

**Transnet Freight Rail**an Operating Division **TRANSNET SOC LTD**

[Registration Number 1990/000900/30]

**REQUEST FOR PROPOSAL (RFP)****FOR THE MAINTENANCE OF RAILWAY TRACK WITH ON TRACK ULTRASONIC RAIL FLAW  
DETECTION MACHINE FOR THE CAPE CORRIDOR SHUT FOR A PERIOD OF 1 MONTH**

<b>RFP NUMBER</b>	<b>: TFR/2023/02/0008/21449/RFP</b>
<b>ISSUE DATE</b>	<b>: 03 MARCH 2023</b>
<b>CLOSING DATE</b>	<b>: 20 MARCH 2023</b>
<b>CLOSING TIME</b>	<b>: 10h00 am</b>
<b>TENDER VALIDITY PERIOD</b>	<b>: 12 weeks from closing date</b>

*Tenderers 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 Tenderer can upload 30mb per upload and multiple uploads are permitted*

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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>	For the maintenance of railway track with On Track Ultrasonic Rail Flaw Detection Machine for the Cape Corridor shut for a period of 1 month
<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> and the Transnet website at <a href="https://transnetetenders.azurewebsites.net">https://transnetetenders.azurewebsites.net</a> (please use Google Chrome to access Transnet link) <b>FREE OF CHARGE.</b></b>
<b>CLOSING DATE</b>	<b>10:00 am on 20 MARCH 2023</b> Tenderers must ensure that tenders are uploaded timeously onto the system. <b>If a tender is late, it will not be accepted for consideration.</b>

#### 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 e-Tenders management platform website

(<https://transnetetenders.azurewebsites.net>);

- 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.
- **Tenderers are required to ensure that electronic bid submissions are done at least a day before the closing date to prevent issues which they**

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**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 Tenderer can upload 30mb per upload and multiple uploads are permitted.**

- 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;



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- 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 T2.2-17], [**Breach of Law**] whether or not they have been found guilty of a serious breach of law during the past 5 [five] years.
  - 4.12. Transnet reserves the right to perform a risk analysis on the preferred tenderer to ascertain if any of the following might present an unacceptable commercial risk to the employer :
    - *unduly high or unduly low tendered rates or amounts in the tender offer;*
    - *contract data of contract provided by the tenderer; or*
    - *the contents of the tender returnables which are to be included in the contract.*
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.

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## **6. NATIONAL TREASURY'S CENTRAL SUPPLIER DATABASE**

Tenderer are required to self-register on National Treasury's Central Supplier Database (CSD) which has been established to centrally administer supplier information for all organs of state and facilitate the verification of certain key supplier information. The CSD can be accessed at <https://secure.csd.gov.za/>. Tenderer are required to provide the following to Transnet in order to enable it to verify information on the CSD:

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

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

## T1.2 TENDER DATA

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

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

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

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

Clause	Data
C.1.1 The <i>Employer</i> is	<b>Transnet SOC Ltd</b> <b>(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
<b>Part C: The contract</b>	
Part C1: Agreements and contract data	C1.1 Form of offer and acceptance C1.2 Contract data (Part 1 & 2)
Part C2: Pricing data	C2.1 Pricing instructions: Option A C2.2 Price List
Part C3: Scope of work	C3.1 Service Information

Part C4: Affected Property		C4.1 Affected Property
C.1.4	The Employer's agent is:	Procurement Officer
	Name:	Steven Olivier
	Address:	FC Sturrock Building, Fleming Street Port Elizabeth
	Tel No.	041 507 2717
	E – mail	<a href="mailto:Steven.olivier@transnet.net">Steven.olivier@transnet.net</a>
C.2.1	<p>Only those tenderers who satisfy the following eligibility criteria are eligible to submit tenders:</p> <p><b>1. Stage One (Step 1&amp;2): - Eligibility in terms of the Construction Industry Development Board:</b></p> <p>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 <b>3 CE or higher</b> class of construction work, are eligible to have their tenders evaluated.</p> <p>b) Joint Venture (JV)</p> <p>Joint ventures are eligible to submit tenders subject to the following:</p> <ol style="list-style-type: none"> <li>every member of the joint venture is registered with the CIDB;</li> <li>the lead partner has a contractor grading designation of not lower than one level below the required class of construction works under consideration and possesses the required recognition status; and</li> <li>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 <b>3 CE or higher</b> class of construction work or a value determined in accordance with Regulation 25(1B) or 25(7A) of the Construction Industry Development Regulations</li> <li>The tenderer shall provide a certified copy of its signed joint venture agreement.</li> </ol> <p><b><i>Any tenderer that fails to meet the stipulated eligibility criteria will be regarded as an unacceptable tender.</i></b></p>	

## 2. Stage Two (Step 3) - B-BBEE and Preference points system

Commercial Scoring: 80 Points

B-BBEE: 20 Points

## 3. Stage Two (Step 4) - Post Tender Negotiations

- Respondents are to note that Transnet may not award a contract if the price offered is **not market related**. In this regard, Transnet reserves the right to engage in PTN with the view to achieving a market-related price or to cancel the tender. Negotiations will be done in a sequential manner i.e.:
  - first negotiate with the highest ranked bidder or cancel the bid, should such negotiations fail,
  - negotiate with the 2<sup>nd</sup> and 3<sup>rd</sup> ranked bidders (if required) in a sequential manner.

## 4. Stage Two (Step 5) – Objective Criteria (Due Diligence)

Transnet will conduct due diligence on preferred bidders to verify and validate bid submissions and the following will only be assessed:

- T2.2-02 Operational Risk
- T2.2-03 Health and Safety Management
- T2.2-04a Health and Safety Questionnaire
- T2.2-04b Health and Safety Cost Breakdown
- T2.2-04c Environmental Management Plan
- T2.2-05 Risk Management

Transnet reserves the right to conduct a further due diligence exercise on preferred bidder(s) in order to verify and validate their bid submissions. Due to the urgency of the project, the due diligence will also be used to verify the capacity of the bidders, to mitigate any risk for operations that Transnet cannot mitigate. The outcome of the due diligence will be applied as objective criteria.

## 5. Stage Two (Step 6) – Award

Immediately after approval to award the contract has been received, the successful or preferred bidder(s) will be informed of the acceptance of his/their Bid by way of C1.1 Form of Offer and Acceptance. Thereafter the final contract will be concluded with the successful Respondent(s).

C.2.12 No alternative tender offers will be considered.

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

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

C2.15.1 package are as follows:

Identification details:

The tender documents must be uploaded with:

- Name of Tenderer: **(Insert Company Name)**
  - Contact person and details: **(Insert Details)**
  - The Tender Number: TFR/2023/02/0008/21449/RFP
- The Tender Description: FOR THE MAINTENANCE OF RAILWAY TRACK WITH ON TRACK ULTRASONIC RAIL FLAW DETECTION MACHINE FOR THE CAPE CORRIDOR SHUT FOR A PERIOD OF 1 MONTH

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

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

C.2.15 The closing time for submission of tender offers is:

Time: **10:00 am on 20 MARCH 2023**

Location: The Transnet e-Tender Submission Portal:

(<https://transnetetenders.azurewebsites.net>)

**NO LATE TENDERS WILL BE ACCEPTED**

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.

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

C.3.11. Only tenders that met the eligibility criteria will be evaluated further in accordance with the 80/20 preference points systems as described in the Preferential Procurement Regulations.

80 where the financial value of one or more responsive tenders received have a value of 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 tenderer's scorecard components at any stage from the date of close of the tenders until completion of the contract.

C.3.13 Tender offers will only be accepted if:

1. The tenderer or any of its directors/shareholders is not listed on the Register of Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the public sector;
2. the tenderer does not appear on Transnet's list for restricted tenderers and National Treasury's list of Tender Defaulters;
3. the tenderer has fully and properly completed the Compulsory Enterprise Questionnaire and there are no conflicts of interest which may impact on the tenderer's ability to perform the contract in the best interests of the Employer or potentially compromise the tender process and persons in the employ of the state.
4. Transnet reserves the right to award the tender to the tenderer who scores the highest number of points overall, unless there are **objective criteria** which will justify the award of the tender to another tenderer. Objective criteria include but are not limited to the outcome of a due diligence exercise to be conducted. The due diligence exercise may take the following factors into account inter alia;

the tenderer:

- a) is not under restrictions, or has principals who are under restrictions, preventing participating in the employer's procurement,
- b) can, as necessary and in relation to the proposed contract, demonstrate that he or she possesses the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and the personnel, to perform the contract,
- c) has the legal capacity to enter into the contract,
- d) is not insolvent, in receivership, under Business Rescue as provided for in chapter 6 of the Companies Act, 2008, bankrupt or being wound up, has his affairs administered by a court or a judicial officer, has suspended his business activities, or is subject to legal proceedings in respect of any of the foregoing,

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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).



**STAATSKOERANT, 8 AUGUSTUS 2019**

**DEPARTMENT OF PUBLIC WORKS**

**NOTICE 423 OF 2019**

**STANDARD FOR UNIFORMITY IN ENGINEERING AND CONSTRUCTION**

**WORKS CONTRACTS**

**AUGUST 2019**

## **Annex C**

### **Standard Conditions of Tender**

#### **C.1 General**

##### **C.1.1 Actions**

C.1.1.1 The employer and each tenderer submitting a tender offer shall comply with these conditions of tender. In their dealings with each other, they shall discharge their duties and obligations as set out in C.2 and C.3, timeously and with integrity, and behave equitably, honestly and transparently, comply with all legal obligations and not engage in anticompetitive practices.

C.1.1.2 The employer and the tenderer and all their agents and employees involved in the tender Process shall avoid conflicts of interest and where a conflict of interest is perceived or known, declare any such conflict of interest, indicating the nature of such conflict. Tenderers shall declare any potential conflict of interest in their tender submissions. Employees, agents and advisors of the employer shall declare any conflict of interest to whoever is responsible for overseeing the procurement process at the start of any deliberations relating to the procurement process or as soon as they become aware of such conflict and abstain from any decisions where such conflict exists or recuse themselves from the procurement process, as appropriate.

*Note: 1) A conflict of interest may arise due to a conflict of roles which might provide an incentive for improper acts in some circumstances. A conflict of interest can create an appearance of impropriety that can undermine confidence in the ability of that person to act properly in his or her position even if no improper acts result.*

*2) Conflicts of interest in respect of those engaged in the procurement process include direct,*

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*indirect or family interests in the tender or outcome of the procurement process and any personal bias, inclination, obligation, allegiance or loyalty which would in any way affect any decisions taken.*

C.1.1.3 The employer shall not seek and a tenderer shall not submit a tender without having a firm intention and the capacity to proceed with the contract.

### **C.1.2 Tender Documents**

The documents issued by the employer for the purpose of a tender offer are listed in the tender data.

### **C.1.3 Interpretation**

C.1.3.1 The tender data and additional requirements contained in the tender schedules that are Included in the returnable documents are deemed to be part of these conditions of tender.

C.1.3.2 These conditions of tender, the tender data and tender schedules which are required for Tender evaluation purposes, shall form part of any contract arising from the invitation to tender.

C.1.3.3 For the purposes of these conditions of tender, the following definitions apply:

a) **conflict of interest** means any situation in which:

- i) someone in a position of trust has competing professional or personal interests which make it difficult to fulfill his or her duties impartially;
- ii) an individual or tenderer is in a position to exploit a professional or official capacity in some way for their personal or corporate benefit; or
- iii) incompatibility or contradictory interests exist between an employee and the tenderer who employs that employee.

b) **comparative offer** means the price after the factors of a non-firm price and all unconditional discounts it can be utilised to have been taken into consideration;

c) **corrupt practice** means the offering, giving, receiving or soliciting of anything of value to influence the action of the employer or his staff or agents in the tender process;

d) **fraudulent practice** means the misrepresentation of the facts in order to influence the tender process or the award of a contract arising from a tender offer to the detriment of the employer, including collusive practices intended to establish prices at artificial levels;

### **C.1.4 Communication and employer's agent**

Each communication between the employer and a tenderer shall be to or from the employer's agent only, and in a form that can be readily read, copied and recorded. Communications shall be in the English language. The employer shall not take any responsibility for non-receipt of communications from or by a tenderer. The name and contact details of the employer's agent are stated in the tender data.

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### **C.1.5 Cancellation and Re-Invitation of Tenders**

C.1.5.1 An employer may, prior to the award of the tender, cancel a tender if

- a) due to changed circumstances, there is no longer a need for the engineering and construction works specified in the invitation;
- b) funds are no longer available to cover the total envisaged expenditure; or
- c) no acceptable tenders are received.
- d) there is a material irregularity in the tender process.

C.1.5.2 The decision to cancel a tender invitation must be published in the same manner in which the original tender invitation was advertised

C.1.5.3 An employer may only with the prior approval of the relevant treasury cancel a tender Invitation for the second time.

### **C.1.6 Procurement procedures**

#### **C.1.6.1 General**

Unless otherwise stated in the tender data, a contract will, subject to C.3.13, be concluded with the tenderer who in terms of C.3.11 is the highest ranked or the tenderer scoring the highest number of tender evaluation points, as relevant, based on the tender submissions that are received at the closing time for tenders.

#### **C.1.6.2 Competitive negotiation procedure**

C.1.6.2.1 Where the tender data require that the competitive negotiation procedure is to be followed, tenderers shall submit tender offers in response to the proposed contract in the first round of submissions. Notwithstanding the requirements of C.3.4, the employer shall announce only the names of the tenderers who make a submission. The requirements of C.8 relating to the material deviations or qualifications which affect the competitive position of tenderers shall not apply.

C.1.6.2.2 All responsive tenderers or at least a minimum of not less than three responsive tenderers that are highest ranked in terms of the evaluation criteria stated in the tender data shall be invited to enter into competitive negotiations based on the principle of equal treatment, keeping confidential the proposed solutions and associated information.

Notwithstanding the provisions of C.2.17, the employer may request that tenders be clarified, Specified and fine-tuned in order to improve a tenderer's competitive position provided that such clarification, specification, fine-tuning or additional information does not alter any fundamental aspects of the offers or impose substantial new requirements which restrict or distort competition or have a discriminatory effect.

C.1.6.2.3 At the conclusion of each round of negotiations, tenderers shall be invited by the employer to revise their tender offer based on the same evaluation criteria, with or without adjusted

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weightings. Tenderers shall be advised when they are to submit their best and final offer.

C.1.6.2.4 The contract shall be awarded in accordance with the provisions of C.3.11 and C.3.13 after tenderers have been requested to submit their best and final offer.

### **C.1.6.3 Proposal procedure using the two stage-system**

#### **C.1.6.3.1 Option 1**

Tenderers shall in the first stage submit technical proposals and, if required, cost parameters around which a contract may be negotiated. The employer shall evaluate each responsive submission in terms of the method of evaluation stated in the tender data, and in the second stage negotiate a contract with the tenderer scoring the highest number of evaluation points and award the contract in terms of these conditions of tender.

#### **C.1.6.3.2 Option 2**

C.1.6.3.2.1 Tenderers shall submit in the first stage only technical proposals. The employer shall invite all responsive tenderers to submit tender offers in the second stage, following the issuing of procurement documents.

C.1.6.3.2.2 The employer shall evaluate tenders received during the second stage in terms of the method of evaluation stated in the tender data, and award the contract in terms of these conditions of tender.

### **C.2 Tenderer's obligations**

#### **C.2.1 Eligibility**

C.2.1.1 Submit a tender offer only if the tenderer satisfies the criteria stated in the tender data and the tenderer, or any of his principals, is not under any restriction to do business with employer.

C.2.1.2 Notify the employer of any proposed material change in the capabilities or formation of the tendering entity (or both) or any other criteria which formed part of the qualifying requirements used by the employer as the basis in a prior process to invite the tenderer to submit a tender offer and obtain the employer's written approval to do so prior to the closing time for tenders.

#### **C.2.2 Cost of tendering**

C.2.2.1 Accept that, unless otherwise stated in the tender data, the employer will not compensate the tenderer for any costs incurred in the preparation and submission of a tender offer, including the costs of any testing necessary to demonstrate that aspects of the offer complies with requirements.

C.2.2.2 The cost of the tender documents charged by the employer shall be limited to the actual cost

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incurred by the employer for printing the documents. Employers must attempt to make available the tender documents on its website so as not to incur any costs pertaining to the printing of the tender documents.

### **C.2.3 Check documents**

Check the tender documents on receipt for completeness and notify the employer of any discrepancy or omission.

### **C.2.4 Confidentiality and copyright of documents**

Treat as confidential all matters arising in connection with the tender. Use and copy the documents issued by the employer only for the purpose of preparing and submitting a tender offer in response to the invitation.

### **C.2.5 Reference documents**

Obtain, as necessary for submitting a tender offer, copies of the latest versions of standards, specifications, conditions of contract and other publications, which are not attached but which are incorporated into the tender documents by reference.

### **C.2.6 Acknowledge addenda**

Acknowledge receipt of addenda to the tender documents, which the employer may issue, and if necessary apply for an extension to the closing time stated in the tender data, in order to take the addenda into account.

### **C.2.7 Clarification meeting**

Attend, where required, a clarification meeting at which tenderers may familiarize themselves with aspects of the proposed work, services or supply and raise questions. Details of the meeting(s) are stated in the tender data.

### **C.2.8 Seek clarification**

Request clarification of the tender documents, if necessary, by notifying the employer at least five (5) working days before the closing time stated in the tender data.

### **C.2.9 Insurance**

Be aware that the extent of insurance to be provided by the employer (if any) might not be for the full cover required in terms of the conditions of contract identified in the contract data. The tenderer is advised to seek qualified advice regarding insurance.

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**C.2.10 Pricing the tender offer**

C.2.10.1 Include in the rates, prices, and the tendered total of the prices (if any) all duties, taxes

Except Value Added Tax (VAT), and other levies payable by the successful tenderer, such duties, taxes and levies being those applicable fourteen (14) days before the closing time stated in the tender data.

C.2.10.2 Show VAT payable by the employer separately as an addition to the tendered total of the prices.

C.2.10.3 Provide rates and prices that are fixed for the duration of the contract and not subject to adjustment except as provided for in the conditions of contract identified in the contract data.

C.2.10.4 State the rates and prices in Rand unless instructed otherwise in the tender data. The conditions of contract identified in the contract data may provide for part payment in other currencies.

**C.2.11 Alterations to documents**

Do not make any alterations or additions to the tender documents, except to comply with instructions issued by the employer, or necessary to correct errors made by the tenderer. All signatories to the tender offer shall initial all such alterations.

**C.2.12 Alternative tender offers**

C.2.12.1 Unless otherwise stated in the tender data, submit alternative tender offers only if a main tender offer, strictly in accordance with all the requirements of the tender documents, is also submitted as well as a schedule that compares the requirements of the tender documents with the alternative requirements that are proposed.

C.2.12.2 Accept that an alternative tender offer must be based only on the criteria stated in the tender data or criteria otherwise acceptable to the employer.

C.2.12.3 An alternative tender offer must only be considered if the main tender offer is the winning tender.

**C.2.13 Submitting a tender offer**

C.2.13.1 Submit one tender offer only, either as a single tendering entity or as a member in a joint venture to provide the whole of the works identified in the contract data and described in the scope of works, unless stated otherwise in the tender data.

C.2.13.2 Return all returnable documents to the employer after completing them in their entirety, either electronically (if they were issued in electronic format) or by writing legibly in non-erasable ink.

C.2.13.3 Submit the parts of the tender offer communicated on paper as an original plus the number Of copies stated in the tender data, with an English translation of any documentation in a language other than English, and the parts communicated electronically in the same format as they were issued by the employer.

C.2.13.4 Sign the original and all copies of the tender offer where required in terms of the tender data. The employer will hold all authorized signatories liable on behalf of the tenderer.

Signatories for tenderers proposing to contract as joint ventures shall state which of the signatories is the lead partner whom the employer shall hold liable for the purpose of the tender offer.

C.2.13.5 Seal the original and each copy of the tender offer as separate packages marking the Packages as "ORIGINAL" and "COPY". Each package shall state on the outside the employer's address and identification details stated in the tender data, as well as the tenderer's name and contact address.

C.2.13.6 Where a two-envelope system is required in terms of the tender data, place and seal the returnable documents listed in the tender data in an envelope marked "financial proposal" and place the remaining returnable documents in an envelope marked "technical proposal". Each envelope shall state on the outside the employer's address and identification details stated in the tender data, as well as the tenderer's name and contact address.

C.2.13.7 Seal the original tender offer and copy packages together in an outer package that states on the outside only the employer's address and identification details as stated in the tender data.

C.2.13.8 Accept that the employer will not assume any responsibility for the misplacement or premature opening of the tender offer if the outer package is not sealed and marked as stated.

C.2.13.9 Accept that tender offers submitted by facsimile or e-mail will be rejected by the employer, unless stated otherwise in the tender data.

#### **C.2.14 Information and data to be completed in all respects**

Accept that tender offers, which do not provide all the data or information requested completely and in the form required, may be regarded by the employer as non-responsive.

#### **C.2.15 Closing time**

C.2.15.1 Ensure that the employer receives the tender offer at the address specified in the tender data not later than the closing time stated in the tender data. Accept that proof of posting shall not be accepted as proof of delivery.

C.2.15.2 Accept that, if the employer extends the closing time stated in the tender data for any reason, the requirements of these conditions of tender apply equally to the extended deadline.

#### **C.2.16 Tender offer validity**

C.2.16.1 Hold the tender offer(s) valid for acceptance by the employer at any time during the validity period stated in the tender data after the closing time stated in the tender data.

C.2.16.2 If requested by the employer, consider extending the validity period stated in the tender data for an agreed additional period with or without any conditions attached to such

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extension.

C.2.16.3 Accept that a tender submission that has been submitted to the employer may only be withdrawn or substituted by giving the employer's agent written notice before the closing time for tenders that a tender is to be withdrawn or substituted. If the validity period stated in C.2.16 lapses before the employer evaluating tender, the contractor reserves the right to review the price based on Consumer Price Index (CPI).

C.2.16.4 Where a tender submission is to be substituted, a tenderer must submit a substitute tender in accordance with the requirements of C.2.13 with the packages clearly marked as "SUBSTITUTE".

### **C.2.17 Clarification of tender offer after submission**

Provide clarification of a tender offer in response to a request to do so from the employer during the evaluation of tender offers. This may include providing a breakdown of rates or prices and correction of arithmetical errors by the adjustment of certain rates or item prices (or both). No change in the competitive position of tenderers or substance of the tender offer is sought, offered, or permitted.

**Note:** *Sub-clause C.2.17 does not preclude the negotiation of the final terms of the contract with a preferred tenderer following a competitive selection process, should the Employer elect to do so.*

### **C.2.18 Provide other material**

C.2.18.1 Provide, on request by the employer, any other material that has a bearing on the tender offer, the tenderer's commercial position (including notarized joint venture agreements), preferencing arrangements, or samples of materials, considered necessary by the employer for the purpose of a full and fair risk assessment. Should the tenderer not provide the material, or a satisfactory reason as to why it cannot be provided, by the time for submission stated in the employer's request, the employer may regard the tender offer as non-responsive.

C.2.18.2 Dispose of samples of materials provided for evaluation by the employer, where required.

### **C.2.19 Inspections, tests and analysis**

Provide access during working hours to premises for inspections, tests and analysis as provided for in the tender data.

### **C.2.20 Submit securities, bonds and policies**

If requested, submit for the employer's acceptance before formation of the contract, all securities, bonds, guarantees, policies and certificates of insurance required in terms of the conditions of contract identified in the contract data.

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**C.2.21 Check final draft**

Check the final draft of the contract provided by the employer within the time available for the employer to issue the contract.

**C.2.22 Return of other tender documents**

If so instructed by the employer, return all retained tender documents within twenty-eight (28) days after the expiry of the validity period stated in the tender data.

**C.2.23 Certificates**

Include in the tender submission or provide the employer with any certificates as stated in the tender data.

**C.3 The employer's undertakings****C.3.1 Respond to requests from the tenderer**

C.3.1.1 Unless otherwise stated in the tender Data, respond to a request for clarification received up

To five (5) working days before the tender closing time stated in the Tender Data and notify all tenderers who collected tender documents.

C.3.1.2 Consider any request to make a material change in the capabilities or formation of the Tendering entity (or both) or any other criteria which formed part of the qualifying requirements used to prequalify a tenderer to submit a tender offer in terms of a previous procurement process and deny any such request if as a consequence:

- a) an individual firm, or a joint venture as a whole, or any individual member of the joint venture fails to meet any of the collective or individual qualifying requirements;
- b) the new partners to a joint venture were not prequalified in the first instance, either as individual firms or as another joint venture; or
- c) in the opinion of the Employer, acceptance of the material change would compromise the outcome of the prequalification process.

**C.3.2 Issue Addenda**

If necessary, issue addenda that may amend or amplify the tender documents to each tenderer during the period from the date that tender documents are available until three (3) working days before the tender closing time stated in the Tender Data. If, as a result a tenderer applies for an extension to the closing time stated in the Tender Data, the Employer may grant such extension and, shall then notify all tenderers who collected tender documents.

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### **C.3.3 Return late tender offers**

Return tender offers received after the closing time stated in the Tender Data, unopened, (unless it is necessary to open a tender submission to obtain a forwarding address), to the tenderer concerned.

### **C.3.4 Opening of tender submissions**

C.3.4.1 Unless the two-envelope system is to be followed, open valid tender submissions in the presence of tenderers' agents who choose to attend at the time and place stated in the tender data. Tender submissions for which acceptable reasons for withdrawal have been submitted will not be opened.

C.3.4.2 Announce at the meeting held immediately after the opening of tender submissions, at a venue indicated in the tender data, the name of each tenderer whose tender offer is opened and, where applicable, the total of his prices, number of points claimed for its BBBEE status level and time for completion for the main tender offer only.

C.3.4.3 Make available the record outlined in C.3.4.2 to all interested persons upon request.

### **C.3.5 Two-envelope system**

C.3.5.1 Where stated in the tender data that a two-envelope system is to be followed, open only the technical proposal of valid tenders in the presence of tenderers' agents who choose to attend at the time and place stated in the tender data and announce the name of each tenderer whose technical proposal is opened.

C.3.5.2 Evaluate functionality of the technical proposals offered by tenderers, then advise tenderers who remain in contention for the award of the contract of the time and place when the financial proposals will be opened. Open only the financial proposals of tenderers, who score in the functionality evaluation more than the minimum number of points for functionality stated in the tender data, and announce the score obtained for the technical proposals and the total price and any points claimed on BBBEE status level. Return unopened financial proposals to tenderers whose technical proposals failed to achieve the minimum number of points for functionality.

### **C.3.6 Non-disclosure**

Not disclose to tenderers, or to any other person not officially concerned with such processes, information relating to the evaluation and comparison of tender offers, the final evaluation price and recommendations for the award of a contract, until after the award of the contract to the successful tenderer.

### **C.3.7 Grounds for rejection and disqualification**

Determine whether there has been any effort by a tenderer to influence the processing of tender offers and instantly disqualify a tenderer (and his tender offer) if it is established that he engaged in corrupt or fraudulent practices.

### **C.3.8 Test for responsiveness**

C.3.8.1 Determine, after opening and before detailed evaluation, whether each tender offer properly received:

- a) complies with the requirements of these Conditions of Tender,
- b) has been properly and fully completed and signed, and
- c) is responsive to the other requirements of the tender documents.

C.3.8.2 A responsive tender is one that conforms to all the terms, conditions, and specifications of the tender documents without material deviation or qualification. A material deviation or qualification is one which, in the Employer's opinion, would:

- a) detrimentally affect the scope, quality, or performance of the works, services or supply identified in the Scope of Work,
- b) significantly change the Employer's or the tenderer's risks and responsibilities under the contract, or
- c) affect the competitive position of other tenderers presenting responsive tenders, if it were to be rectified. Reject a non-responsive tender offer, and not allow it to be subsequently made responsive by correction or withdrawal of the non-conforming deviation or reservation.

### **C.3.9 Arithmetical errors, omissions and discrepancies**

C.3.9.1 Check responsive tenders for discrepancies between amounts in words and amounts in figures. Where there is a discrepancy between the amounts in figures and the amount in words, the amount in words shall govern.

C.3.9.2 Check the highest ranked tender or tenderer with the highest number of tender evaluation points after the evaluation of tender offers in accordance with C.3.11 for:

- a) the gross misplacement of the decimal point in any unit rate;
- b) omissions made in completing the pricing schedule or bills of quantities; or
- c) arithmetic errors in:
  - (i) line item totals resulting from the product of a unit rate and a quantity in bills of quantities or schedules of prices; or
  - (ii) the summation of the prices.

C.3.9.3 Notify the tenderer of all errors or omissions that are identified in the tender offer and either confirm the tender offer as tendered or accept the corrected total of prices.

C.3.9.4 Where the tenderer elects to confirm the tender offer as tendered, correct the errors as follows:

- a) If bills of quantities or pricing schedules apply and there is an error in the line item total resulting from the product of the unit rate and the quantity, the line item total shall govern and the rate shall be corrected. Where there is an obviously gross misplacement of the decimal point in the unit rate, the line item total as quoted shall govern, and the unit rate

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shall be corrected.

b) Where there is an error in the total of the prices either as a result of other corrections Required by this checking process or in the tenderer's addition of prices, the total of the prices shall govern and the tenderer will be asked to revise selected item prices (and their rates if bills of quantities apply) to achieve the tendered total of the prices.

#### **C.3.10 Clarification of a tender offer**

Obtain clarification from a tenderer on any matter that could give rise to ambiguity in a contract arising from the tender offer.

#### **C.3.11 Evaluation of tender offers**

The Standard Conditions of Tender standardize the procurement processes, methods and procedures from the time that tenders are invited to the time that a contract is awarded. They are generic in nature and are made project specific through choices that are made in developing the Tender Data associated with a specific project. Conditions of tender are by definition the document that establishes a tenderer's obligations in submitting a tender and the employer's undertakings in soliciting and evaluating tender offers. Such conditions establish the rules from the time a tender is advertised to the time that a contract is awarded and require employers to conduct the process of offer and acceptance in terms of a set of standard procedures.

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**The CIDB Standard Conditions of Tender are based on a procurement system that satisfies the following system requirements:**

**Requirement Qualitative interpretation of goal**

Fair The process of offer and acceptance is conducted impartially without bias, providing simultaneous and timely access to participating parties to the same information.

Equitable Terms and conditions for performing the work do not unfairly prejudice the interests of the parties.

Transparent The only grounds for not awarding a contract to a tenderer who satisfies all requirements are restrictions from doing business with the employer, lack of capability or capacity, legal impediments and conflicts of interest.

Competitive The system provides for appropriate levels of competition to ensure cost effective and best value outcomes.

Cost effective The processes, procedures and methods are standardized with sufficient flexibility to attain best value outcomes in respect of quality, timing and price, and least resources to effectively manage and control procurement processes.

**The activities associated with evaluating tender offers are as follows:**

- a) Open and record tender offers received
- b) Determine whether or not tender offers are complete
- c) Determine whether or not tender offers are responsive
- d) Evaluate tender offers
- e) Determine if there are any grounds for disqualification
- f) Determine acceptability of preferred tenderer
- g) Prepare a tender evaluation report
- h) Confirm the recommendation contained in the tender evaluation report

**C.3.11.1 General**

The employer must appoint an evaluation panel of not less than three persons conversant with the proposed scope of works to evaluate each responsive tender offer using the tender evaluation methods and associated evaluation criteria and weightings that are specified in the tender data.

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**C.3.12 Insurance provided by the employer**

If requested by the proposed successful tenderer, submit for the tenderer's information the policies and / or certificates of insurance which the conditions of contract identified in the contract data, require the employer to provide.

**C.3.13 Acceptance of tender offer**

Accept the tender offer; if in the opinion of the employer, it does not present any risk and only if the tenderer:

- a) is not under restrictions, or has principals who are under restrictions, preventing participating in the employer's procurement;
- b) can, as necessary and in relation to the proposed contract, demonstrate that he or she possesses the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and the personnel, to perform the contract;
- c) has the legal capacity to enter into the contract;
- d) is not; insolvent, in receivership, under Business Rescue as provided for in chapter 6 of the Companies Act No. 2008, bankrupt or being wound up, has his/her affairs administered by a court or a judicial officer, has suspended his/her 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 opinion of the employer, to perform the contract free of conflicts of interest.

**C.3.14 Prepare contract documents**

C.3.14.1 If necessary, revise documents that shall form part of the contract and that were issued by The employer as part of the tender documents to take account of:

- a) addenda issued during the tender period,
- b) inclusion of some of the returnable documents and
- c) other revisions agreed between the employer and the successful tenderer.

C.3.14.2 Complete the schedule of deviations attached to the form of offer and acceptance, if any.

**C.3.15 Complete adjudicator's contract**

Unless alternative arrangements have been agreed or otherwise provided for in the contract, arrange for both parties to complete formalities for appointing the selected adjudicator at the same time as the main contract is signed.

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**C.3.16 Registration of the award**

An employer must, within twenty-one (21) working days from the date on which a contractor's offer to perform a construction works contract is accepted in writing by the employer, register and publish the award on the cidb Register of Projects.

**C.3.17 Provide copies of the contracts**

Provide to the successful tenderer the number of copies stated in the Tender Data of the signed copy of the contract as soon as possible after completion and signing of the form of offer and acceptance.

**C.3.18 Provide written reasons for actions taken**

Provide upon request written reasons to tenderers for any action that is taken in applying these conditions of tender but withhold information which is not in the public interest to be divulged, which is considered to prejudice the legitimate commercial interests of tenderers or might prejudice fair competition between tenderers.

## **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 - CIDB Registration**

### **2.1.2 Stage Two – Objective Criteria (Due Diligence)**

Transnet will conduct due diligence on preferred bidders to verify and validate bid submissions and the following will only be assessed:

- T2.2-02 Operational Risk
- T2.2-03 Health and Safety Management
- T2.2-04a Health and Safety Questionnaire
- T2.2-04b Health and Safety Cost Breakdown
- T2.2-04c Environmental Management Plan
- T2.2-05 Risk Management

Transnet reserves the right to conduct a further due diligence exercise on preferred bidder(s) in order to verify and validate their bid submissions. Due to the urgency of the project, the due diligence will also be used to verify the capacity of the bidders, to mitigate any risk for operations that Transnet cannot mitigate. The outcome of the due diligence will be applied as objective criteria.

### **2.1.3 Returnable Schedules:**

#### **General:**

**T2.2-02** Operational Risk

**T2.2-03** Health and Safety Management

**T2.2-04a** Health and Safety Questionnaire

**T2.2-04b** Health and Safety Cost Breakdown

**T2.2-04c** Environmental Management Plan

**T2.2-05** Risk Management

**T2.2-06** Letter of Good Standing

**T2.2-07** Changes to tender document

**T2.2-08** Authority to submit tender

**T2.2-09** Record of addenda to tender documents

**T2.2-10** Availability of Equipment and Other Resources

#### **Agreement and Commitment by Tenderer:**

**T2.2-11** CIDB SFU ANNEX G Compulsory Enterprise Questionnaire

**T2.2-12** Supplier Code of Conduct

**T2.2-13** Unilateral Non-Disclosure Agreement

**T2.2-14** RFP Declaration Form

**T2.2-15** Certificate of Acquaintance with Tender Document Pact

**T2.2-16** Service Provider Integrity Pact

**T2.2-17** Request for quotation – Breach of law

**T2.2-18** Confirmation of machine/s ownership

**T2.2-19** Agreement in terms of Protection of Personal Information Act, 4 of 2013 ("POPIA")

**2.1.4 Bonds/Guarantees/Financial/Insurance:**

**T2.2-20** Insurance provided by the Contractor

**2.2 C1.1 OFFER PORTION OF FORM OF OFFER & ACCEPTANCE**

**2.3 C1.2 CONTRACT DATA**

**2.5 C2.1 Pricing Instructions Price List**

**2.6 C2.2 PRICE LIST**

**2.7 C3 - Service Information**

**2.8 C4 – Affected Property**

## T2.2-01: 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

4. 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 CE or higher** class of construction works, are eligible to have their tenders evaluated.

### 5. Joint Venture (JV)

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

5. every member of the joint venture is registered with the CIDB;
6. the lead partner has a contractor grading designation of not lower than one level below the required class of construction works under consideration and possesses the required recognition status; and
7. 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 CE or higher** class of construction works or a value determined in accordance with Regulation 25(1B) or 25(7A) of the Construction Industry Development Regulations
8. the Contractor shall provide the employer with a certified copy of its signed joint venture agreement;
9. 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.



## T2.2-02: Operational Risk [Assessment Schedule]

1. Operational Risk	Bidder Response		Supporting Documentation
	Yes	No	
Bidder to offer a Supply, Operate and Maintain contract.			Signed Method Statement
All vehicles shall fit the rail structure gauge of 1065mm.			The bidder to submit the detailed drawing showing the structural gauge of the machine
All vehicle(s) shall be self-propelled and be capable of travelling and measuring in both directions on rail.			Machine specification manual or other relevant documented proof
The Bidder must indicate whether it can and will provide training to Employer staff on system outputs and data analysis.			Statement of compliance with the requirement and detail of the training that will be provided.
The Measuring Vehicle shall have on-board graphical displays of all measurements done, including high-resolution graphic video monitors that indicate all probe parameters, status information and events, plus the ability to review off-line playback			Machine specification manual or other relevant documented proof
All equipment shall be capable of measuring all rail profiles in the range from 30 kg/m to 60 kg/m			Machine specification manual or other relevant documented proof
All vehicles and measuring equipment shall be capable of operating in the rail temperature range of between -10 to + 70 degrees Celsius.			Machine specification manual or other relevant documented proof
The probe configuration shall cover at least 80% of the head, 95% of the web and 10% of the foot of the rail in all longitudinal directions. Probe range shall be from 0 to 70 degrees (inclusive), in both longitudinal directions.			Machine specification manual or other relevant documented proof
All vehicle(s) shall be able to produce the data analysis and reporting of all measurements done.			Machine specification manual or other relevant documented proof
The reports produced must be downloadable to compatible Transnet computer systems as soft copies.			Machine specification manual or other relevant documented proof
The Measuring Vehicle must be able to measure effectively at speeds of up to 38km/h.			Machine specification manual or other relevant documented proof
The Bidder must indicate whether the system can size, and position of all defects reported with a resolution of 2 mm minimum in the longitudinal direction and 2 mm minimum in depth and 2 mm minimum in width.			Statement of compliance and Measuring equipment specification or other relevant documentary proof.
All vehicles shall have service brakes and independent emergency brakes capable of providing minimum retardation of 12,5% and gravitational acceleration of 6%			Machine specification manual or other relevant documented proof
All vehicles must be capable of travelling by rail and road and have the ability to on/off track.			Machine specification manual or other relevant documented proof
All vehicle loading shall not exceed 20 tons / axle.			Machine specification manual or other relevant documented proof



All vehicles must be capable of measuring and travelling on a maximum track gradient of 1:30.			Machine specification manual or other relevant documented proof
The machine shall be capable of being hauled in both directions as the last vehicle of a train if required to clear the section when on breakdown.			The bidder to submit the machine specification OR a signed method statement
All vehicles shall be equipped with a GPS capable of achieving sub-meter accuracy.			Machine specification manual or other relevant documented proof
The Bidder must provide a layout diagram of the measuring car (machine).			Layout diagrams
The Bidder must provide manuals and documentation regarding the technical operation of the measuring car and systems.			Submission of manuals and related documents
All vehicles shall be fitted with a hooter for use during travelling and operations audible within 300m from the measuring car.			Machine specification manual or other relevant documented proof
All vehicles shall be fitted with a rotating amber light on top of the measuring car's cab.			Machine specification manual or other relevant documented proof
All vehicles shall comply with South African road traffic legislation.			Compliance Statement
The Bidder must submit a machine and equipment maintenance plan that indicates how the availability and productivity of the machinery and equipment will be ensure. The maintenance plan should include but need not be limited to - Maintenance intervals. - Average time to maintain for both major and minor services - Workshop facilities - Maintenance Structure - Spares Management			Submission of draft maintenance plan

Signed

Date

Name

Position

Tenderer

## T2.2-03: Health and Safety Management [Assessment Schedule]

Submit the following documents as a minimum with your tender:

1. The Tenderers must provide their own project specific health and safety Plan.
2. Health and safety cost breakdown (Price List)
3. Safety, Policy signed by the Chief Executive Officer, must include or cover the following five elements
  - 
  - Commitment to Safety, prevention of pollution,
  - Continual improvement,
  - Compliance to legal requirements, appropriate to the nature of contractor's activities,
  - Hold management accountable for development of the safety systems
  - Include objectives and targets.
4. Table or outline the Roles & Responsibilities, such as S16.2 CEO, CR8.1 Construction manager, CR8.2 Assistant Construction manager, CR8.5 Safety officer, CR8.7 Construction Supervisor, CR8.8 Construction assistant supervisor, CR9.1 Risk Assessor, 17.1 SHE Reps, etc. as per the Occupational health and safety Act 85 of 1993
5. List of job categories for project and competencies required per category and develop a training Matrix for all employees who will be working on the project. This matrix must include Management and highlight training planned dates.
6. Overview of the project specific Baseline Risk Assessment (RA), indicating major activities of the project
7. **Three years** synopsis of SHE incidents, description, type and action taken to prevent re-occurrence.
8. Complete and return with tender documentation the Contractor Safety Questionnaire included as Returnable T2.2-4a.

### Attached submissions to this schedule:

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

Name \_\_\_\_\_ Position \_\_\_\_\_

Tenderer \_\_\_\_\_

## T2.2-04a: Health and Safety Questionnaire [Assessment Schedule]

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



### 3. CERTIFICATE OF RECOGNITION

Does your company have a Certificate of Recognition?

☐ Yes ☐ No If Yes, what is the Certificate No. \_\_\_\_\_ Issue Date \_\_\_\_\_

### 4. SAFETY PROGRAM

Do you have a written safety program manual?

☐ Yes ☐ No

If Yes, provide a copy for review

Do you have a pocket safety booklet for field distribution?

☐ Yes ☐ No

If Yes, provide a copy for review

Does your safety program contain the following elements:

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

### 5. TRAINING PROGRAM

5A. Do you have an orientation program for new hire employees? ☐ Yes ☐ No

If Yes, include a course outline. Does it include any of the following:

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



5B. Do you have a program for training newly hired or promoted supervisors? ☐ Yes ☐ No

(If Yes, submit an outline for evaluation. Does it include instruction on the following:

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

## 6. SAFETY ACTIVITIES

Do you conduct safety inspections? Yes No Weekly Monthly Quarterly  
☐ ☐ ☐ ☐ ☐

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

Who follows up on inspection action items?

Do you hold site safety meetings for field employees? If Yes, how often?

Yes No Daily Weekly Biweekly  
☐ ☐ ☐ ☐ ☐

Do you hold site meetings where safety is addressed with management and field supervisors?

Yes No Weekly Biweekly Monthly  
☐ ☐ ☐ ☐ ☐

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

Is the process documented? ☐ Yes ☐ No

Who leads the discussion?

Do you have a hazard assessment process? ☐ Yes ☐ No

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

Does your company have policies and procedures for environmental protection, spill clean-up, reporting, waste disposal, and recycling as part of the Health & Safety Program?

☐ Yes ☐ No



How does your company measure its H&S success?

- Attach separate sheet to explain

## 7. SAFETY STEWARDSHIP

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

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

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

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

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

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

7D Does your company track non-injury incidents?

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

## 8 PERSONNEL

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

Name	Position/Title	Designation

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

Name	Address	Telephone Number

Other responsibilities:

## 9 REFERENCES

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

Name and Company	Address	Phone Number

## T2.2-04b: Health and Safety Cost Breakdown [Assessment Schedule]

Tenderer (Company)	Responsible Person	Designation	Date
Project/Tender Title	Project/Tender No.	Project Location / Description	
FOR THE MAINTENANCE OF RAILWAY TRACK WITH ON TRACK ULTRASONIC RAIL FLAW DETECTION MACHINE FOR THE CAPE CORRIDOR SHUT FOR A PERIOD OF 1 MONTH	TFR/2023/02/0008/21449/RFP	Various locations	

#	Cost element	Unit Cost (R)	# of Units	Total Cost (R)
1.	Human Resources			
2.	Systems Documentation			
3.	Meetings & Administration			
4.	H&S Training			
5.	PPE & Safety Equipment			
6.	Signage & Barricading			
7.	Workplace Facilities			
8.	Emergency & Rescue Measures			
9.	Hygiene Surveys & Monitoring			
10.	Medical Surveillance			
11.	Safe Transport of Workers			
12.	HazMat Management (e.g. asbestos /silica)			
13.	Substance Abuse Testing (3 kits @R500 pm)			
14.	H&S Reward & Recognition			
15.	Other			

<b>Total Health and Safety Estimate (R)</b>	
<b>Total Estimate Value (R)</b>	
<b>H&amp;S Cost as % of Tender value</b>	

## T2.2-04c: Environmental Management Plan [Assessment Schedule]

The tenderer must provide an environmental management plan describing: -

- Key environmental impacts and aspects associated with the proposed project.
- Possible mitigation measures associated with identified impacts and aspects.
- Key roles and responsibilities for both the Tender's project team and Transnet with regards to the project.
- Monitoring techniques and reporting of both accidents and incidents.
- Details of induction and other forms of training (if any).

The following documents are key -

1.0 Transnet SOC Limited – Integrated Management Systems (IMS) Policy,

1.1 By signing this Tender Schedule, the tenderer confirms that they will comply with the above policy statement and environmental commitments therein.

1.2 Tender to provide a signed declaration of understanding as part of the returnable acknowledging understanding thereof and the budget provision for the implementation of environmental management requirements.

By signing this Tender Schedule, the tenderer confirms that they will **comply** with the above requirements and in particular Transnet Freight Rail IMS policy statement and environmental commitments therein.

### Attached submissions to this schedule:

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

Signed

Date

Name

Position

Tenderer

## T2.2-05: Risk Management [Assessment Schedule]

Tenderers to identify and evaluate the potential risk elements associated with the Works and possible mitigation thereof. The risk elements and the mitigation as identified thereof by the Tenderer are to be submitted.

If No Risks are identified "No Risks" must be stated on this schedule.

Tenderers are also to evaluate any risk/s stated by the Employer in Contract Data Part C1 and provide possible mitigation thereof.


Tenders to note: Notwithstanding this information, all costs related to risk elements which are at the Contractor's risk are deemed to be included in the tenderer's offered total of the Prices.

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

Name \_\_\_\_\_ Position \_\_\_\_\_

Tenderer \_\_\_\_\_

---

**Tenderer's Risk Management Plan should include the following:**

1. Business continuity plan & Business Continuity Management: The objective is to ensure continuity of the service provision to TFR in case on any interruptions which may arise from the tenderer's site aligned to applicable standards

The following criteria to be included:

- Emergency operating procedures
- Business Continuity invocation action
- Project recovery resources
- Business / Supplier Contact list
- Emergency Contact

2. Business Impact Analysis

- Identification of critical processes within the project
- Recovery Time Objective in case of any interruption that may arise
- Recovery Strategy: how will the supplier recover
- Operational dependencies eg: Operational equipment, telephones etc. needed to ensure continuity
- Alternative supply of equipment and/ or supply of extra staff
- Battle box (It comprises of all necessary documentation, equipment required for continuity)

3. Risk Assessment for the project / Operational Risks: The identified Risks should be based on the scope of works

- Identification of risks of service interruption during the project
- Risk Analysis methodology
- Ranking of the Risks
- Mitigation of the identified risks
- Responsible person

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

Name \_\_\_\_\_ Position \_\_\_\_\_

Tenderer \_\_\_\_\_

## T2.2-06 Letter/s of Good Standing with the Workmen's Compensation Fund

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

- 1.
- 2.
- 3.
- 4.

Name of Company/Members of Joint Venture:

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

Signed

Date

.....

.....

Name

Position

.....

.....

Tenderer

.....

## T2.2-07: Changes to Tender Document

Changes to the tender documents are only allowed if a main tender complying fully with the tender documents has also been provided.

**Do not return this schedule if no alternative tender is submitted.**

The Conditions of Tender state that the tenderer may:

**C.2.12.1** Submit alternative tender offers only if a main tender offer, strictly in accordance with all the requirements of the tender documents, is also submitted. The alternative tender offer is to be submitted with the main tender offer together with a schedule that compares the requirements of the tender documents with the alternative requirements the tenderer proposes.

**C.2.12.2** Accept that an alternative tender offer may be based only on the criteria stated in the tender data or criteria otherwise acceptable to the employer.

Having examined the criteria stated in the Tender Data for this tender the proposed changes to the tender documents are:

Document No.	Subject of the proposed change	Propose to change to:

Signed

Date

Name

Position

Tenderer

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

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

A - COMPANY	B - PARTNERSHIP	C - JOINT VENTURE	D - SOLE PROPRIETOR

### 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.

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

---

**D. Certificate for Sole Proprietor**

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

Signed

Date

Name

Position

Sole Proprietor

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

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:

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

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

Name \_\_\_\_\_ Position \_\_\_\_\_

Tenderer \_\_\_\_\_

Part T2: Returnable Schedules  
T2.2-10: Availability of Equipment  
and Other Resources

## T2.2-11: 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.

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

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

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

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

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

Name	Identity number	Personal income tax number

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

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

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

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

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

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

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

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 6.1

### PREFERENCE POINTS CLAIM FORM

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

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).

#### 1. GENERAL CONDITIONS

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

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

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

1.3 Preference points for this bid shall be awarded for:

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

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

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

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



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

## 2. DEFINITIONS

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

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

$P_s$  = 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 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	<p>Certificate issued by SANAS accredited verification agency</p> <p>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)</p> <p>[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>.]</p>



<b>EME<sup>1</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>
------------------------	--

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

## 7. SUB-CONTRACTING

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

(***Tick applicable box***)

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

7.1.1 If yes, indicate:

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

(***Tick applicable box***)

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

- v) Specify, by ticking the appropriate box, if subcontracting with any of the following enterprises:

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

## 8. DECLARATION WITH REGARD TO COMPANY/FIRM

- 8.1 Name of company/firm:.....
- 8.2 VAT registration number:.....
- 8.3 Company registration number:.....

## 8.4 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

## 8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

.....

.....

## 8.6 COMPANY CLASSIFICATION

- ☐ Manufacturer
- ☐ Supplier
- ☐ Professional 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,, which will affect or has affected the evaluation of a bid, or where a bidder has failed to declare any subcontracting arrangements or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have
  - (a) disqualify the person from the bidding process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
  - (c) cancel the contract and claim any damages which it has suffered

as a result of having to make less favourable arrangements due to such cancellation;

- (d) if the successful bidder subcontracted a portion of the bid to another person without disclosing it, Transnet reserves the right to penalise the bidder up to 10 percent of the value of the contract;
- (e) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the audi alteram partem (hear the other side) rule has been applied; and
- (f) forward the matter for criminal prosecution.

## WITNESSES

1. ....

2. ....

.....  
SIGNATURE(S) OF BIDDERS(S)

DATE: .....

ADDRESS .....

.....

## SBD4

**BIDDER'S DISCLOSURE****1. PURPOSE OF THE FORM**

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

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

**2. Bidder's declaration**

2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest<sup>2</sup> in the enterprise, employed by the state? **YES/NO**

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

Full Name	Identity Number	Name of State institution

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

2.2.1 If so, furnish particulars:

<sup>2</sup> the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person/s having the deciding vote or power to influence or to direct the course and decisions of the enterprise.



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

- 2.3.1 If so, furnish particulars:  
 .....  
 .....

### 3 DECLARATION

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

- 3.1 I have read and I understand the contents of this disclosure;  
 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;  
 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium<sup>3</sup> will not be construed as collusive bidding.  
 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.  
 3.4 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.  
 3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.  
 3.6 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

<sup>3</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.

suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 1, 2 and 3 ABOVE IS CORRECT.

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

.....	.....
Signature	Date
.....	.....
Position	Name of bidder

## T2.2-12: 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.

### ***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

## T2.2-13 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 Transnet Corporate Centre 138 Eloff Street , Braamfontein , Johannesburg 2000

**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.
- 2.3 Notwithstanding clause 2.1 above, the Receiving Party may disclose Confidential Information:
  - 2.3.1 to those of its Agents who strictly need to know the Confidential Information for the sole purpose set out in clause 2.2 above, provided that the Receiving Party shall ensure that such Agents are made aware prior to the disclosure of any part of the Confidential Information that the same is confidential and that they owe a duty of confidence to the Disclosing Party. The Receiving Party shall at all times remain liable for any actions of such Agents that would constitute a breach of this Agreement; or
  - 2.3.2 to the extent required by law or the rules of any applicable regulatory authority, subject to clause 2.4 below.
- 2.4 In the event that the Receiving Party is required to disclose any Confidential Information in accordance with clause 2.3.2 above, it shall promptly notify the Disclosing Party and cooperate with the Disclosing Party regarding the form, nature, content and purpose of such disclosure or any action which the Disclosing Party may reasonably take to challenge the validity of such requirement.

- 2.5 In the event that any Confidential Information shall be copied, disclosed or used otherwise than as permitted under this Agreement then, upon becoming aware of the same, without prejudice to any rights or remedies of the Disclosing Party, the Receiving Party shall as soon as practicable notify the Disclosing Party of such event and if requested take such steps [including the institution of legal proceedings] as shall be necessary to remedy [if capable of remedy] the default and/or to prevent further unauthorised copying, disclosure or use.
- 2.6 All Confidential Information shall remain the property of the Disclosing Party and its disclosure shall not confer on the Receiving Party any rights, including intellectual property rights over the Confidential Information whatsoever, beyond those contained in this Agreement.

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

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

### **4. ANNOUNCEMENTS**

- 4.1 Neither party will make or permit to be made any announcement or disclosure of its prospective interest in the 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.

## 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

## T2.2-14: RFP DECLARATION FORM

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

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

1. Transnet has supplied and we have received appropriate tender offers to any/all questions (as applicable) which were submitted by ourselves for tender clarification purposes;
2. we have received all information we deemed necessary for the completion of this Tender;
3. at no stage have we received additional information relating to the subject matter of this tender from Transnet sources, other than information formally received from the designated Transnet contact(s) as nominated in the tender documents;
4. we are satisfied, insofar as our company is concerned, that the processes and procedures adopted by Transnet in issuing this tender and the requirements requested from tenderers in responding to this tender have been conducted in a fair and transparent manner; and
5. furthermore, we acknowledge that a direct relationship exists between a family member and/or an owner / member / director / partner / shareholder (unlisted companies) of our company and an employee or board member of the Transnet Group as indicated below:  
*[Respondent to indicate if this section is not applicable]*

FULL NAME OF OWNER/MEMBER/DIRECTOR/

PARTNER/SHAREHOLDER:

ADDRESS:

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Indicate nature of relationship with Transnet:

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

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

6. We accept that any dispute pertaining to this tender will be resolved through the Ombudsman process and will be subject to the Terms of Reference of the Ombudsman. The Ombudsman process must first be exhausted before judicial review of a decision is sought. (Refer "Important Notice to respondents" below).
7. We further accept that Transnet reserves the right to reverse a tender award or decision based on the recommendations of the Ombudsman without having to follow a formal court process to have such award or decision set aside.
8. We have acquainted ourselves and agree with the content of T2.2-16 "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.

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It is incumbent on the Tenderer to familiarise himself/herself with the Terms of Reference for the Transnet Procurement Ombudsman, details of which are available for review at Transnet's website [www.transnet.net](http://www.transnet.net).

An official complaint form may be downloaded from this website and submitted, together with any supporting documentation, within the prescribed period, to [procurement.ombud@transnet.net](mailto:procurement.ombud@transnet.net)

For transactions below the R5,000,000.00 (five million S.A. Rand) threshold, a complaint may be lodged with the Chief Procurement Officer of the relevant Transnet Operating Division.

All Tenderers should note that a complaint must be made in good faith. If a complaint is made in bad faith, Transnet reserves the right to place such a tenderer on its List of Excluded Bidders.

## T2.2-15 Certificate of Acquaintance with Tender Documents

NAME OF TENDERING ENTITY:

---

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\_\_\_\_

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

---

## **T2.2-16 Service Provider Integrity Pact**

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

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

### **INTEGRITY PACT**

Between

**TRANSNET SOC LTD**

Registration Number: 1990/000900/30

("Transnet")

and

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

---

## **PREAMBLE**

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

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

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

All Tenderers/Service Providers/Contractor's will be required to sign and comply with undertakings contained in this Integrity Pact, should they want to be registered as a Transnet vendor.

## **1. OBJECTIVES**

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

## **2. COMMITMENTS OF TRANSNET**

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

- 2.1 Transnet hereby undertakes that no employee of Transnet connected directly or indirectly with the sourcing event and ensuing contract, will demand, take a promise for or accept directly or through intermediaries any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the Tenderer, either for themselves or for any person, organisation or third party related to the contract in exchange for an advantage in the tendering



process, Tender evaluation, contracting or implementation process related to any contract.

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

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

- 3.1 Transnet has a '**Zero Gifts**' Policy. No employee is allowed to accept gifts, favours or benefits.
  - a) Transnet officials and employees **shall not** solicit, give or accept, or from agreeing to solicit, give, accept or receive directly or indirectly, any gift, gratuity, favour, entertainment, loan, or anything of monetary value, from any person or juridical entities in the course of official duties or in connection with any operation being managed by, or any transaction which may be affected by the functions of their office.
  - b) Transnet officials and employees **shall not** solicit or accept gifts of any kind, from vendors, suppliers, customers, potential employees, potential vendors, and suppliers, or any other individual or organisation irrespective of the value.
  - c) Under **no circumstances** should gifts, business courtesies or hospitality packages be accepted from or given to prospective suppliers participating in a tender process at the respective employee's Operating Division, regardless of retail value.
  - d) Gratuities, bribes or kickbacks of any kind must never be solicited, accepted or offered, either directly or indirectly. This includes money, loans, equity, special privileges, personal favours, benefit or services. Such favours will be considered to constitute corruption.
- 3.2 The Tenderer/Service Provider/Contractor commits itself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during

any stage of its Tender or during any ensuing contract stage in order to secure the contract or in furtherance to secure it and in particular the Tenderer/Service Provider/Contractor commits to the following:

- a) The Tenderer/Service Provider/Contractor will not, directly or through any other person or firm, offer, promise or give to Transnet or to any of Transnet's employees involved in the tendering process or to any third person any material or other benefit or payment, in order to obtain in exchange an advantage during the tendering process; and
  - b) The Tenderer/Service Provider/Contractor will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any employee of Transnet, connected directly or indirectly with the tendering process, or to any person, organisation or third party related to the contract in exchange for any advantage in the tendering, evaluation, contracting and implementation of the contract.
- 3.3 The Tenderer/Service Provider/Contractor will not collude with other parties interested in the contract to preclude a competitive Tender price, impair the transparency, fairness and progress of the tendering process, Tender evaluation, contracting and implementation of the contract. The Tenderer / Service Provider further commits itself to delivering against all agreed upon conditions as stipulated within the contract.
- 3.4 The Tenderer/Service Provider/Contractor will not enter into any illegal or dishonest agreement or understanding, whether formal or informal with other Tenderers/Service Providers/Contractors. This applies in particular to certifications, submissions or non-submission of documents or actions that are restrictive or to introduce cartels into the tendering process.
- 3.5 The Tenderer/Service Provider/Contractor will not commit any criminal offence under the relevant anti-corruption laws of South Africa or any other country. Furthermore, the Tenderer/Service Provider/Contractor will not use for illegitimate purposes or for restrictive purposes or personal gain, or pass on to others, any information provided by Transnet as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
- 3.6 A Tenderer/Service Provider/Contractor of foreign origin shall disclose the name and address of its agents or representatives in South Africa, if any, involved directly or indirectly in the registration or tendering process. Similarly, the Tenderer / Service Provider / Contractor of South African nationality shall furnish the name and address of the foreign principals, if any, involved directly or indirectly in the registration or tendering process.

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- 3.7 The Tenderer/Service Provider/Contractor will not misrepresent facts or furnish false or forged documents or information in order to influence the tendering process to the advantage of the Tenderer/Service Provider/Contractor or detriment of Transnet or other competitors.
- 3.8 Transnet may require the Tenderer/Service Provider/Contractor to furnish Transnet with a copy of its code of conduct. Such code of conduct must address the compliance programme for the implementation of the code of conduct and reject the use of bribes and other dishonest and unethical conduct.
- 3.9 The Tenderer/Service Provider/Contractor will not instigate third persons to commit offences outlined above or be an accessory to such offences.
- 3.10 The Tenderer/Service Provider/Contractor confirms that they will uphold the ten principles of the United Nations Global Compact (UNGC) in the fields of Human Rights, Labour, Anti-Corruption and the Environment when undertaking business with Transnet as follows:

a) Human Rights

- Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights; and
- Principle 2: make sure that they are not complicit in human rights abuses.

b) Labour

- Principle 3: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;
- Principle 4: the elimination of all forms of forced and compulsory labour;
- Principle 5: the effective abolition of child labour; and
- Principle 6: the elimination of discrimination in respect of employment and occupation.

c) Environment

- Principle 7: Businesses should support a precautionary approach to environmental challenges;
- Principle 8: undertake initiatives to promote greater environmental responsibility; and
- Principle 9: encourage the development and diffusion of environmentally friendly technologies.

d) Anti-Corruption

- Principle 10: Businesses should work against corruption in all its forms, including extortion and bribery.

#### 4. INDEPENDENT TENDERING

- 4.1 For the purposes of that Certificate in relation to any submitted Tender, the Tenderer declares to fully understand that the word "competitor" shall include any individual or organisation, other than the Tenderer, whether or not affiliated with the Tenderer, who:
  - a) has been requested to submit a Tender in response to this Tender invitation;
  - b) could potentially submit a Tender in response to this Tender invitation, based on their qualifications, abilities or experience; and
  - c) provides the same Goods and Services as the Tenderer and/or is in the same line of business as the Tenderer.
- 4.2 The Tenderer has arrived at his submitted Tender independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium will not be construed as collusive tendering.
- 4.3 In particular, without limiting the generality of paragraph 5 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
  - a) prices;
  - b) geographical area where Goods or Services will be rendered [market allocation];
  - c) methods, factors or formulas used to calculate prices;
  - d) the intention or decision to submit or not to submit, a Tender;
  - e) the submission of a Tender which does not meet the specifications and conditions of the RFP; or
  - f) tendering with the intention of not winning the Tender.
- 4.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the Goods or Services to which his/her tender relates.
- 4.5 The terms of the Tender as submitted have not been, and will not be, disclosed by the Tenderer, directly or indirectly, to any competitor, prior to the date and time of the official Tender opening or of the awarding of the contract.



- 4.6 Tenderers are aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to Tenders and contracts, Tenders that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and/or may be reported to the National Prosecuting Authority [**NPA**] for criminal investigation and/or may be restricted from conducting business with the public sector for a period not exceeding 10 [ten] years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.
- 4.7 Should the Tenderer find any terms or conditions stipulated in any of the relevant documents quoted in the Tender unacceptable, it should indicate which conditions are unacceptable and offer alternatives by written submission on its company letterhead, attached to its submitted Tender. Any such submission shall be subject to review by Transnet's Legal Counsel who shall determine whether the proposed alternative(s) are acceptable or otherwise, as the case may be.

## 5. DISQUALIFICATION FROM TENDERING PROCESS

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

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## 6. TRANSNET'S LIST OF EXCLUDED TENDERERS (BLACKLIST)

- 6.1 The process of restriction is used to exclude a company/person from conducting future business with Transnet and other organs of state for a specified period. No Tender shall be awarded to a Tenderer whose name (or any of its members, directors, partners or trustees) appear on the Register of Tender Defaulters kept by National Treasury, or who have been placed on National Treasury's List of Restricted Suppliers. Transnet reserves the right to withdraw an award, or cancel a contract concluded with a Tenderer should it be established, at any time, that a tenderer has been restricted with National Treasury by another government institution.
- 6.2 All the stipulations on Transnet's restriction process as laid down in Transnet's Supply Chain Policy and Procurement Procedures Manual (CPM included) are included herein by way of reference. Below follows a condensed summary of this restriction procedure.
- 6.3 On completion of the restriction procedure, Transnet will submit the restricted entity's details (including the identity number of the individuals and registration number of the entity) to National Treasury for placement on National Treasury's Database of Restricted Suppliers for the specified period of exclusion. National Treasury will make the final decision on whether to restrict an entity from doing business with any organ of state for a period not exceeding 10 years and place the entity concerned on the Database of Restricted Suppliers published on its official website.
- 6.4 The decision to restrict is based on one of the grounds for restriction. The standard of proof to commence the restriction process is whether a "*prima facie*" (i.e. on the face of it) case has been established.
- 6.5 Depending on the seriousness of the misconduct and the strategic importance of the Goods/Services, in addition to restricting a company/person from future business, Transnet may decide to terminate some or all existing contracts with the company/person as well.
- 6.6 A Service Provider or Contractor to Transnet may not subcontract any portion of the contract to a blacklisted company.
- 6.7 Grounds for blacklisting include: If any person/Enterprise which has submitted a Tender, concluded a contract, or, in the capacity of agent or subcontractor, has been associated with such Tender or contract:
  - a) Has, in bad faith, withdrawn such Tender after the advertised closing date and time for the receipt of Tenders;

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- b) has, after being notified of the acceptance of his Tender, failed or refused to sign a contract when called upon to do so in terms of any condition forming part of the Tender documents;
  - c) has carried out any contract resulting from such Tender in an unsatisfactory manner or has breached any condition of the contract;
  - d) has offered, promised or given a bribe in relation to the obtaining or execution of the contract;
  - e) has acted in a fraudulent or improper manner or in bad faith towards Transnet or any Government Department or towards any public body, Enterprise or person;
  - f) has made any incorrect statement in a certificate or other communication with regard to the Local Content of his Goods or his B-BBEE status and is unable to prove to the satisfaction of Transnet that:
    - (i) he made the statement in good faith honestly believing it to be correct; and
    - (ii) before making such statement he took all reasonable steps to satisfy himself of its correctness;
  - g) caused Transnet damage, or to incur costs in order to meet the contractor's requirements and which could not be recovered from the contractor;
  - h) has litigated against Transnet in bad faith.
- 6.8 Grounds for blacklisting include a company/person recorded as being a company or person prohibited from doing business with the public sector on National Treasury's database of Restricted Service Providers or Register of Tender Defaulters.
- 6.9 Companies associated with the person/s guilty of misconduct (i.e. entities owned, controlled or managed by such persons), any companies subsequently formed by the person(s) guilty of the misconduct and/or an existing company where such person(s) acquires a controlling stake may be considered for blacklisting. The decision to extend the blacklist to associated companies will be at the sole discretion of Transnet.

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## 7. PREVIOUS TRANSGRESSIONS

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

## 8. SANCTIONS FOR VIOLATIONS

- 8.1 Transnet shall also take all or any one of the following actions, wherever required to:
- a) Immediately exclude the Tenderer/Service Provider/Contractor from the tendering process or call off the pre-contract negotiations without giving any compensation the Tenderer/Service Provider/Contractor. However, the proceedings with the other Tenderer/Service Provider/Contractor may continue;
  - b) Immediately cancel the contract, if already awarded or signed, without giving any compensation to the Tenderer/Service Provider/Contractor;
  - c) Recover all sums already paid by Transnet;
  - d) Encash the advance bank guarantee and performance bond or warranty bond, if furnished by the Tenderer/Service Provider/Contractor, in order to recover the payments, already made by Transnet, along with interest;
  - e) Cancel all or any other contracts with the Tenderer/Service Provider/Contractor; and
  - f) Exclude the Tenderer/Service Provider/Contractor from entering into any Tender with Transnet in future.

## 9. CONFLICTS OF INTEREST

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



- 9.2 A Transnet employee uses his / her position, or privileges or information obtained while acting in the capacity as an employee for:
- a) Private gain or advancement; or
  - b) The expectation of private gain, or advancement, or any other advantage accruing to the employee must be declared in a prescribed form.
- Thus, conflicts of interest of any Tender committee member or any person involved in the sourcing process must be declared in a prescribed form.
- 9.3 If a Tenderer/Service Provider/Contractor has or becomes aware of a conflict of interest i.e. a family, business and / or social relationship between its owner(s)/ member(s)/director(s)/partner(s)/shareholder(s) and a Transnet employee/ member of Transnet's Board of Directors in respect of a Tender which will be considered for the Tender process, the Tenderer/Service Provider/ Contractor:
- a) must disclose the interest and its general nature, in the Request for Proposal ("RFX") declaration form; or
  - b) must notify Transnet immediately in writing once the circumstances has arisen.
- 9.4 The Tenderer/Service Provider/Contractor shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any committee member or any person involved in the sourcing process, where this is done, Transnet shall be entitled forthwith to rescind the contract and all other contracts with the Tenderer/Service Provider/Contractor.

## 10.DISPUTE RESOLUTION

- 10.1 Transnet recognises that trust and good faith are pivotal to its relationship with its Tenderer / Service Provider / Contractor. When a dispute arises between Transnet and its Tenderer / Service Provider / Contractor, the parties should use their best endeavours to resolve the dispute in an amicable manner, whenever possible. Litigation in bad faith negates the principles of trust and good faith on which commercial relationships are based. Accordingly, following a blacklisting process as mentioned in paragraph 6 above, Transnet will not do business with a company that litigates against it in bad faith or is involved in any action that reflects bad faith on its part. Litigation in bad faith includes, but is not limited to the following instances:
- a) **Vexatious proceedings:** these are frivolous proceedings which have been instituted without proper grounds;
  - b) **Perjury:** where a Tenderer / Service Provider / Contractor make a false statement either in giving evidence or on an affidavit;
  - c) **Scurrilous allegations:** where a Tenderer / Service Provider / Contractor makes allegations regarding a senior Transnet employee which are without proper foundation, scandalous, abusive or defamatory; and
  - d) **Abuse of court process:** when a Tenderer / Service Provider / Contractor abuses the court process in order to gain a competitive advantage during a Tender process.

## 11. GENERAL

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

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

I ..... duly authorised by the tendering entity, hereby certify that the tendering entity are **fully acquainted** with the contents of the Integrity Pact and further **agree to abide by it** in full.

Signature .....

Date .....

## T2.2-17: 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 misdemeanors, e.g. traffic offences.

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

NATURE OF BREACH:

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DATE OF BREACH:

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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\_\_\_\_

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SIGNATURE OF TENDER

## T2.2-18: Confirmation of machine/s ownership

The tenderer must submit the following letters together with the tender submission:

- Proof of Ownership – A signed letter from the Original Equipment Manufacturer (OEM) confirming that the tenderer owns the machine/s. The number of machines must be reflected on the letter. In the case of purchasing from more than one OEM, separate letters must be provided for each OEM.
- A Memorandum of Understanding (MOI) to Lease.

(Tenderers who submit a proposal based on leasing the machine from the owner(s) will be required to conclude the leasing agreement within a period of (two) 2 weeks. Failure to provide such written and valid proof within the stipulate timeframe may result in the termination of the awarded contract. Therefore, Transnet reserves the right to validate any information that is provided as confirmation).

The letters should be signed and stamped, and the information must be provided on the client's letter head with their client's company stamp.

Equipment Description	Number of Equipment	Name of OEM

Signed

Date

.....

.....

Name

Position

.....

.....

Tenderer

.....

## **T2.2-19: Agreement in terms of Protection of Personal Information Act, 4 of 2013 ("POPIA")**

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

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

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

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

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

- 2.2. The Operator will process all information by the Transnet in terms of the requirements contemplated in Section 4(1) of the POPIA:

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

- 2.3. The Parties acknowledge and agree that, in relation to personal information of Transnet and the information of a third party that will be processed pursuant to this Agreement, the Operator is (..... insert name of Tenderer/Contractor) hereinafter Operator and the Data subject is "Transnet". Operator will process personal information only with the knowledge and authorisation of Transnet and will treat personal information and the information of a third party which comes to its knowledge as confidential and will not disclose it, unless so required by law or subject to the exceptions contained in the POPIA.

- 2.4. Transnet reserves all the rights afforded to it by the POPIA in the processing of any of its information as contained in this Agreement and the Operator is required to comply with all prescripts as detailed in the POPIA relating to all information concerning Transnet.

- 2.5. In terms of this Agreement, the Operator acknowledges that it will obtain and have access to personal information of Transnet and the information of a third party and agrees that it shall only process the information disclosed by Transnet in terms of this Agreement and only for the purposes as detailed in this Agreement and in accordance with any applicable law.

- 2.6. Should there be a need for the Operator to process the personal information and the information of a third party in a way that is not agreed to in this Agreement, the Operator must request consent from Transnet to the processing of its personal information or and the information of a third party in a manner other than that it was collected for, which consent cannot be unreasonably withheld.
- 2.7. Furthermore, the Operator will not otherwise modify, amend or alter any personal information and the information of a third party submitted by Transnet or disclose or permit the disclosure of any personal information and the information of a third party to any third party without prior written consent from Transnet.
- 2.8. The Operator shall, at all times, ensure compliance with any applicable laws put in place and maintain sufficient measures, policies and systems to manage and secure against all forms of risks to any information that may be shared or accessed pursuant to the services offered to Transnet in terms of this Agreement (physically, through a computer or any other form of electronic communication).
- 2.9. The Operator shall notify Transnet in writing of any unauthorised access to personal information and the information of a third party, cybercrimes or suspected cybercrimes, in its knowledge and report such crimes or suspected crimes to the relevant authorities in accordance with applicable laws, after becoming aware of such crimes or suspected crime. The Operator must inform Transnet of the breach as soon as it has occurred to allow Transnet to take all necessary remedial steps to mitigate the extent of the loss or compromise of personal information and the information of a third party and to restore the integrity of the affected personal information as quickly as is possible.
- 2.10. Transnet may, in writing, request the Operator to confirm and/or make available any personal information and the information of a third party in its possession in relation to Transnet and if such personal information has been accessed by third parties and the identity thereof in terms of the POPIA.
- 2.11. Transnet may further request that the Operator correct, delete, destroy, withdraw consent or object to the processing of any personal information and the information of a third party relating to the Transnet or a third party in the Operator's s possession in terms of the provision of the POPIA and utilizing Form 2 of the POPIA Regulations .
- 2.12. In signing this addendum that is in terms of the POPIA, the Operator hereby agrees that it has adequate measures in place to provide protection of the personal information and the information of a third party given to it by Transnet in line with the 8 conditions of the POPIA

and that it will provide to Transnet satisfactory evidence of these measures whenever called upon to do so by Transnet.

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

<b>YES</b>		<b>NO</b>	
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2.13. Further, the Operator acknowledges that it will be held liable by Transnet should it fail to process personal information in line with the requirements of the POPIA. The Operator will be subject to any civil or criminal action, administrative fines or other penalty or loss that may arise as a result of the processing of any personal information that Transnet submitted to it.

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

### **3. SOLE AGREEMENT**

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

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

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

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

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

\_\_\_\_\_ (Name of company)

(Operator)

Authorised signatory for and on behalf of ..... (Name of company) who warrants that he/she is duly authorised to sign this Agreement.

#### **AS WITNESSES:**

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

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

## T2.2-20: Insurance provided by the *Contractor*

Clause 83.1 in NEC3 Term Service 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.

Insurance against (See clause 83.1 of the TSC)	Name of Insurance Company	Cover	Premium
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.			
(Other)			

Signed

Date

Name

Position

Tenderer

## 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:

#### FOR THE MAINTENANCE OF RAILWAY TRACK WITH ON TRACK ULTRASONIC RAIL FLAW DETECTION MACHINE FOR THE CAPE CORRIDOR SHUT FOR A PERIOD OF 1 MONTH

The tenderer, identified in the Offer signature block, has 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.

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	R
Value Added Tax @ 15% is	R
The offered total of the Prices inclusive of VAT is	R
(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.

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: Service 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 Data) to arrange the delivery of any securities, bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the *conditions of contract* identified in the Contract Data at, or just after, the date this agreement comes into effect. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this agreement.

Notwithstanding anything contained herein, this agreement comes into effect on the date of award.

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  
FC Sturrock Building, Fleming Street,  
Port Elizabeth

(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		
6		
7		

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

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

### For the tenderer:

### For the Employer

Signature \_\_\_\_\_

Name \_\_\_\_\_

Capacity \_\_\_\_\_

On behalf of \_\_\_\_\_  
(Insert name and address of organisation)

Name & signature of witness \_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Insert name and address of organisation)  
Transnet SOC Ltd  
FC Sturrock Building, Fleming Street,  
Port Elizabeth

\_\_\_\_\_

\_\_\_\_\_

## C1.2 Contract Data

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

Clause	Statement	Data
<b>1</b>	<b>General</b>	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option:	
	dispute resolution Option	<b>A:</b> Priced contract with price list
	and secondary Options	<b>W1:</b> Dispute resolution procedure
		<b>X2:</b> Changes in the law
		<b>X4:</b> Parent company guarantee
		<b>X17:</b> Low service damages
		<b>X18:</b> Limitation of liability
		<b>X19:</b> Task Order
		<b>Z:</b> <i>Additional conditions of contract</i>
	of the NEC3 Term Service Contract (June 2005) (and amended June 2006 and April 2013)	
10.1	The <i>Employer</i> is:	<b>Transnet SOC Ltd</b>
	Address	Registered address: <b>Transnet Corporate Centre</b> <b>138 Eloff Street</b> <b>Braamfontein</b> <b>Johannesburg</b> <b>2000</b>
	Having elected its Contractual Address for the purposes of this contract as:	<b>Transnet Freight Rail</b> <b>FC Sturrock Building</b> <b>Fleming Street</b> <b>Port Elizabeth</b> <b>6001</b>
	Tel No.	<b>041 507 2717</b>

10.1	The <i>Service Manager</i> is (name):	<b>Mr. Ian Mncube</b>
	Address	<b>Inyanda House 1, 21 Wellington Road, Parktown, 2193</b>
	Tel	<b>011 544 9175</b>
	e-mail	<b>Ian.mncube@transnet.net</b>
11.2(2)	The Affected Property is	<b>In respect of each Task Order, the identified portion of the South African Freight Rail Network</b>
11.2(13)	The <i>service</i> is	FOR THE MAINTENANCE OF RAILWAY TRACK WITH ON TRACK ULTRASONIC RAIL FLAW DETECTION MACHINE FOR THE CAPE CORRIDOR SHUT FOR A PERIOD OF 1 MONTH
11.2(14)	The following matters will be included in the Risk Register	<b>(a) Cancellation of track occupations at short notice.</b> <b>(b) The shortage of pilots to move machines between depots.</b> <b>(c) Work on railway track near live OHTE electrical equipment holds a danger of electrocution for workers.</b> <b>(d) Working on a railway line adjacent to lines on which rail traffic continue to run holds the risk of injury or death to workers.</b> <b>(e) Dry vegetation at or near most worksites is a fire hazard.</b>
11.2(15)	The Service Information is in	<b>The Scope of Services</b>
12.2	The <i>law of the contract</i> is the law of	<b>the Republic of South Africa subject to the jurisdiction of the Courts of South Africa.</b>
13.1	The <i>language of this contract</i> is	<b>English</b>
13.3	The <i>period for reply</i> is	<b>7 days</b>
<b>2</b>	<b>The <i>Contractor's</i> main responsibilities</b>	<b>No additional data is required for this section of the <i>conditions of contract</i>.</b>
21.1	The <i>Contractor</i> submits a first plan for acceptance within	<b>7 days of the Contract Date</b>
<b>3</b>	<b>Time</b>	
30.1	The <i>starting date</i> is.	<b>TBA</b>
30.1	The <i>service period</i> is	<b>1 month</b>
<b>4</b>	<b>Testing and defects</b>	<b>No additional data is required for this section of the <i>conditions of contract</i>.</b>

<b>5</b>	<b>Payment</b>	
50.1	The <i>assessment interval</i> is	<b>25<sup>th</sup> (twenty fifth) day of each successive month.</b>
51.1	The <i>currency of this contract</i> is the	<b>South African Rand.</b>
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 the Standard Bank South Africa.</b>
<b>6</b>	<b>Compensation events</b>	
	60.1(15)	A weather measurement is determined by a suitable weather station most conveniently located in the Affected area
	60.1(15)	The <i>weather data</i> is the weather data issued with the Task Order or within <b>[5 days]</b> thereof, covering the area in which the Affected Property is situated, or if not so issued the national weather data available from the South African Weather Services
<b>7</b>	<b>Use of Equipment Plant and Materials</b>	<b>No additional data is required for this section of the <i>conditions of contract</i>.</b>
<b>8</b>	<b>Risks and insurance</b>	
80.1	These are additional <i>Employer's</i> risks	<b>none</b>
83.1	The minimum limit of indemnity for insurance in respect of loss and damage to property (except goods, plant and materials and equipment) and liability for bodily injury or death of a person (not an employee of the <i>Contractor</i> ) caused by activity in connection with this contract for any one event is:	<b>Whatever <i>Contractor</i> deems necessary as the <i>Employer</i> is not carrying this indemnity.</b>
83.1	The minimum limit of indemnity for insurance in respect of 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 for any one event is:	<b>As prescribed by the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993 and the <i>Contractor's</i> common law liability for people falling outside the scope of the Act.</b>

83.1	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	
83.1	The <i>Contractor</i> liability to the <i>Employer</i> for indirect or consequential loss including loss of profit, revenue and goodwill, is limited to:	<b>The Total of the Prices.</b>
83.1	For any one event, the <i>Contractor</i> liability to the <i>Employer</i> for loss of or damage to the <i>Employers</i> property is limited to:	<b>The Total of the Prices.</b>
83.1	The <i>Contractor</i> total liability to the <i>Employer</i> for all matters arising under or in connection with this contract, other than the excluded matters, is limited to:	<b>The Total of the Prices.</b>
<b>9</b>	<b>Termination</b>	<b>There is no Contract Data required for this section of the <i>conditions of contract</i>.</b>
<b>10</b>	<b>Data for main Option clause</b>	
<b>A</b>	<b>Priced contract with price list</b>	
20.5	The <i>Contractor</i> prepares forecasts of the final total of the Prices for the whole of the <i>service</i> at intervals no longer than	<b>4 weeks</b>
<b>11</b>	<b>Data for Option W1</b>	
W1.1	The <i>Adjudicator</i> is (Name)	<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 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>Johannesburg, 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

**The Chairman of the Association of Arbitrators (Southern Africa)**

## 12 Data for secondary Option clauses

<b>X2</b>	<b>Changes in the law</b>	<b>No additional data is required for this Option</b>
<b>X4</b>	<b>Parent company guarantee</b>	<b>No additional data is required for this Option</b>
<b>X17</b>	<b>Low service damages</b>	

X17.1 The *service level table* is in

Performance level	% Achieved of performance (Availability of the machine X Productivity of the machine) for each task order	Low service damages for each task order
Rate of production X Availability	99-100% performance achieved	R0 (nil)
	95 - 98% performance achieved	2,5% of the Price for Services Provided in terms of the Task Order (Item 1 of Price List)
	90 – 94% performance achieved	5% of the Price for Services Provided in terms of the Task Order (Item 1 of Price List)
	88-89% performance achieved	7,5% of the Price for Services Provided in terms of the Task Order (Item 1 of Price List)
	86-87% performance achieved	10% of the Price for Services Provided in terms of the Task Order (Item 1 of Price List)
	84-85% performance achieved	12,5% of the Price for Services Provided to Date in terms of the Task Order (Item 1 of Price List)
	<84% performance achieved	15% of the Price for Services Provided in terms of the Task Order (Item 1 of Price List)

## X18 Limitation of liability

X18.1	The <i>Contractor's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to	<b>In respect of each Task Order 10% of the total of the Prices for the Task Order or R1,000,000.00 (One million Rand), whichever is the higher amount.</b>
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X18.2	For any one event, the <i>Contractor's</i> liability to the <i>Employer</i> for loss of or damage to the <i>Employer's</i> property is limited to	<b>The deductible of the relevant insurance policy</b>
X18.3	The <i>Contractor's</i> liability for Defects due to his design of an item of Equipment is limited to	<b>The cost of correcting the defect.</b>
X18.4	The <i>Contractor's</i> total liability to the <i>Employer</i> , for all matters arising under or in connection with this contract, other than the excluded matters, is limited to	<p><b>In respect of each Task Order, the total of the Prices for the Task Order other than for the additional excluded matters.</b></p> <ul style="list-style-type: none"> <li>• The <i>Contractor's</i> total liability for the additional excluded matters is not limited.</li> <li>• The additional excluded matters are amounts for which the <i>Contractor</i> is liable under this contract for</li> <li>• Defects due to his design, plan and specification,</li> <li>• Defects due to manufacture and fabrication outside the Affected Property,</li> <li>• loss of or damage to property (other than the <i>Employer's</i> property, Plant and Materials),</li> <li>• death of or injury to a person and infringement of an intellectual property right.</li> </ul>
X18.5	The <i>end of liability date</i> is	<b>6 (Six) months after the completion of the services at a specific Affected Property or the completion of a Task Order (whichever is applicable).</b>
<b>X19</b>	<b>Task Order</b>	
X19.5	The <i>Contractor</i> submits a Task Order programme to the <i>Service Manager</i> within	<b>5 (five) days of receiving the Task Order.</b>
<b>Z</b>	<b>Additional conditions of contract</b>	

## Z1 Obligations in respect of Termination

Z1.1	<p>The following will be included under core clause 91.1:</p> <p>In the second main bullet, after the word 'partnership' add 'joint venture whether incorporated or otherwise (including any constituent of the joint venture)'; and</p> <p>Under the second main bullet, insert the following additional bullets after the last sub-bullet:</p> <ul style="list-style-type: none"> <li>• commenced business rescue proceedings (R22)</li> <li>• repudiated this Contract (R23)</li> </ul>
Z1.2	<p>Termination Table</p> <p>The following will be included under core clause 90.2 Termination Table as follows:</p> <p>Amend "A reason other than R1 – R21" to "A reason other than R1 – R23"</p>
Z1.3	<p>Amend "R1 – R15 or R18" to "R1 – R15, R18, R22 or R23."</p>

## Z2 Right Reserved by Transnet to Conduct Vetting through SSA

Z2.1	<p>Transnet 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:</p> <ol style="list-style-type: none"> <li>1. Confidential – this clearance is based on any information which may be used by malicious, opposing or hostile elements to harm the objectives and functions of an organ of state.</li> <li>2. Secret – clearance is based on any information which may be used by malicious, opposing or hostile elements to disrupt the objectives and functions of an organ of state.</li> <li>3.</li> <li>4. Top Secret – this clearance is based on information which may be used by malicious, opposing or hostile elements to neutralise the objectives and functions of an organ of state.</li> </ol>
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**Z3 Additional clause relating to Collusion in  
the Construction Industry**

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Z3.1	The contract award is made without prejudice to any rights Transnet may have to take appropriate action later with regard to any declared bid rigging including blacklisting.
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**Z4 Protection of Personal Information Act**

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Z4.1	The <i>Employer</i> and the <i>Contractor</i> 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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## C1.2 Contract Data

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

The tendering contractor is advised to read both the NEC3 Term Service Contract (June 2005) and the relevant parts of its Guidance Notes (TSC3-GN) in order to understand the implications of this Data which the tenderer is required to complete.

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(14)	The following matters will be included in the Risk Register	.....
11.2(15)	The Service Information for the <i>Contractor's</i> plan is in:	.....
21.1	The plan identified in the Contract Data is contained in:	.....
24.1	The key persons are:	
	1 Name:	.....
	Job:	.....
	Responsibilities:	.....
	Qualifications:	.....
	Experience:	.....
	2 Name:	.....
	Job	.....
	Responsibilities:	.....
	Qualifications:	.....
	Experience:	.....

### A Priced contract with price list

11.2(19) The tendered total of the Prices is **R.....**

## PART C2: PRICING DATA

### C2.2 Price List

Document reference	Title	No of pages
C2.1	Pricing instructions	2 - 5
C2.2	Price Lists	6 - 7

## C2.1 Pricing assumptions: Option A

### 1. GENERAL

#### 1.1 How work is priced and assessed for payment

##### Clause 11 in NEC3 Term Service Contract (TSC3) core clauses and Option A states:

Identified and 11

defined terms 11.2 (12) The Price List is the price list unless later changed in accordance with this contract.

(17) The Price for Services Provided to Date is the total of

the Price for each lump sum item in the Price List which the Contractor has completed and where a quantity is stated for an item in the Price List, an amount calculated by multiplying the quantity which the Contractor has completed by the rate.

(19) The Prices are the amounts stated in the Price column of the Price List. Where a quantity is stated for an item in the Price List, the Price is calculated by multiplying the quantity by the rate.

##### Clause 50 in NEC3 Term Service Contract (TSC3) core clauses and Option A states:

Assessing the amount due

50.2

The amount due is

- the Prices for the Services Provided to Date,
- plus other amounts to be paid to the Contractor,
- less amounts to be paid by or retained from the Contractor.

This confirms that Option A is a priced contract where the Prices are derived from a list of items of service which can be priced as lump sums or as estimated quantities of service multiplied by a rate or a mix of both.

#### 1.2 Function of the Price List

Clause 54.1 in Option A states: "Information in the Price List is not Service Information". This confirms that instructions to do work or how it is to be done are not included in the Price List but in the Service Information. This is further confirmed by Clause 20.1 which states, "The Contractor Provides the Service in accordance with the Service Information". Hence the Contractor does not provide the Service in accordance with the Price List. The Price List is only a pricing document.

#### 1.3 Preparing the price list

Before preparing the price list, both the *Employer* and tendering contractors should read the TSC3 Guidance Notes pages 14 and 15. In an Option A contract, either Party may have entered items into the price list either as a process of offer and acceptance (tendering) or by negotiation depending on the nature of the service to be provided. Alternatively, the *Employer*, in his Instructions to Tenderers or in a Tender Schedule, may have listed some items that he requires the Contractor to include in the price list to be prepared and priced by him.

It is assumed that in preparing or finalising the price list the Contractor:

- Has taken account of the guidance given in the TSC3 Guidance Notes relevant to Option A;
- Understands the function of the Price List and how work is priced and paid for;

- Is aware of the need to link priced rates with parameters for the volume of work involved in Providing the Service as contemplated in *price list* contained in section C2.2;
- Has listed and priced items in the price list which are inclusive of everything necessary and incidental to Providing the Service in accordance with the Service Information, as it was at the time of tender, as well as correct any Defects not caused by an *Employer's* risk. This should also include all liabilities and obligations set forth or implied in the Contract data, as well as any profit.
- Has priced work he decides not to show as a separate item within the Prices or rates of other listed items in order to fulfil the obligation to complete the service for the tendered total of the Prices.
- Understands there is no adjustment to items priced as lump sums if the amount, or quantity, of work within that item later turns out to be different to that which the Contractor estimated at time of tender. The only basis for a change to the (lump sum) Prices is as a result of a compensation event.

## 2. FORMAT OF THE PRICE LIST

Entries in the first four columns in the price list in section C2.2 are made either by the *Employer* or the tendering contractor.

If the Contractor is to be paid an amount for the item which is not adjusted if the quantity of work in the item changes, the tendering contractor enters the amount in the Price column only, the Unit, Estimated Quantity and Rate columns being left blank.

The pricing table contained in section C2.2 contemplates.

- (i) Item based pricing with applicable rates based on estimated volumes of work provided in the Price list

In this regard the tendering contractor is required to propose the relevant rates for the defined parameters of works for items 1 to 7 of the Price List (as further described in paragraphs 4.2 to 4.5 below).

## 3. GENERAL PRICING ASSUMPTIONS

- 3.1 The agreement is based on the NEC Term Service Contract.
- 3.2 It will be assumed that prices included in the Price List are based on Acts, Ordinances, Regulations, By-laws, International Standards and National Standards that were published 28 days before the closing date for tenders.
- 3.3 The Price List is not intended for the ordering of materials. Any ordering of materials, based on the Price List, is at the Contractor's risk.
- 3.4 The prices should cover the cost (as explained in par 1.3 above) for the work as described. The quantities set out in these Price Lists are estimates and do not necessarily represent the actual amount of work to be done per quantity item. The quantities of work accepted and certified for payment will be used for determining payments due and not the quantities given in these Price Lists (refer to par 1.1 above).
- 3.5 The short descriptions of the items of payment given in this Price List are only for purposes of identifying the items. More details regarding the extent of the work entailed under each item appear in the Service Information.
- 3.6 For each item in the Price List, the *Contractor* shall provide in the appropriate column the portion of the tendered sum (inclusive of labour and material).
- 3.7 The total in the Price List shall be exclusive of VAT and shall be transferred to form C1.1 (Form of Offer and Acceptance).

#### 4. MEASUREMENT AND PAYMENT FOR CONTRACT

This part C2 of the specification as well as any reference in part **C3** will apply to determine conditions under which payments for this contract are to be made.

This section must be read together with the Additional Definitions and Interpretation Provisions contained in the Z- Clauses contained in **Contract Data provided by the Employer (C1.2 TSC3 Contract Data)** and in particular **Clause ZD6** providing for the annual assessment of the amount due to the Contractor for Providing the Services.

The basis of payment of this contract is the **final kilometres inspected**

##### Production Items

#### 4.1 Item 1.1 – Establishment Cost

The purpose of the establishment payment is for the once off establishment of mobile accommodation facilities to cater for all operation and support staff undertaking the service.

These payments will be made with the first month payment.

#### 4.2 ITEM 2: kilometre inspected

Payment for a Standard kilometre inspected shall be made per machine. This rate shall include for the full-time availability of the machine including the provision and maintenance of the machine in full operational condition, and also including all maintenance and support staff and fuels.

All time and productivity records and calculations shall be recorded on every month's payment calculations to monitor time allowed for the contractor to achieve the required output.

**NB: This item will be subjected to clause X17 of the contract data**

##### Machine Overtime

#### 4.3 ITEM 3.1 Normal Overtime

Payment will be made for Overtime hours outside Tom of 8 hours per day.

#### 4.4 ITEM 3.2 Saturday overtime

Payment will be made for Saturday overtime when in excess of 5 out of 7 or 10 out of 14 days.

#### 4.5 ITEM 3.3 Sunday PPH & Overtime

Payment will be made Sunday & Paid Public Holiday overtime when in excess of 5 out of 7 or 10 out of 14.

##### Machine Shift allowance

#### 4.6 ITEM 4.1 Saturday Shift

Payment will be made for Saturday shift when working 10 out of 14 days.

#### 4.7 ITEM 4.2 Sunday Shift

Payment will be made for Sunday & PPH shift when working 10 out of 14 days.

#### 4.8 ITEM 4.3 Night Shift

Payment will be made for night shifts between 19h00 and 05h00.

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**4.9 ITEM 4.4 Emergency Shift**

Payment will be made for emergency working in excess of 5 out of 7 or 10 out of 14 days.

**5.0 ITEM 5: Data imports**

Payment will be made for data reports imported into the *Employer's* asset management system. Payment will be paid per hour regardless of the number of reports imported. If no imports are made on a day, no payment will be made for that day or days. If imports are made with errors, no payment will be made.

**5.1 ITEM 6: Travel by road**

Movement by road will be paid for per km travelled along the shortest route between work sites. The shortest route could be a combination of tar and gravel roads. Refer to clause 6.5 of the service information.

## C2.2 The price list

### Ultrasonic Rail Flaw Detection Measuring Machine Services

#### Work Packages:

Number of Machine Service Packages Required = 1

NB\*: The *Employer* reserve the right to reduce the number of *Work Packages* required prior to the award of contract.

Item no.	Description	Unit of Measure	Estimated Quantity	Rate	Total Cost
1	Establishment				
1.1	Establishment Cost	Once-off	1		
2	Kilometre Inspected	Km	1886		
3	Machine overtime				
3.1	Overtime hours outside Tom of 8 hours per day	Hour	28		
3.2	Saturday overtime when in excess of 5 out of 7 or 10 out of 14 days	Hour	10		
3.3	Sunday & PPH overtime when in excess of 5 out of 7 or 10 out of 14	Hour	10		
4	Machine shift allowance				
4.1	Shift payment for Saturday when working 10 out of 14 days	Hour	24		
4.2	Shift payment for Sunday & PPH when working 10 out of 14 days	Hour	24		
4.3	Night shift payment for night shifts between 19h00 and 05h00	Hour	3		
4.4	Emergency shift payment for working in excess of 5 out of 7 or 10 out of 14 days	Hour	2		
5	Data imports into IAMM/other system	Day	20		
6	Travel by road	Km	500		
<b>Total of the Prices Excluding VAT for one (1) work package = Item 1.1 + Item 2+ Item 3.1+Item 3.2+Item 3.3+Item 4.1+Item 4.2+Item 4.3+Item 4.4+Item 5+Item 6</b>					

Stipulate the number of Ultrasonic Defect Detection Measuring Machine Work Packages being bid for.....  
(enter number here)

**Note : The pricing list above is expected to reflect the pricing offer for one Machine Work Package, where the Work Package represents one machine and all its associated services.**

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**SUMMARY OF SERVICES**

Item no	Description	Total Price Excl. VAT
1.	The total of the prices (Excluding VAT) carried to C1.1 FORM OF OFFER	

## **PART C 3.1**

### **Service Information by the *Employer***

**FOR THE MAINTENANCE OF RAILWAY TRACK WITH ON TRACK ULTRASONIC RAIL FLAW  
DETECTION MACHINE FOR THE CAPE CORRIDOR SHUT FOR A PERIOD OF 1 MONTH**

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## 1. DEFINITIONS AND ABBREVIATIONS

- 1.1. AQL- Acceptable Quality Level
- 1.2. GPS- Global Positioning System
- 1.3. DGPS- Differential Global Positioning System
- 1.4. IAMM- Infrastructure Asset Maintenance Management (IAMM). It is a computer-based viewer that displays infrastructure condition in relation to infrastructure assets.
- 1.5. The *Employer* is Transnet (SOC) Limited trading as Transnet Freight Rail
- 1.6. On- or off tracking facility- a place where the machines could be put on the track or removed from the track.
- 1.7. Primary Vehicle means a leading vehicle locating potential rail Defects.
- 1.8. Satellite Vehicle means an independent vehicle (i.e., not coupled to the primary vehicle during measurement), following the primary vehicle on the same track to confirm and accurately size potential rail Defects. Sometimes also referred to as "the chase car".
- 1.9. Road-Rail Vehicle (RRV) means a vehicle capable of traveling by any road and on the railway track as required.
- 1.10. Ultrasonic Measuring Car (UMC) means the RRV that is used for the ultrasonic or other means of detection of rail defects.
- 1.11. Breakdown time (Tb) means any period during which the primary vehicle **or the satellite vehicle** is non-available.
- 1.12. Maximum Occupation Time (Tom) means the total occupation time granted by the *Employer* to the *Contractor* to execute the *services* as per the contract agreement.
- 1.13. Occupation Time (To) means the period or periods between the announced commencement time of an occupation and the time when the UMC is secured at its staging point for the last time.
- 1.14. Travelling Time (Tt) means the time for the UMC to travel on track between work site and the off-tracking point.
- 1.15. Working Time (Tw) means the periods on track during which the UMC is actually engaged on the operation or function for which it was provided.
- 1.16. Time Worked In (Twi) means any day the UMC is agreed to be available and works outside of and in lieu of a normal working day. Such Twi as well as production statistics and all relevant times must be reflected against the day for which the time was worked in.
- 1.17. Standing Time (Ts): means the loss of Working Time (Tw) incurred by the *Contractor* due to reasons attributed to the Employer.
- 1.18. Train Crossing Time (Tx): means the time for the UMC to wait for train crossings.



- 1.19. Annual Holidays means the annual holiday with duration of 15 consecutive working days excluding statutory public holidays, Saturdays and Sundays that may fall within this period, when no work will be performed by the *Contractor*. This period will be taken in such a manner to include the days from 25 December to 01 January, both days included.
- 1.20. Available means when required to do work, a UMC is able to produce work to the standards specified. All outputs specified will be determinants of availability.
- 1.21. Database, will for the purpose of this specification unless otherwise stated, mean an electronic listing or electronic table containing specific information.
- 1.22. Easter weekend is the period indicated on the official calendar of South Africa that will be from the Friday to the Monday, both days included. The Easter weekend will be an "off week-end" for the *Contractor*.
- 1.23. Gauge means the perpendicular distance between points 14mm below the top of the rail against the gauge side of the rail to a point 14mm below the top of the rail on the gauge side of the other rail in the same track.
- 1.24. Licensed means the formal authorisation of a competent employee, by Transnet Freight Rail, to perform certain duties.
- 1.25. Day shall mean a calendar day. Where a specific number of days are allowed in the contract for the performance of any act or is stipulated for the extinction of any right or the duration of any event or circumstance, the days between the commencement and last day of the Annual Holidays (both days included) and the day from which the period is stated or agreed to commence, shall be excluded from the calculation of the number of days concerned.
- 1.26. Joint Assemblies means all types of joints, inter alia, including flash-butt and exothermic welded, fishplate and block-joints.
- 1.27. Month means the continuous period from the first day to the last day of any calendar month, both days included.
- 1.28. Non-Available means when required to do work, the UMC or the operation thereof is unsafe, or the UMC is not able to produce work to the standards specified, due to any reason other than a stoppage of work caused by Transnet Freight Rail.
- 1.29. Normal Working Day means a total shift of 8 hours, which may be non-continuous, out of every 24 hours for 5 consecutive days out of every 7 days, or for 10 consecutive days out of every 14 days. The *Service Manager* will determine the daily starting time, which may vary to suit seasonal changes or train timetables.
- 1.30. Occupation means a closure of the line on which work is to be performed for a specified period.
- 1.31. OHTE means any of the equipment used by the *Employer* in the high voltage overhead electrification for the supply of power to electric locomotives.
- 1.32. Overtime means any time worked in excess of the hours of a normal working day and any time worked on Saturdays, Sundays and statutory public holidays in excess of 5 consecutive days out of 7 days or in excess of 10 consecutive days out of 14 days, all on the written instruction of, or as approved by the *Service Manager*.



- 1.33. Pilot means an *Employer* official authorised and licensed in the movement of trains on *Employer* railway lines.
- 1.34. Track means all track, including splice joints, joint assemblies, turnouts, and including all portions of track where locking bars, guard rails, level crossings, check rails are not removed prior to working. It includes wagon retarders and boosters fitted.
- 1.35. *Service Manager* means the person appointed by the *Employer* from time to time to administer the contract according to the powers and rights held by and obligations placed upon him in terms of the NEC3 Term Services Contract (TSC3) and in terms of this contract.
- 1.36. *Supervisor* means the person appointed by the *Employer* from time to time to supervise the contract and to administer the performance and quality of the works according to the NEC3 Term Services Contract (TSC3) and in terms of this contract.
- 1.37. Sets mean all types of turnouts, including crossings, single - and double slips.
- 1.38. Shift Allowance (normal) means an allowance paid for time worked on a Saturday, Sunday or statutory paid public holiday when working 5 consecutive days out of 7 days or 10 consecutive days out of 14 days. Payment for shift allowance ceases when overtime is paid.
- 1.39. Splice Joint means a prefabricated rail expansion device. The welds at either end demarcate the extremities of the splice joint.
- 1.40. Split Occupation means an occupation on any one-day, divided into 2 periods, the sum of which does not exceed 9 hours, with a 2 hour break in between and the total period not exceeding 11 hours. The 2-hour break may be changed to suit circumstances, provided the *Employer* and *Contractor* agree on the period.

## 2. DESCRIPTION OF WORKS

- 2.1 The contract covers the detection of internal and external rail defects by ultrasonic sound installed or mounted on a Road Rail Vehicle (RRV). The *Contractor* shall supply, operate and maintain the machine that is subject to the terms of the succeeding clauses, Service Information and schedules embodied in the contract. The contract period is 30 days.
- 2.2 The offered technique shall be able to detect, verify and size rail defects.
- 2.3 The measurements shall cover the following:
  - 2.3.1. In situ ultrasonic rail defect detection of plain track, and turnouts, both rails simultaneously.
  - 2.3.2. Data processing.
  - 2.3.3. Analysis and reporting of measurements for rail maintenance purposes.
  - 2.3.4. Upload of data to IAMM.
  - 2.3.5 The Contractor shall also supply a full welding team behind the inspecting machine(s) responsible for the remedial work on the detected critical rail defects, repairs will include insertion of closure rails on critical defects and strengthening by means of joggle plates in cases where material isn't immediately made available by the employer.

## 3. CONTRACT AREA, COMMENCEMENT AND DURATION

- 3.1 The contract will cover track owned and/or maintained by Transnet Freight Rail (referred to as *Employer* in the specification).

- 3.2 The quantities indicated in the Price List are estimated and not guaranteed to the *contractor*.
- 3.3 Standing Time should be allowed in the tendered rates by the *contractor*.
- 3.4 Measurement will potentially be on all TFR lines.
- 3.5 The *Service Manager*, however, reserves the right to deploy the machine wherever it is needed outside Transnet's borders or outside the borders of Republic of South Africa.
- 3.6 The commencement date will only be finalised after acceptance of tenders. The Contract will therefore commence on the date stipulated in the acceptance letter.
- 3.7 Bidders shall also qualify their offers stating how soon after the award of the contract they will be able to start with the work. This shall include the provision and operation of any other on-track machines or support equipment.
- 3.8 The Contract can be terminated by mutual agreement should technical or safety problems become evident during the execution of the works.

#### 4. PLACE OF WORK

- 4.1 All movements between work Sites shall be by road. Where this might not be practical, the *Service Manager* or *Supervisor* will authorize movement by rail. Movements by road will be the responsibility of the *Contractor*. The *Contractor* shall give the *Service Manager* written notice of the date and time of arrival at a new work site.
- 4.2 Any delay to the date and time of arrival after movement by road will render the machine non-available (Tb) for the period of such delay, excluding overnight stops.
- 4.3 Access to the railway track will be at an on or off tracking facility.
- 4.4 An on- or off-tracking facility could be any of the following:
- 4.4.1 A level crossing with the following surface:
- a) concrete;
  - b) bitumen;
  - c) wood;
  - d) sleepers;
  - e) concrete blocks or
  - f) gravel.
- 4.4.2 When a level crossing is used as an on or off tracking facility, there shall be no interference with road traffic.
- 4.4.3 In a yard.
- 4.4.4 In a yard where the ground surface is level or almost level with the crown of the rail.
- 4.4.5 Wooden blocks placed temporally between and adjacent to the rails under supervision of an *Employer* official.
- 4.5 It is the *Contractor's* responsibility to ensure that a facility used for on- or off tracking conforms to his requirements and that is safe at all times for the machine as well as trains. This must be confirmed by an *Employer* official in the workbook. Any temporary facility shall be removed before and after the machine has on or off tracked.
- 4.6 If an off-tracking facility is not acceptable to the *Contractor*, the *Contractor* shall repair the off-tracking facility at his own cost in cooperation with an authorised *Employer* official.

- 4.7 Any delay due to an on or off tracking facility not conforming to the *Contractor's* requirements shall render the machine non-available. The *Contractor* shall point out to the *Service Manager* any part of the track or off-tracking facility where conditions may constitute a danger to the machinery and its ancillary equipment, and record this in the workbook. The *Contractor* shall however repair the off-track facility under supervision of the licensed *Employer* employee.
- 4.8 The machines may only be placed on the track when authorized by a TFR Track Inspector/ Track Master.

## 5. SUFFICIENCY OF CONTRACT

- 5.1 The *Contractor* will ensure that he has fully taken into account the condition of rails to be inspected and track conditions. No claims for the non-execution of the work will be accepted where any rail - or other condition related to the rails are given as a reason for non-execution. Some of these rail or rail related conditions are inter alia:
- 5.1.1 Rail lubrication.
  - 5.1.2 Rolling Contact Fatigue (RCF)
  - 5.1.3 Pitting, cracking, spalling, shelling or corrosion of the rail crown.
  - 5.1.4 Skid marks.
  - 5.1.5 Other rail surface defects.
  - 5.1.6 Rails with side and or crown wear on the gauge and or field side or any combination thereof.
  - 5.1.7 Rail welds.
  - 5.1.8 Rail joints.
  - 5.1.9 High ballast.
- 5.2 The *Contractor* must take into account that detection equipment, probes and/or rubber wheel probes will be subject to possible damage due to rail condition, and this will be entirely the *Contractors'* risk.
- 5.3 The *Contractor* shall make adequate allowance in the contract for wear and tear to his equipment due to any abnormal conditions being encountered.
- 5.4 Exceptions to the above will be where the *Contractor* can prove that measuring could not be done due to limitations in ultrasonic sound generation and reception.
- 5.5 Any exceptions where the *Contractor's* equipment cannot test rails shall be submitted in detail with the contract, clearly explaining such limitations.
- 5.6 Instances occur where the ballast may be higher than the rail top surface. This may cause the RRV to, inter alia:
- 5.6.1 Lose traction.
  - 5.6.2 Lift causing the guide wheels to lose its guiding function with a resultant safety risk.
  - 5.6.3 Incur damage to wheels and ultrasonic probes.
- 5.7 The *Contractor* to record sections of high ballast where measurement was problematic or where the machine couldn't measure at all to the *Service Manager* daily.
- 5.8 The *Contractor* shall allow for any such event and all costs and damage repair, or loss of income will be to the account of the *Contractor*. Any such occurrence shall be recorded in the workbook stating the exact location and distance of such occurrence.



## 6. MANAGEMENT AND START UP

### 6.1 Management Meetings

Monthly project meetings will be conducted to monitor progress and discuss contractual issues. These meetings shall be attended by all Depot Representatives and the contract's manager. A register will be kept of attendance and a minute of the proceedings will be recorded and distributed afterwards.

### 6.2 Tolerances and Quality Control

#### 6.2.1 Tolerances

##### 6.2.1.1 Rail Defect Sizing

The size and position of all Defects shall be reported with an accuracy of 2 mm in the longitudinal direction, 2 mm in depth and 2 mm in width.

6.2.1.2 The system shall be capable of correct distance location measurement accurate to one percent, e.g., 10 m over 1000 m. If this is not achieved, the machine will be rendered Tb for the day until it is proved by the *Contractor* that the required accuracy can be achieved.

6.2.1.3 If the km location data of the same Defect between any measuring campaigns is compared and a difference of more than 10 m is found, such a Defect will be taken as a rejected Defect.

6.2.1.4 The measuring car shall have a paint marking system capable of spraying Defects within 100 mm of the actual defect. The length of the mark may vary between 0.25 m and 0.4 m. The paint mark shall not last longer than 30 days.

6.2.1.5 Marking the exact location of the defect. Any defect detected shall be marked with yellow oil-based paint as per Annexure 17, Sheet 5 of the Manual for Track Maintenance (attached to this specification) or applicable revisions of this document. The paint mark shall be of a permanent nature and not easily eroded by weather. The *Contractor* shall ensure that the rail is clean so that the paint will adhere to the rail. The marking will be on the inside of the rail between the two rails and not on the field side of the rail.

#### 6.2.2 Quality Control

6.2.2.1 Calibration shall ensure that no ambiguity of signals can occur. Any time taken to do calibration of the machine during occupation time (To) will render the machine non available on Tb.

6.2.2.2 On-line measuring of all recording functions by simulated impulse signals similar to those generated by the probes shall be possible.

6.2.2.3 Routine calibration with jigs and test pieces shall be carried out at least daily by the *Contractor*. All calibrating jigs, test pieces etc. shall be provided with and carried in the vehicle. Additionally, should problems be experienced with the measuring equipment at any time during measuring, calibration should be considered.

6.2.2.4 When the *Contractor* is instructed, acceptance tests shall be made by recording over sections of track with known rail defects. The equipment will be required to record all of these to within the stated degree of accuracy.

6.2.2.5 The measuring system will be audited twice a year by the *Supervisor* in conjunction with representatives of TFR Technology Management. The audit will be conducted on site.

6.2.2.6 The accuracy of longitudinal paint marking of rail Defects shall be verified during the audit process.

#### 6.2.3 Training

6.2.3.1 Provision shall be made for the training of *Employer* personnel in the operation, calibration and interpretation of results prior as required for the duration of the contract. Training shall be completed prior to the commencement of the works. Additionally, the *Contractor* shall train additional staff during the contract period as the need arises. No additional payment will be made for training.

### 6.3 Unsatisfactory Performance of the Machinery or Equipment

- 6.3.1 Should a single stoppage of work due to a breakdown of a machine exceed or is likely to exceed 30 minutes, the *Supervisor* may require the machine to off track as soon as possible. Such travelling, whether from or returning to the point of breakdown, will render the machine non-available.
- 6.3.2 When a Defect is rejected, the *Service Manager* may instruct the *Contractor* to re-measure a km before and after the rejected Defect. This re-measurement will not be included in the payment.
- 6.3.3 When measuring could not take place due to a breakdown of any of the vehicle(s) in the measuring consist, the *Contractor* shall re-measure the section scheduled for measuring that was not measured at his own cost and in a time convenient to the *Employer* train operation. *Employer* will determine the right measuring slots and inform the *Contractor* as such. This shall not be at the *Contractor's* discretion but that of *Employer*. Machine availability shall also be impacted by such machine breakdown even if the *Contractor* had re-measured the missed section.

### 6.4 Health and Safety

- 6.4.1 The *Contractor* shall comply with all applicable legislation as well as Transnet Safety requirements. The cost for such compliance shall be borne by the *Contractor* and shall be deemed to have been allowed for in the rates and prices of the Contract. Specifically, important in this regard is compliance with:
  - 6.4.1.1 The Compensation for Occupational Injuries and Diseases Act (Act 130 of 1993).
  - 6.4.1.2 The Occupational Health and Safety Act (Act 85 of 1993).
  - 6.4.1.3 *Employer* Specification E.4E, Safety Arrangements and Procedural Compliance with Occupational Health and Safety Act, Act 85 of 1993 and Regulations as applicable.
  - 6.4.1.4 Basic Conditions of Employment Act as well as all other relevant labour legislation.
  - 6.4.1.5 *Employer* Specification for Work on, under or adjacent to Railway Lines and near high Voltage Equipment – E7/1.
  - 6.4.1.6 The *Contractor* shall also comply with all other safety requirements, regulations and guidelines of Transnet applicable to the nature of work carried out under the Contract and shall obtain the particulars thereof from the *Service Manager*.
- 6.4.2 A formal risk assessment on the Transnet's risk management process has been conducted by *Employer* and the under mentioned safety critical risks have been identified. The *Contractor* shall conduct his own formal risk assessment on the risk management process offered by him and add any additional risks identified by him, to this list.
- 6.4.3 The *Contractor* is required to prepare and submit with his tender a comprehensive safety case in accordance with the requirements of Act 85 and the Construction Regulations.
- 6.4.4 The *Contractor* shall specify in his safety case the list of all risks identified by *Employer* together with any additional risks identified by his own risk assessment and indicated specific rules, processes, methods and designs of how he intends to mitigate these risks should he be awarded the contract.
- 6.4.5 The *Contractor* shall prepare and implement a comprehensive safety case covering all relevant legal safety aspects for their work teams. It shall include details of the site management structures, all safety legal appointments as well as the written safe working procedures for all equipment used on site.
- 6.4.6 The *Contractor* shall be responsible to ensure the use of only technically competent trained staff on all types of work.



- 6.4.7 The Safety Case together with all supporting documentation shall at all times be available for compliance audit.
- 6.4.8 The *Contractor* shall ensure that all site staff are trained and inducted in the written safe working procedures for all equipment used on site.
- 6.4.9 The *Contractor* shall ensure that all workers are appropriately equipped and wearing Personal Protective Equipment (PPE) and that Safety Talks are conducted and noted in the Site Diary before the start of every shift.
- 6.4.10 The *Contractor* shall be responsible to ensure that site staff is always trained competently with regards to Electrical Awareness Training.

## 6.5 Payment for Movement by Road

- 6.5.1 Movement by road will be paid for per km travelled along the shortest route between work sites. The shortest route could be a combination of tar and gravel roads. It will exclude travel outside the borders of South Africa. If *Employer* and the *Contractor* cannot agree on the shortest route followed, the shortest distance (in km) to be used will be 1.08 times the great circle route in km calculated between the longitude and latitude coordinates of the starting and end measurement locations using the WGS84 system. The distance will be rounded off to two decimals. Great circle calculations can be found at [http://en.wikipedia.org/wiki/Great-circle\\_distance](http://en.wikipedia.org/wiki/Great-circle_distance) and the formulae at <http://williams.best.vwh.net/gccalc.htm>.
- 6.5.2 Movement by road will be paid when the distance between two worksites is greater than 300km. The distance used in the payment calculation will be the total distance excluding the first 300 km.
- 6.5.3 The movement to the first work site and from the last work site at the start and end of the contract period respectively is excluded from this payment.
- 6.5.4 The payment by road will be a separate item and will not form part of the rate per km measured on track. Any late arrival at a work site will render the machinery non-available.
- 6.5.5 Payment by road = Km travelled along the shortest route between two work sites.

## 6.6 To be Provided by the *Contractor*

- 6.6.1 The *Contractor* shall provide and deliver to the place of Work all fuels and water required for the UMC operations.
- 6.6.2 The *Contractor* shall maintain and operate the UMC, direct his own personnel and perform all work required.
- 6.6.3 The *Contractor* shall ensure that sufficient technicians, mechanics, operators and labour are present during track occupations to ensure efficient operation of the UMC.
- 6.6.4 At least one qualified and experienced mechanic shall be in attendance at all times during track occupations and when the UMC travels as a train.
- 6.6.5 The *Contractor* shall appoint one suitably qualified person as his representative at each occupation.
- 6.6.6 The *Contractor* and *Service Manager* shall notify each other in writing of the names of their representatives who will be present during track occupations. These, as well as any changes in the personnel shall be recorded in the workbook.
- 6.6.7 The *Contractor* will be responsible for the protection, security and safeguarding of the UMC and all equipment during measuring, parked overnight and when staged at any location under

any conditions. Any cost of hiring external security for this purpose will be to the account of the *Contractor*. Protection with regard to train operations will be provided by the *Employer* official, but the *Contractor* shall assist when requested by the *Employer* official.

## 6.7 Records and Instruction Books

6.7.1 The *Contractor* shall submit such returns as may be required by the *Service Manager*. He shall also provide and keep on the UMC a page numbered, duplicate carbon copy book, A4 size, called the Workbook, in which instructions and events concerning the contract work shall be recorded, signed and dated by the *Service Manager* or *Supervisor*, and the *Contractor*. The *Service Manager* will remove the original pages in the book for his record purposes. The book will always be available on the UMC.

6.7.2 The following will be recorded in the Workbook:

- 6.7.2.1 The start of the day's occupation.
- 6.7.2.2 Events regarding the contract work.
- 6.7.2.3 The results of daily brake tests.
- 6.7.2.4 Measurement verification results.
- 6.7.2.5 Authorisation to pass signals on danger, etc.

## 7. ENGINEERING AND CONTRACTOR'S DESIGN

### 7.1 Ultrasonic Measuring Car System Requirement

#### 7.1.1. Vehicles

7.1.1.1. One Primary Vehicle shall be provided as a means of locating potential rail defects.

7.1.1.2. One Satellite Vehicle shall be provided to follow the primary vehicle on the same track to confirm and accurately size rail defects. Any other system with uses one vehicle to conduct all the measurements completely will be considered as long as the system shall be able to locate potential, confirm and accurately size rail defect(s).

7.1.1.3. All Vehicles shall comply with the following requirements:

- a) A self-propelled road rail vehicle (RRV)
- b) Capable of on/off tracking at an on or off tracking facility. The size and dimensions of the area required to on/off track shall be supplied when the contract is submitted.
- c) Fuel range of not less than 500 km.
- d) The water tank capacity for coupling should allow for not less than 150 km of measuring where applicable.
- e) Rail Guide Wheel Sets
- f) Axle loading shall not exceed 20 tonne / axle
- g) Solid axle designs with taper fitted wheels are preferred
- h) The wheel size shall not be less than 385 mm in diameter and shall be profiled to drawing number MTV 173 given in Figure 1 below.

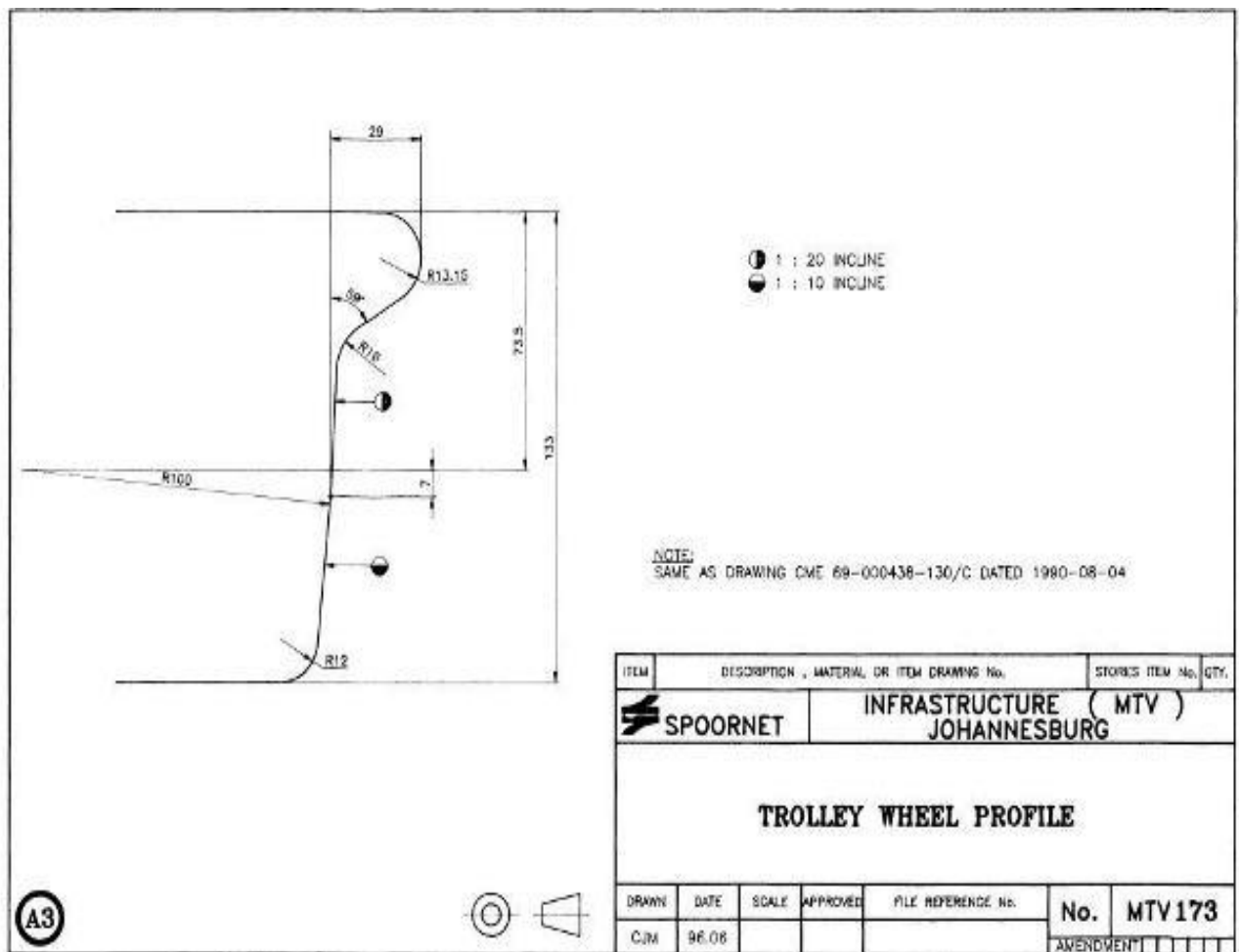
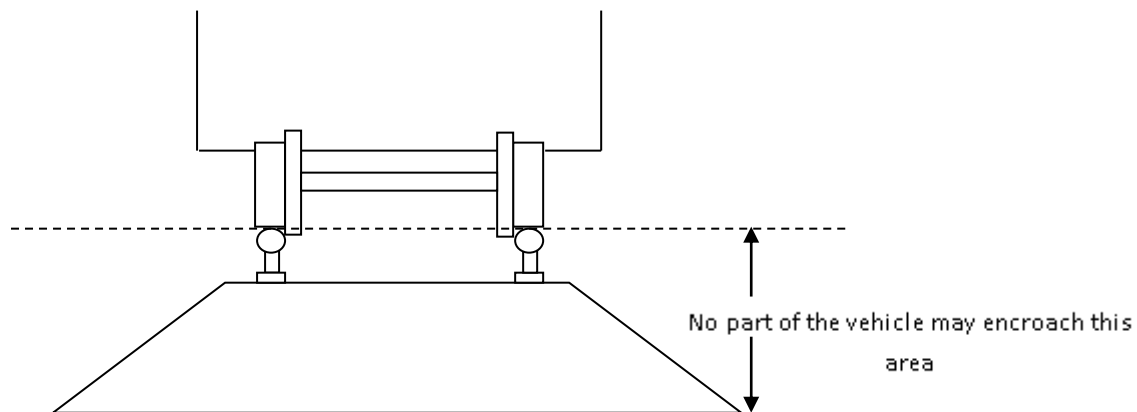


Figure 1: Wheel Profile

- i) The track gauge shall be 1065 mm
- j) The inside distance between the wheel flanges must be 988 minus 1 plus 3 mm.
- k) The axles must be ultrasonically measured before assembly and test certificates must be submitted by the manufacturer.
- l) The wheel shall be as light as possible and able to be re-profiled at least 5 times before losing its metallurgical properties.
- m) The vehicle must remain stable under all conditions, especially under braking and through a turnout.
- n) Capable of travelling and measuring to a maximum track gradient of 1:30.
- o) No part of the vehicle may encroach the area below the rail head except the wheel flanges as given in Figure 2 below.
- p) The vehicle shall fit within the structure gauge given in Annexure 1 of the Manual for Track Maintenance.



**Figure 2: Vehicle Encroachment**

7.1.1.4. Maximum Speed.

- a) Running free on track – up to 90 km/h.
- b) Measuring capability: up to 38 km/h.
- c) Transnet reserves the right to limit measuring speed to:
  - No more than 25 km/h; and/ or
  - No more than 15 km/h in the case of measurement through crossovers, and through stock & switch, stock & guard, and crossing areas of turnouts.

7.1.1.5. Vehicle must be capable of measuring in both directions, i.e., including measuring in a reverse orientation measuring

7.1.1.6. Be of sufficient size and capacity to carry all necessary staff, equipment, spares and consumables to work in remote areas.

7.1.1.7. Over and above the Contractors staff complement the vehicle shall be capable of carrying minimum of three Employer employees: a licensed Employer employee (usually referred to as the Pilot) inside the measuring vehicle with an unobstructed view of the track, wayside instructions and signalling in front of the vehicle and another employee inside the vehicle. If these requirements are not met, the contract will be rejected, and if a contract is awarded, the machine will be non-available. Access in and from the machine will be with a minimum of effort.

7.1.1.8. Where two car system is offered, the distance between the primary and satellite vehicles shall not exceed 2 km at any time while on track.

7.1.1.9. Both vehicles shall at all times be within the same area of control for train operations and signalling purposes.

7.1.1.10. All machinery and equipment shall be track worthy when moving on the track.

7.1.1.11. A plan of the floor layout of the measuring vehicle must be submitted with the contract. This plan must show all dimensions of compartments and will form part of the contract document.

7.1.1.12. Both vehicles shall be fitted with a hooter for use during travelling and operations audible within 300m.

7.1.1.13. A rotating amber flashing light shall be fitted to the top of both vehicles for use when traveling on the track.

7.1.1.14. The Contractor shall provide and maintain his own communication system such as walkie-talkie radio transceivers or cell phone communication. These radios shall comply with any South African legislation as well as the Employer rules for walkie-talkie radio communication. Any system offered shall be approved by the Employer.

7.1.1.15. When the primary vehicle locates a Defect and the satellite vehicle does not agree with the result, the primary vehicle shall retest the section and the most dangerous scenario shall be reported with a comment on the report describing the situation.

7.1.1.16. All vehicles shall comply with South African road traffic legislation

## 7.2 Ultrasonic Defect Detection Equipment

The detection equipment shall comply with the following requirements:

- a. Real time measurement shall be carried out on both rails simultaneously.
- b. The area of the rail to be covered must be indicated by the *Contractor*.
- c. The defect types to be detected are indicated in Annexure 17, Manual for Track Maintenance latest version (extract attached to this Service Information) or applicable revisions of this document.
- d. Track through crossovers, and through stock & switch, stock & guard, and crossing areas of turnouts shall be measured, as far as possible with the equipment installed on the machine, during measuring campaigns for all tracks. The Contractor shall allow for this in the pricing and no additional payment will be made for this.
- e. Any proposed probe configuration and/or system by the Contractor that can detect the rail break is essential to the *Employer*. The probe configuration shall cover at least 80% of the head, 95% of the web and 10% of the foot of the rail in all longitudinal directions. Probe range shall be from 0 to 70 degrees (inclusive), in both longitudinal directions. The bidders shall therefore submit with the tender their probe configurations, probe type, probe position, probe coverage, and explain how this would be measured. Additionally, the Contractor shall indicate the adjustments to probe configurations, if any, for measurement through crossovers, and through stock & switch, stock & guard, and crossing areas of turnouts.
- f. All equipment shall be capable of measuring all rail profiles in the range from 30 kg/m to 60 kg/m.
- g. A complete test shall be performed on each probe at any given intervals during vehicle travel independent of measuring speed.
- h. "A scan" presentation for calibration & operational checking of ultrasonic channels. At least one for each rail is required, although multiple presentations are preferred.
- i. The system and equipment shall have the flexibility to quickly and easily change probes without additional payment.
- j. High-resolution graphic video monitors shall indicate all probe parameters, status information and events. This system shall permit review of off-line playback by the Employer, should this be required
- k. The system shall allow the operator to enter messages and comments to record events and positions.
- l. The system shall have multiple levels of detection logic and must be able to recognize Defect signatures.
- m. Amplification and detection levels of each probe shall be easily controllable.

- n. All equipment shall be modular for ease of maintenance and replacement.
- o. The system shall be capable of working in inclement weather conditions.
- p. Special care shall be taken when measuring rails in level crossings. If any material covers the top of the rail crown in a level crossing, the *Contractor* shall remove and clean the rails to ensure that effective ultrasonic measurement can proceed. No payment will be made for such removal, or cleaning of rails in level crossings.

### 7.3 Operational Environment

- 7.3.1 All ultrasonic probes shall remain fully functional on any rail and rail surface condition, inter alia: side worn, skidded, corrugated or corroded rail.
- 7.3.2 Measurement shall be done between rail temperatures of – 10°C to 70°C.
- 7.3.3 Both AC & DC traction is used on the *Employer* system with running rails used as the return conductors. Effective measurement shall be possible under these conditions.
- 7.3.4 The signaling system also uses the rail for current at various frequencies. Effective measurement shall be possible under these conditions.
- 7.3.5 The rails of some lines are lubricated. The contract shall make provision for the effect that lubrication may have on the measurements and the equipment. No allowances will be made when problems with the lubrication are experienced. Ample provision shall be made in cost and time estimates for the cleaning of equipment. No additional payment will be made for this. If any cleaning is carried out during occupation time, the machine will be taken as broken down (Tb) for payment purposes.

### 7.4 System Outputs

- 7.4.1 Marking of the rail defect location by means of paint, on both plain track and turnouts.
- 7.4.2 The measuring system shall be capable of sending all defects classified as exceedances or urgent to TFR management as per circulation list to be agreed to between the two parties real time as the machine measures.
- 7.4.3 The results of the measurement campaign shall be provided as follows:
  - 7.4.3.1 All data shall be logged in a database. This database shall be kept for the full period of the contract. A backup of the database shall be kept by the *Contractor* and updated on an interval not exceeding one week.
  - 7.4.3.2 The database shall be supplied to *Employer* as and when required in report format using the data in the database.
  - 7.4.3.3 A hard copy report at the end of every day referred to as the daily report. This report shall be handed over to the *Supervisor* and a signature obtained. The report shall be provided to the *Supervisor* by the close of the shift on the day of the measuring campaign. The *Contractor* must ensure that the signature, initials and surname in block letters, the date and time of receipt by the *Employer* Infra representative appear on a copy of the report to be kept by the *Contractor*. If these are absent, it will be taken that the report was not received by the *Employer* Infra representative.
  - 7.4.3.4 An electronic report at the end of the day referred to as the daily database report. This will be provided to the *Supervisor* and to the *Service Manager* not later than 07h30am on the day following the measurement.

If these reports are not received on time a penalty will be levied as stated in clause 7.7.

The *Employer* may change the formats and requirements of the reports during the contract period. If it requires a substantial change, the work should be done against the item for development in the Price List.

7.4.4 The system shall log the following measured parameters in the database, and it shall be reported in the Daily Report and the Daily Database Report.

The Daily Report shall include the following:

7.4.4.1. Date measured.

7.4.4.2. Infrastructure depot name.

7.4.4.3. A daily report number. This shall be a unique number per report that will contain the date as the last six characters, e.g., \*\*\*\*\*ddmmyy.

7.4.4.4. The route km name. This will be provided before each measuring campaign or shall be taken from the table that will be provided to the *Contractor* electronically in a *Windows Excel* spread sheet. Route km names shall always be stated in the order shown in the table. This is in the increasing kilometre direction.

7.4.4.5. The track section number.

7.4.4.6. The line number, i.e., 1, 2, 3, up, down, avoiding, etc.

7.4.4.7. The names of the *Contractor's* operator, assistant and driver.

7.4.4.8. The name of the *EMPLOYER* representative.

7.4.4.9. The name of the measuring car.

7.4.4.10. The start km and meter point of the campaign.

7.4.4.11. The end km and meter point of the campaign.

7.4.4.12. The totals of the days contract activities, namely:

- Total occupation time in hours -To.
- Total break down time in hours – Tb.
- Total standing time due to *Employer* – Ts.
- Total time worked – Tw.
- The speed of measurement – V.
- Number of Defects recorded during the campaign.

7.4.4.13. List of Activities for the day showing the following per Activity:

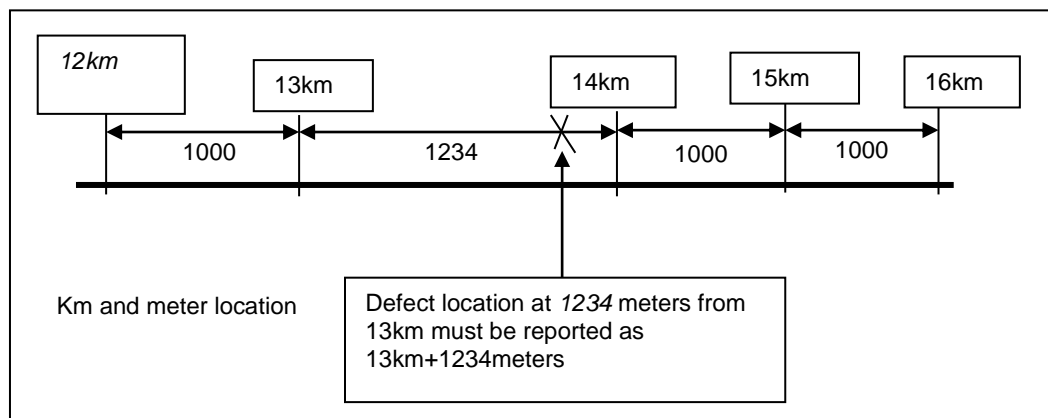
- Type of activity, e.g. To, Tb, Tw, Ts, etc.
- The exact start time of the activity.
- The exact end time of the activity.
- The total time taken by the activity.
- The line on which the activity took place.
- The direction of measurement, e.g., up, down, increase in km, etc.
- The start km plus meter of the activity where applicable.
- The end km plus meter of the activity where applicable.
- The total km for the activity where applicable. Ts does not have a km distance.
- The track section number.
- Any relevant comments.

7.4.4.14. A table of Defects located showing the following per Defect:

- Defect type according to the Employer classification. (See Annexure 17, Manual for Track Maintenance latest version - attached to this specification or applicable revisions of this document).
- Size of the defect.
- Position of the defect.
- Amplification settings on detection levels.

- Rail mass (kg/m)
- The km plus meter location as shown in Figure 3 below (a "long-chain" example is shown).
- GPS coordinates of the defect as measured with a GPS receiver with *sub meter accuracy*.
- High/Low legs in curves.
- Left/Right rail.
- Vehicle speed
- Areas not measured
- Tracks not tested due to ultrasonic sound limitations
- Events - Level crossing, sets, splice joint, bridges, stations.
- The type of weld where a Defect was located in the weld, i.e., aluminothermic/ "thermit
- " (TW) or flash-butt (FB). There shall be a clear distinction between defective and fault-free welds.
- There shall be a clear distinction between defective and fault free bolt holes in assemblies such as fishplate joints, insulated joints, sets, bonds and splice joints. Sound bolt holes shall not be recorded.
- Whether the Defect was located during a previous campaign or by any other means of detection, e.g., handheld probe or visual.

**Figure 3: Example: Reporting of Defect Location**



7.4.4.15. A summary showing the total number of Defects per type of defect located

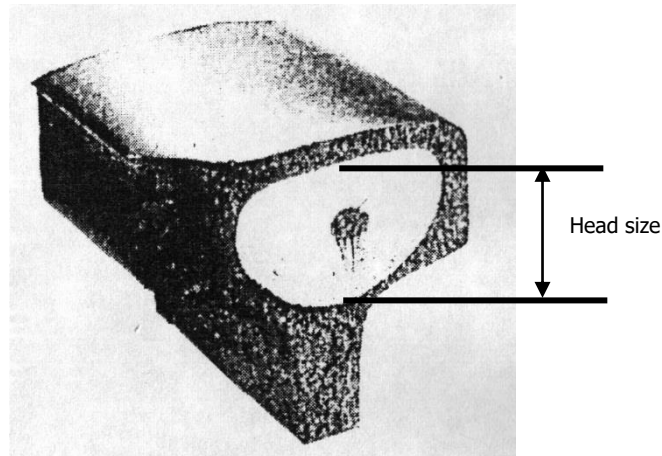
7.4.4.16. The Daily Database Report.

- It shall contain all the outputs as described for the Daily Report.
- It shall be in electronic format in approved software.
- The report will be in the form of a database with records representing each defect located and the parameters as field names.

#### 7.4.4.17. Measurements of Defect Size

For defects oriented in the transverse plane, the following to be measured and reported:

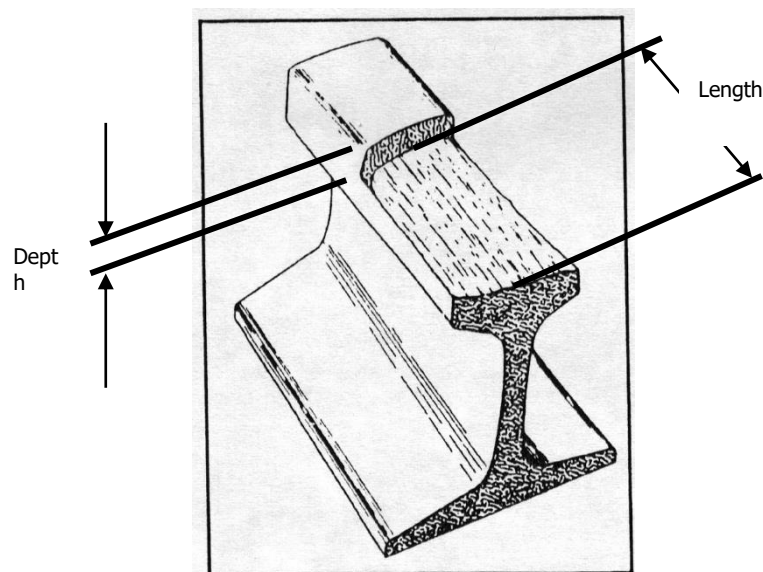
- (a) The head size as given in Figure 4 below; and
- (b) The web size



**Figure 4: Head Size of Defect Oriented in the Transverse Plane**

For defects oriented in the horizontal or vertical plane, the following to be measured and reported:

- (a) The length of the Defect as given in Figure 5 below; and
- (b) The depth of the top of the defect below the rail surface as given in Figure 5 below



**Figure 5: Depth and Length of Defect Oriented in the Horizontal or Vertical Plane**

Threshold levels: See Annexure 17, sheet 5, Manual for Track Maintenance attached to this specification.

- 7.4.5. Daily exception report as agreed with the *Service Manager*.
- 7.4.6. All data shall be provided in a format compatible to software used by the *Employer* at the time of contracting.
- 7.4.7. Any hard copies shall be verified, accepted and signed by the *Service Manager* or Supervisor before payment will be authorized.
- 7.4.8. Penalties for the late submission of reports or reports with errors will be as specified under clause 7.7 for penalties.
- 7.4.9. The Defect data listed in the daily report shall be cut and a new page started at the following points:
  - 7.4.10.1 Where a new km route is measured.
  - 7.4.10.2 Where there is a change in track section measured.
  - 7.4.10.3 At a zero km point.
- 7.4.10. Where a depot boundary is crossed, a separate report will be produced per depot. The Defect numbering will however continue sequentially across the depot border. Defect numbering will only be allowed to change where the km starts at zero.

## **7.5 Importing Data into IAMM**

- 7.5.1. Reports shall be compatible with IAMM system and in a format that the data may be imported directly into the IAMM system.
- 7.5.2. Data shall be imported by the *Contractor* into IAMM within 7 days after each day's measurement campaign.
- 7.5.3. An import will be taken as correct if the data imported displays correctly if compared with the Daily Database Report provided.
- 7.5.4. The *Contractor* will develop a system for importing of the data in conjunction with the developers of IAMM. A provisional item in the Price List has been provided for this purpose.
- 7.5.5. Payment for the successful import of the data will be made against the item allowed for in the Price List.

## **7.6 Summary of Information to be supplied with the Contract**

- 7.6.1. Specification and layout of the measuring vehicle.
- 7.6.2. Specification of the ultrasonic defect detection equipment.
- 7.6.3. Limitations and exceptions where the *Contractor's* equipment cannot test the *Employer* rails.
- 7.6.4. Specification of the hardware and software for recording and logging and analysing data.
- 7.6.5. References of rail measuring previously performed including dates.

- 7.6.6 Access requirements for on/off tracking. The dimensions of the area must be supplied.
- 7.6.7 A commissioning program.
- 7.6.8 Tolerance capabilities in respect of defect detection.
- 7.6.9 Example of output reports.
- 7.6.10 A complete technical specification of the measuring equipment shall be supplied with the contract, and these will form part of the contract document.
- 7.7. Penalties**
- 7.7.1 Clause X17 in the contract data shall apply for the total non-availability of the measuring car/s. Penalties payable under this clause will be subtracted from any future payments until all penalty amounts have been paid.
- 7.7.2 If the supply of measurement reports, or partial reports, as described in the contract are not provided by 07h30 on the day following measurement, a penalty will be imposed for each report per calendar day of late delivery of the day's measurement data.
- 7.7.3 If the data for the day's measurements is not imported error free into IAMM within 7 days from the day following the measurements, a penalty for late importing of data into IAMM will be levied per report per calendar day.
- 7.7.4 Late delivery of any part or component of the specified reports will be taken as a late delivery.
- 7.7.5 Penalties for the late delivery of reports and the late importing of data into IAMM will be calculated separately and added together to determine penalties.
- 7.7.6 Any delay caused by any e-mail system, fax, or any other system will not be an acceptable reason to waive a penalty and the *Contractor* remains responsible for the timely delivery of reports and importing of data into IAMM.
- 7.7.7 The late delivery of reports will apply for reports delivered to the *Employer* Infrastructure central office as well as any depot regardless of the depot's location in South Africa. Penalties for the Infra central office and depots will be calculated separately.
- 7.7.8 Any incorrect data imported into IAMM will constitute as a "late import" and will be penalized as in the table below until a correct re-import has been done.

**The penalties will be levied for reports as in the table below:**

Delivery of a report:	Penalty per calendar day
Later than 07h30 on the day following the day of measurement for a report	R2000
Days $\leq 2$	R3000
$2 < \text{Days} \leq 4$	R4000
$4 < \text{Days} \leq 7$	R5000
Days $> 7$	R10000 with a maximum value of R50000

**The penalties will be levied for IAMM upload as in the table below:**



Import into IAMM completed:	Penalty per calendar day
Later than 7 days for a data import into IAMM from the day of measurement	R10000 with a maximum value of R50000

The accuracy, timely and correct delivery of reports supplied are a safety critical issue and vitally important during derailment investigations. Any deviation from the standard of error free reports will be strictly monitored. Penalties for deviation from the standards will be levied.

**Typical errors that will constitute a deviation from standards are inter alia:**

- Incorrect km locations supplied anywhere in a report.
- Incorrect dates anywhere in the report.
- Incorrect report numbers anywhere in the report.
- Incorrect filenames.
- Incorrect test car number.
- Any obvious errors, e.g., GPS coordinate.
- Using unacceptable formatting.
- Inaccurate statistics, e.g., Tw, Ts, To, etc.
- Incorrect section name.
- Incorrect reference to a line measured.

**The penalties for reports with errors are:**

Report with error	Penalty per report per day in Rand
Report/s with error first day	R200
Report/s with error second consecutive day	R400
Report/s with error third consecutive day	R1000
Report/s with error fourth consecutive day	R2000
Report/s with error every consecutive day following the fourth day	R2000

When error free reports have been submitted for 10 or more consecutive days, the penalty for a report with an error after ten or more days will revert back to R200 and the penalties will follow the values in the table above.

7.7.9 If it is confirmed by a metallurgical laboratory report that a defect that was skipped should have been detected, a penalty of R50000 (fifty thousand rand) will be levied.

7.7.10 The monthly payment (MP) will be reduced by 50% when it is proved, in the opinion of the *Service Manager*, that a derailment was caused by a Defect not located during a measurement campaign due to negligence or incompetence by the *Contractor*.

**This reduction of payment will be applied according to line classification as per the table below:**

Line Classification/ Route	A derailment caused by a Defect not located during a measurement campaign occurred within the number of days in this column since the last measuring campaign.
S: ORELINE: Salkor – Erts	30 days
S: Broodsniersplaas – RBCT Line 1	30 days
S: Broodsniersplaas – RBCT Line 2	60 days
S: Blackhill – Saaiwater – Broodsniersplaas	60 days
S: Geluksplaas – Pullenshope	90 days

S: Sishen – Beeshoek	90 days
S: Palingpan – Manganore	90 days
S: Thlaping – Kolomela	90 days
N1 Lines	90 days
N2 Lines	180 days
N3 Lines and Branchlines	365 days

## 8. TRAINING

### 8.1 Operator Requirements

- 8.1.1 The *Contractor* shall provide the necessary drivers and operators for the machine. Allowance shall be made for any additional drivers of the vehicles when travelling by road for long distances.
- 8.1.2 Drivers and/or operators of machines shall be alert and vigilant at all times and anyone may not operate the machine for more than 10 hours continuously in a day when travelling by road and/or on track. The total time for road and/or track travelling shall not exceed 14 hours. Any driver and/or operator shall have at least a 10-hour rest between shifts. Consideration should be given to having more than one driver per vehicle for long distances of travel by road.
- 8.1.3 The rail-measuring Operators must be in possession of the South Africa Ultrasonic Examination Certificate (i.e., UT Level 2) or equivalent.
- 8.1.4 Subcontracting
- 8.1.4.1 Subcontracting procedures
- 8.1.4.2 No part of the contract may be subcontracted without written approval from Transnet Freight Rail.

### 8.2 Compulsory Training

The following training shall be arranged for the following contractor's costs.

Type of training	Staff required to undergo training	Estimated duration of training	Location of training	Trainer to conduct training at start of contract	Alternative trainer to conduct training at contract start	Future refreshment training
Induction	All contract staff including new entrants. Start of work at any new depot	+/- 2 hours	Depot where work starts	<i>Employer's Service Manager</i> or Track inspector	New recruits: <i>Contractors</i> accredited representative	<i>Contractors</i> accredited representative



Type of training	Staff required to undergo training	Estimated duration of training	Location of training	Trainer to conduct training at start of contract	Alternative trainer to conduct training at contract start	Future refreshment training
Electrical awareness	All contract staff including new entrants	+/- 2 hours	Depot where work starts	<i>Employer's</i> depot electrical officer or accredited trainer	New recruits: <i>Contractors</i> accredited representative	<i>Contractors</i> accredited representative
PWC (Electrical)	Service Managers, Operators, fitters, Technicians & Workers supporting fitters, working in risky OHTE areas	2 days	Depot where work starts	<i>Employer's</i> , Esselen Park or Depot accredited trainer, or <i>Employer's</i> hired accredited trainer: By appointment at depot	Replacement / new staff: <i>Contractors</i> accredited representative	<i>Contractors</i> accredited representative
Competency (Electrical)	Service Managers (Follow up training in PWC)	1 day	Depot where work starts	<i>Employer's</i> accredited trainer, or <i>Employer's</i> hired accredited trainer: By appointment at depot	Replacement / new staff: <i>Contractors</i> accredited representative	<i>Contractors</i> accredited representative
Flagman training	Flagmen and standby flagmen	5 days		<i>Employer's</i> accredited trainer, or <i>Employer's</i> hired accredited trainer: By appointment at depot	Replacement / new staff: <i>Contractors</i> accredited representative	<i>Contractors</i> accredited representative

Type of training	Staff required to undergo training	Estimated duration of training	Location of training	Trainer to conduct training at start of contract	Alternative trainer to conduct training at contract start	Future refreshment training
Bonder training	Bonder	5 days		<i>Employer's</i> accredited trainer, or <i>Employer's</i> hired accredited trainer: By appointment at depot	Replacement / new staff: <i>Contractors</i> accredited representative	<i>Contractors</i> accredited representative

### 8.3 Workmen

- 8.2.1 All persons employed by the *Contractor* to carry out the Contract shall be competent, responsible and of good character.
- 8.2.2 During the currency of the Contract, the *Contractor* shall not approach any employee of Transnet Freight Rail with a view to offering him employment in any capacity whatsoever.
- 8.2.3 The *Contractor* shall, upon request, provide the *Service Manager* with a weekly statement of the number of persons employed on the Work each day by the *Contractor* and any sub-*Contractor*, the capacity in which employed, the total number of hours worked in that week for each grade of staff separately and details of any incentive or bonus payment schemes introduced. The statement shall be supported by documentary evidence when so required by the *Service Manager*.
- 8.2.4 The *Contractor* shall ensure that all staff transported on on-track machines and/or the UMC, Transnet Freight Rail wagons or coaches, shall at all times be transported in a safe and responsible way. Only authorised staff shall be transported.
- 8.2.5 The attention of the *Contractor* is directed to the requirements of safety legislation and regulations with regard to storage and transport of dangerous substances, accommodation and transport of people.
- 8.2.6 Staff shall only be allowed to travel inside the UMC in approved manner.

### 9. THE WORKS

- 9.1 Availability of the vehicle in its entirety shall be 100% i.e. 8 (Eight) hours daily during normal working hours, normal working days, emergency call-out hours and during pre-arranged work outside normal working hours.
- 9.2 The *Contractor* shall include for the supply of a full-time Operator with the vehicle. The Operator shall be responsible for travelling movements, off-tracking / on-tracking, as well as regular vehicle inspections, maintenance and repairs, so that maximum availability may be achieved.

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- 9.3 The Operator will be expected to be available during normal working hours during normal working days, as well as for emergency work during emergency call-out hours. He shall also be available for pre-arranged work outside normal working hours.
- 9.4 The *Employer* will be responsible for the safety of the vehicle in so far as train working rules is concerned and will provide qualified employees who will be in charge and supervise the operation of the vehicle.
- 9.5 A person in charge of the occupation (pilot) for an on-track machine shall be a competent employee, reporting to the Transnet Freight Rail depot Engineer. This person shall be responsible for the following on a work Site.
- 9.5.1 Taking Occupation.
- 9.5.2 Communicating with CTC with regard to occupation matters.
- 9.5.3 Piloting the machine on the track.
- 9.6 All tools/Equipment of every description necessary for the execution of the works shall be supplied by the *Contractor* with complete fuel, spares, maintenance, and competent operators and legally compliant with all applicable safety legislation.
- 9.7 The *Contractor* shall at his own cost provide labor, transport, consumable items, Equipment, tools and materials including spare parts required for maintaining the vehicle and carry out breakdown services to an acceptable standard.
- 9.8 The *Contractor* shall make sure that the daily inspections are carried out on the vehicle and its equipment before trips.
- 9.9 If the non-availability of the vehicle is due to a breakdown, the *Contractor* or his representative shall advise the *Service Manager* of the estimated time needed for repairs, after inspection thereof.
- 9.10 The vehicle will be regarded as available after breakdown when it is declared available for the purpose of measuring, unless after the period of measuring the vehicle is still non-available. In the latter case, non-availability time will continue from the time that the vehicle previously became non-available.
- 9.11 Should a joint inspection of the vehicle by *Employer* and the *Contractor* reveal that any vehicle is not in a safe working condition, the *Service Manager* may order the temporary withdrawal of the vehicle from Work Site. The vehicle will then be regarded as non-available until it has been repaired and is available for work.
- 9.12 If for any reason the satellite vehicle is not available due to Tb being booked on the satellite vehicle, Tb will be booked on both the primary vehicle and on the satellite vehicle.

## PART 4: AFFECTED PROPERTY

Core clause 11.2(2) states

"Affected Property is property which

Is affected by the work of the *Contractor* or used by the *Contractor* in Providing the Service is in the documents which the Contract Data states it is in."

In Contract Data, reference has been made to this Part 4 of the contract for the location of the Affected Property.

### 1. Description of the Site and its surroundings

#### 1.1 General description

The contract area will be all track owned, or maintained, by Transnet Freight Rail Cape Corridor (Port Elizabeth depot, Kimberly North and South depot) and Krugersdorp depot. The Contractor may be required to work in areas where varying degrees and types of security situations are prevailing such as may occur in remote rural areas through to densely populated metropolitan areas. The railway tracks are located in areas of varying horizontal and vertical dimensions of the land surface. In some areas, tracks fall in deep cuttings as well as in high embankments.

#### 1.2 Existing buildings, structures, and plant & machinery on the Site

There are fixed assets that are situated alongside the linear state of the railway infrastructure. These structures are but not limited to; bridges, platforms, culverts and track side components. The Contractor shall ensure that all the works being carried out does not deform the existing structures.

#### 1.3 Subsoil information

The project at hand does not interfere with the formation or earthworks. Should there be a need to work on the formation; the employer shall supply the contractor with relevant information.

#### 1.4 Hidden services

There are underground services that were previously erected and the as-built data to locate such services will be utilised. There are situations where the as-built data cannot be traced and, in such situations, activities must be carried out with caution. During the execution phases of the project, there is a possibility of disruption of such hidden services. These services include conduits (oil, water and sewage), electrical cables and any other structure that may be present. The employer shall inform the contractor through a baseline risk assessment of any possibilities in anticipation.

#### 1.5 Other reports and publicly available information

The Employer shall provide all the standard layouts/drawings for all the turnouts where sleepers are to be replaced. The Employer will also provide maps, locations, reports and designs as and when required.