

**Transnet National Ports Authority**

an Operating Division **TRANSNET SOC LTD**

[Registration Number 1990/000900/30]

**REQUEST FOR QUOTATION (RFQ)**

**FOR THE UPGRADES TO BUILDINGS AND FENCING AT HOOD POINT LIGHTHOUSE**

<b>RFQ NUMBER</b>	<b>: TNPA/2022/09/1185/13496/RFQ</b>
<b>ISSUE DATE</b>	<b>: 29 SEPTEMBER 2022</b>
<b>COMPULSORY BRIEFING</b>	<b>: 10 OCTOBER 2022</b>
<b>COMPULSORY BRIEFING TIME</b>	<b>: 12:00 AM</b>
<b>LOCATION:</b>	<b>Hood Point Lighthouse - West Bank, East London</b> <b>GPS coordinates: -33,040695, 27,898813</b>
<b>CLOSING DATE</b>	<b>: 21 OCTOBER 2022</b>
<b>CLOSING TIME</b>	<b>: 12h00pm</b>
<b>TENDER VALIDITY PERIOD</b>	<b>: 12 weeks from closing date</b>

**Note to the bidders:**

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

**PREFERENTIAL PROCUREMENT PREQUALIFICATION CRITERIA - ONLY THE FOLLOWING RESPONDENTS MAY RESPOND TO THIS RFQ:**

- a) RESPONDENTS WITH A MINIMUM B-BBEE STATUS LEVEL OF 2;**
- b) EXEMPTED MICRO ENTERPRISES (EMEs)**

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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>RFQ FOR THE PROVISION OF UPGRADES TO BUILDINGS AND FENCING AT HOOD POINT LIGHTHOUSE FOR A ONCE OFF PERIOD.</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>Hood Point Lighthouse - West Bank, East London on the 10 OCTOBER 2022, at 12:00am [12 O'clock]</b> 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>Bidders are required to confirm their attendance and to send their contact details including the number of representatives (where applicable) to the following address:  <a href="mailto:Nokulunga.Ntloko@transnet.net">Nokulunga.Ntloko@transnet.net</a></p> <p>This is to ensure that Transnet may make the necessary arrangements for the briefing session.</p>
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	<p><b>A Site visit/walk will take place, tenderers are to note:</b></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 <b>Returnable Schedule T2.2-01</b> hereto must be completed and submitted with your Tender as proof of attendance is required for a <b>compulsory</b> site meeting and/or tender briefing.</p> <p><b>Tenderers are required to bring this Returnable Schedule T2.2-01. to the Compulsory Tender Clarification Meeting to be signed by the <i>Employer’s</i> Representative.</b></p> <p><b>Tenderers failing to attend the compulsory tender briefing will be disqualified.</b></p>
<b>CLOSING DATE</b>	<p><b>12:00pm on (2022/10/21)</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 (click to switch) the "Log an Intent" button to submit a bid;
  - Submit bid documents by uploading them into the system against each tender selected.
- 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.

### **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 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 T2.2-15], [**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.

<b>Clause</b>	<b>Data</b>
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	T1.1 Tender notice and invitation to tender T1.2 Tender data

Part T2 : Returnable documents	T2.1 List of returnable documents
	T2.2 Returnable schedules

### Part C: The contract

Part C1: Agreements and contract data	C1.1 Form of offer and acceptance
	C1.2 Contract data (Part 1 & 2)
	C1.3 Form of Securities
Part C2: Pricing data	C2.1 Pricing instructions
	C2.2 Activity Schedule
Part C3: Scope of work	Refer to Scope of Works

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C.1.4 The Employer's agent is:

Name:	Leandre Lewis
Address:	100 Beach Road, Mouille Point
Tel No.	079 825 9160
E – mail	<a href="mailto:Leandre.lewis@transnet.net">Leandre.lewis@transnet.net</a>

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C.2.1 Only those tenderers who satisfy the following eligibility criteria are eligible to submit tenders:

**1. Stage One - Eligibility with regards to attendance at the compulsory clarification meeting:**

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

**2. Stage Two as per PPPFA: Pre-qualification Criteria Schedule** – Exempted Micro Enterprises (EMEs) and having a minimum B-BBEE Status level 2.

**3. Stage Three as per PPPFA: Eligibility Criteria Schedule** - Declaration Certificate of Local Production and Content (SBD 6.2)

**3.1 Compulsory Local Content Threshold**

In terms of section 8(1) of the Preferential Procurement Regulations, 2017, and the Instruction Note issued by National Treasury on the "Invitation and Evaluation of Bids based on a stipulated minimum threshold for local content and production for the **masonry cement -100% and Gutters and down pipes -100%** Sector", Transnet is required to set a stipulated minimum threshold be set for this RFP.

### 3.1.1 Local Content Threshold

A Local Content threshold of **masonry cement 100% [one hundred percent], fasteners (bolts, nuts, rivets & nails) 100%, fence panels 100%, stainless steel brackets 100% and stainless steel door handles 100% [one hundred percent]** will be required for the goods specified in SBD 6.2, to be manufactured by a successful

Only locally produced or locally manufactured **masonry cement 100% [one hundred percent], fasteners (bolts, nuts, rivets & nails) 100%, fence panels 100%, stainless steel brackets 100% and stainless steel door handles 100% [one hundred percent]** with a minimum threshold for local production and content will be considered. If the quantity of materials and/or products required cannot be wholly sourced from South African based manufacturers and/or at the designated local content threshold at any particular time, a bidders should obtain written approval from the dtic to supply the remaining portion at a lower local content threshold. Such approval application should be submitted and obtained prior to the closing of the bid. The dtic, in consultation with Transnet, will grant such approval on a case-by-case basis and will consider the following:

- required volumes in the particular bid;
- available collective South African industry manufacturing capacity at that time;
- delivery times;
- availability of input materials and components;
- technical considerations including operating conditions;
- materials of construction; and
- Security of supply and emergencies.

### 3.2 Local Content Notes

3.2.1 The exchange rate to be used for the calculation of local production and content must be the exchange rate published by the South African Reserve Bank (SARB) on the date of the advertisement of the tender;

3.2.2 Only the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:2011 must be used to calculate local content;

3.2.3 The local content (LC) expressed as a percentage of the bid price must be calculated in accordance with the following formula which must be disclosed in the bid documentation:

$$LC = [1 - x/y] * 100$$

Where

x is the imported content in Rand

y is the bid price in Rand excluding value added tax (VAT)

Prices referred to in the determination of x must be converted to Rand (ZAR) by using the exchange rate published by the SARB at 12:00 on the date of advertisement of the bid.

- 3.2.4 The SABS approved technical specification number SATS 1286:2011 and the Guidance on the Calculation of Local Content together with the Local Content Declaration Templates [Annex C (Local Content Declaration: Summary Schedule), D (Imported Content Declaration: Supporting Schedule to Annex C) and E (Local Content Declaration: Supporting Schedule to Annex C)] are accessible to all potential tenderers on the DTI's official website; [http://www.the.dti.gov.za/industrial\\_development/ip.jsp](http://www.the.dti.gov.za/industrial_development/ip.jsp) at no cost.
- 3.2.5 The rates of exchange quoted by the tenderer in paragraph 4.1 of Returnable Schedule (the Declaration Certificate for Local Production and Content for Designated Sectors) will be verified for accuracy.
- 3.2.6 Declaration Certificate for Local Production and Content (SBD 6.2) together with the Annex C (Local Content Declaration: Summary Schedule) must be completed, duly signed and submitted at the closing date and time of the bid;
- 3.2.7 Tenderers must familiarise themselves with all the information provided in the Local Content instruction notes with particular reference to paragraph 4 of the instruction notes.
- 3.2.8 Respondents are to ensure that they complete the local content annexures in line with the provisions made in the Guidance Document for the calculation of Local Content. Failure to comply will lead to disqualification.

### 3.3 Mandatory RFP Annexures

The regulatory and mandatory RFP Annexures, which must be completed by all Respondents in order to declare Local Content, are as follows:

- Annexure B – Declaration Certificate for Local Production and Content [SBD 6.2]
- Annexure C – Local Content Declaration: Summary Schedule
- Annexure B and C must be completed and submitted even if a complete Local Content exemption letter from DTI has been obtained.
- To the extent that an exemption from Local Content has been granted by the DTI, the exemption letter from DTI will be a mandatory returnable document.
- Annexures D and E are Supporting Schedules to Annexure C. They are named as follows:
  - Annexure D – Imported Content Declaration: Supporting Schedule to Annexure C
  - Annexure E – Local Content Declaration: Supporting Schedule to Annexure C

- Annexure F - Guidance Document for the calculation of Local Content

After completing Declaration D, bidders should complete Declaration E and then consolidate the information on Declaration C. Declaration C should be submitted with the bid documentation at the closing date and time of the bid. Declarations D and E should be kept by Respondents for verification purposes for a period of at least 5 years. The successful Respondent is required to continuously update Declarations C, D and E with the actual values for the duration of the contract. In addition to what is stated above regarding Annexures D and E, please note that these declarations are to be submitted as part of the Essential Returnable Documents.

Although Annexure D and Annexure E need not be submitted with Proposals, Transnet reserves the right to call for these Supporting Schedules if required.

### **3.4 Challenges meeting the Local Content Threshold**

Should, after the award of a Bid, the Supplier experience challenges in meeting the stipulated minimum threshold for Local Content, Transnet is required to inform the DTI accordingly in order for the DTI to verify the circumstances and provide directives in this regard.

### **3.5 Exchange Rate Verification**

The rate of exchange quoted by the Respondent in the declaration certificates (Annexure B – Declaration Certificate for Local Production & Content [SBD 6.2] and Annexure C – Local Content Declaration: Summary Schedule) will be verified for accuracy as per the requirement of National Treasury Instruction Notes and Circulars.

### **3.6 Local Content Obligations**

Respondents are to note that the Local Content commitments made by the successful Respondent(s) will be incorporated as a term of the contract and monitored for compliance. Should the successful Respondent fail to meet its Local obligations, non-compliance penalties shall be applicable as per the contract or Standard Terms and Conditions of Contract. Breach of Local Content obligations also provide Transnet cause to terminate the contract in certain cases where material non-compliance with Local Content requirements are not achieved.

***Any tenderer that fails to meet the stipulated pre-qualifying criteria will be regarded as an unacceptable tender.***

## **4. Stage Four - Eligibility in terms of the Construction Industry Development Board:**

- a) Only those tenderers who are registered with the CIDB or are capable of being so prior to the evaluation of submissions, in a contractor grading designation equal to

or higher than a contractor grading designation determined in accordance with the sum tendered or a value determined in accordance with Regulation 25 (1B) or 25(7A) of the Construction Industry Development Regulations, designation of **3 GB or higher** class of construction work, are eligible to have their tenders evaluated.

b) Joint Venture (JV)

Joint ventures are eligible to submit tenders subject to the following:

1. every member of the joint venture is registered with the CIDB;
2. the lead partner has a contractor grading designation of **3 GB or higher** class of construction work; and
3. the combined Contractor grading designation calculated in accordance with the Construction Industry Development Regulations is equal to or higher than a Contractor grading designation determined in accordance with the sum tendered for a **3 GB or higher** class of construction work or a value determined in accordance with Regulation 25(1B) or 25(7A) of the Construction Industry Development Regulations
4. The tenderer shall provide a certified copy of its signed joint venture agreement.

***Any tenderer that fails to meet the stipulated pre-qualifying criteria will be regarded as an unacceptable tender.***

**5. Stage Five - Functionality:**

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 70 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.

***Any tenderer that fails to meet the stipulated pre-qualifying criteria will be regarded as an unacceptable tender.***

- C.2.7 The arrangements for a compulsory clarification meeting are as stated in the Tender Notice and Invitation to Tender. **Tenderers must complete and sign the attendance register.** Addenda will be issued to and tenders will only be received from those tendering entities including those entities that intends forming a joint venture appearing on the attendance register.

Tenderers are also **required to bring their RFP document to the briefing session and have their returnable document T2.2-02 Certificate of attendance** signed off by the Employer's authorised representative.

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C.2.12 No alternative tender offers will be considered.

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C.2.13.3 Each tender offer shall be in the **English Language**.

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C.2.13.5 The *Employer's* details and identification details that are to be shown on each tender offer are as follows:

C2.15.1

Identification details:

The tender documents must be uploaded with:

Name of Tenderer:

Contact person and details:

[Nokulunga.Ntloko@transnet.net](mailto:Nokulunga.Ntloko@transnet.net)

The Tender Number: TNPA/2022/09/1185/13496/RFQ

The Tender Description: UPGRADES TO BUILDINGS AND FENCING HOOD POINT LIGHTHOUSE FOR A ONCE-OFF PERIOD

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: **12:00pm** on the **21 October 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. A valid CIDB certificate in the correct designated grading;

4. Proof of registration on the Central Supplier Database;
5. 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

C3.11 The minimum number of evaluation points for functionality is: **70**

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:

#### **Evaluation table to be inserted here.**

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

- T2.2-03 Approach Paper
- T2.2-04 Method Statement
- T2.2-05 Health and Safety Requirements
- T2.2-06 Project Organogram, Management & CV's
- T2.2-07 Tenderer's Experience

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.**

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C.3.11. 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 and 7.

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  $W_1$  tender evaluation points will be awarded to tenderers who complete the preferencing schedule and who are found to be eligible for the preference claimed. **Should the BBBEE 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 any stage from the date of close of the tenders until completion of the contract.

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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,
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- 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 eligibility purposes:

- T2.2-01 **Stage One as per CIDB: Eligibility Criteria Schedule** - Certificate of attendance at Compulsory Tender Clarification Meeting
- T2.2-02 **Stage Two as per PPPFA: Pre-qualification Criteria Schedule** – Exempted Micro Enterprises (EMEs) having a minimum B-BBEE Status level 2
- T2.2-03 **Stage Three as per PPPFA: Eligibility Criteria Schedule** - Declaration Certificate of Local Production and Content (SBD 6.2)
- T2.2-04 **Stage Four as per CIDB: Eligibility Criteria Schedule – 3 GB CIDB registration**

### 2.1.2 Stage Three as per CIDB: these schedules will be utilised for Functionality evaluation purposes:

- T2.2-05 **Evaluation Schedule:** Approach Paper
- T2.2-06 **Evaluation Schedule:** Method Statement
- T2.2-07 **Evaluation Schedule:** Health and Safety Management
- T2.2-08 **Evaluation Schedule:** Project Organogram, Management & CV's
- T2.2-09 **Evaluation Schedule:** Previous experience

### 2.1.3 Returnable Schedules:

#### General:

- T2.2-10 Authority to submit tender
- T2.2-11 Record of addenda to tender documents
- T2.2-12 Letter of Good Standing

#### Agreement and Commitment by Tenderer:

- T2.2-13 CIDB SFU ANNEX G Compulsory Enterprise Questionnaire
- T2.2-14 Non-Disclosure Agreement
- T2.2-15 RFP Declaration Form
- T2.2-16 RFP – Breach of Law
- T2.2-17 Certificate of Acquaintance with Tender Document
- T2.2-18 Service Provider Integrity Pact
- T2.2-19 Supplier Code of Conduct

### 1.3.2 Financial/Insurance:

- T2.2-20 Insurance provided by the Contractor

T2.2- 21 Three (3) years audited financial statements

**1.3.3 Transnet Vendor Registration Form:**

T2.2-22 Transnet Vendor Registration Form

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

**2.3 C1.2 Contract Data**

**2.4 C1.3 Forms of Securities**

**2.5 C2.1 Pricing Instructions Activity Schedule**

**2.6 C2.2 Activity Schedule**

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

### Certificate of Attendance at Tender Clarification Meeting

This is to certify that

.....  
(Company Name)

Represented

.....  
(Name and

by:

Surname)  
.....

Was represented at the compulsory tender clarification meeting

Held at:	.....	
On (date)	.....	Starting time: .....

#### 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 Eligibility Criteria Schedule: B-BBEE Status Level 2 /EME:

In an endeavour to grow and develop Black Owned (BO) companies as well as to ensure that Transnet meets its Shareholder Compact Objectives, Potential Tenderers are required to meet the eligibility criteria of B-BBEE Status Level/EME or QSE/Sub-consulting.

**It is a specific tendering condition that tenderers:**

- Have a minimum B-BBEE status level of 2 or
- Are an EME

**Tenderer to note that any deviations from this list of proposed sub-consultants will be subject to acceptance by the Employer’s Agent in terms of the Conditions of Contract. Please also read the applicable Z Clauses in the Contract Data by Employer.**

Provide information of the Sub-consultants below:

	<b>Name of proposed Sub-consultants</b>	<b>Proposed Subconsultant: National Treasury Central Supplier Database Registration Number</b>	<b>Nature and extent of work</b>	<b>B-BBEEE Certificates or Sworn Affidavit attached to this schedule? Yes/No</b>	<b>Amount of work sub-consulted in Rands (excl. 15% Vat)</b>	<b>Percentage (%) of the subconsulted amount in terms of the tendered total of the prices.</b>
1.						
2.						
3.						
4.						



<b>5.</b>						
<b>6.</b>						
<b>7.</b>						

**The Tenderer is to submit the following documents or copies thereof for each of the proposed sub-consultant(s) with this schedule:**

- Valid B-BBEE Sworn Affidavits or B-BBEE Certificates of each of the proposed sub-consultant(s).

**NOTE TO TENDERERS: FAILURE TO PROVIDE THE ABOVE DOCUMENTS WILL RESULT IN THE NOMINATED SUBCONSULTANT’S PERCENTAGE BEING DISCOUNTED TO ZERO.**

Transnet reserves the right to request additional information of the nominated sub-consultants should it be deemed necessary to verify the compliance to the black ownership percentage or sub-consultant’s entity size. These may include but not limited to;

- Agreement or Letter of Intent confirming the Sub-Consulting Agreement between the tenderer and proposed sub-consultant(s);
- Copies of the identity documents of the members of shareholders of the sub-consultant;
- Copies of the Audited Financial Statements or Income Statement of the sub-consultant.

**Attachments:**

Annexure A - Annexure A SATS 1286\_2011

Annexure C - Local Content Declaration: Summary Schedule

Annexure D - Imported Content Declaration: Supporting Schedule to Annex C

Annexure E - Local Content Declaration: Supporting Schedule to Annex C)].

Annexure F - Guidance Document for the Calculation of Local Content \_Oct2020\_v1

## SBD 6.2

### **T2.2-03: Pre-qualification Criteria Schedule: Declaration of Certificate for Local Production and Content for Designated Sectors**

This Standard Bidding Document (SBD) must form part of all bids invited. It contains general information and serves as a declaration form for local content (local production and local content are used interchangeably).

Before completing this declaration, bidders must study the General Conditions, Definitions, Directives applicable in respect of Local Content as prescribed in the Preferential Procurement Regulations, 2017, the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:2011 (Edition 1) and the Guidance on the Calculation of Local Content together with the Local Content Declaration Templates [Annex C (Local Content Declaration: Summary Schedule), D (Imported Content Declaration: Supporting Schedule to Annex C) and E (Local Content Declaration: Supporting Schedule to Annex C)].

#### **1. General Conditions**

- 1.1. Preferential Procurement Regulations, 2017 (Regulation 8) makes provision for the promotion of local production and content.
- 1.2. Regulation 8.(1) prescribes that in the case of designated sectors, where in the award of bids local production and content is of critical importance, such bids must be advertised with the specific bidding condition that only locally produced goods, services or works or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered.
- 1.3. Where necessary, for bids referred to in paragraph 1.2 above, a two stage bidding process may be followed, where the first stage involves a minimum threshold for local production and content and the second stage price and B-BBEE.
- 1.4. A person awarded a contract in relation to a designated sector, may not sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- 1.5. The local content (LC) expressed as a percentage of the bid price must be calculated in accordance with the SABS approved technical specification number SATS 1286: 2011 as follows:

$$LC = [1 - x / y] * 100$$

Where

- x is the imported content in Rand  
y is the bid price in Rand excluding value added tax (VAT)

Prices referred to in the determination of x must be converted to Rand (ZAR) by using the exchange rate published by South African Reserve Bank (SARB) at 12:00 on the date of advertisement of the bid as indicated in paragraph 4.1 below.

**The SABS approved technical specification number SATS 1286:2011 is accessible on [http://www.thedti.gov.za/industrial\\_development/ip.jsp](http://www.thedti.gov.za/industrial_development/ip.jsp) at no cost.**

- 1.6. A bid may be disqualified if this Declaration Certificate and the Annex C (Local Content Declaration: Summary Schedule) are not submitted as part of the bid documentation;

## 2. Definitions

- 2.1. **"bid"** includes written price quotations, advertised competitive bids or proposals;
  - 2.2. **"bid price"** price offered by the bidder, excluding value added tax (VAT);
  - 2.3. **"contract"** means the agreement that results from the acceptance of a bid by an organ of state;
  - 2.4. **"designated sector"** means a sector, sub-sector or industry that has been designated by the Department of Trade and Industry in line with national development and industrial policies for local production, where only locally produced services, works or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content;
  - 2.5. **"duly sign"** means a Declaration Certificate for Local Content that has been signed by the Chief Financial Officer or other legally responsible person nominated in writing by the Chief Executive, or senior member / person with management responsibility (close corporation, partnership or individual).
  - 2.6. **"imported content"** means that portion of the bid price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its subcontractors) and which costs are inclusive of the costs abroad (this includes labour or intellectual property costs), plus freight and other direct importation costs, such as landing costs, dock duties, import duty, sales duty or other similar tax or duty at the South African port of entry;
  - 2.7. **"local content"** means that portion of the bid price which is not included in the imported content, provided that local manufacture does take place;
  - 2.8. **"stipulated minimum threshold"** means that portion of local production and content as determined by the Department of Trade and Industry; and
  - 2.9. **"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.
3. **The stipulated minimum threshold(s) for local production and content (refer to Annex A of SATS 1286:2011) for this bid is/are as follows:**

Description of services, works or goods

Stipulated minimum threshold



- **Masonry Cement** **100% [one hundred percent]**
- **masonry cement** **100% [one hundred percent]**
- **fasteners) bolts, nuts,rivets & nails)** **100% [one hundred percent]**
- **fence panels** **100% [one hundred percent]**
- **stainless steel brackets** **100% [one hundred percent]**
- **stainless steel door handles** **100% [one hundred percent]**

4. Does any portion of the services, works or goods offered have any imported content?

*(Tick applicable box)*

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

4.1. If yes, the rate(s) of exchange to be used in this bid to calculate the local content as prescribed in paragraph 1.5 of the general conditions must be the rate(s) published by SARB for the specific currency at 12:00 on the date of advertisement of the bid.

The relevant rates of exchange information is accessible on [www.reservebank.co.za](http://www.reservebank.co.za)

Indicate the rate(s) of exchange against the appropriate currency in the table below (refer to Annex A of SATS 1286:2011):

Currency	Rates of exchange
US Dollar	
Pound Sterling	
Euro	
Yen	
Other	

NB: Bidders must submit proof of the SARB rate (s) of exchange used.

5. Where, after the award of a bid, challenges are experienced in meeting the stipulated minimum threshold for local content the dti must be informed accordingly in order for the dti to verify and in consultation with the AO/AA provide directives in this regard.



**LOCAL CONTENT DECLARATION**  
**(REFER TO ANNEX B OF SATS 1286:2011)**

**LOCAL CONTENT DECLARATION BY CHIEF FINANCIAL OFFICER OR OTHER LEGALLY RESPONSIBLE PERSON NOMINATED IN WRITING BY THE CHIEF EXECUTIVE OR SENIOR MEMBER/PERSON WITH MANAGEMENT RESPONSIBILITY (CLOSE CORPORATION, PARTNERSHIP OR INDIVIDUAL)**

**IN RESPECT OF BID NO.**

**ISSUED BY:** TRANSNET NATIONAL PORTS AUTHORITY, LIGHTHOUSE AND NAVIGATIONAL SYSTEMS  
 ON BEHALF OF TRANSNET SOC LTD

NB

- 1 The obligation to complete, duly sign and submit this declaration cannot be transferred to an external authorized representative, auditor or any other third party acting on behalf of the bidder.
- 2 Guidance on the Calculation of Local Content together with Local Content Declaration Templates (Annex C, D and E) is accessible on [http://www.thdti.gov.za/industrial\\_development/ip.jsp](http://www.thdti.gov.za/industrial_development/ip.jsp). Bidders should first complete Declaration D. After completing Declaration D, bidders should complete Declaration E and then consolidate the information on Declaration C. **Declaration C should be submitted with the bid documentation at the closing date and time of the bid in order to substantiate the declaration made in paragraph (c) below.** Declarations D and E should be kept by the bidders for verification purposes for a period of at least 5 years. The successful bidder is required to continuously update Declarations C, D and E with the actual values for the duration of the contract.

I, the undersigned, ..... (full names), do hereby declare, in my capacity as .....of.....(name of bidder entity), the following:

- (a) The facts contained herein are within my own personal knowledge.
- (b) I have satisfied myself that:
  - (i) the goods/services/works to be delivered in terms of the above-specified bid comply with the minimum local content requirements as specified in the bid, and as measured in terms of SATS 1286:2011; and
- (c) The local content percentage (%) indicated below has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E which has been consolidated in Declaration C:

Price of the Designated commodity ..... Ex VAT	R
Imported content (x), as calculated in terms of SATS 1286:2011	R
Stipulated minimum threshold for local content (paragraph 3 above)	
Local content %, as calculated in terms of SATS 1286:2011	

Price of the Designated commodity ..... Ex Vat	R
Imported content (x), as calculated in terms of SATS 1286:2011	R
Stipulated minimum threshold for local content (paragraph 3 above)	
Local content %, as calculated in terms of SATS 1286:2011	

Price of the Designated commodity ..... Ex Vat	R
--	---



Imported content (x), as calculated in terms of SATS 1286:2011	R
Stipulated minimum threshold for local content (paragraph 3 above)	
Local content %, as calculated in terms of SATS 1286:2011	
Price of the Designated commodity ..... Ex Vat	R
Imported content (x), as calculated in terms of SATS 1286:2011	R
Stipulated minimum threshold for local content (paragraph 3 above)	
Local content %, as calculated in terms of SATS 1286:2011	
Price of the Designated commodity ..... Ex Vat	R
Imported content (x), as calculated in terms of SATS 1286:2011	R
Stipulated minimum threshold for local content (paragraph 3 above)	
Local content %, as calculated in terms of SATS 1286:2011	
Price of the Designated commodity ..... Ex Vat	R
Imported content (x), as calculated in terms of SATS 1286:2011	R
Stipulated minimum threshold for local content (paragraph 3 above)	
Local content %, as calculated in terms of SATS 1286:2011	
Price of the Designated commodity ..... Ex Vat	R
Imported content (x), as calculated in terms of SATS 1286:2011	R
Stipulated minimum threshold for local content (paragraph 3 above)	
Local content %, as calculated in terms of SATS 1286:2011	
<p><b>If the bid is for more than one product, the local content percentages for each product contained in Declaration C shall be used instead of the table above. The local content percentages for each product has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E.</b></p>	
<p>(d) I accept that the Procurement Authority / Institution has the right to request that the local content be verified in terms of the requirements of SATS 1286:2011.</p>	
<p>(e) I understand that the awarding of the bid is dependent on the accuracy of the information furnished in this application. I also understand that the submission of incorrect data, or data that are not verifiable as described in SATS 1286:2011, may result in the Procurement Authority / Institution imposing any or all of the remedies as provided for in Regulation 13 of the Preferential Procurement Regulations, 2017 promulgated under the Preferential Policy Framework Act (PPFA), 2000 (Act No. 5 of 2000).</p>	
<b>SIGNATURE:</b> _____	<b>DATE:</b> _____



<b>WITNESS No. 1</b> _____	<b>DATE:</b> _____
<b>WITNESS No. 2</b> _____	<b>DATE:</b> _____

**NOTE TO TENDERERS: Failure to fully complete, declare, sign & date this SBD6.2 Declaration as well as the accompanying Annexure C “local content declaration - summary schedule” may result in the tender submission being non-responsive and disqualified from any further evaluation.**

## **Schedule A – Non-compliance for Local Content**

### **Non-compliance Penalties for Local Content:**

- a) If for any reason the *Contractor* is unable to achieve the local content undertaking, the *Contractor* must approach the Department of Trade and Industry (“DTI”) to obtain exemption in order to supply the goods at a lower local content threshold. The *Contractor* is obliged to approach DTI for exemption within 10 (ten) days of determining that it is unable to achieve any milestone target or local content threshold.
- b) Should the DTI provide exemption, the *Contractor* shall be entitled to provide the goods at the lower local content threshold set by DTI. In such event, the Parties shall in good faith renegotiate the milestone targets or local content undertaking to ensure that the lowered local content thresholds are achieved.
- c) Should DTI not provide the necessary exemption, the *Contractor* shall be obliged to meet each milestone target as stated in the Local Content Plan or the local content undertaking.
- d) Should the *Contractor* fail to meet any milestone target or the local content undertaking, the following remedies shall apply without limiting any of the *Employer’s* other rights in law:
  - i. The *Employer* shall afford the *Contractor* a period of thirty (30) days to remedy its non-compliance.
  - ii. Should the *Contractor* fail to meet its obligations within the further 30 day period, the *Contractor* shall pay a Non-Compliance penalty (“Non-compliance Penalty”) to the *Employer* in respect of such Non-compliance as set out in clause iv below. The penalties shall be imposed per milestone measurement for non-delivery of committed values in the case of a Local Content Plan or shall be imposed against the non-delivery of committed values where local content undertakings must be met immediately.
  - iii. To the extent that the Actual Local Content Spend<sup>1</sup> is lower than the Required Local Content Spend<sup>2</sup> (or the Adjusted Required Local Content Spend<sup>3</sup>, as the case may be), the *Contractor* shall be liable for Penalties which is the difference in value between the Actual Local Content Spend and the Required Local Content Spend (or the Adjusted Required Local Content Spend, as the case may be) plus an additional percentage of such difference. Such Non-compliance Penalties shall be calculated

<sup>1</sup> Actual Local Content Spend means the monetary value of local content initiatives actually delivered by the Supplier during the period under review.

<sup>2</sup> Required Local Content Spend means the monetary value of local content obligations that the Supplier has agreed to deliver during the period under review.

<sup>3</sup> Adjusted Required Local Content Spend means any adjustment to the Required Local Content Spend as prescribed by DTI through the process of exemption referred to in clause c) above and as agreed to between the parties, reduced to writing and signed by the parties.

- and levied at the relevant milestones as stipulated in the Local Content Plan or shall be imposed against the non-delivery of committed values where local content undertakings must be met immediately, in accordance with clause iv below.
- iv. Non-compliance penalties shall apply at the following rate: the difference in value between the Required Local Content Spend and the Actual Local Content Spend, plus 5% of such difference.
  - v. In order to guarantee that the *Contractor* meets its obligations in terms of the Local Content Plan or its committed local content undertaking, the *Employer* shall be entitled to retain a Non-compliance Penalty at the rate of 1% of every monthly payment due by the *Employer* to the *Contractor* over the contract period ("the Local Content Retention Amount"). The Local Content Retention Amount shall be set off against any penalties payable by the *Contractor* at any milestone assessment.
- e) Should no penalties be imposed during the duration of the contract, the *Employer* shall refund the full value of the Local Content Retention Amount to the *Contractor* at the end of the contract period.
- f) Should any unpaid penalties remain at the end of the contract period, then without limiting other rights that the *Employer* may have in law, the *Contractor* shall forfeit the Local Content Retention Amount and shall have no further claim against the *Employer* for the repayment of such amount.

**Non-compliance Penalty Certificate:**

- a) If any Non-compliance Penalty arises, the *Employer* shall issue a Non-compliance Penalty Certificate on the last day of each month during such Non-compliance indicating the Non-compliance Penalties which have accrued during that period.
- b) A Non-compliance Penalty Certificate shall be prima facie proof of the matters to which it relates. If the *Contractor* disputes any of the amounts set out in a Non-compliance Penalty Certificate:
  - the dispute shall be resolved in accordance with the provisions of the Contract; and
  - if pursuant to that referral, it is determined that the *Contractor* owes any amount to the *Employer* pursuant to the Non-compliance Penalty Certificate, then the *Contractor* shall pay such amount to the *Employer* within 10 (ten) Business Days of the determination made pursuant to such determination and an accompanying valid Tax Invoice.

**Payment of Non-compliance Penalties:**

- a) Subject to Clause i) above, the *Contractor* shall pay the Non-compliance Penalty indicated in the Non-compliance Penalty Certificate within 10 (ten) Business Days of the *Employer* issuing a valid Tax Invoice to the *Contractor* for the amount set out in that certificate. If the *Employer* does not issue a valid Tax Invoice to the *Contractor* for Non-compliance Penalties accrued during any relevant period, those Non-compliance Penalties shall be carried forward to the next period.
- b) The *Contractor* shall pay the amount due within 10 (ten) days after receipt of a valid Tax Invoice from the *Employer*, failing which Transnet shall, without prejudice to any other rights of the *Employer* under this Agreement, be entitled to call for payment which may be in any form the *Employer* deems reasonable and appropriate.
- c) It is agreed that the *Employer*, the DTI, the South African Bureau of Standards and/or any of their appointed agents shall be entitled to monitor, evaluate and audit the *Contractor's* compliance with its obligations under the Local Content Plan. To this end, the *Contractor* shall provide its full cooperation to the respective bodies referred to in this clause to ensure that effective monitoring, evaluation and auditing takes place.

The Non Compliance Penalties set forth in this Clause are stated exclusive of VAT. Any VAT payable on Non Compliance Penalties will be for the account of the *Contractor*.

## T2.2-04: Eligibility Criteria Schedule - CIDB Grading Designation

### Note to tenderers:

Tenderers are to indicate their CIDB Grading by filling in the table below. **Attach a copy of the CIDB Grading Designation or evidence of being capable of being so registered.**

CRS Number	Status	Grading	Expiry Date

- Only those tenderers who are registered with the CIDB, or are capable of being so prior to the evaluation of submissions, in a contractor grading designation equal to or higher than a contractor grading designation determined in accordance with the sum tendered or a value determined in accordance with Regulation 25 (1B) or 25(7A) of the Construction Industry Development Regulations, for a **3 GB or higher** class of construction work, are eligible to have their tenders evaluated.

### 7. Joint Venture (JV)

Joint ventures are eligible to submit tenders subject to the following:

- every member of the joint venture is registered with the CIDB;
- the lead partner has a contractor grading designation of not lower than one level one level below the required grading designation in the class of construction works under consideration and possesses the required recognition status; and
- the combined Contractor grading designation calculated in accordance with the Construction Industry Development Regulations is equal to or higher than a Contractor grading designation determined in accordance with the sum tendered for a **3 GB or higher** class of construction work or a value determined in accordance with Regulation 25(1B) or 25(7A) of the Construction Industry Development Regulations
- the Contractor shall provide the employer with a certified copy of its signed joint venture agreement;
- and in the event that the joint venture is an 'Incorporated Joint Venture' the Memorandum of Incorporation to be provided within 4 (four) weeks of the Contract Date.

## T2.2-05: Evaluation Schedule - Approach Paper

The Tenderer to submit an approach paper which responds to the *works* and outlines the proposed approach / methodology.

The Approach Paper should cover:

Project Plan/Schedule to indicate the project duration, start, intermediate milestones and completion. Activity Schedule to be aligned with Works Information. Target Duration = 3 months

### Index of documentation attached to this schedule

	DOCUMENT NAME
<b>1</b>	
<b>2</b>	
<b>3</b>	
<b>4</b>	
<b>5</b>	
<b>6</b>	
<b>7</b>	

The scoring of the approach paper will be as follows:

<b>Elements:</b>		<b>Approach is clearly articulated and based on the Works Information</b>
	<b>Points</b>	<b>10</b>
	<b>Score</b>	
<b>T2.2-04 Approach Paper:</b> Project Plan/Schedule to indicate the project duration, start, intermediate	<b>0</b>	<b>No Submission</b>
	<b>5</b>	Meeting a few requirements and exceeds target duration by more than 1 months
	<b>8</b>	Meeting all requirements and target duration is 3 months
	<b>10</b>	Meeting all requirements and target duration is less than 3 months



milestones and completion. Activity Schedule to be aligned with Works Information. Target Duration = 3 months		
---	--	--

## T2.2-06: 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.

Project specific documents to indicate how the project will be implemented. Activities (as per deliverables on the SOW document) and timelines to be clearly defined.

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

<b>Score</b>	<b>Method Statement</b>	<b>Maximum number of points</b>
<b>Score 0</b>	<b>No submission</b>	<b>10</b>
<b>Score 5</b>	Generic method statement. Method statement do not address the works information specifically; however it addresses the works in general	
<b>Score 5</b>	List covers only some critical components, may not meet minimum required availability	
<b>Score 8</b>	Method statement is vague, ambiguous, incomplete and does not apply directly to the works and addresses between 50% and 70% of the works	
<b>Score 10</b>	Method statement is clear, unambiguous, concise and addresses between 70% to 80% of the works	

## T2.2-07: Evaluation Schedule: Health and Safety Management

The tenderer must submit the following documents as a minimum with the tender submission:

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

Compliance with applicable Health, Safety and Quality requirements and legislation. Submission of the Bidder's detailed and specific Health, Safety and Quality Plans

<b>Score</b>	<b>Health and Safety Management</b>	<b>Maximum number of points</b>
<b>Score 0</b>	<b>No submission</b>	<b>20</b>
<b>Score 5</b>	Generic Plan. H&S Accreditation not available: e.g. ISO, OHSAS or any certificate accreditation by a recognised international body	
<b>Score 10</b>	List covers only some critical components, may not meet minimum required availability	
<b>Score 15</b>	Job specific plan, In line with legislation OR Certification in place for OHSAS 18001 or ISO 14001 accreditation	
<b>Score 20</b>	Job specific plan, in line with legislation and OHS Act. AND Certification in place for OHSAS 18001 or ISO 14001 accreditation	





## T2.2-08: Evaluation Schedule: Project Organogram, Management & CV's

### Note to tenderers:

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:

#### 2.1 Onsite Construction Supervisor

- The roles and responsibilities for the *works* of each resource should be clearly stated.
- Detailed experience in this specific construction activity and positions held, such as recent assignments inclusive of total duration that has a bearing on the scope of work.
- Must speak to the Project Plan, H&S Plan and Methodology.

#### 2.2 Onsite Construction Health, Safety and Environmental practitioner

- The roles and responsibilities for the *works* of each resource should be clearly stated.
- Detailed experience in this specific construction activity and positions held, such as recent assignments inclusive of total duration that has a bearing on the scope of work.
- Must speak to the Project Plan, H&S Plan and Methodology.

### Index of documentation attached to this schedule

	DOCUMENT NAME
<b>1</b>	
<b>2</b>	
<b>3</b>	
<b>4</b>	
<b>5</b>	
<b>6</b>	
<b>7</b>	

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<b>No.</b>	<b>Key Persons</b>	<b>Name and Surname</b>	<b>CV attached (Yes/No)</b>
1	Onsite Construction Supervisor		
2	Onsite Construction Health, Safety and Environmental practitioner		
3	Other:		

The table below will be used as guidelines for scoring / evaluating the management and CV's of key persons submitted by the Tenderer:

	<b>Proposed Organisation Staffing (30)</b>
<b>Score 0</b>	Failed to provide information or inadequate information provided to determine a score.
<b>Score 20</b>	Key staff does not have suitable levels of relevant experience and qualifications or equivalent specialized training. Inadequate organisation chart,  Incomplete list of Key staff and management structure. No details of the location and functions of offices where the work will be managed.
<b>Score 40</b>	Key staff has limited recommended levels of relevant experience and qualifications (from 1 but less than 3 years' experience). Organisation chart show incomplete list of Key staff and management structure. Details of the location where the work will be managed are defined but functions of offices are not defined.
<b>Score 60</b>	Key staff has acceptable levels of relevant experience (from 3 up to 5 years' experience). Organisation chart showing onsite and off-site management but not all Key staff have reasonable experience of issues pertinent to the project. The education, training and skills of the assigned staff in the specific sector, field, subject, etc. which is directly linked to the scope of work. Proof of education and training must be attached to the C.V. Details of the location where the work will be managed are defined but functions of offices are not clearly defined
<b>Score 80</b>	All Key staff have acceptable levels of relevant experience. Organisation chart showing onsite and off-site management and Key staff have adequate experience of issues pertinent to the project (more than 5 but up to to 8 years' experience). The education, training and skills of the assigned staff in the specific sector, field, subject, etc. which is directly linked to the scope of work. Proof of education and training must be attached to the C.V. Details of the location and functions of offices from which the works will be managed are clearly defined.



<b>Score 100</b>	<p>All Key staff have highly acceptable levels of relevant experience (more than 8 years’ experience). Organisation chart showing onsite and off-site management and Key staff have reasonable experience of issues pertinent to the project. The education, training, and skills of the assigned staff in the specific sector, field, subject, etc. which is directly linked to the scope of work. Proof of education and training must be attached to the C.V. Details of the location and functions of offices from which the works will be managed are clearly defined. All relevant and required professional registration/certification are provided.</p>
------------------	---

The undersigned, who warrants that he / she is duly authorised to do so on behalf of the enterprise, confirms that the contents of this schedule are within my personal knowledge and are to the best of my belief both true and correct.

Signed		Date
_____		_____
Name		Position
_____		_____
Tenderer	_____	



## T2.2-09: Evaluation Schedule: Tenderer’s Experience

### Note to tenderers:

Tenderers are required to demonstrate performance in comparable projects of similar size and nature by supplying the following:

Tenderer's experience with respect to Building Works involving renovations to multistory Buildings and working at heights.

### Index of documentation attached to this schedule

	DOCUMENT NAME
<b>1</b>	
<b>2</b>	
<b>3</b>	
<b>4</b>	
<b>5</b>	
<b>6</b>	
<b>7</b>	

Score	Tenderer’s Experience	Maximum number of points
<b>0</b>	<b>No experience</b>	<b>30</b>
<b>5</b>	1-4 projects successfully carried out of similar works/multi storey buildings)	
<b>15</b>	5-7 projects successfully carried out of similar works/multi storey buildings	
<b>30</b>	More than 7 projects successfully carried out of similar works/multi storey buildings	



---

## T2.2-09 Letter/s of Good Standing with the Workmen's Compensation Fund

Attached to this schedule is the Letter/s of Good Standing.

1.

Name of Company/Members of Joint Venture:

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....



## T2.2-10: 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

### A. Certificate for Company

I, \_\_\_\_\_ chairperson of the board of directors \_\_\_\_\_  
\_\_\_\_\_, 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.

<b>Name of firm</b>	<b>Address</b>	<b>Authorising signature, name (in caps) and capacity</b>



---

**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

---

## T2.2-11: Record of Addenda to Tender Documents

This schedule as submitted confirms that the following communications received from the *Employer* before the submission of this tender offer, amending the tender documents, have been taken into account in this specific tender offer:

	<b>Date</b>	<b>Title or Details</b>
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		



---

## **T2.2-12 Letter/s of Good Standing with the Workmen’s Compensation Fund**

Attached to this schedule is the Letter/s of Good Standing.

1.

Name of Company/Members of Joint Venture:

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....



**T2.2-13: ANNEX G 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.

- 1. **Section 1: Name of enterprise:** \_\_\_\_\_
- 2. **Section 2: VAT registration number, if any:** \_\_\_\_\_
- 3. **Section 3: CIDB registration number, if any:** \_\_\_\_\_
- 4. **Section 4: CSD number:** \_\_\_\_\_
- 5. **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

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

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

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

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

<p><b>Section 7: The attached SBD4 must be completed for each tender and be attached as a tender requirement.</b></p>
<p><b>Section 8: The attached SBD 6 must be completed for each tender and be attached as a requirement.</b></p>
<p><b>Section 9: The attached SBD8 must be completed for each tender and be attached as a requirement.</b></p>



**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>4</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.

---

<sup>4</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.

**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>5</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:

\_\_\_\_\_

\_\_\_\_\_

<sup>5</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.

---

**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?

**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:

---

---

---

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.

---

---

---

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:

---

---

---





**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 IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017**

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

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

**NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017.**

**1. GENERAL CONDITIONS**

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

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

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

1.3 Preference points for this bid shall be awarded for:

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

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

	<b>POINTS</b>
<b>PRICE</b>	<b>80/20</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 proof of B-BBEE status level of contributor together with the bid will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

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

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required by the purchaser.

## 2. DEFINITIONS

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

## 3. POINTS AWARDED FOR PRICE

### 3.1 THE 80/20 PREFERENCE POINT SYSTEMS

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

80/20

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

Where

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

$P_t$  = Comparative price of bid under consideration

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

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

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

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

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

Enterprise	B-BBEE Certificate & Sworn Affidavit
Large	Certificate issued by SANAS accredited verification agency
QSE	Certificate issued by SANAS accredited verification agency Sworn Affidavit signed by the authorised QSE representative and attested by a Commissioner of Oaths confirming annual turnover and black ownership (only black-owned QSEs - 51% to 100% Black owned) [Sworn affidavits must substantially comply with the format that can be obtained on the DTI's website at <a href="http://www.dti.gov.za/economic_empowerment/bee_codes.jsp">www.dti.gov.za/economic_empowerment/bee_codes.jsp</a> .]



<b>EME<sup>6</sup></b>	<p>Sworn Affidavit signed by the authorised EME representative and attested by a Commissioner of Oaths confirming annual turnover and black ownership</p> <p>Certificate issued by CIPC (formerly CIPRO) confirming annual turnover and black ownership</p> <p>Certificate issued by SANAS accredited verification agency only if the EME is being measured on the QSE scorecard</p>
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- 4.3 A trust, consortium or joint venture (including unincorporated consortia and joint ventures) must submit a consolidated B-BBEE Status Level verification certificate for every separate bid.
- 4.4 Tertiary Institutions and Public Entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- 4.5 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.
- 4.6 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.
- 4.7 Bidders are to note that the rules pertaining to B-BBEE verification and other B-BBEE requirements may be changed from time to time by regulatory bodies such as National Treasury or the DTI. It is the Bidder’s responsibility to ensure that his/her bid complies fully with all B-BBEE requirements at the time of the submission of the bid.

**5. BID DECLARATION**

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

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

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

<sup>6</sup> In terms of the Implementation Guide: Preferential Procurement Regulations, 2017, Version 2, paragraph 11.11 provides that in the Transport Sector, EMEs can provide a letter from accounting officer or get verified and be issued with a B-BBEE certificate by SANAS accredited professional or agency as the Transport Sector Code has not been aligned to the generic Codes. EMEs in the Transport Sector are not allowed to provide a sworn affidavit as the generic codes are not applicable to them.



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

**7. SUB-CONTRACTING**

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

(*Tick applicable box*)

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

7.1.1 If yes, indicate:

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

(*Tick applicable box*)

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

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

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

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

- 8.1 Name of company/firm:.....
- 8.2 VAT registration number:.....
- 8.3 Company registration number:.....
- 8.4 TYPE OF COMPANY/ FIRM

Partnership/Joint Venture / Consortium



- One person business/sole propriety
- Close corporation
- Company
- (Pty) Limited

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....  
.....  
.....

8.6 COMPANY CLASSIFICATION

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

[TICK APPLICABLE BOX]

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

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

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If a bidder submitted false information regarding its B-BBEE status level of contributor, local production and content, or any other matter required in terms of the Preferential Procurement Regulations, 2017 which will affect or has affected the evaluation of a bid, or where a bidder has failed to declare any subcontracting arrangements or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have
  - (a) disqualify the person from the bidding process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
  - (d) if the successful bidder subcontracted a portion of the bid to another



person without disclosing it, Transnet reserves the right to penalise the bidder up to 10 percent of the value of the contract;

- (e) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the audi alteram partem (hear the other side) rule has been applied; and
- (f) forward the matter for criminal prosecution.

WITNESSES 1. .... 2. ....
---------------------------------

..... SIGNATURE(S) OF BIDDERS(S) DATE: .....
--

**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?	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>

	<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>		
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:		



**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

## **CERTIFICATE OF INDEPENDENT BID DETERMINATION**

1. This Standard Bidding Document (SBD) must form part of all bids/quotes<sup>7</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>8</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>7</sup> Includes price quotations, advertised competitive bids, limited bids and proposals.

<sup>8</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

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**SBD 9**

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>9</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:
  - (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.

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<sup>9</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.



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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.

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Signature

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Date

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Position

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Name of bidder



## T2.2-15 NON-DISCLOSURE AGREEMENT

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

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

**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 2nd Floor, Waterfall Business Estate, 9 Country Estate Drive, Midrand, 1662, 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 Tender 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 (hereinafter Tender) 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 Tender or for the subsequent performance of any contract between the parties in relation to the Tender.**

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**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:**

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- 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 Tender 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 Tender 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 Tender 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 Tender  
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 Tender and against accidental loss or destruction of, or  
damage to such data held or processed by them.**



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## 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.

Signed

Date

Name

Position

Tenderer



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## T2.2-16: 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:

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

Indicate nature of relationship with Transnet:

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

*[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).



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- 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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## T2.2-17: 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 TENDER

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## T2.2-18 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

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## **T2.2-19 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")

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## **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.

## **5 Objectives**

**6 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.

## **7 Commitments of Transnet**

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

**8 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.**

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**9 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.**

**10 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.**

**11 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.**

**12 Obligations of the Tenderer / Service Provider**

**13 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.**

**14 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.

**15 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.**

**16 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.**

**17 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.**

**18 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.**

**19 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.**

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**20 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.**

**21 The Tenderer/Service Provider/Contractor will not instigate third persons to commit offences outlined above or be an accessory to such offences.**

**22 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.**

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## **23 Independent Tendering**

**24 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.

**25 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.**

**26 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.

**27 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.**

**28 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.**

**29 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.**

**30 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.**

**31 Disqualification from Tendering Process**

**32 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.**

**33 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.**

**34 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.**

**35 TrANSNET'S LIST OF EXCLUDED TENDERERS (BLACKLIST)**

**36 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.**

**37 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.**



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**38 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.**

**39 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.**

**40 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.**

**41 A Service Provider or Contractor to Transnet may not subcontract any portion of the contract to a blacklisted company.**

**42 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.

**43** 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.

**44** 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.

**45** Previous Transgressions

**46** 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.

**47** 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.)

**48** Sanctions for Violations

**49** 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.

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## **50 Conflicts of Interest**

### **51 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.

### **52 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.

### **53 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 ("RFQ") declaration form; or
- b) must notify Transnet immediately in writing once the circumstances has arisen.

### **54 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.**

## **55 Dispute Resolution**

**56 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 35 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.

**57 General**

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

**59 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.**

**60 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.**

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

**62 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.**

**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 .....**

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## T2.2-20: 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



## T2.2-21: Insurance provided by the *Contractor*

Clause 84.1 in NEC3 Engineering & Construction Contract (June 2005)(amended June 2006 and April 2013) requires that the *Contractor* provides the insurance stated in the insurance table except any insurance which the *Employer* is to provide as stated in the Contract Data.

Please provide the following details for insurance which the *Contractor* is still to provide. Notwithstanding this information all costs related to insurance are deemed included in the tenderer's rates and prices.

<b>Insurance against (See clause 84.2 of the ECC)</b>	<b>Name of Insurance Company</b>	<b>Cover</b>	<b>Premium</b>
Liability for death of or bodily injury to employees of the <i>Contractor</i> arising out of and in the course of their employment in connection with this contract			
Motor Vehicle Liability Insurance comprising (as a minimum) "Balance of Third Party" Risks including Passenger and Unauthorised Passenger Liability indemnity with a minimum indemnity limit of R5 000 000.			
Insurance in respect of loss of or damage to own property and equipment.			



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## **T2.2-22: Three (3) years audited financial statements**

Attached to this schedule is the last three (3) years audited financial statements of the single tenderer/members of the Joint Venture.

NAME OF COMPANY/IES and INDEX OF ATTACHMENTS:

.....

.....

.....

.....

.....

.....

.....



## 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:

### UPGRADES TO BUILDINGS AND FENCING HOOD POINT LIGHTHOUSE

The tenderer, identified in the Offer signature block, has

<i>either</i>	examined the documents listed in the Tender Data and addenda thereto as listed in the Returnable Schedules, and by submitting this Offer has accepted the Conditions of Tender.
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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 *Contractor* 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	<b>R</b>
Value Added Tax @ 15% is	<b>R</b>
The offered total of the Prices inclusive of VAT is	<b>R</b>
(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 *Contractor* in the *conditions of contract* identified in the Contract Data.



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Signature(s)

Name(s)

Capacity

**For the  
tenderer:**

*(Insert name and address of organisation)*

Name &  
signature of  
witness

Date

Tenderer's CIDB registration number:

## 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 *Contractor* 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 Work: Works Information
  
- Part C4            Site Information

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 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



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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 when the tenderer receives one fully completed original copy of this document, including the Schedule of Deviations (if any).



Unless the tenderer (now *Contractor*) 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

*(Insert name and address of organisation)*

Name &  
signature of  
witness

Date



## Schedule of Deviations

Note:

1. To be completed by the Employer prior to award of contract. This part of the Offer & Acceptance would not be required if the contract has been developed by negotiation between the Parties and is not the result of a process of competitive tendering.
2. The extent of deviations from the tender documents issued by the Employer prior to the tender closing date is limited to those permitted in terms of the Conditions of Tender.
3. A tenderer's covering letter must not be included in the final contract document. Should any matter in such letter, which constitutes a deviation as aforesaid be the subject of agreement reached during the process of Offer and Acceptance, the outcome of such agreement shall be recorded here and the final draft of the contract documents shall be revised to incorporate the effect of it.

No.	Subject	Details
1		
2		
3		
4		
5		

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.



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FOR THE TENDERER:

FOR THE EMPLOYER

Signature

Name

Capacity

On behalf *(Insert name and address of*  
of *organisation)*

Transnet SOC Ltd

Name &  
signature  
of witness

Date

## C1.2 Contract Data

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

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	Statement	Data
1	<p><b>General</b></p> <p>The <i>conditions of contract</i> are the core clauses and the clauses for main Option</p>	<p><b>A: Priced contract with activity schedule</b></p>
	<p>dispute resolution Option</p> <p>and secondary Options</p>	<p><b>W1: Dispute resolution procedure</b></p> <p><b>X1: Price adjustment for inflation</b></p> <p><b>X2 Changes in the law</b></p> <p><b>X3: Multiple currencies</b></p> <p><b>X4: Parent company guarantee</b></p> <p><b>X5: Sectional Completion</b></p> <p><b>X7: Delay damages</b></p> <p><b>X13: Performance Bond</b></p> <p><b>X16: Retention</b></p> <p><b>X18: Limitation of liability</b></p>

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**X20: Key performance indicators**  
**Z1: Local Content**  
**Z6 Additional obligations in respect of Termination**  
**Z7 Right Reserved by the Employer to Conduct Vetting through SSA**  
**Z8 Additional Clause Relating to Collusion in the Construction Industry**  
**Z9 Protection of Personal Information Act**  
**Z10 BBEE Clauses**

of the NEC3 Engineering and Construction Contract June 2005 (amended June 2006 and April 2013)

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10.1 The *Employer* is:

**Transnet SOC Ltd**  
**(Registration No. 1990/000900/30)**

Address

Registered address:  
**Transnet National Ports Authority**  
**Lighthouse and Navigational Systems**  
**100 Beach Road**  
**Green Point**  
**8005**

Having elected its Contractual Address for the purposes of this contract as:

**Transnet National Ports Authority**  
**Lighthouse and Navigational Systems**  
**100 Beach Road**  
**Green Point**  
**8005**

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10.1 The *Project Manager* is: **Siva Moodley**  
(Name)

Address

**4 Bayhead Road**  
**LNS Workshop**  
**Durban**  
**4000**

	Tel	<b>083 388 9513</b>
	e-mail	<a href="mailto:Siva.Moodley@transnet.net">Siva.Moodley@transnet.net</a>
10.1	The <i>Supervisor</i> is: (Name)	<b>Siva Moodley</b>
	Address	<b>LNS Workshop 4 Bayhead Road Maydon Wharf Durban 4001</b>
	Tel No.	<b>083 388 9513</b>
	e-mail	<a href="mailto:Siva.Moodley@transnet.net">Siva.Moodley@transnet.net</a>
11.2(13)	The <i>works</i> are )	<b>UPGRADES TO BUILDINGS AND FENCING HOOD POINT LIGHTHOUSE</b>
11.2(14)	The following matters will be included in the Risk Register )	<b>TBA</b>
11.2(15)	The <i>boundaries of the site</i> are )	<b>As stated in Scope of Works</b>
11.2(16)	The Site Information is in )	<b>Part C3 – Scope of Work</b>
11.2(19)	The Works Information is in )	<b>Part C3 – Scope of Work</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 weeks</b>
2	The <i>Contractor's</i> main responsibilities	<b>No additional data is required for this section of the <i>conditions of contract</i>.</b>
3	Time	

11.2(3) The *completion date* for the **TBA** whole of the *works* is

11.2(9) The *key dates* and the **Condition to be met** *key date conditions* to be met are:

**1**

**2**

**3**

30.1 The *access dates* are **Part of the Site** **Date**

**1**

**2**

**3**

31.1 The *Contractor* is to submit a **2 weeks of the Contract Date.** first programme for acceptance within

31.2 The *starting date* is **TBC**

32.2 The *Contractor* submits revised programmes at **2 weeks.** intervals no longer than

35.1 The *Employer* is not willing to take over the *works* before the Completion Date.

**4 Testing and Defects**

42.2 The *defects date* is **52 (fifty two) weeks after Completion of the whole of the *works*.**

43.2 The *defect correction period* is **2 weeks**

**5 Payment**

50.1 The *assessment interval* is **25<sup>th</sup> (twenty fifth) day of each successive month.** monthly on the

51.1 The *currency of this contract* is **South African Rand.** the



51.2	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>
51.4	The <i>interest rate</i> is	<b>the prime lending rate of Standard Bank of South Africa.</b>
6	<b>Compensation events</b>	
60.1(13 )	The <i>weather measurements</i> to be recorded for each calendar month are,	<p><b>the cumulative rainfall (mm)</b></p> <p><b>the number of days with rainfall more than 10 mm</b></p> <p><b>the number of days with minimum air temperature less than 0 degrees Celsius</b></p> <p><b>the number of days with snow lying at 08:00 hours South African Time</b></p>
	The place where weather is to be recorded (on the Site) is:	<b>Hood Point Lighthouse</b>
	The <i>weather data</i> are the records of past <i>weather measurements</i> for each calendar month which were recorded at:	<b>TBA</b>
	and which are available from:	<b>South African Weather Service 012 367 6023 or <a href="mailto:info3@weathersa.co.za">info3@weathersa.co.za</a>.</b>
7	<b>Title</b>	<b>No additional data is required for this section of the <i>conditions of contract</i>.</b>
8	<b>Risks and insurance</b>	



80.1 These are additional .....  
Employer's risks .....  
.....

84.1 The Employer provides these insurances from the Insurance Table

1 Insurance against: **Loss of or damage to the works, Plant and Materials is as stated in the Insurance policy for Contract Works/ Public Liability.**

Cover / indemnity: **to the extent as stated in the insurance policy for Contract Works / Public Liability**

The deductibles are: **as stated in the insurance policy for Contract Works / Public Liability**

2 Insurance against: **Loss of or damage to property (except the works, Plant and Materials & Equipment) and liability for bodily injury to or death of a person (not an employee of the Contractor) arising out of or in connection with the performance of the Contract as stated in the insurance policy for Contract Works / Public Liability**

Cover / indemnity **Is to the extent as stated in the insurance policy for Contract Works / Public Liability**

The deductibles are **as stated in the insurance policy for Contract Works / Public Liability**

3 Insurance against: **Loss of or damage to Equipment (Temporary Works only) as stated in the insurance policy for contract Works and Public Liability**

	Cover / indemnity	<b>Is to the extent as stated in the insurance policy for Contract Works / Public Liability</b>
	The deductibles are:	<b>As stated in the insurance policy for Contract Works / Public Liability</b>
4	Insurance against:	<b>Contract Works SASRIA insurance subject to the terms, exceptions and conditions of the SASRIA coupon</b>
	Cover / indemnity	<b>Cover / indemnity is to the extent provided by the SASRIA coupon</b>
	The deductibles are	<b>The deductibles are, in respect of each and every theft claim, 0,1% of the contract value subject to a minimum of R2,500 and a maximum of R25,000.</b>
	Note:	<b>The deductibles for the insurance as stated above are listed in the document titled "Certificate of Insurance: Transnet (SOC) Limited Principal Controlled Insurance."</b>

84.1 The minimum limit of indemnity for insurance in respect of death of or bodily injury to employees of the *Contractor* arising out of and in the course of their employment in connection with this contract for any one event is

**The *Contractor* must comply at a minimum with the provisions of the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993 as amended.**

The *Contractor* provides these additional Insurances

**1 Where the contract requires that the design of any part of the *works* shall be provided by the *Contractor* the *Contractor* shall satisfy the *Employer* that professional indemnity insurance cover in connection therewith has been affected**

- 
- 2 Where the contract involves manufacture, and/or fabrication of Plant & Materials, components or other goods to be incorporated into the *works* at premises other than the site, the *Contractor* shall satisfy the *Employer* that such plant & materials, components or other goods for incorporation in the *works* are adequately insured during manufacture and/or fabrication and transportation to the site.**
  
  - 3 Should the *Employer* have an insurable interest in such items during manufacture, and/or fabrication, such interest shall be noted by endorsement to the *Contractor's* policies of insurance as well as those of any sub-contractor**
  
  - 4 Motor Vehicle Liability Insurance comprising (as a minimum) "Balance of Third Party" Risks including Passenger and Unauthorised Passenger Liability indemnity with a minimum indemnity limit of R 5 000 000.**

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**7 The insurance coverage referred to in 1, 2, 3, 4, above shall be obtained from an insurer(s) in terms of an insurance policy approved by the Employer. The Contractor shall arrange with the insurer to submit to the Project Manager the original and the duplicate original of the policy or policies of insurance and the receipts for payment of current premiums, together with a certificate from the insurer or insurance broker concerned, confirming that the policy or policies provide the full coverage as required. The original policy will be returned to the Contractor.**

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84.2 The minimum limit of indemnity for insurance in respect of loss of or damage to property (except the works, Plant, Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the Contractor) caused by activity in connection with this contract for any one event is

**Whatever the Contractor requires in addition to the amount of insurance taken out by the Employer for the same risk.**

84.2 The insurance against loss of or damage to the works, Plant and Materials as stated in the insurance policy for contract works and public liability selected from:

**Principal Controlled Insurance policy for Contract OR Project Specific Insurance for the contract**

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**Termination**

**There is no additional Contract Data required for this section of the conditions of contract.**

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**10 Data for main Option clause**

	<b>Priced contract with Activity Schedule</b>	<b>No additional data is required for this Option.</b>
<b>11</b>	<b>Data for Option W1</b>	
W1.1	The <i>Adjudicator</i> is	<b>Both parties will agree 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 will appoint an <i>Adjudicator</i>.</b>
W1.2(3)	The <i>Adjudicator nominating body</i> is:  If no <i>Adjudicator nominating body</i> is entered, it is:	<b>The Chairman of the Association of Arbitrators (Southern Africa)</b>  <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 Rules for the Conduct of Arbitrations of the Association of Arbitrators (Southern Africa)</b>
	The place where arbitration is to be held is	<b>Cape Town, South Africa</b>
	The person or organisation who will choose an arbitrator - if the Parties cannot agree a choice or - if the arbitration procedure does not state who selects an arbitrator, is	<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>	<b>No additional data is required for this Option</b>
<b>X7</b>	<b>Delay damages</b>	
X7.1	Delay damages for Completion of the whole of the <i>works</i> are	<b>per day</b>

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**X16 Retention**

X16.1 The retention free amount is **Nil**

The retention percentage is **10% on all payments certified.**

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**X18 Limitation of liability**

X18.1 The *Contractor's* liability to the *Employer* for indirect or consequential loss is limited to: **Nil (this is the default position depending on a risk assessment; therefore this can go up to Total of the Prices)**

X18.2 For any one event, the *Contractor's* liability to the *Employer* for loss of or damage to the *Employer's* property is limited to: **The deductible of the relevant insurance policy**

X18.3 The *Contractor's* liability for Defects due to his design which are not listed on the Defects Certificate is limited to: **The cost of correcting the Defect**

X18.4 The *Contractor's* total liability to the *Employer* for all matters arising under or in connection with this contract, other than excluded matters, is limited to: **The Total of the Prices**

X18.5 The *end of liability date* is **5 years after Completion of the whole of the works**

**Z.1 Local Production and Content Obligations (If applicable)**

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- Z1.1 In terms of Local Production and Content (SBD 6.2), Annexure A and Annexure C of the Returnable Schedule T2.1 Eligibility Criteria Schedule: Declaration Certificate of Local Production and Content, the Contractor has undertaken to fulfil its obligations of the Local Production and Content for the following designated sectors: Masonry Cement - 100% and Gutters and down pipes -100%
- Z1.2 The Contractor is required to note that the Employer, the Department of Trade and Industry [DTI] and/or the body appointed by the DTI as the verification authority for local content may conduct compliance audits with regard to the Local Production and Content requirements as prescribed in Regulation 8 of the Preferential Procurement Regulations, 2017 issued in terms of the Preferential Procurement Policy Framework Act no. 5 of 2000.
- Z2.4 The Contractor is required to continuously update Declarations C, D and E of the Local Production and Content Declaration commitments with the actual local content values for the duration of the contract.  
The Contractor shall report to the Employer on a monthly basis during the term of the Contract, the amounts spend on Local Production and Content for the designated sectors for the duration of the contract.
- Z1.4 The Contractor must refer to Schedule A attached to the Returnable Schedule T2.1 Eligibility Criteria Schedule: Declaration Certificate of Local Production and Content concerning non-compliance penalties applicable to Local Production and Content.

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Z1.5 Breach of Local Production and Content commitments provides the Employer cause to terminate the contract.

**Z6 Additional obligations in respect of Termination**

**Z6.1 The following will be included under core clause 91.1:**

**In the second main bullet, after the word 'partnership' add 'joint venture whether incorporate or otherwise (including any constituent of the joint venture)' and**

**Under the second main bullet, insert the following additional bullets after the last sub-bullet:**

- **commenced business rescue proceedings (R22)**
- **repudiated this Contract (R23)**

**Z6.2 Termination Table The following will be included under core clause 90.2 Termination Table as follows:**

**Amend "A reason other than R1 – R21" to "A reason other than R1 – R23"**

**Z6.3 Amend "R1 – R15 or R18" to "R1 – R15, R18, R22 or R23."**

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**Z7 Right Reserved by the Employer to Conduct Vetting through SSA**

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**Z7.1**

The *Employer* reserves the right to conduct vetting through State Security Agency (SSA) for security clearances of any *Contractor* who has access to National Key Points for the following without limitations:

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.
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.
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.

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**Z8 Additional Clause Relating to Collusion in the Construction Industry**

**Z8.1**

The contract award is made without prejudice to any rights the *Employer* may have to take appropriate action later with regard to any declared tender rigging including blacklisting.

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**Z9 Protection of Personal Information Act**

**Z9.1** *The Employer and the Contractor are required to process information obtained for the duration of the Agreement in a manner that is aligned to the Protection of Personal Information Act.*

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**Z10 BBEE Clauses**

**Z10.1** Insert additional clause 27.7.  
**27.7.1.** *The Employer encourages its Contractors to constantly strive to improve their B-BBEE Contributor Status Levels.*



## C1.2 Contract Data

### Part two - Data provided by the Contractor

The tendering *Contractor* is advised to read both the NEC3 Engineering and Construction Contract - June 2005 (with amendments June 2006 and April 2013) and the relevant parts of its Guidance Notes (ECC3-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 156 to 158 of the ECC3 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>Contractor</i> is (Name):	
	Address	
	Tel No.	
	Fax No.	
11.2(8)	The <i>direct fee percentage</i> is	%
	The <i>subcontracted fee percentage</i> is	%
11.2(18)	The <i>working areas</i> are the Site and	
24.1	The <i>Contractor's</i> key persons are:	
	1 Name:	
	Job:	
	Responsibilities:	
	Qualifications:	
	Experience:	
	2 Name:	
	Job	



	Responsibilities:	
	Qualifications:	
	Experience:	
		<b>CV's (and further key persons data including CVs) are appended to Tender Schedule entitled .</b>
11.2(14)	The following matters will be included in the Risk Register	
31.1	The programme identified in the Contract Data is	
<b>A</b>	<b>Priced contract with activity schedule</b>	
11.2(20)	The <i>activity schedule</i> is in	
11.2(30)	The tendered total of the Prices is	<b>(in figures)</b>  <b>(in words), excluding VAT</b>
<b>B</b>	<b>Priced contract with bill of quantities</b>	
11.2(21)	The <i>bill of quantities</i> is in	
11.2(31)	The tendered total of the Prices is	(in figures)  (in words), excluding VAT
	<b>Data for Schedules of Cost Components</b>	<i>Note "SCC" means Schedule of Cost Components starting on page 60 of ECC, and "SSCC" means Shorter Schedule of Cost Components starting on page 63 of ECC.</i>
<b>A</b>	<b>Priced contract with activity schedule</b>	<b>Data for the Shorter Schedule of Cost Components</b>



41	in	The percentage for people overheads is:	<b>%</b>		
21	in	The published list of Equipment is the last edition of the list published by			
		The percentage for adjustment for Equipment in the published list is	<b>% (state plus or minus)</b>		
22	in	The rates of other Equipment are:	<b>Equipment</b>	<b>Size or capacity</b>	<b>Rate</b>
61	in	The hourly rates for Defined Cost of design outside the Working Areas are	<b>Category of employee</b>		<b>Hourly rate</b>
62	in	The percentage for design overheads is	<b>%</b>		
63	in	The categories of design employees whose travelling expenses to and from the Working Areas are included in Defined Cost are:			

<b>B</b>	<b>Priced contract with bill of quantities</b>	<b>Data for the Shorter Schedule of Cost Components</b>
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41	in	The percentage for people overheads is:	<b>%</b>		
21	in	The published list of Equipment is the last edition of the list published by			
		The percentage for adjustment for Equipment in the published list is	<b>% (state plus or minus)</b>		
22	in	The rates of other Equipment are:	<b>Equipment</b>	<b>Size or capacity</b>	<b>Rate</b>
61	in	The hourly rates for Defined Cost of design outside the Working Areas are	<b>Category of employee</b>		<b>Hourly rate</b>
62	in	The percentage for design overheads is	<b>%</b>		
63	in	The categories of design employees whose travelling expenses to and from the Working Areas are included in Defined Cost are:			





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## PART 2: PRICING DATA

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

## C2.1 Pricing Instructions: Option A

### The *conditions of contract*

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

Clause 11 in NEC3 Engineering and Construction Contract, June 2005, (with amendments June 2006 and April 2013) (ECC) Option A states:

**Identified and defined terms** 11

11.2 (20) The Activity Schedule is the *activity schedule* unless later changed in accordance with this contract.

(22) Defined Cost is the cost of the components in the Shorter Schedule of Cost Components whether work is subcontracted or not excluding the cost of preparing quotations for compensation events.

(27) The Price for Work Done to Date is the total of the Prices for

- each group of completed activities and
- each completed activity which is not in a group

A completed activity is one which is without Defects which would either delay or be covered by immediately following work.

(30) The Prices are the lump sums for each of the activities on the Activity Schedule unless later changed in accordance with this contract.

### Measurement and Payment

- 1.2.1 The Activity Schedule provides the basis of all valuations of the Price for Work Done to Date, payments in multiple currencies, price adjustments for inflation and general progress monitoring.
- 1.2.2 The amount due at each assessment date is based on **completed activities and/or milestones** as indicated on the Activity Schedule.
- 1.2.3 The Activity Schedule work breakdown structure provided by the *Contractor* 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. The activity schedule work breakdown structure is compiled to the satisfaction of the *Project Manager* with any additions and/or amendments deemed necessary.

- 
- 1.2.4 The *Contractor's* 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.
- 1.2.5 The short descriptions in the Activity Schedule are for identification purposes only. All work described in the Works Information is deemed included in the activities.
- 1.2.6 The Activity Schedule is integrated with the Prices, Accepted Programme and where required the forecast rate of payment schedule.
- 1.2.7 Activities in multiple currencies are separately identified on both the Activity Schedule and the Accepted Programme for each currency.
- 1.2.8 The tendered total of the prices as stated in the Contract Data is obtained from the Activity Schedule summary. The tendered total of the prices includes for all direct and indirect costs, overheads, profits, risks, liabilities and obligations relative to the Contract.



## C2.2 Activity Schedule

The Tenderer details his Activity Schedule below or makes reference to his Activity Schedule and attaches it to this schedule.

The details given below serve as guidelines only and the Tenderer may split or combine the activities to suit his particular methods.

Activity No	Activity Description	Unit	Rate	Quantity	Price of each activity
A1					
A2					
B1					
B2					
C					
D					
E1					
E2					
E3					
E4					
<b>Total Price to be carried over to the Form of Offer &amp; Acceptance</b>					