupt Activities Act (PRECCA); and
- The Construction Industry Development Board Act (CIDB Act).

This code of conduct has been included in this contract to formally appraise Transnet Suppliers of Transnet's expectations regarding behaviour and conduct of its Suppliers.

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

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

#### ***1. Transnet SOC Limited will not participate in corrupt practices. Therefore, it expects its suppliers to act in a similar manner.***

- Transnet and its employees will follow the laws of this country and keep accurate business records that reflect actual transactions with, and payments to, our suppliers.
- Employees must not accept or request money or anything of value, directly or indirectly, from suppliers.
- Employees may not receive anything that is calculated to:
  - Illegally influence their judgement or conduct or to ensure the desired outcome of a sourcing activity;

- 
- Win or retain business or to influence any act or decision of any person involved in sourcing decisions; or
  - Gain an improper advantage.

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

**2. *Transnet SOC Limited is firmly committed to the ideas of free and competitive enterprise.***

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

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

- Generally, suppliers have their own business standards and regulations. Although Transnet cannot control the actions of our suppliers, we will not tolerate any illegal activities. These include, but are not limited to:
  - Misrepresentation of their product (origin of manufacture, specifications, intellectual property rights, etc);
  - Collusion;
  - Failure to disclose accurate information required during the sourcing activity (ownership, financial situation, BBBEE status, etc.);
  - Corrupt activities listed above; and
  - Harassment, intimidation or other aggressive actions towards Transnet employees.
- Suppliers must be evaluated and approved before any materials, components, products or services are purchased from them. Rigorous due diligence is conducted and the supplier is expected to participate in an honest and straight forward manner.
- Suppliers must record and report facts accurately, honestly and objectively. Financial records must be accurate in all material respects.

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***Conflicts of Interest***

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

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

Where possible, contracts will be negotiated to include the above in the terms of such contracts. To the extent such terms are not included in contractual obligations and any of the above code is breached, then Transnet reserves its right to review doing business with these suppliers.

I, \_\_\_\_\_ of \_\_\_\_\_  
*(insert name of Director or as per Authority Resolution from Board of Directors)* *(insert name of Company)*

hereby acknowledge having read, understood and agree to the terms and conditions set out in the "Transnet Supplier Code of Conduct."

Signed this on day \_\_\_\_\_ at

\_\_\_\_\_

Signature

## **T2.2-17 Agreement in terms of Protection of Personal Information Act, 4 of 2013 ("POPIA")**

### **1. PREAMBLE AND INTRODUCTION**

- 1.1. The rights and obligation of the Parties in terms of the Protection of Personal Information Act, 4 of 2013 ("POPIA") are included as forming part of the terms and conditions of this contract.

### **2. PROTECTION OF PERSONAL INFORMATION**

- 2.1. The following terms shall bear the same meaning as contemplated in Section 1 of the Protection of Person information act, No. 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.
- 2.2. The Operator will process all information by the Transnet in terms of the requirements contemplated in Section 4(1) of the POPIA:  
Accountability; Processing limitation; Purpose specification; Further processing limitation; Information quality; Openness; Security safeguards and Data subject participation.
- 2.3. The Parties acknowledge and agree that, in relation to personal information of Transnet and the information of a third party that will be processed pursuant to this Agreement , the Operator is (... insert name of Tenderer/Contractor) hereinafter Operator and the Data subject is "Transnet". Operator will process personal information only with the knowledge and authorisation of Transnet and will treat personal information and the information of a third party 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.
- 2.4. Transnet reserves all the rights afforded to it by the POPIA in the processing of any of its information as contained in this Agreement and the Operator is required to comply with all prescripts as detailed in the POPIA relating to all information concerning Transnet.
- 2.5. In terms of this Agreement, the Operator acknowledges that it will obtain and have access to personal information of Transnet and the information of a third party and agrees that it shall only process the information disclosed by Transnet in terms of this Agreement and only for the purposes as detailed in this Agreement and in accordance with any applicable law.
- 2.6. Should there be a need for the Operator to process the personal information and the information of a third party in a way that is not agreed to in this Agreement, the Operator must request consent

from Transnet to the processing of its personal information or and the information of a third party in a manner other than that it was collected for, which consent cannot be unreasonably withheld.

- 2.7. Furthermore, the Operator will not otherwise modify, amend or alter any personal information and the information of a third party submitted by Transnet or disclose or permit the disclosure of any personal information and the information of a third party to any third party without prior written consent from Transnet.
- 2.8. The Operator 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 the services offered to Transnet in terms of this Agreement (physically, through a computer or any other form of electronic communication).
- 2.9. The Operator shall notify Transnet in writing of any unauthorised access to personal information and the information of a third party , 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 Operator must inform Transnet of the breach as soon as it has occurred to allow Transnet to take all necessary remedial steps to mitigate the extent of the loss or compromise of personal information and the information of a third party and to restore the integrity of the affected personal information as quickly as is possible.
- 2.10. Transnet may, in writing, request the Operator to confirm and/or make available any personal information and the information of a third party in its possession in relation to Transnet and if such personal information has been accessed by third parties and the identity thereof in terms of the POPIA.
- 2.11. Transnet may further request that the Operator correct, delete, destroy, withdraw consent or object to the processing of any personal information and the information of a third party relating to the Transnet or a third party in the Operator's s possession in terms of the provision of the POPIA and utilizing Form 2 of the POPIA Regulations .
- 2.12. In signing this addendum that is in terms of the POPIA, the Operator hereby agrees that it has adequate measures in place to provide protection of the personal information and the information of a third party given to it by Transnet in line with the 8 conditions of the POPIA and that it will provide to Transnet satisfactory evidence of these measures whenever called upon to do so by Transnet.

**The Operator is required to provide confirmation that all measures in terms of the POPIA are in place when processing personal information and the information of a third party received from Transnet:**



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

<b>NO</b>	
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2.13. Further, the Operator acknowledges that it will be held liable by Transnet should it fail to process personal information in line with the requirements of the POPIA. The Operator will be subject to 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 Transnet submitted to it.

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

**3. SOLE AGREEMENT**

3.1. The Agreement, constitute the sole agreement between the parties relating to the subject matter referred to in paragraph 1.1 of this and no amendment/variation/change shall be of any force and effect unless reduced to writing and signed by or on behalf of both parties.

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 2021

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

**XXXXX (Pty) Ltd**

(Operator)

Authorised signatory for and on behalf of **Xxxx (Pty) Ltd** who warrants that he/she is duly authorised to sign this Agreement.

**AS WITNESSES:**

1. Name: \_\_\_\_\_ Signature: \_\_\_\_\_

2. Name: \_\_\_\_\_ Signature: \_\_\_\_\_

## T2.2-18: Compulsory Enterprise Questionnaire

The following particulars hereunder must be furnished.

In the case of a Joint Venture, separate enterprise questionnaires in respect of each partner/member must be completed and submitted.

**Section 1: Name of enterprise:** \_\_\_\_\_

**Section 2: VAT registration number, if any:** \_\_\_\_\_

**Section 3: CIDB registration number, if any:** \_\_\_\_\_

**Section 4: CSD number:** \_\_\_\_\_

**Section 5: Particulars of sole proprietors and partners in partnerships**

Name	Identity number	Personal income tax number

\* Complete only if sole proprietor or partnership and attach separate page if more than 3 partners

**Section 6: Particulars of companies and close corporations**

Company registration number \_\_\_\_\_

Close corporation number \_\_\_\_\_

Tax reference number: \_\_\_\_\_

**Section 7: The attached SBD4 must be completed for each tender and be attached as a tender requirement.**

**Section 8: The attached SBD 6 must be completed for each tender and be attached as a requirement.**

**Section 9: The attached SBD8 must be completed for each tender and be attached as a requirement.**

**Section 10: The attached SBD9 must be completed for each tender and be attached as a requirement.**

The undersigned, who warrants that he / she is duly authorised to do so on behalf of the enterprise:

- i) authorizes the Employer to obtain a tax clearance certificate from the South African Revenue Services that my / our tax matters are in order;
- ii) confirms that the neither the name of the enterprise or the name of any partner, manager, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears on the Register of Tender Defaulters established in terms of the Prevention and Combating of Corrupt Activities Act of 2004;
- iii) confirms that no partner, member, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears, has within the last five years been convicted of fraud or corruption;
- iv) confirms that I / we are not associated, linked or involved with any other tendering entities submitting tender offers and have no other relationship with any of the tenderers or those responsible for compiling the scope of work that could cause or be interpreted as a conflict of interest; and
- v) confirms that the contents of this questionnaire are within my personal knowledge and are to the best of my belief both true and correct.

Signed	_____	Date	_____
Name	_____	Position	_____
Enterprise name	_____		

**SBD 4**

**DECLARATION OF INTEREST**

1. Any legal person, including persons employed by the state<sup>1</sup>, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/ adjudicating authority where-

- the bidder is employed by the state; and/or

- the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

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<sup>1</sup>"State" means –

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

**SBD 4**

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

2.1 Full Name of bidder or his or her representative: \_\_\_\_\_  
\_\_\_\_\_

2.2 Identity Number: \_\_\_\_\_

2.3 Position occupied in the Company (director, trustee, shareholder<sup>2</sup>): \_\_\_\_\_  
\_\_\_\_\_

2.4 Company Registration Number: \_\_\_\_\_

2.5 Tax Reference Number: \_\_\_\_\_

2.6 VAT Registration Number: \_\_\_\_\_

2.6.1 The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / personnel numbers must be indicated in paragraph 3 below.

2.7 Are you or any person connected with the bidder presently employed by the state?

**YES / NO**

2.7.1 If so, furnish the following particulars:

- Name of person / director / trustee / shareholder/ member:

\_\_\_\_\_

- Name of state institution at which you or the person connected to the bidder is employed:

\_\_\_\_\_

- Position occupied in the state institution:

\_\_\_\_\_

Any other particulars:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**SBD 4**

2.7.2 If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector?

**YES / NO**

2.7.3 If yes, did you attached proof of such authority to the bid document?

\_\_\_\_\_

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

**YES / NO**

Note: Failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.

2.7.3.1 If no, furnish reasons for non-submission of such proof:

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2.8 Did you or your spouse, or any of the company's directors / trustees / shareholders / members or their spouses conduct business with the state in the previous twelve months?

**YES / NO**

2.8.1 If so, furnish particulars:

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2.9 Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid?

**YES / NO**

2.8.2 If so, furnish particulars.

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**SBD 4**

2.9 Are you, or any person connected with the bidder, aware of any relationship (family, friend, other) between any other bidder and any person employed by the state who may be involved with the evaluation and or adjudication of this bid?

**YES/NO**

2.9.1 If so, furnish particulars.

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2.10 Do you or any of the directors / trustees / shareholders / members of the company have any interest in any other related companies whether or not they are bidding for this contract?

**YES/NO**

2.10.1 If so, furnish particulars:

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**SBD 4**

**4 DECLARATION**

I, THE UNDERSIGNED (NAME) \_\_\_\_\_ CERTIFY THAT THE  
INFORMATION FURNISHED IN PARAGRAPHS 2 and 3 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 23 OF THE  
GENERAL CONDITIONS OF CONTRACT SHOULD THIS DECLARATION PROVE TO BE FALSE.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Position

\_\_\_\_\_  
Name of bidder

## SBD 6.1

### 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.

#### 1. GENERAL CONDITIONS

- 1.1 The following preference point systems are applicable to all bids:
- the 80/20 system for requirements with a Rand value of below R50 000 000 (all applicable taxes included)
- 1.2 The value of this bid is estimated to **not to exceed** R50 000 000 (all applicable taxes included) and therefore the **80/20** preference point system shall be applicable.
- 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>80</b>
<b>B-BBEE STATUS LEVEL OF CONTRIBUTION</b>	<b>20</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 a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System [**SANAS**], or a sworn affidavit confirming annual turnover and level of black ownership in case of all EMEs and QSEs with 51% black ownership or more 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 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) **"CIPC"** means the Companies and Intellectual Property Commission, formerly known as CIPRO, the Companies and Intellectual Property Registration Office.
- (g) **"comparative price"** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;
- (h) **"consortium or joint venture"** 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;
- (i) **"contract"** means the agreement that results from the acceptance of a bid by an organ of state;
- (j) **"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);
- (k) **"firm price"** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- (l) **"functionality"** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;
- (m) **"non-firm prices"** means all prices other than "firm" prices;
- (n) **"person"** includes a juristic person;
- (o) **"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);
- (p) **"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;
- (q) **"sub-contract"** means the primary contractor's assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;
- (r) **"total revenue"** bears the same meaning assigned to this expression 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 and promulgated in the *Government Gazette* on 9 February 2007;
- (s) **"trust"** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
- (t) **"trustee"** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

### 3. ADJUDICATION USING A POINT SYSTEM

- 3.1 The bidder obtaining the highest number of total points will be awarded the contract.
- 3.2 Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts.
- 3.3 Points scored must be rounded off to the nearest 2 decimal places.
- 3.4 In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for B-BBEE.
- 3.5 However, when functionality is part of the evaluation process and two or more bids have scored equal points including equal preference points for B-BBEE, the successful bid must be the one scoring the highest score for functionality.
- 3.6 Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

#### 4. POINTS AWARDED FOR PRICE

##### 4.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

A maximum of 80 points is allocated for price on the following basis:  
80/20

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

Where

$P_s$  = Points scored for comparative price of bid under consideration

$P_t$  = Comparative price of bid under consideration

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

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

5.1 In terms of Regulation 5 (2) and 6 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (80/20 system)
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

5.2 A bidder who qualifies as a EME in terms of the B-BBEE Act must submit a sworn affidavit confirming Annual Total Revenue and Level of Black Ownership. Furthermore EMEs may also obtain a sworn affidavit from CIPC (formerly CIPRO) Self Service Terminals when registering a business or filing annual returns. In these instances Transnet would require proof of turnover as well as proof of ownership. Sworn affidavits must substantially comply with the format that can be obtained on the DTI's website at [www.dti.gov.za/economic\\_empowerment/bee\\_codes.jsp](http://www.dti.gov.za/economic_empowerment/bee_codes.jsp).

5.3 QSEs that are at least 51% Black owned or higher are only required to obtain a sworn affidavit on an annual basis confirming that the entity has an Annual Total Revenue of R50 million or less and the entity's Level of Black ownership.

5.4 A Bidder other than EME or a QSE that is at least 51% Black owned must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Verification Agency accredited by SANAS.

5.5 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.

5.6 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they

- were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- 5.7 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.
- 5.8 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.
- 5.9 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.
- 5.10 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.

**6. BID DECLARATION**

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

**7. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 5.1**

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

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 5.1 and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or a sworn affidavit.

**8. SUB-CONTRACTING**

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

(Tick applicable box)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

8.1.1 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.

(Tick applicable box)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
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**9. DECLARATION WITH REGARD TO COMPANY/FIRM**

9.1 Name of company/firm: \_\_\_\_\_

9.2 VAT registration number: \_\_\_\_\_

9.3 Company registration number: \_\_\_\_\_

9.4 TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
- One person business/sole propriety
- Close corporation
- Company



- (Pty) Limited  
[TICK APPLICABLE BOX]

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

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9.6 COMPANY CLASSIFICATION

- Manufacturer
  - Supplier
  - Professional service provider
  - Other service providers, e.g. transporter, etc.
- [TICK APPLICABLE BOX]

9.7 Total number of years the company/firm has been in business: \_\_\_\_\_

9.8 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 paragraph 7 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 7, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
  - (a) disqualify the person from the bidding process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person’s conduct;
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
  - (d) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, 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
  - (e) forward the matter for criminal prosecution.

WITNESSES

1. ....

2. ....

.....

SIGNATURE(S) OF TENDERER(S)

DATE: .....

ADDRESS .....

.....

**SBD 8****DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES**

1. This Standard Bidding Document must form part of all bids invited.
2. It serves as a declaration to be used by institutions in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
3. The bid of any bidder may be disregarded if that bidder, or any of its directors have-
  - a. abused the institution's supply chain management system;
  - b. committed fraud or any other improper conduct in relation to such system; or
  - c. failed to perform on any previous contract.
- 4. In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

Item	Question	Yes	No
4.1	Is the bidder or any of its directors listed on the National Treasury's database as companies or persons prohibited from doing business with the public sector? <b>(Companies or persons who are listed on this database were informed in writing of this restriction by the National Treasury after the <i>audi alteram partem</i> rule was applied).</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? <b>To access this Register enter the National Treasury's website, <a href="http://www.treasury.gov.za">www.treasury.gov.za</a>, click on the icon "Register for Tender Defaulters" or submit your written request for a hard copy of the Register to facsimile number (012) 3265445.</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
4.4	Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		

**SBD 8**

**CERTIFICATION**

**I, THE UNDERSIGNED (FULL NAME)..... CERTIFY THAT THE  
INFORMATION FURNISHED ON THIS DECLARATION FORM IS TRUE AND CORRECT.**

**I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT, ACTION MAY BE TAKEN AGAINST  
ME SHOULD THIS DECLARATION PROVE TO BE FALSE.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Position

\_\_\_\_\_  
Name of Tenderer

**SBD 9****CERTIFICATE OF INDEPENDENT BID DETERMINATION**

1. This Standard Bidding Document (SBD) must form part of all bids/quotes<sup>3</sup> invited.
2. Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).<sup>4</sup> Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
3. Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
  - (a) disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
  - (b) cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
4. This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
5. In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

---

<sup>3</sup> Includes price quotations, advertised competitive bids, limited bids and proposals.

<sup>4</sup> Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.

**SBD 9**

**CERTIFICATE OF INDEPENDENT QUOTATION/PROPOSAL DETERMINATION**

I, the undersigned, in submitting the accompanying quote:

\_\_\_\_\_  
(Quote Number and Description)

in response to the invitation for the quote made by:

\_\_\_\_\_  
(Name of Institution)

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

I certify, on behalf of: \_\_\_\_\_ that:  
(Name of Bidder)

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

\_\_\_\_\_

<sup>5</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.

**SBD 9**

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Position

\_\_\_\_\_  
Name of bidder

## C1.1 FORM OF OFFER & ACCEPTANCE

### Offer

The Employer, identified in the Acceptance signature block, has solicited offers to enter into a contract for the procurement of:

**Detailed condition assessment of four (4) Tugs that are located in the ports of Saldanha, Cape Town & Durban.**

The tenderer, identified in the Offer signature block, has By the representative of the tenderer, deemed to be duly authorised, signing this part of this Form of Offer and Acceptance the tenderer offers to perform all of the obligations and liabilities of the NEC3 PSC *Consultant* under the contract including compliance with all its terms and conditions according to their true intent and meaning for an amount to be determined in accordance with the *conditions of contract* identified in the Contract Data.

The offered total of the Prices exclusive of VAT is	
Value Added Tax @ 15% is	
The offered total of the Prices inclusive of VAT is	
(in words)	

This Offer may be accepted by the *Employer* by signing the Acceptance part of this Form of Offer and Acceptance and returning one copy of this document including the Schedule of Deviations (if any) to the tenderer before the end of the period of validity stated in the Tender Data, or other period as agreed, whereupon the tenderer becomes the party named as the *NEC3 PSC Consultant* in the *conditions of contract* identified in the Contract Data.

Signature(s)

Name(s)

Capacity

**for the  
tenderer:**

*(Insert name and address of organisation)*

Name &  
signature of  
witness

Date

## Acceptance

By signing this part of this Form of Offer and Acceptance, the *Employer* identified below accepts the tenderer's Offer. In consideration thereof, the *Employer* shall pay the *Consultant* the amount due in accordance with the *conditions of contract* identified in the Contract Data. Acceptance of the tenderer's Offer shall form an agreement between the *Employer* and the tenderer upon the terms and conditions contained in this agreement and in the contract that is the subject of this agreement.

The terms of the contract, are contained in:

Part C1            Agreements and Contract Data, (which includes this Form of Offer and Acceptance)

Part C2            Pricing Data

Part C3            Scope of Services

and drawings and documents (or parts thereof), which may be incorporated by reference into the above listed Parts.

Deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Returnable Schedules as well as any changes to the terms and *conditions of contract* of the Offer agreed by the tenderer and the *Employer* during this process of offer and acceptance, are contained in the Schedule of Deviations attached to and forming part of this Form of Offer and Acceptance. No amendments to or deviations from said documents are valid unless contained in this Schedule.

The tenderer shall within two weeks of receiving a completed copy of this agreement, including the Schedule of Deviations (if any), contact the *Employer's Agent* (whose details are given in the Contract Data) to arrange the delivery of any securities, bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the *conditions of contract* identified in the Contract Data at, or just after, the date this agreement comes into effect. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this agreement.

Notwithstanding anything contained herein, this agreement comes into effect on the date of award of contract. Unless the tenderer (now the *NEC3 PSC Consultant*) within five working days of the date of

such receipt notifies the *Employer* in writing of any reason why he cannot accept the contents of this agreement, this agreement shall constitute a binding contract between the Parties.

Signature(s)

Name(s)

Capacity

**for the  
Employer:**

Transnet SOC (Ltd)

Name &  
signature of  
witness

Date

## Schedule of Deviations

No.	Subject	Details
1		
2		
3		
4		

By the duly authorised representatives signing this Schedule of Deviations below, the *Employer* and the tenderer agree to and accept this Schedule of Deviations as the only deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Tender Schedules, as well as any confirmation, clarification or changes to the terms of the Offer agreed by the tenderer and the Employer during this process of Offer and Acceptance.

It is expressly agreed that no other matter whether in writing, oral communication or implied during the period between the issue of the tender documents and the receipt by the tenderer of a completed signed copy of this Form shall have any meaning or effect in the contract between the parties arising from this Agreement.

**For the tenderer:**

**For the Employer**

Signature

Name

Capacity

On behalf  
of

*(Insert name and address of organisation)*

**Transnet SOC (Ltd)**

Name &  
signature  
of witness

Date

## C1.2 Contract Data

### Part one - Data provided by the *Employer*

Clause	Statement	Data
1	<b>General</b>	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option	
	dispute resolution Option and secondary Options	<p><b>A: Activity Schedule</b></p> <p><b>W1: Dispute resolution procedure</b></p> <p><b>X2 Changes in the law</b></p> <p><b>X7: Delay damages</b></p> <p><b>X9: Transfer of rights</b></p> <p><b>X10 <i>Employer's Agent</i></b></p> <p><b>X11: Termination by the <i>Employer</i></b></p> <p><b>X18: Limitation of liability</b></p> <p><b>Z: <i>Additional conditions of contract</i></b></p>
	of the NEC3 Professional Services Contract (June 2005) (amended June 2006 and April 2013)	



TRANSNET NATIONAL PORTS AUTHORITY  
TENDER NUMBER: TNPA/2022/02/0097/RFP

DESCRIPTION OF THE SERVICES: DETAILED CONDITION ASSESSMENT ON FOUR (4) TUGS THAT ARE LOCATED IN THE PORTS OF SALDANHA, CAPE TOWN & DURBAN

10.1	The <i>Employer</i> is (Name):  Address	<b>Transnet SOC Ltd</b>  Registered address: <b>138 Eloff Street Braamfontein Johannesburg 2000</b>												
	Having elected its Contractual Address for the purposes of this contract as:	<b>Transnet National Ports Authority eMendi Administration Building N2 Neptune Road, Off Club Road Port of Ngqura, Gqeberha, 6001</b>												
11.2(9)	The <i>services</i> are	<b>Detailed condition assessment on four (4) Tugs that are located in the ports of Saldanha, Cape Town and Durban.</b>												
11.2(10)	The following matters will be included in the Risk Register													
11.2(11)	The Scope is in	<b>Part C3.1: The Scope of Services</b>												
12.2	The <i>law of the contract</i> is the law of	<b>the Republic of South Africa subject to the jurisdiction of the Courts of South Africa.</b>												
13.1	The <i>language of this contract</i> is	<b>English</b>												
13.3	The <i>period for reply</i> is	<b>2 (two) weeks</b>												
13.6	The <i>period for retention</i> is	<b>5 (five) years following Completion or earlier termination.</b>												
<b>2</b>	<b>The Parties' main responsibilities</b>													
25.2	The <i>Employer</i> provides access to the following persons, places and things	<table border="1"> <thead> <tr> <th></th> <th><b>access to</b></th> <th><b>access date</b></th> </tr> </thead> <tbody> <tr> <td>1</td> <td>TNPA: Saldanha</td> <td>16 May 2022</td> </tr> <tr> <td>2</td> <td>TNPA: Cape Town</td> <td>30 May 2022</td> </tr> <tr> <td>3</td> <td>TNPA: Durban</td> <td>06 June 2022</td> </tr> </tbody> </table>		<b>access to</b>	<b>access date</b>	1	TNPA: Saldanha	16 May 2022	2	TNPA: Cape Town	30 May 2022	3	TNPA: Durban	06 June 2022
	<b>access to</b>	<b>access date</b>												
1	TNPA: Saldanha	16 May 2022												
2	TNPA: Cape Town	30 May 2022												
3	TNPA: Durban	06 June 2022												
<b>3</b>	<b>Time</b>													
31.2	The <i>starting date</i> is	<b>16 May 2022</b>												
11.2(3)	The <i>completion date</i> for the whole of the <i>services</i> is	<b>18 August 2022</b>												
31.1	The <i>Consultant</i> is to submit a first programme for acceptance within	<b>1 (one) week of the Contract Date.</b>												
32.2	The <i>Consultant</i> submits revised programmes at intervals no longer than	<b>1 (one) weeks.</b>												
<b>4</b>	<b>Quality</b>													



TRANSNET NATIONAL PORTS AUTHORITY  
TENDER NUMBER: TNPA/2022/02/0097/RFP

DESCRIPTION OF THE SERVICES: DETAILED CONDITION ASSESSMENT ON FOUR (4) TUGS THAT ARE LOCATED IN THE PORTS OF SALDANHA, CAPE TOWN & DURBAN

40.2	The quality policy statement and quality plan are provided within	<b>1 (one) weeks of the Contract Date.</b>	
41.1	The <i>defects date</i> is	<b>Fifty two weeks after Completion of the whole of the services.</b>	
<b>5</b>	<b>Payment</b>		
50.1	The <i>assessment interval</i> is on the	<b>18<sup>th</sup> day of each successive month.</b>	
50.3	The <i>expenses</i> stated by the <i>Employer</i> are	<b>Item</b>	<b>Amount</b>
		<b>Economy air fares</b>	<b>Charged at proven costs strictly on limits as set out in National Treasury Instructions as amended from time to time.</b>
		<b>Car hire not exceeding group B</b>	<b>Charged at proven costs strictly on limits as set out in National Treasury Instructions as amended from time to time.</b>
		<b>Accommodation</b>	<b>Charged at proven costs strictly on limits as set out in National Treasury Instructions as amended from time to time.</b>
51.1	The period within which payments are made is	<b>Payment will be effected on or before the last day of the month following the month during which a valid Tax Invoice and Statement were received.</b>	
51.2	The <i>currency of this contract</i> is the	<b>South African Rand (ZAR).</b>	
51.5	The <i>interest rate</i> is	<b>The prime lending rate of the Standard Bank of South Africa.</b>	
<b>6</b>	<b>Compensation events</b>	<b>No additional data required for this section of the <i>conditions of contract</i>.</b>	
<b>7</b>	<b>Rights to material</b>	<b>No additional data required for this section of the <i>conditions of contract</i>.</b>	
<b>8</b>	<b>Indemnity, insurance and liability</b>		
81.1	The amounts of insurance and the periods for which the <i>Consultant</i> maintains insurance are		
	<b>Event</b>	<b>Cover</b>	<b>Period following Completion of the whole of the services or earlier termination</b>



TRANSNET NATIONAL PORTS AUTHORITY  
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DESCRIPTION OF THE SERVICES: DETAILED CONDITION ASSESSMENT ON FOUR (4) TUGS THAT ARE LOCATED IN THE PORTS OF SALDANHA, CAPE TOWN & DURBAN

<p>failure by the <i>Consultant</i> to use the skill and care normally used by professionals providing services similar to the <i>services</i></p>	<p><b>Professional Indemnity insurance for not less than R10 000 000.00 (Ten Million Rand) in respect of each claim, without limit to the number of claims</b></p>	<p><b>52 Weeks</b></p>
<p>death of or bodily injury to a person (not an employee of the <i>Consultant</i>) or loss of or damage to property resulting from an action or failure to take action by the <i>Consultant</i></p>	<p><b>General Third Party Liability Insurance for all amounts falling within the excess of the policy, currently R50 000.00 (Fifty Thousand Rand) each and every claim, and/or for all amounts in excess of the policy limits as detailed in the policy document or whatever the <i>Consultant</i> deems desirable in respect of each claim, without limit to the number of claims</b></p>	<p><b>0 Weeks</b></p>
<p>death of or bodily injury to employees of the <i>Consultant</i> arising out of and in the course of their employment in connection with this contract</p>	<p><b>The minimum limit of indemnity for insurance in respect of death of or bodily injury to employees of the <i>Consultant</i> arising out of and in connection with this contract for any one event is that which is prescribed by the Compensation for Occupation Injuries and Diseases Act No. 130 of 1993 as amended.</b></p>	<p><b>0 Weeks</b></p>
<p>Motor Vehicle Liability Insurance</p>	<p><b>Comprising (as a minimum) “Balance of Third Party” Risks including Passenger Liability Indemnity for an amount of not less than R 10 000 000.00</b></p>	



81.1	The <i>Employer</i> provides the following insurances	<p><b>Professional Indemnity insurance in respect of failure of the <i>Consultant</i> to use the skill and care normally used by Professionals providing services similar to the <i>services</i></b></p> <p><b>General Third Party Liability cover in respect of death of or bodily injury to a person (not an employee of the <i>Consultant</i>) or loss of or damage to property resulting from an action or failure to take action by the <i>Consultant</i></b></p>
82.1	The <i>Consultant's</i> total liability to the <i>Employer</i> for all matters arising under or in connection with this contract, other than the excluded matters, is limited to	<p><b>For all matters covered under the Employer's Professional Indemnity (PI) and General Third Party Liability policies, the Consultant's liability will be limited to the excesses applicable under the Employer's Professional Indemnity and General Third Party Liability policies as detailed in the policy wordings. The current excesses amounts to R5 000 000.00 (Five Million Rand) PI and R50 000.00 (Fifty Thousand Rand) General Third Party Liability, respectively, each and every claim. For all matters not covered under the Employer's Professional Indemnity and General Third Party Liability policies the Consultants liability will be limited to the final total of the Prices.</b></p>
<b>9</b>	<b>Termination</b>	<b>No additional data required for this section of the <i>conditions of contract</i>.</b>
<b>10</b>	<b>Data for main Option clause</b>	
<b>A</b>	<b>Priced contract with activity schedule</b>	
21.3	The <i>Consultant</i> prepares forecasts of the total of the <i>expenses</i> at intervals of no longer than	<b>1(one) week.</b>
<b>11</b>	<b>Data for Option W1</b>	
W1.1	The <i>Adjudicator</i> is	<b>Both parties will agree to an <i>Adjudicator</i> as and when a dispute arises. If the parties cannot reach an agreement on the <i>Adjudicator</i>, the Chairman of the Association of Arbitrators (Southern Africa) will appoint an <i>Adjudicator</i>.</b>
W1.2(3)	The <i>Adjudicator nominating body</i> is:	<b>the Association of Arbitrators (Southern Africa)</b>
W1.4(2)	The <i>tribunal</i> is:	<b>Arbitration</b>
W1.4(5)	The <i>arbitration procedure</i> is	<b>The latest addition of the South African Rules for the Conduct of Arbitrations of the Association of Arbitrators (Southern Africa)</b>
	The place where arbitration is to be held is	<b>Gqeberha, South Africa</b>



TRANSNET NATIONAL PORTS AUTHORITY  
TENDER NUMBER: TNPA/2022/02/0097/RFP

DESCRIPTION OF THE SERVICES: DETAILED CONDITION ASSESSMENT ON FOUR (4) TUGS THAT ARE LOCATED IN THE PORTS OF SALDANHA, CAPE TOWN & DURBAN

	The person or organisation who will choose an arbitrator	
	<ul style="list-style-type: none"> <li>if the Parties cannot agree a choice or</li> <li>if the <i>arbitration procedure</i> does not state who selects an arbitrator, is</li> </ul>	<b>The Chairman of the Association of Arbitrators (Southern Africa)</b>
<b>12</b>	<b>Data for secondary Option clauses</b>	
<b>X2</b>	<b>Changes in the law</b>	
X2.1	The <i>law of the project</i> is	<b>The Law of the Republic of South Africa</b>
<b>X7</b>	<b>Delay damages</b>	
X7.1	Delay damages for late Completion of the whole of the <i>services</i> are	<b>R 2000 per day</b>
<b>X9</b>	<b>Transfer of rights</b>	<b>The <i>Employer</i> owns the <i>Consultant</i> rights over any of the material whatsoever prepared for the Services of this Contract by the <i>Consultant</i>. The <i>Consultant</i> provides on request by the <i>Employer's Agent</i>, all documentation in whatever form as required (native's, PDF's, CD's, etc) and all other material items which transfer these rights to the <i>Employer</i>.</b>
<b>X10</b>	<b>The <i>Employer's Agent</i></b>	
X10.1	The <i>Employer's Agent</i> is	
	Name:	<b>Luvuyo Jekwa</b>
	Address	<b>Transnet National Ports Authority eMendi Administration Building N2 Neptune Road, Off Club Road Port of Ngqura, Gqeberha, 6001</b>
	The authority of the <i>Employer's Agent</i> is	<b>Fully empowered to act on behalf of the <i>Employer</i> for the services covered by the contract.</b>
<b>X18</b>	<b>Limitation of liability</b>	
X18.1	The <i>Consultant's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to:	<b>Nil</b>
X18.2	The <i>Consultant's</i> liability to the <i>Employer</i> for Defects that are not found until after the <i>defects date</i> is limited to:	<b>The cost of correcting the defect (The Total of the Prices)</b>
X18.3	The <i>end of liability date</i> is	<b>2 (Two) years after Completion of the whole of the <i>services</i>.</b>
<b>Z</b>	<b>Additional conditions of contract</b>	
	The <i>additional conditions of contract</i> are	



## **Z1 Obligations in respect of Joint Venture Agreements**

Z1.1

Insert the additional core clause 21.5

21.5.1 In the instance that the *Consultant* is a joint venture, the *Consultant* shall provide the *Employer* with a certified copy of its signed joint venture agreement, and in the instance that the joint venture is an 'Incorporated Joint Venture,' the Memorandum of Incorporation, within 4 (four) weeks of the Contract *starting date*.

The Joint Venture agreement shall contain but not be limited to the following:

- A brief description of the Contract and the Deliverables;
- The name, physical address, communications addresses and domicilium citandi et executandi of each of the constituents and of the Joint Venture;
- The constituents' interests;
- A schedule of the insurance policies, sureties, indemnities and guarantees which must be taken out by the Joint Venture and by the individual constituents;
- Details of an internal dispute resolution procedure;
  
- Written confirmation by all of the constituents:
  - i. of their joint and several liability to the *Employer* to Provide the *services*;
  - ii. proof of separate bank account/s in the name of the joint venture;
  - iii. identification of the leader in the joint venture confirming the authority of the leader to bind the joint venture through the *Consultant's* representative;
  - iv. Identification of the roles and responsibilities of the constituents to provide the *services*.
  
- Financial requirements for the Joint Venture:
  - i. the working capital requirements for the Joint Venture and the extent to which and manner whereby this will be provided and/or guaranteed by the constituents from time to time;
  - ii. the names of the auditors and others, if any, who will provide auditing and accounting services to the Joint Venture

Z1.2

Insert additional core clause 21.6

21.6. The *Consultant* shall not alter its composition or legal status of the Joint Venture without the prior approval of the *Employer*.



<b>Z2</b>	<b>Additional obligations in respect of Termination</b>
Z2.1	<p>The following will be included under core clause 90.1: In the second main bullet, after the word 'partnership' add 'joint venture whether incorporate or otherwise (including any constituent of the joint venture)' and</p> <p>Under the second main bullet, insert the following additional bullets after the last sub-bullet:</p> <ul style="list-style-type: none"> <li>• commenced business rescue proceedings</li> <li>• repudiated this Contract</li> </ul>
Z2.2	<p><i>Clause 90.5 is added as an additional clause</i> Where all or part of the Services are suspended for a period of six months or more either party may terminate the Contract by notifying the other.</p>
<b>Z3</b>	<b>Right Reserved by the <i>Employer</i> to Conduct Vetting through SSA</b>
Z3.1	<p>The <i>Employer</i> reserves the right to conduct vetting through State Security Agency (SSA) for security clearances of any <i>Consultant</i> who has access to National Key Points for the following without limitations:</p> <ol style="list-style-type: none"> <li>1. Confidential – this clearance is based on any information which may be used by malicious, opposing or hostile elements to harm the objectives and functions of an organ of state.</li> <li>2. Secret – clearance is based on any information, which may be used by malicious, opposing or hostile elements to disrupt the objectives and functions of an organ of state.</li> <li>3. Top Secret – this clearance is based on information, which may be used by malicious, opposing or hostile elements to neutralise the objectives and functions of an organ of state.</li> </ol>
<b>Z4</b>	<b>Additional Clause Relating to the <i>Employer's</i> rights to take appropriate action</b>



Z4.1	<b>The contract award is made without prejudice to any rights the <i>Employer</i> may have to take appropriate action later with regard to:</b>	Any declared, exposed or confirmed tender rigging.
Z4.1.1		The <i>Consultant</i> further undertakes: not to give or cause any offer, payment, consideration, or benefit of any kind, which constitutes or could be construed as an illegal or corrupt practice, either directly or indirectly, as an inducement or reward for the award or in execution of this contract.
Z 4.1.2		To comply with all laws, regulations or policies relating to the prevention and combating of bribery, corruption and money laundering to which it or the <i>Employer</i> is subject, including but not limited to the Prevention and Combating of Corrupt Activities Act, 12 of 2004.
Z4.1.3		The <i>Consultant's</i> breach of this clause constitutes grounds for terminating the <i>Consultant's</i> obligation to Provide the Services or taking any other action as appropriate against the <i>Consultant</i> (including civil or criminal action). However, lawful inducements and rewards shall not constitute grounds for termination.
Z4.1.4		If the <i>Consultant</i> is found guilty by a competent court, administrative or regulatory body of participating in illegal or corrupt practices, including but not limited to the making of offers (directly or indirectly), payments, gifts, gratuity, commission or benefits of any kind, which are in any way whatsoever in connection with the contract with the <i>Employer</i> , the <i>Employer</i> shall be entitled to terminate the contract forthwith and take any other action as appropriate against the <i>Consultant</i> (including civil or criminal action).
Z4.2	<b>The contract award is made without prejudice to any rights the <i>Employer</i> may have to take appropriate action later with regard to:</b>	Politically Exposed Persons including any allegations with regards to State Capture.
Z4.3	<b>The contract award is made without prejudice to any rights the <i>Employer</i> may have to take appropriate action later with regard to:</b>	Blacklisting by any State Entity on the National Treasury database.
<b>Z5</b>	<b>Protection of Personal Information Act</b>	



Z5.1	The <i>Employer</i> and the <i>Consultant</i> are required to process information obtained for the duration of the Contract in a manner that is aligned to the Protection of Personal Information Act.
<b>Z6</b>	<b>Time</b>
Z6.1	<p><i>Clause 33.2. is added as an additional clause.</i></p> <p>The <i>Employer</i> may at any time suspend part or all of the <i>services</i>. As a consequence, if the <i>Consultant</i> is required to demobilise and then remobilise its staff and equipment, the <i>Consultant</i> will be reimbursed at cost. The <i>Consultant</i> will be required to reduce and mitigate all its costs during the period of suspension and will be entitled to compensation only to the extent that it can demonstrate it has incurred costs which were not capable of being mitigated.</p>
<b>Z7</b>	<b>Compensation Events</b>
Z7.1	Clause 61.4: The first bullet point is amended to read as follows: arises from the fault, error, negligence or default of the <i>Consultant</i> .
<b>Z8</b>	<b>Limitation of liability</b>
Z8.1	<p>Add to core clause 82.1 and X18</p> <p>For the avoidance of doubt the parties expressly agree that the total liability of the <i>Consultant</i> to the <i>Employer</i> applies jointly and severally across all organisations comprising of the <i>Consultant</i>.</p>
<b>Z9</b>	<b>Additional clauses relating to cession of rights</b>
Z9.1	The <i>Consultant</i> shall not cede any rights under this contract without the approval of the <i>Employer</i> .
Z9.2	The <i>Employer</i> may on written notice to the <i>Consultant</i> cede and assign its rights and obligations under this contract to any of its subsidiaries or any of its present divisions or operations which may be converted into separate legal entities as a result of the restructuring of the <i>Employer</i> .
<b>Z10</b>	<b>Additional clauses relating to interpretation of the law</b>
Z10.1	Add to core clause 12.3 Any extension, concession, waiver or relaxation of any action by the Parties, the <i>Employers' Agent</i> or <i>Adjudicator</i> does not constitute a waiver of rights and does not give rise to an Estoppel or Lien, unless the Parties agree otherwise and confirm such an agreement in writing.




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## **Z11      *Employer's Step in rights***

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Z11.1	If the <i>Consultant</i> defaults by failing to comply with his obligations and fails to remedy such default within 2 weeks of the notification of the default by the <i>Employer's Agent</i> , the <i>Employer</i> , without prejudice to his other rights, powers and remedies under the contract, may remedy the default either himself or procure a third party (including any <i>sub-consultant</i> or supplier of the <i>Consultant</i> ) to do so on his behalf. The reasonable costs of such remedial works shall be borne by the <i>Consultant</i> .
Z11.2	The <i>Consultant</i> co-operates with the <i>Employer</i> and facilitates and permits the use of all required information, materials and other matter (including but not limited to documents and all other drawings, CAD materials, data, software, models, plans, designs, programs, diagrams, evaluations, materials, specifications, schedules, reports, calculations, manuals or other documents or recorded information (electronic or otherwise) which have been or are at any time prepared by or on behalf of the <i>Consultant</i> under the contract or otherwise for and/or in connection with any subsequent works) and generally does all things required by the <i>Employers' Agent</i> to achieve this end.

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## **Z13      *Anti-corruption***

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Z13.1	<p>The <i>Consultant</i> hereby undertakes and warrants that, at the date of the entering into force of the Contract, itself, its directors, officers or employees have not offered, promised, given, authorized, solicited or accepted any undue pecuniary or other advantage or gift of any kind (or implied that they will or might do any such thing at any time in the future) in any way connected with the Contract (hereinafter referred to as any "Corrupt Act") and that it has taken all reasonable measures to prevent its subcontractors, agents or any other third parties, subject to its control or determining influence, from doing so.</p> <p>In the event that the <i>Consultant</i> has committed any corrupt act or is found by any competent court or judicial body to have committed any corrupt act in relation to this Contract or in relation to another contract that has a material impact on this Contract, or in the event that:</p> <ul style="list-style-type: none"> <li>• Improper payments are being or have been made or offered to the <i>Employer's</i> officials or any other person by the <i>Consultant</i> or those acting on behalf of the <i>Consultant</i> with respect to the Services; or</li> <li>• The <i>Consultant</i> or those acting on behalf of the <i>Consultant</i> has accepted any payment</li> </ul>
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or benefit, regardless of value, as an improper inducement to award, obtain or retain business or otherwise gain or grant an improper business advantage from or to any other person or entity; then:

(a) In addition to the remedies available in law to the *Employer*, the *Employer* reserves the right to instruct the to:

- dismiss the employee(s) involved, and/or
- to terminate its contracts with the relevant supplier/subcontractor, as the case may be, and should the *Consultant* fail to do so, or if the breach is incapable of being remedied, the *Employer* may terminate the Contract; and

(b) The *Employer* will be entitled to recover the direct damages suffered by the *Employer* as a result of the termination of the Contract and no further payments will be made to the *Consultant*, save for those sums which have already been committed. The *Consultant* shall deliver to the *Employer* all works already completed in terms of the contract which the *Employer* has paid for.

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## C1.2 Contract Data

### Part two - Data provided by the *Consultant*

The tendering consultant is advised to read both the NEC3 Professional Services Contract (April 2013) and the relevant parts of its Guidance Notes (PSC3-GN) in order to understand the implications of this Data which the tenderer is required to complete. An example of the completed Data is provided on pages 151 to 159 of the PSC3 Guidance Notes.

Completion of the data in full, according to Options chosen, is essential to create a complete contract.

Clause	Statement	Data
10.1	The <i>Consultant</i> is (Name): Address Tel No. Fax No.	
22.1	The <i>Consultant's</i> key persons are: 1 Name: Job: Responsibilities: Qualifications: Experience: 2 Name: Job Responsibilities: Qualifications: Experience:	
	Info.	
11.2(3)	The <i>completion date</i> for the whole of the <i>services</i> is	
11.2(10)	The following matters will be included in the Risk Register	
25.2	The <i>Employer</i> provides access to the following persons, places and things	<b>access to</b>  <b>access date</b>

		1	TNPA: Saldanha	
		2	TNPA: Cape Town	
		3	TNPA: Durban	
31.1	The programme identified in the Contract Data is			<b>Car terminal expansion detection and mapping of underground services</b>
<b>A</b>	<b>Priced contract with activity schedule</b>			
11.2(14)	The <i>activity schedule</i> is in			<b>C2.2 Pricing Schedule</b>
11.2(18)	The tendered total of the Prices is			<b>R (in words)</b>

## PART C2: PRICING DATA

<b>Document reference</b>	<b>Title</b>	<b>No of pages</b>
C2.1	Pricing instructions: Option A	2
C2.2	Activity Schedule	3

## C2.1 Pricing instructions: Option A

### 1.1 The *conditions of contract*

### 1.2 How the contract prices work and assesses it for progress payments

Clause 11 in NEC3 Professional Services Contract (PSC), June 2005 (with amendments June 2006 and April 2013) Option A states:

- Identified and defined terms** 11.2
- (14) The Activity Schedule is the *activity schedule* unless later changed in accordance with this contract.
- (15) The Price for Services Provided to Date is the total of the Prices for the activities which have been completed. A completed activity is one which is without Defects which would delay immediately following work.
- (18) The Prices are the lump sums for each of the activities on the Activity Schedule unless later changed in accordance with this contract.

### 1.3 Measurement and Payment

- 1.3.1 The activity schedule provides the basis of all valuations of the Price for Services Provided to Date, payments in multiple currencies and general progress monitoring.
- 1.3.2 The amount due at each assessment date is based on activities and/or milestones completed as indicated on the activity schedule.
- 1.3.3 The activity schedule work breakdown structure provided by the *Consultant* is based on the activity schedule provided by the *Employer*. The activities listed by the *Employer* are the minimum activities acceptable and identify the specific activities which are required to achieve Completion.
- 1.3.4 The *Professional Service Provider* detailed activity schedule summates back to the activity schedule provided by the *Employer* and is in sufficient detail to monitor completion of activities related to the Accepted Programme in order that payment of completed activities may be assessed.
- 1.3.5 The Prices are obtained from the activity schedule. The Prices includes for all direct and indirect costs, overheads, profits, oncosts, risks, liabilities, obligations, etc. relative to the contract.

### 1.3.6 Expenses:

A subsistence allowance means the allowance paid to an international/regional traveller for actual or anticipated business expenses as per SARS guidelines as amended from time to time

A subsistence allowance may only be claimed in respect of each night that a staff member is away from home.

Travel expenses may only be claimed in respect of the cost of transportation of the Consultant's staff from their usual place of business to the jobsite and return from the jobsite to Consultant's usual place of business.

The transportation and accommodation costs and costs for excavation of test pits, boreholes, drilling, testing and sampling and making good, shall be multiplied by a factor to compensate the Consultant for any unrecovered costs associated with these items.

All air travel shall be in economy class on a scheduled airline.

Accommodation means a:

a) bed and breakfast;

b) guest house;

c) self catering; or

d) hotel having a star rating of 1, 2 or 3 stars, based on a best rate available from Travel Agency as defined by the Tourism Grading Council of South Africa (see [www.tourismgrading.co.za](http://www.tourismgrading.co.za)). Note: Domestic hotel Accommodation may not exceed the amount per person per night that is stipulated in the National Treasury instructions and the Transnet Directive on cost containment measures, as reviewed and amended from time to time.

A hired car means a motor vehicle having an engine capacity of not more than 1600cc and regarded as Group B by Car Hire Companies.

Note: A hired car having an engine capacity greater than 1600cc is not a hired car and cannot be claimed as an expense.

## C2.2 Activity Schedule

Activity No.	Activity	Price of each activity
<b>A</b>	<b>Tug Marcus</b>	
A.1	Bridge and Navigation Equipment	
A.2	Monitoring and Alarm system	
A.3	Deck Machinery	
A.4	Accommodation ( i.e. cabins, galley, messroom , WC)	
A.5	Main & Auxiliary engine room machinery	
A.6	Hull and Superstructure	
A.7	Propulsion system	
A.8	Steelwork & Paintwork	
A.9	Condition Assessment Report	
	<b>Sub Total of the Prices</b>	
<b>B</b>	<b>Tug Meeuw</b>	
B.1	Bridge and Navigation Equipment	
B.2	Monitoring and Alarm system	
B.3	Deck Machinery	
B.4	Accommodation ( i.e. cabins, galley, messroom , WC)	
B.5	Main & Auxiliary engine Room Machinery	
B.6	Hull and Superstructure	
B.7	Propulsion system	
B.8	Steelwork & Paintwork	
B.9	Condition Assessment Report	
	<b>Sub Total of the Prices</b>	
<b>C</b>	<b>Tug Pinotage</b>	

C.1	Bridge and Navigation Equipment	
C.2	Monitoring and Alarm system	
C.3	Deck Machinery	
C.4	Accommodation( i.e. cabins, galley, messroom , WC)	
C.5	Main & Auxiliary engine room machinery	
C.6	Hull and Superstructure	
C.7	Propulsion system	
C.8	Steelwork & Paintwork	
C.9	Condition Assessment Report	
	<b>Sub Total of the Prices</b>	
<b>D</b>	<b>Tug Inyalazi</b>	
D.1	Bridge and Navigation Equipment	
D.2	Monitoring and Alarm system	
D.3	Deck Machinery	
D.4	Accommodation( i.e. cabins, galley, messroom , WC)	
D.5	Main and Auxiliary engine room machinery	
D.6	Hull and Superstructure	
D.7	Propulsion system	
D.8	Steelwork & Paintwork	
D.9	Condition Assessment Report	
	<b>Sub Total of the Prices</b>	
	<b>TOTAL OF THE PRICES (EXCLUDING 15% VAT)</b>	
	<b>VAT (IF APPLICABLE 15%)</b>	
	<b>TOTAL INCLUDING VAT</b>	

Category	Basis of expense, excluding VAT	Applicable parameter
Subsistence allowance	Amount per day	%
Factor applied to costs for the condition assessment, inspection, analysis and issue formal report.	Factor times cost	Factor =
Factor applied to transportation costs and accommodation	Factor times cost	Factor =
Private car or MPV		
Engine capacity less than or equal to 1600 cc	Cost per km in Rands	R /km
Engine capacity greater than 1600 cc		R /km
Pick up vans and bakkies		
Engine capacity less than or equal to 1600 cc	Cost per km in Rands	R /km
Engine capacity greater than 1600 cc		R /km



## Scope of Services for **condition assessment of marine floating crafts**

### 1 Employer's objectives

Transnet National Ports Authority seeks to appoint a *Consultant* to compile a detailed condition assessment on four (4) tugs that are located in Saldanha, Cape Town & Durban. The purpose of this assessment is to conduct an assessment on the integrity of the hull and all equipment fitted on-board, the four tugs. All proposal/s and methodology submitted must comply with all the relevant classification society standards and associated legislation

### 2 Background

2.1 The tugs are the most critical asset in marine fleet as they assist pilots with the safe movements of vessels within ports & port limits. Additionally, tugs are imperative to the safety within and around the ports, as it is utilised in activities such as firefighting and other non- guaranteed revenue streams such as towing and salvage operations, which are realized occasionally if such operation is required.

2.2 The technology has also evolved over the years and cargo vessels are becoming larger, therefore, agents and cargo owners prefer larger vessels due to its capacity to load multiple consignments. This has resulted in tugs with increased bollard pull being required to manoeuvre such vessels, but some of the current tugs are not able to meet this requirement.

### 3 Management and start up

#### 3.1 Documentation control

The *Consultant* shall submit all documentation complying with the Employer's standards and requirements. The Employer will issue all relevant available documentation to the Service Provider, but control, maintenance and handling of these documents will be the sole responsibility and at their expense, and managed with a suitable document control system.

#### 3.2 Quality assurance requirements

The onus rests on the *Consultant* to produce work which will conform in quality and accuracy of detail to the requirements of the Specifications, and the *Consultant* must, at his own expense, institute a quality control system and provide experienced technical staff together with all transport, instruments and equipment to ensure adequate supervision and positive control of the works at all times.

Service Provider's management, supervision and key people

The *Consultant* shall provide an organogram showing his key people and their lines of authority and communication and the CV's.

#### 3.3 Insurance provided by the Employer

Procedures for making insurance claims can be obtained from the Employer's Agent.

#### 3.4 Contract change management

The standard reporting forms that shall be used will be provided to the Service Provider.

## **Subcontracting**

### **4.1.1 Preferred sub-consultants**

The *Consultant* shall not appoint or bring sub-consultants onto site without the prior approval of the Employer's Agent, and all subcontractors will be required to conform to the requirements as set out herein as if they were employees of the Consultant.

The *Consultant* shall not deviate from the approved sub contractor's list without prior approval of the Employer's Agent.

### **4.1.2 Sub-contracting documentation, and assessment of sub-contractor tenders**

The *Consultant* shall appoint his sub-contractors on the basis of the NEC3 PSC agreements, i.e. on the same terms and conditions applicable to the agreement between Transnet and the Service Provider.

### **4.1.3 Attendance on sub-contractors**

The *Consultant* shall ensure that the quality assurance requirements placed on him under this Contract are transferred into any sub-contractors.

### **4.1.4 Plant & Materials provided "free issue" by the Employer**

No plant or materials are provided as "free issue" by the Employer

## **5 Management structures**

5.1 The Task Orders shall indicate who the Employer's Agent is. The Employer's Agent is fully empowered to act on behalf of the Employer for the services covered by the Task Order. The Employer's Agent will accept, or not accept, the Service Providers assessment of the amount due in terms of the contract.

5.2 The Task Orders will provide details of the scope of services to be provided and any special requirements to be met by the *consultant*.

## **6 Description of the services**

6.1 Transnet National Ports Authority seeks to appoint a contractor or *Consultant* to conduct a detailed condition assessment, provide a full report accompanied by a detailed method statement and the cost estimate of all the components deemed necessary to bring the tugs back into operations. The scope of the assessment shall include the following, but not limited to:

- a) Bridge and Navigation Equipment
- b) Electrical Monitoring and Alarm system
- c) Deck Machinery
- d) Accommodation (i.e. cabins, galley, messroom, WC)
- e) Main and Auxiliary engine room machinery
- f) Hull and Superstructure
- g) Propulsion system
- h) Steelwork & Paintwork

It is the Service Providers responsibility to ensure he is in possession and full knowledge of the contents of the latest relevant regulations, SAMSA Marine Notices etc.

### **6.2 Detailed General Scope and constraints of Professional Services Required**

The Services is to complete a condition assessment on four (4) tugs as specified by Transnet National Ports Authority. The Services include a detailed condition assessment, provide a full report accompanied by a detailed method statement, programme/schedule, and the cost estimate of all the components deemed necessary to bring the tugs back into operations and in accordance with the true meaning and intent of the contract document and includes the following:

- Provide a project plan with milestones and update as necessary
- Report to the Project manager and or Employer's Agent .
- Review, familiarize and understand the proposed scope including all constraints.
- Consult, advise, direct and interface with all members of the professional team with regards to survey expertise and development of the detailed scope of works.
- Submit a proposed costing and or estimate for the entire project (i.e. repairs/refurbishment & replacement of equipment) together with the method statement.
- Review, familiarise and understand the legislative and operational requirements

### **6.3 Specifications**

#### 6.3.1 Applicable Standard Specifications

- Classification Society Standards
- SAMSA regulations

6.3.2 The *Consultant* must make sure that they obtain an access permit, together with their personnel they must comply to any safety requirements imposed by Transnet National Ports Authority as arranged by the Employer's Agent.

6.3.3 Assessment work required shall done by a suitably qualified person as prescribed,

6.3.4 The *Consultant* shall adhere to all Transnet National Ports Authority, Project Management and Documentation control procedures.

6.3.5 Submit a project plan indicating all-important milestone for the entire project.

6.3.6 Determine the critical success factors for implementation of the entire project for TNPA

6.3.7 Where necessary the *consultant* will be required to open machinery/equipment, tanks etc in order for him to conduct a detailed assessment.

6.3.8 Any other reasonable works required to successfully deliver the project to the client on time, budget at the accepted quality.

6.3.9 Submit a proposed costing for the entire project together with the method statement

6.3.10 Handover all documentation including drawings in native file format.

### **6.4 Format information to be provided**

6.4.1 The condition assessment information shall be supplied in digital format and one original soft copy.

TRANSNET NATIONAL PORTS AUTHORITY  
TENDER NUMBER: TNPA/2022/02/0097/RFP  
DESCRIPTION OF THE SERVICES: DETAILED CONDITION ASSESSMENT ON FOUR (4) TUGS THAT ARE  
LOCATED IN THE PORTS OF SALDANHA, CAPE TOWN & DURBAN.

### **6.5 Technical requirements**

The *Consultant* in the provision of services shall observe all relevant statutes, by-laws and associated regulations, applicable standards, the International Organization for Standardisation or learned societies and standards of professional conduct, and “best practice”, as laid down, or recommended, by their respective professional associations, if any.

### **6.6 Ownership of Data, Designs and Documents**

The Parties shall agree that copyright in the data, design and documents shall, after payments by the Employer of the services to the Service Provider, lie with the Employer subject to the Employer’s indemnification against any claim from any party that may arise as a result of the Employer’s use of such a document due to the Service Providers infringement of copyright.