

**TRANSNET FREIGHT RAIL**

an Operating Division of **TRANSNET SOC LTD**

[hereinafter referred to as **Transnet**]

[Registration No. 1990/000900/30]

**REQUEST FOR PROPOSAL [RFP] ERACMM-PRC-48818**

**FOR THE APPOINTMENT OF SERVICE PROVIDER(S) TO PROVIDE LOCOMOTIVE TOILETS CLEANING SERVICES AT THREE DEPOTS IN PYRAMID SOUTH, OGIES AND THABAZIMBI FOR PERIOD OF THREE (03) YEARS**

<b>RFP NUMBER</b>	<b>ERACMM-PRC-48818</b>
<b>ISSUE DATE:</b>	<b>29 NOVEMBER 2024</b>
<b>NON-COMPULSORY BRIEFING DATE:</b>	<b>06 DECEMBER 2024</b>
<b>CLOSING DATE:</b>	<b>13 DECEMBER 2024</b>
<b>CLOSING TIME:</b>	<b>10:00 AM</b>
<b>BID VALIDITY PERIOD:</b>	<b>25 APRIL 2025 (90 Business Days from Closing Date)</b>

**Note to the bidders:**

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

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**RFP FOR THE APPOINTMENT OF SERVICE PROVIDER(S) TO PROVIDE LOCOMOTIVE TOILETS  
CLEANING SERVICES AT THREE DEPOTS IN PYRAMID SOUTH, OGIES AND THABAZIMBI FOR PERIOD  
OF THREE (03) YEARS**

**SECTION 1: SBD1 FORM**

**PART A  
INVITATION TO BID**

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF TRANSNET FREIGHT RAIL, A DIVISION TRANSNET SOC LTD							
BID NUMBER:	ERACMM- PRC- 48818	ISSUE DATE:	<b>29 NOVEMBER 2024</b>	CLOSING DATE:	<b>13 DECEMBER 2024</b>	CLOSING TIME:	<b>10:00 AM</b>
DESCRIPTION	<b>FOR THE APPOINTMENT OF SERVICE PROVIDER(S) TO PROVIDE LOCOMOTIVE TOILETS CLEANING SERVICES AT THREE DEPOTS IN PYRAMID SOUTH, OGIES AND THABAZIMBI FOR PERIOD OF THREE (03) YEARS</b>						
<b>BID RESPONSE DOCUMENTS SUBMISSION</b>							
RESPONDENTS ARE TO UPLOAD THEIR BID RESPONSE PROPOSALS ONTO THE TRANSNET SYSTEM AGAINST EACH TENDER SELECTED ( <i>please refer to section 2, paragraph 3 for a detailed process on how to upload submissions</i> ): <a href="https://transnetetenders.azurewebsites.net">https://transnetetenders.azurewebsites.net</a>							
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</b>				<b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b>			
CONTACT PERSON	<b>MATETE KUTUMELA</b>			CONTACT PERSON	<b>MATETE KUTUMELA</b>		
TELEPHONE NUMBER	<b>012 315 2268</b>			TELEPHONE NUMBER	<b>012 315 2268</b>		
FACSIMILE NUMBER				FACSIMILE NUMBER			
E-MAIL ADDRESS	<a href="mailto:Matete.kutumela@transnet.net">Matete.kutumela@transnet.net</a>			E-MAIL ADDRESS	<a href="mailto:Matete.kutumela@transnet.net">Matete.kutumela@transnet.net</a>		
<b>RESPONDENT INFORMATION</b>							
NAME OF BIDDER							
POSTAL ADDRESS							
STREET ADDRESS							
TELEPHONE NUMBER	CODE			NUMBER			
CELLPHONE NUMBER							
FACSIMILE NUMBER	CODE			NUMBER			
E-MAIL ADDRESS							
VAT REGISTRATION NUMBER							
RESPONDENT COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:			<b>OR</b>	CENTRAL RESPONDENT DATABASE	UNIQUE REGISTRATION REFERENCE NUMBER: MAAA	
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No			B-BBEE STATUS LEVEL SWORN AFFIDAVIT	[TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No		

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

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

<b>[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES &amp; QSEs) MUST BE SUBMITTED FOR PURPOSES OF COMPLIANCE WITH THE B-BBEE ACT]</b>			
<b>1 ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No  [IF YES ENCLOSE PROOF]	<b>2 ARE YOU A FOREIGN BASED RESPONDENT FOR THE GOODS /SERVICES /WORKS OFFERED?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No  [IF YES, ANSWER QUESTIONNAIRE BELOW ]
<b>QUESTIONNAIRE TO BIDDING FOREIGN RESPONDENTS</b>			
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?		<input type="checkbox"/> YES <input type="checkbox"/> NO	
DOES THE ENTITY HAVE A BRANCH IN THE RSA?		<input type="checkbox"/> YES <input type="checkbox"/> NO	
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?		<input type="checkbox"/> YES <input type="checkbox"/> NO	
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?		<input type="checkbox"/> YES <input type="checkbox"/> NO	
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<b>IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 1.3 BELOW.</b>			

## PART B TERMS AND CONDITIONS FOR BIDDING

<b>1. TAX COMPLIANCE REQUIREMENTS</b>
1.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS. 1.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS. 1.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA. 1.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID. 1.5 IN BIDS WHERE UNINCORPORATED CONSORTIA / JOINT VENTURES / SUB-THE RESPONDENTS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER. 1.6 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL RESPONDENT DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.

**NB: FAILURE TO PROVIDE / OR COMPLY WITH ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.**

SIGNATURE OF BIDDER: \_\_\_\_\_

CAPACITY UNDER WHICH THIS BID IS SIGNED: \_\_\_\_\_

(Proof of authority must be submitted e.g. company resolution)

DATE: \_\_\_\_\_

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

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

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

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

<b>DESCRIPTION</b>	For the appointment of service provider(s) to provide Locomotive Toilets Cleaning Services at three depots in Transnet Freight Rail for period of three (03) years. [ <b>the Services</b> ]
<b>TENDER ADVERT</b>	All Transnet tenders are advertised on the National Treasury's e-Tender Publication Portal and the Transnet website. Should one of these media (i.e. National Treasury's e-Tender Publication Portal or Transnet website) not be available, bidders are advised to check on the other media for advertised tenders.
<b>RFP DOWNLOADING</b>	<p>This RFP may be downloaded directly from National Treasury's e-Tender Publication Portal at <a href="http://www.etenders.gov.za">www.etenders.gov.za</a> free of charge.</p> <p>To download RFP and Annexures:</p> <ul style="list-style-type: none"> <li>• Click on "Tender Opportunities";</li> <li>• Select "Advertised Tenders";</li> <li>• In the "Department" box, select Transnet SOC Ltd.</li> </ul> <p>Once the tender has been in the list, click on the "Tender documents" tab and process to download all uploaded documents.</p> <p>The RFP may also be downloaded from the Transnet Portal at <a href="https://transnetetenders.azurewebsites.net">https://transnetetenders.azurewebsites.net</a> (please use <b>Google Chrome</b> to access Transnet link/site) free of charge (<i>refer to section 2, paragraph 3 below for detailed steps</i>)</p>
<b>COMMUNICATION</b>	<p>Transnet will publish the outcome of this RFP on the National Treasury e-tender portal and Transnet website with 10 days after the award has been finalised. All unsuccessful bidders have a right to request for reasons for their bid not being successful. This requested must be directed to the contact person stated in the SBD 1 form</p> <p>Any addenda to the RFP or clarifications will be published on the e-tender portal and Transnet website. Bidders are required to check the e-tender portal or Transnet website prior to finalising their bid submissions for any changes or clarifications to the RFP.</p> <p>Transnet will not be held liable if Bidders do not receive the latest information regarding this RFP with the possible consequence of either being disadvantaged or disqualified as a result thereof.</p>
<b>BRIEFING SESSION</b>	<b>Yes – Non-Compulsory</b> Refer to paragraph 2 for details.
<b>CLOSING DATE</b>	<b>10:00 am on 13 December 2024</b> Bidders must ensure that bids are uploaded timeously onto the system. Generally, if a bid is late, it will not be accepted for consideration. <b><i>Bidders are required to ensure that electronic bid submissions are done at least a day before the closing date to prevent issues which they may encounter due to their internet speed, bandwidth or the size of the number of uploads they are submitting. Transnet will not be held liable for any challenges experienced by bidders as a result of the technical challenges. Please do not wait for the last hour to submit. A Bidder can upload 30mb per upload and multiple uploads are permitted.</i></b>

<b>VALIDITY PERIOD</b>	<p><b>90 Business Days from Closing Date (25 April 2025)</b></p> <p>Bidders are to note that they may be requested to extend the validity period of their bid, at the same terms and conditions, if the internal evaluation process has not been finalised within the validity period. However, once the adjudication body has approved the process and award of the business to the successful bidder(s), the validity of the successful bidder(s)' bid will be deemed to remain valid until a final contract has been concluded.</p> <p>Should a bidder fail to respond to a request for extension of the validity period before it expires, that bidder will be excluded from tender process.</p> <p>With regard to the validity period of next highest ranked bidders, please refer to Section 2, paragraph 10.12</p>
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Any additional information or clarification will be published on the e-Tender portal and Transnet website, if necessary.

## 2 FORMAL BRIEFING

A Non-compulsory site meeting will be conducted at **Transnet Freight Rail, Pyramid Locomotive depot Address: R101 Lavender Road, Pyramid South on the 06 December 2024 at 10:00am** for a period of +-1 hour.

[Respondents to provide own transportation and accommodation]. The briefing session will start punctually and information will not be repeated for the benefit of Respondents arriving late.

**For directions contact Iagnetius Makelane on 083 461 8532.**

- 2.1 Despite the briefing session being non-compulsory, Transnet nevertheless encourages all Respondents to attend. Transnet will not be held responsible if any Respondent who did not attend the **non-compulsory** session subsequently feels disadvantaged as a result thereof.
- 2.2 *A Certificate of Attendance in the form set out in Section 8 hereto must be completed and submitted with your Proposal as proof of attendance is required for a non-compulsory site meeting and/or RFP briefing.*

## 3 PROPOSAL SUBMISSION

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

- a) The Transnet e-Tender Submission Portal can be accessed as follows:
  - Log on to the Transnet eTenders management platform website/ Portal ([transnetetenders.azurewebsites.net](https://transnetetenders.azurewebsites.net)) Please use **Google Chrome** to access Transnet link/site);
  - Click on "ADVERTISED TENDERS" to view advertised tenders;
  - Click on "SIGN IN/REGISTER – for bidder to register their information (must fill in all mandatory information);
  - Click on "SIGN IN/REGISTER" - to sign in if already registered;
  - Toggle (click to switch) the "Log an Intent" button to submit a bid;
  - Submit bid documents by uploading them into the system against each tender selected.

- No late submissions will be accepted. The bidder guide can be found on the Transnet Portal [transnetetenders.azurewebsites.net](https://transnetetenders.azurewebsites.net)

#### 4 RFP INSTRUCTIONS

- 4.1 Please sign documents [sign, stamp and date the bottom of each page] before uploading them on the system. The person or persons signing the submission must be legally authorised by Respondent to do so.
- 4.2 **All returnable documents tabled in the Proposal Form [Section 5] must be returned with proposals.**
- 4.3 Unless otherwise expressly stated, all Proposals furnished pursuant to this RFP shall be deemed to be offers. Any exceptions to this statement must be clearly and specifically indicated.
- 4.4 Any additional conditions must be embodied in an accompanying letter. Subject only to clause 15 [Alterations made by Respondent to Bid Prices] of the General Bid Conditions, paragraph 12 below (Legal Review) and Section 6 of the RFP, alterations, additions or deletions must not be made by Respondent to the actual RFP documents.

#### 5 JOINT VENTURES OR CONSORTIUMS

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

Respondents are to note that for the purpose of Evaluation, a JV will be evaluated based on one consolidated B-BBEE score card (a consolidated B-BBEE Status Level verification certificate) Preference points will be awarded to a bidder for attaining the specific goals requirements in accordance with the table indicated in Section 4.1 of the specific goals Claim Form.

## 6. COMMUNICATION

- 6.1 For specific queries relating to this RFP, an RFP Clarification Request Form should be submitted onto the system and to [[matete.kutumela@transnet.net](mailto:matete.kutumela@transnet.net)] before **12:00 pm on 11 December 2024**, substantially in the form set out in Section 8 hereto. In the interest of fairness and transparency, Transnet's response to such a query will be published on the e-tender portal and Transnet website.
- 6.2 After the closing date of the RFP, a Respondent may only communicate with the name of delegated individual (BEC chairperson), at telephone number 011 584 0821, email [prudence.nkabinde@transnet.net](mailto:prudence.nkabinde@transnet.net) on any matter relating to its RFP Proposal.
- 6.3 Respondents are to note that changes to its submission will not be considered after the closing date.
- 6.4 It is prohibited for Respondents to attempt, either directly or indirectly, to canvass any officer or employee of Transnet in respect of this RFP between the closing date and the date of the award of the business.
- 6.5 Respondents found to be in collusion with one another will be automatically disqualified and restricted from doing business with organs of state for a specified period.
- 6.6 Transnet will publish the outcome of this RFP in the National Treasury e-tender portal and Transnet website with 10 days after the award has been finalised. Respondents are required to check the National Treasury e-tender Portal and Transnet website for the results of the tender process. All unsuccessful bidders have a right to request Transnet to furnish individual reasons for their bid not being successful. This requested must be directed to the contact person stated in the SBD 1 form

## 7. CONFIDENTIALITY

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

## 8. COMPLIANCE

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

## 9. EMPLOYMENT EQUITY ACT

Respondents must comply with the requirements of the Employment Equity Act 55 of 1998 applicable to it including (but not limited to) Section 53 of the Employment Equity Act.

## 10. DISCLAIMERS

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

- 10.1 modify the RFP's Goods/Services and request Respondents to re-bid on any such changes;
- 10.2 reject any Proposal which does not conform to instructions and specifications which are detailed herein;
- 10.3 disqualify Proposals submitted after the stated submission deadline [closing date];

- 10.4 award a contract in connection with this Proposal at any time after the RFP's closing date;
- 10.5 award a contract for only a portion of the proposed Goods/Services which are reflected in the scope of this RFP;
- 10.6 split the award of the contract between more than one Respondent/Service provider, should it at Transnet's discretion be more advantageous in terms of, amongst others, cost or developmental considerations;
- 10.7 cancel the bid process;
- 10.8 validate any information submitted by Respondents in response to this bid. This would include, but is not limited to, requesting the Respondents to provide supporting evidence. By submitting a bid, Respondents hereby irrevocably grant the necessary consent to Transnet to do so;
- 10.9 request audited financial statements or other documentation for the purposes of a due diligence exercise;
- 10.10 not accept any changes or purported changes by Respondent to the bid rates after the closing date and/or after the award of the business, unless the contract specifically provided for it;
- 10.11 to cancel the contract and/request that National Treasury place Respondent on its Database of Restricted Respondents for a period not exceeding 10 years, on the basis that a contract was awarded on the strength of incorrect information furnished by Respondent or on any other basis recognised in law;
- 10.12 to award the business to the next ranked bidder, provided that he/she is still prepared to provide the required Goods at the quoted price, should the preferred bidder fail to sign or commence with the contract within a reasonable period after being requested to do so. Under such circumstances, the validity of the bids of the next ranked bidder(s) will be deemed to remain valid, irrespective of whether the outcome of the tender has been published the outcome of the bid process on the National Treasury e-tender Portal and Transnet website. Bidders may therefore be requested to advise whether they would still be prepared to provide the required Goods at their quoted price.

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

## 11. LEGAL REVIEW

A Proposal submitted by a Respondent will be subjected to review and acceptance or rejection of its proposed contractual terms and conditions by Transnet's Legal Counsel, prior to consideration for an award of business. A material deviation from the Standard terms or conditions could result in disqualification.

## 12. SECURITY CLEARANCE

Acceptance of this bid could be subject to the condition that the Successful Respondent, its personnel providing the Goods/Services and its sub-Contractor (s) must obtain security clearance from the appropriate authorities to the level of **CONFIDENTIAL/ SECRET/TOP SECRET**. Obtaining the required clearance is the responsibility of the Successful Respondent. Acceptance of the bid is also subject to the condition that the Successful Respondent will implement all such security measures as the safe performance of the contract may require.

**13. NATIONAL TREASURY’S CENTRAL RESPONDENT DATABASE**

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

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

**14. TAX COMPLIANCE**

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


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

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










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

**Transnet urges its clients, Respondents and the general public to report any fraud or corruption to**

**TIP-OFFS ANONYMOUS:**



**You can choose to be Anonymous or Non-Anonymous on ANY of the platforms**  
**PLEASE RETAIN YOUR REFERENCE NUMBER**

				
	<p><b>AI Voice Bot "Jack"</b>                      Speak to our AI Voice Chat Bot "JACK", you converse with him like chatting to a human, with the option to record a message and speak to an agent at anytime.</p>	<p><b>What's App</b>                      Speak to an Agent via What's App.</p>	<p><b>Speak to an Agent</b>                      Speak to an Agent via the platform with no call or data charge</p>	<p><b>Telegram</b>                      Speak to an Agent via Telegram</p>
 <b>0800 003 056</b>	 <b>086 551 4153</b>	 <b>reportit@ethicshelpdesk.com</b>	 <b>*120*0785980808#</b>	

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

### 1. BACKGROUND

Transnet Freight Rail (TFR) is seeking to appoint service provider(s) for locomotive toilets cleaning services for a period of three (3) years. The train crew working trains from origin to destination require hygienic sanitary equipment to use en-route their trips. There are different types of toilet systems on board locomotives which train crew can use and that needs to always be cleaned and maintained.

The purpose of this Request for Proposal (RFP) is to clarify the cleaning processes of the locomotive toilets to ensure that hygienically clean facilities are always available to the train crew.

### 2. SCOPE OF REQUIREMENTS

Transnet Freight Rail is calling for proposals from experienced service providers with a proven track record for the provision of Locomotive Toilets Cleaning Services at three (3) depots in Transnet Freight Rail for period of three (03) years.

### 3. THIS SCOPE OF WORK COVERS THE FOLLOWING:

- 3.1 The requirements for cleaning the toilet and its cubicle, emptying the retention tank and refilling water into the tank;
- 3.2 Both chemical toilets and systems that incorporate a septic tank that are used on locomotives;
- 3.3 The cleaning and disposal of waste from locomotive porta potties;
- 3.4 Locomotive toilet cleaning is required 24/7 a week in 365 days; and
- 3.5 Two (2) cleaners are required per shift.

### 3.2 THE DELIVERABLES OF THIS PROJECT WILL CONTAIN THE FOLLOWING:

#### Chemical Toilets System "Porta Potties"

- 3.2.1 There is continuous recycling of water, waste and chemicals therefore regular drainage and refilling is frequently required depending on the system capacity;
- 3.2.2 There must be a pool of Porta Potties available for the toilet cleaning team so that change out can take place on an exchange basis;
- 3.2.3 The Porta Potties can preferably be placed on the leading and the last loco;
- 3.2.4 Cleaning a Chemical Toilet System "Porta Pottie";
- 3.2.5 The cleaning operation should be performed in a demarcated area, at the Transnet's property, with access to a sewage drain or a normal toilet and tap for water;
- 3.2.6 The toilet cleaning team unlocks the toilet using the unique keys;
- 3.2.7 Disconnect flush tank from the waste tank;
- 3.2.8 Empty waste tank into a sewage drain/toilet through the emptying spout. To ensure proper decanting swing the emptying spout outwards as per figure 1.1 (refer to Annexure A). When emptying, spout should be pointing downwards, depressed depress vent button to avoid splashing while waste is being disposed of;
- 3.2.9 The cleaning operation should be performed using soapy water and anti-bacterial cleaners;
- 3.2.10 The waste-holding tank must be filled with water diluted chemical that is SABS Compliance, e.g. Aqua Blue. The chemical must liquefies waste for easier tank emptying, deflates gas build-up and keeps waste holding tank fresh-smelling;

- 3.2.11 The flush-water tank must be filled with water diluted chemical that is SABS Compliance, e.g. Rinse Blue. The chemical must enable a more effective flush and keeps the flush water clean. The chemical must be a highly effective fresh smelling fluid;
- 3.2.12 While the toilet is being removed, the toilet cubicle should be cleaned with a mop. Each cubicle has a waste drain through which excess water can drain out of the cubicle;
- 3.2.13 The water tank should be re-filled with clean water at all times.

### **3.3 LOGISTICS REQUIREMENTS**

- 3.3.1 The toilet has sufficient capacity to last up to 5 days of use; hence the cleaning process has to be performed on return (during trip inspection); and
- 3.3.2 The toilet can easily be ferried by bakkie / Kombi should there be any incident. It can be moved through locomotive doors with ease. (See figure 1.2)

### **3.4 SEPTIC TANK TYPES SYSTEM TOILET**

- 3.4.1 The cleaning operation should be performed in the toilet inside the locomotive. (See figure 1.3)
- 3.4.2 The toilet cleaning team cleans the bowl walls inside-out using a brush;
- 3.4.3 The cleaning operation should be performed using soapy water and anti-bacterial cleaners;
- 3.4.4 The toilet cubicle should be cleaned with a mop. Each cubicle has a waste drain through which excess water can drain out of the cubicle;
- 3.4.5 The toilet cleaning team should gauge the water level in the locomotive tank and refill. The tank can take up to 100 liters and a single flush uses approximately 2 liters therefore the water can last up to 50 flushes.

### **3.5 QUALITY ASSURANCE**

- 3.5.1 Transnet Freight Rail shall nominate a quality Inspector according to different regions / depots who will take samples daily of cleaned locos and evaluate the quality;
- 3.5.2 Transnet Freight Rail and Respondent shall agree on quality deliverables that needs to be incorporated in the evaluation form.

### **3.6 INDUCTION TRAINING**

- 3.6.1 Transnet will provide the Respondent with induction training by Local Safety Office at the depot

### **3.7 SANITARY FACILITY**

- 3.7.1 Sanitary facility is Transnet Property
- 3.7.2 The facility is used for the following:
- Office (cleaners (The Respondents) to sit);
  - Cleaning of porta potties (portable toilets); and
  - Storage of porta potties chemicals, cleaning chemicals, cleaning equipment and cleaned spare porta potties only.
- 3.7.3 Also the Respondent is responsible for housekeeping. The facility must be always kept clean;
- 3.7.4 The Respondent is liable for any damages of the building, cleaning equipment (e.g. slop hopper, sink, water tap), microwave, fridge and furniture found in the Sanitary Facility, since they are Transnet Properties;
- 3.7.5 The maintenance of the building is the Transnet Freight Rail Real Estate responsibility; and
- 3.7.6 The Respondent must report any fault occur in the Sanitary Facility to Operations

**3.8 SAMPLES**



**Figure 1.1- Porta Pottie**



**Figure 1.2 – Porta Pottie**

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

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



***Figure 1.3 – Fixed Septic Toilet***

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Respondent's Signature

---

Date & Company Stamp

**4 GREEN ECONOMY / CARBON FOOTPRINT**

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

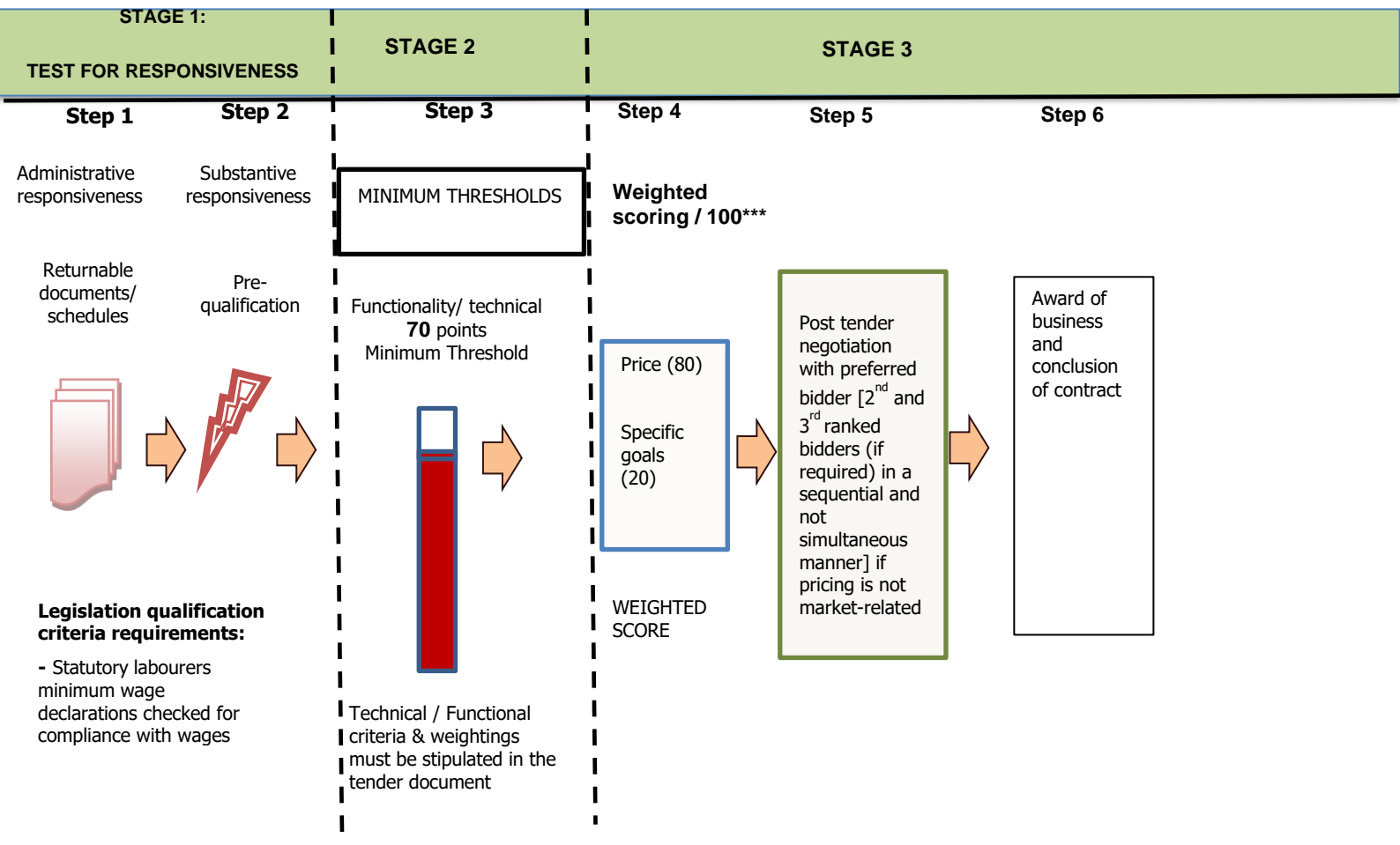
**5 GENERAL RESPONDENT OBLIGATIONS**

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

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

**6 EVALUATION METHODOLOGY**

Transnet will utilise the following methodology and criteria in selecting a preferred respondent:



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

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

The test for administrative responsiveness will include the following:

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

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

**6.3 STEP TWO: Test for Substantive Responsiveness to RFP**

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

<b>Check for substantive responsiveness</b>	<b>RFP Reference</b>
<ul style="list-style-type: none"> <li>Whether any general and legislation qualification criteria set by Transnet, have been met: -</li> </ul>	<i>All sections including: Section 2 paragraphs, 2.2, 6, 11.2, General Bid Conditions clause 20</i>
<ul style="list-style-type: none"> <li>Whether the Bid contains a priced offer as prescribed in the pricing and delivery schedule</li> </ul>	<i>Section 4</i>
<ul style="list-style-type: none"> <li>Whether the Bid materially complies with the scope and/or specification given</li> </ul>	<i>All Sections</i>
<ul style="list-style-type: none"> <li>Whether any Technical prequalification criteria have been met as follows:           <ul style="list-style-type: none"> <li>— Statutory labourers minimum wage declarations checked for compliance with wages prescribed by BCCCI (Annexure B &amp; C from page 46-47 to be completed and signed)</li> <li>— Registration with National Treasury's Central Respondent Database (CSD)</li> </ul> </li> </ul>	Section 2, paragraph 13

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

**6.4 STEP THREE: Minimum Threshold 70 points for Technical Criteria**

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

At this stage, the BEC shall evaluate if the bids complies with the technical requirements of the RFP. The test for technical will include the following:

Technical Evaluation Criteria	Points	Scoring guideline (0 to 5)
<ul style="list-style-type: none"> <li>Previous experience in cleaning locomotive toilets (Respondent to submit PO's/Letter of Awards/ or completion certificates as supporting documents)</li> </ul>	60	
<ul style="list-style-type: none"> <li>Service Implementation plan</li> </ul>	40	
<b>Total Weighting:</b>	<b>100</b>	
<b>Minimum qualifying score required:</b>	70	

Respondents must complete and submit **Annexure A which include a Technical and Functional Questionnaire**. A Respondent's compliance with the minimum functionality threshold will be measured by their responses to Annexure A

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

**TECHNICAL EVALUATION CRITERIA**

**Minimum Threshold 70 points for Technical Criteria**

TECHNICAL: THRESHOLD	Weightings	Scoring Matrix	Effective Weights
Previous work done. Respondents must submit authenticated references letters or copies of awarded contracts indicating the experience of previous work done for Hygiene cleaning services. Please take note the award and appointment letters are not acceptable because the letters are not guaranteed that the work was done previously.  Bidders should indicate each contactable reference and the durations of each contract concerned.	60	0 = 0 1 = 15 2 = 30 3 = 45 4 = 60	0 = No reference letters submitted 1 = One (1 Reference letters or contracts) 2 = Two (2 References letters or contracts) 3 = Three (3 References letters or contracts); 4 = Four (4 References letters or contracts).

TECHNICAL: THRESHOLD	Weightings	Scoring Matrix	Effective Weights
<p>It should be on a letterhead from the company where they rendered the service</p> <ul style="list-style-type: none"> <li>• Contract value</li> <li>• Contract period (start and end dates)</li> <li>• Contact details of the company where they rendered the service</li> </ul>			
<p><b>Service Implementation plan</b></p> <p>(i) <u>Measures to ensure service continuity</u> includes induction programme, cleaning process and intervals, register of cleaning service, sourcing on consumables, equipment and timelines.</p> <p>(ii) <u>Employment and labour relations includes</u> employment process and management of employment, remuneration and wage management, management of absenteeism, misconduct, insubordination and disciplinary process, labour disputes, employee retainment/retention plan, resignations and constructive dismissal, record keeping</p> <p>(iii) <u>Training plan</u> includes formal and on the job training on but not limited to, Occupational Health &amp; Safety, cleaning processes, hygiene and housekeeping, supervisory skills and management</p>	40	<p>0 point = 0</p> <p>1 point = 13.33</p> <p>2 = 26.67</p> <p>3 = 40</p>	<p>Service Implementation Plan provided with all 3 requirements fully addressed with the listed areas = 3 points</p> <p>Service Implementation Plan provided with 2 requirements fully addressed with the listed the areas = 2 points</p> <p>Service Implementation Plan provided with 1 requirement fully addressed with the listed areas = 1 point</p> <p>No Service Implementation plan provided = 0 points</p>
<b>Total Weighting:</b>	<b>100</b>		
<b>Minimum qualifying score required:</b>	<b>70</b>		

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

**a. STEP THREE Evaluation and Final Weighted Scoring**

a) **Price Criteria** [Weighted score 80 points]:

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

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

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

Where:

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

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

- Specific goals claim form
- **B-BBEE - current scorecard / B-BBEE Preference Points Claims Form**
- Preference points will be awarded to a bidder for attaining the specific goals requirements in accordance with the table indicated in Section 4.1 of the specific goals Claim Form.

Selected Specific Goal	Number of points allocated (20)
B-BBEE Level of contributor (1 or 2)	5
30% Black Women Owned Entities	5
+50% Black Youth Owned Entities	5
Entities Owned by People with Disability (PWD)	5
Non-Compliant and/or B-BBEE Level 3-8 contributors	0

**b. STEP FIVE: Post Tender Negotiations (if applicable)**

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

**c. STEP SIX: Award of business and conclusion of contract**

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

**Validity Period**

Transnet requires a validity period of 90 [ninety] Business Days from the closing date of this RFQ, 25 April 2025 excluding the first day and including the last day.

Bidders are to note that they may be requested to extend the validity period of their bid, on the same terms and conditions, if the internal evaluation process has not been finalised within the validity period. However, once the adjudication body has approved the process and award of the business to the successful bidder(s), the validity of the successful bidder(s)' bid will be deemed to remain valid until a final contract has been concluded.



NB: Delivery period \_\_\_\_\_ days, weeks, months  
(how long it will take to deliver)

Respondents are to note that Transnet will round off final pricing scores to the nearest 2 (two) decimal places.

**Notes to Pricing:**

- a) Respondents are to note that if the price offered by the highest scoring bidder is not market-related, Transnet may not award the contract to that Respondent. Transnet may-
  - (i) negotiate a market-related price with Respondent scoring the highest points or cancel the RFP;
  - (ii) if that Respondent does not agree to a market-related price, negotiate a market-related price with Respondent scoring the second highest points or cancel the RFP;
  - (iii) if Respondent scoring the second highest points does not agree to a market-related price, negotiate a market-related price with Respondent scoring the third highest points or cancel the RFP.

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

- b) Prices must be quoted in South African Rand inclusive of VAT.
- c) Any disbursement not specifically priced for will not be considered/accepted by Transnet.
- d) To facilitate like-for-like comparison bidders must submit pricing strictly in accordance with this pricing schedule and not utilise a different format. Deviation from this pricing schedule could result in a bid being declared non-responsive.
- e) Rates proposed must be aligned with the Guide on Hourly Fee Rates for Consultants” by the Department of Public Service and Administration (DPSA);
- f) Quantities given are estimates only. Any orders resulting from this RFP will be on an “as and when required” basis.
- g) Prices are to be quoted on a delivered basis to ..... .
- h) Please note that should you have offered a discounted price(s), Transnet will only consider such price discount(s) in the final evaluation stage if offered on an unconditional basis.
- i) Where a Respondent’s price(s) includes imported goods/items, the rate of exchange to be used must be in South African Rands for purposes of determining whether the price is market related or not and must be the currency’s rate published by the South African Reserve Bank on the date of the advertisement of the bid:  
Currency rate of exchange utilised: \_\_\_\_\_
- j) Manufacturing and delivery lead time calculated from date of receipt of purchase order: \_\_\_\_\_ weeks.
- k) Respondents, if awarded the contract, are required to indicate that their prices quoted would be kept firm and fixed for the contract duration. [Not to be confused with bid validity period Section 2, clause 1]

<b>YES</b>	
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**1. DISCLOSURE OF CONTRACT INFORMATION**

**PRICES TENDERED**

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

\_\_\_\_\_  
Respondent’s Signature

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

**JOHANNESBURG STOCK EXCHANGE DEBT LISTING REQUIREMENTS**

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

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

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

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

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

The below form contains personal information as defined in the Protection of Personal Information Act, 2013 (the "Act"). By completing the form, the signatory consents to the processing of her/his personal information in accordance with the requirements of the Act. Consent cannot unreasonably be withheld.						
<b>Is Respondent</b> (Complete with a "Yes" or "No")						
<b>A DPIP/FPPO</b>		<b>Closely Related to a DPIP/FPPO</b>		<b>Closely Associated to a DPIP/FPPO</b>		
<b>List all known business interests, in which a DPIP/FPPO may have a direct/indirect interest or significant participation or involvement.</b>						
No	Name of Entity / Business	Role in the Entity / Business (Nature of interest/ Participation)	Shareholding %	Registration Number	Status (Mark the applicable option with an X)	
					Active	Non-Active
1						
2						
3						

Respondents declaring a commercial relationship with a DPIP or FPPO are to note that Transnet is required to annually publish on its website a list of all business contracts entered into with DPIP or FPPO. This list will include successful Respondents, if applicable.

**2. NATIONAL RAILWAY SAFETY REGULATOR ACT**

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

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 Respondent's Signature

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 Date & Company Stamp

its sub-Contractor shall grant Transnet access, during the term of the contract, to review any safety-related activities, including the coordination of such activities across all parts of the organisation.

**Accepted:**

<b>YES</b>	
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<b>NO</b>	
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**3. RISK**

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

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

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**3.2 Continuity of supply:**

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

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

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

SIGNATURE OF WITNESSES

ADDRESS OF WITNESSES

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

---



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

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

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

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

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

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

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

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

\_\_\_\_\_ carrying on business trading/operating as \_\_\_\_\_

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

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

being duly authorised thereto by a Resolution of the Board of Directors or Members or Certificate of Partners, dated \_\_\_\_\_ to enter into, sign execute and complete any documents relating to this proposal and any subsequent Agreement.

The following list of persons are hereby authorised to negotiate on behalf of the abovementioned entity, should Transnet decide to enter into Post Tender Negotiations with highest ranked bidder(s).

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

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

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

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

I/We accept that unless Transnet should otherwise decide and so inform me/us in the letter of award, this Proposal [and, if any, its covering letter and any subsequent exchange of correspondence], together with Transnet’s acceptance thereof shall constitute a binding contract between Transnet and me/us.

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

I/We further agree that if, after I/we have been notified of the acceptance of my/our Proposal, I/we fail to enter into a formal contract if called upon to do so, or fail to commence the supply/provision of Goods/Services within 2 [two] weeks thereafter, Transnet may, without prejudice to any other legal remedy which it may have, recover from me/us any expense to which it may have been put in calling for Proposals afresh and/or having to accept any less favourable Proposal.

\_\_\_\_\_  
Respondent’s Signature

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

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

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

**ADDRESS FOR NOTICES**

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

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

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

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

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

**NOTIFICATION OF AWARD OF RFP**

As soon as possible after approval to award the contract(s), the successful Respondent [**The Respondent**] will be informed of the acceptance of its Proposal. Transnet will also publish the outcome of the tender, including successful and unsuccessful bidders, in the National Treasury e-tender portal. Any unsuccessful bidder has a right to request reasons for the bid not to be successful and Transnet has a duty to provide those reasons on receipt of the request from the bidder.

**VALIDITY PERIOD**

Transnet requires a validity period of 90 Business Days [from closing date] against this RFP, excluding the first day and including the last day.

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

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

Registration number of company / C.C. \_\_\_\_\_

Registered name of company / C.C. \_\_\_\_\_

Full name(s) of director/member(s)	Address/Addresses	ID Number(s)
_____	_____	_____
_____	_____	_____
_____	_____	_____

**RETURNABLE DOCUMENTS**

Returnable Documents means all the documents, Sections and Annexures, as listed in the tables below. There are three types of returnable documents as indicated below and Respondents are urged to ensure that these documents are returned with their bids based on the consequences of non-submission as indicated below:

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

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

Mandatory Returnable Documents	<b><i>Failure to provide all these Mandatory Returnable Documents at the Closing Date and time of this RFP <u>will</u> result in a Respondent's disqualification.</i></b>
Returnable Documents Used for Scoring	<b><i>Failure to provide all Returnable Documents used for purposes of scoring a bid, by the closing date and time of this bid will not result in a Respondent's disqualification. However, Bidders will receive an automatic score of zero for the applicable evaluation criterion.</i></b>
Essential Returnable Documents	<b><i>Failure to provide essential Returnable Documents <u>will</u> result in Transnet affording Respondents a further opportunity to submit by a set deadline. Should a Respondent thereafter fail to submit the requested documents, this may result in a Respondent's disqualification.</i></b>

**All Returnable Sections, as indicated in the header and footer of the relevant pages, must be signed, stamped and dated by the Respondent.**

**a) Mandatory Returnable Documents**

Respondents are required to submit with their bid submissions the following **Mandatory Returnable Documents**, and also to confirm submission of these documents by so indicating [Yes or No] in the tables below:

<b>MANDATORY RETURNABLE DOCUMENTS</b>	<b>SUBMITTED [Yes/No]</b>
SECTION 4 : Whether the Bid contains a priced offer as prescribed in the pricing and delivery schedule - fully completed	
<ul style="list-style-type: none"> <li>• Whether the Bid materially complies with the scope and/or specification given</li> </ul>	
<ul style="list-style-type: none"> <li>• Whether any Technical prequalification criteria have been met as follows:                             <ul style="list-style-type: none"> <li>— Statutory labourers minimum wage declarations checked for compliance with wages prescribed by BCCCI (Annexure B &amp; C from page 46-47 to be completed and signed)</li> </ul> </li> </ul>	

**b) Returnable Documents Used for Scoring**

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

<b><u>RETURNABLE DOCUMENTS USED FOR SCORING</u></b>	<b>SUBMITTED [Yes or No]</b>
Respondent's valid proof of evidence to claim points for compliance with Specific Goals' requirements as stipulated in Section 9 of this RFP (B-BBEE certificate or Sworn Affidavit to be submitted)	

**c) Essential Returnable Documents:**

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

<b>ESSENTIAL RETURNABLE DOCUMENTS &amp; SCHEDULES</b>	<b>SUBMITTED [Yes or No]</b>
In the case of Joint Ventures, a copy of the Joint Venture Agreement or written confirmation of the intention to enter into a Joint Venture Agreement	
Latest Financial Statements signed by your Accounting Officer or latest Audited Financial Statements plus 2 previous years	
Section 1: SBD1 Form (fully completed and signed)	
SECTION 5 : Proposal Form and List of Returnable documents	
SECTION 6 : Certificate Of Acquaintance with RFP, Terms & Conditions & Applicable Documents	
SECTION 7 : RFP Declaration and Breach of Law Form	
SECTION 8: RFP Clarification Request Form	
SECTION 9: Specific Goals Points Claim Form	
SECTION 10: Certificate of attendance of RFQ Site briefing (fully completed and signed by Transnet Official) if attended	
SECTION 11: SBD 5	
SECTION 12: Protection of Personal Information	

**CONTINUED VALIDITY OF RETURNABLE DOCUMENTS**

The successful Respondent will be required to ensure the validity of all returnable documents, including but not limited to its valid proof of B-BBEE status, for the duration of any contract emanating from this RFP. Should Respondent be awarded the contract [**the Agreement**] and fail to present Transnet with such renewals as and when they become due, Transnet shall be entitled, in addition to any other rights and remedies that it may have in terms of the eventual Agreement, to terminate such Agreement immediately without any liability and without prejudice to any claims which Transnet may have for damages against the Respondent.

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

SIGNATURE OF WITNESSES

ADDRESS OF WITNESSES

1 \_\_\_\_\_

\_\_\_\_\_

Name \_\_\_\_\_

\_\_\_\_\_

2 \_\_\_\_\_

\_\_\_\_\_

Name \_\_\_\_\_

\_\_\_\_\_

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

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

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

\_\_\_\_\_  
Respondent’s Signature

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

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

**By signing this certificate Respondent is deemed to acknowledge that he/she has made himself/herself thoroughly familiar with, and agrees with all the conditions governing this RFP. This includes those terms and conditions contained in any printed form stated to form part hereof, including but not limited to the documents stated below. As such, Transnet SOC Ltd will recognise no claim for relief based on an allegation that Respondent overlooked any such term or condition or failed properly to take it into account for the purpose of calculating tendered prices or any other purpose:**

1	Transnet’s General Bid Conditions
2	Transnet’s Respondent Integrity Pact
3	Non-disclosure Agreement
4	Specifications and drawings attached to this RFP

**Note:** Should a Respondent be successful and awarded the bid, they will be required to complete a Respondent Declaration Form for registration as a vendor onto the Transnet vendor master database.

Should the Bidder find any terms or conditions stipulated in any of the relevant documents quoted in the RFP unacceptable, it should indicate which conditions are unacceptable and offer alternatives by written submission on its company letterhead, attached to its submitted Bid. Any such submission shall be subject to review by Transnet’s Legal Counsel who shall determine whether the proposed alternative(s) are acceptable or otherwise, as the case may be. A material deviation from any term or condition may result in disqualification.

Bidders accept that an obligation rests on them to clarify any uncertainties regarding any bid to which they intend to respond on, before submitting the bid. **The Bidder agrees that he/she will have no claim or cause of action based on an allegation that any aspect of this RFP was unclear but in respect of which he/she failed to obtain clarity.**

The bidder understands that his/her Bid will be disqualified if the Certificate of Acquaintance with RFP documents included in the RFP as a returnable document, is found not to be true and complete in every respect.

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

SIGNATURE OF WITNESSES

ADDRESS OF WITNESSES

1 \_\_\_\_\_

\_\_\_\_\_

Name \_\_\_\_\_

\_\_\_\_\_

2 \_\_\_\_\_

\_\_\_\_\_

Name \_\_\_\_\_

\_\_\_\_\_

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

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

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

\_\_\_\_\_  
Respondent’s Signature

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

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

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

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

1. Transnet has supplied and we have received appropriate responses to any/all questions [as applicable] which were submitted by ourselves for RFP Clarification purposes;
2. We have received all information we deemed necessary for the completion of this Request for Proposal [**RFP**];
3. We have been provided with sufficient access to the existing Transnet facilities/sites and any and all relevant information relevant to the Goods/Services as well as Transnet information and Employees, and have had sufficient time in which to conduct and perform a thorough due diligence of Transnet’s operations and business requirements and assets used by Transnet. Transnet will therefore not consider or permit any pre- or post-contract verification or any related adjustment to pricing, service levels or any other provisions/conditions based on any incorrect assumptions made by Respondent in arriving at his Bid Price.
4. At no stage have we received additional information relating to the subject matter of this RFP from Transnet sources, other than information formally received from the designated Transnet contact(s) as nominated in the RFP documents;
5. We are satisfied, insofar as our entity is concerned, that the processes and procedures adopted by Transnet in issuing this RFP and the requirements requested from Bidders in responding to this RFP have been conducted in a fair and transparent manner;
6. We have complied with all obligations of the Bidder/Respondent as indicated in the Transnet Respondent Integrity which includes but are not limited to ensuring that we take all measures necessary to prevent corrupt practices, unfairness and illegal activities in order to secure or in furtherance to secure a contract with Transnet;
7. We declare that a family, business and/or social relationship **exists / does not exist** [delete as applicable] between an owner / member / director / partner / shareholder of our entity and an employee or board member of the Transnet Group including any person who may be involved in the evaluation and/or adjudication of this Bid;
8. We declare that an owner / member / director / partner / shareholder of our entity **is / is not** [delete as applicable] an employee or board member of Transnet;
9. In addition, we declare that an owner / member / director / partner / shareholder/employee of our entity **has / has not been** [delete as applicable] a former employee or board member of Transnet in the past 10 years. I further declare that if they were a former employee or board member of Transnet in the past 10 years that they **were/were not** involved in the bid preparation or had access to the information related to this RFP; and
10. If such a relationship as indicated in paragraph 7, 8 and/or 9 exists, Respondent is to complete the following section:

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

ADDRESS:

\_\_\_\_\_

\_\_\_\_\_

Indicate nature of relationship with Transnet:

---



---

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

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

**BIDDER’S DISCLOSURE (SBD4)**

**12 PURPOSE OF THE FORM**

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

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

**13 Bidder’s declaration**

13.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest<sup>1</sup> in the enterprise, employed by the state? **YES/NO**

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

Full Name	Identity Number	Name of State institution

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

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

\_\_\_\_\_  
Respondent’s Signature

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

13.2.1. If so, furnish particulars:

.....  
.....

13.3 Does the bidder or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest in the enterprise have any interest in any other related enterprise whether or not they are bidding for this contract?

**YES/NO**

13.3.1. If so, furnish particulars:

.....  
.....

**14 DECLARATION**

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

14.1 I have read and I understand the contents of this disclosure;

14.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;

14.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium<sup>2</sup> will not be construed as collusive bidding.

14.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.

14.5 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

14.6 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.

14.7 I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

<sup>2</sup> Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

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

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

**BREACH OF LAW**

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

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

NATURE OF BREACH:

\_\_\_\_\_

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

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

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

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



**SECTION 9 : SPECIFIC GOALS POINTS CLAIM FORM**

This preference form must form part of all bids invited. It contains general information and serves as a claim for preference points for specific goals Contribution. Transnet will award preference points to companies who provide valid proof of evidence of as per the table below.

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

**1. GENERAL CONDITIONS**

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

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

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

1.3 The 80/20 preference point system will be applicable to this tender.

1.4 Preference points for this bid shall be awarded for:

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

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

	<b>POINTS</b>
<b>PRICE</b>	<b>80</b>
<b>SPECIFIC GOALS</b>	<b>20</b>
<b>Total points for Price and Specific Goals must not exceed</b>	<b>100</b>

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

1.7 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

Respondent's Signature

Date & Company Stamp

supply/provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;

- (e) **"Broad-Based Black Economic Empowerment Act"** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (f) **"EME"** means an Exempted Micro Enterprise as defines by Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (g) **"functionality"** means the ability of a bidder to provide goods or services in accordance with specification as set out in the bid documents;
- (h) **"Price"** includes all applicable taxes less all unconditional discounts.
- (i) **"Proof of B-BBEE Status Level of Contributor"** means:
- 1) B-BBEE status level certificate issued by an unauthorised body or person;
  - 2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;
  - 3) Any other requirement prescribed in terms of the B-BBEE Act.
- (j) **"QSE"** means a Qualifying Small EEnterprise in terms of a Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 ( Act No. 53 of 2003);
- (k) **"rand value"** means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties.
- (l) **"Specific goals"** means targeted advancement areas or categories of persons or groups either previously disadvantaged or falling within the scope of the Reconstruction and Development Programme identified by Transnet to be given preference in allocation of procurement contracts in line with section 2(1) of the PPPFA.

### 3. POINTS AWARDED FOR PRICE

#### 3.1 THE 80/20 PREFERENCE POINT SYSTEMS

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

#### 80/20

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

Where

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

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

Selected Specific Goal	Number of points allocated (20)
B-BBEE Level of contributor (1 or 2)	5
30% Black Women Owned Entities	5
+50% Black Youth Owned Entities	5
Entities Owned by People with Disability (PWD)	5
Non-Compliant and/or B-BBEE Level 3-8 contributors	0

#### 4. EVIDENCE REQUIRED FOR CLAIMING SPECIFIC GOALS

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

Specific Goals	Acceptable Evidence
B-BBEE	B-BBEE Certificate / Sworn- Affidavit / B-BBEE CIPC Certificate (in case of JV, a consolidated scorecard will be accepted) as per DTIC guideline
30% Black Women Owned Entities	B-BBEE Certificate / Sworn- Affidavit / B-BBEE CIPC Certificate (in case of JV, a consolidated scorecard will be accepted) as per DTIC guideline
+50% Black Youth Owned Entities	Certified copy of ID Documents of the Owners and B-BBEE Certificate / Sworn- Affidavit / B-BBEE CIPC Certificate (in case of JV, a consolidated scorecard will be accepted) as per DTIC guideline
Entities Owned by People with Disability (PWD)	Certified copy of ID Documents of the Owners / Doctor's note and /or EEA1 form confirming the disability

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

- 4.3 A trust, consortium or joint venture (including unincorporated consortia and joint ventures) must submit a consolidated B-BBEE Status Level verification certificate for every separate bid.
- 4.4 Tertiary Institutions and Public Entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- 4.5 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 6.1

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

6.2

(Points claimed in respect of paragraph 6.1 must be in accordance with the table reflected in table 3.2 and must be substantiated by relevant proof of B-BBEE status level of contributor.

**7. SUB-CONTRACTING**

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

(Tick applicable box)

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

7.1.1 If yes, indicate:

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

(Tick applicable box)

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

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

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

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

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

8.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBEE status level of contribution indicated in paragraph 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 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have-
  - (a) disqualify the person from the bidding process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person’s conduct;
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
  - (d) if the successful bidder subcontracted a portion of the bid to another person without disclosing it, Transnet reserves the right to penalise the bidder up to 10 percent of the value of the contract;
  - (e) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
  - (f) forward the matter for criminal prosecution.

<p>WITNESSES</p> <p>1. ....</p> <p>2. ....</p>
--

<p>.....</p> <p>SIGNATURE(S) OF BIDDERS(S)</p> <p>DATE: .....</p> <p>ADDRESS.....</p> <p>.....</p>
--

**SECTION 10: CERTIFICATE OF ATTENDANCE OF NON-COMPULSORY RFP BRIEFING**

It is hereby certified that –

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

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

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

attended the site meeting / RFP briefing in respect of the proposed Goods/Services to be rendered in terms of this RFP on \_\_\_\_\_ 20\_\_\_\_

\_\_\_\_\_  
TRANSNET'S REPRESENTATIVE

\_\_\_\_\_  
RESPONDENT'S REPRESENTATIVE

DATE \_\_\_\_\_

DATE \_\_\_\_\_

EMAIL \_\_\_\_\_

**NOTE:**

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

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

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

**SECTION 11: PROTECTION OF PERSONAL INFORMATION (For normal contract)**

1. The following terms shall bear the same meaning as contemplated in Section 1 of the Protection of Person information act, No.4 of 2013.("POPIA"):  
consent; data subject; electronic communication; information officer; operator; person; personal information; processing; record; Regulator; responsible party; special information; as well as any terms derived from these terms.
2. Transnet will process all information by Respondent in terms of the requirements contemplated in Section 4(1) of the POPIA:  
Accountability; Processing limitation; Purpose specification; Further processing limitation; Information quality; Openness; Security safeguards and Data subject participation.
3. The Parties acknowledge and agree that, in relation to personal information that will be processed pursuant to this RFP, the Responsible party is "Transnet" and the Data subject is the "Respondent". Transnet will process personal information only with the knowledge and authorisation of Respondent and will treat personal information which comes to its knowledge as confidential and will not disclose it, unless so required by law or subject to the exceptions contained in the POPIA.
4. Transnet reserves all the rights afforded to it by the POPIA in the processing of any of its information as contained in this RFP and Respondent is required to comply with all prescripts as detailed in the POPIA relating to all information concerning Transnet.
5. In responding to this bid, Transnet acknowledges that it will obtain and have access to personal information of the Respondent. Transnet agrees that it shall only process the information disclosed by Respondent in their response to this bid for the purpose of evaluating and subsequent award of business and in accordance with any applicable law.
6. Transnet further agrees that in submitting any information or documentation requested in this RFP, Respondent is consenting to the further processing of their personal information for the purpose of, but not limited to, risk assessment, assurances, contract award, contract management, auditing, legal opinions/litigations, investigations (if applicable), document storage for the legislatively required period, destruction, de-identification and publishing of personal information by Transnet and/or its authorised appointed third parties.
7. Furthermore, Transnet will not otherwise modify, amend or alter any personal data submitted by Respondent or disclose or permit the disclosure of any personal data to any third party without the prior written consent from the Respondent. Similarly, Transnet requires Respondent to process any personal information disclosed by Transnet in the bidding process in the same manner.
8. Transnet shall, at all times, ensure compliance with any applicable laws put in place and maintain sufficient measures, policies and systems to manage and secure against all forms of risks to any information that may be shared or accessed pursuant to this RFP (physically, through a computer or any other form of electronic communication).
9. Transnet shall notify Respondent in writing of any unauthorised access to information, cybercrimes or suspected cybercrimes, in its knowledge and report such crimes or suspected crimes to the relevant authorities in accordance with applicable laws, after becoming aware of such crimes or suspected crime. Respondent must take all necessary remedial steps to mitigate the extent of the loss or compromise of personal information and to restore the integrity of the affected personal information as quickly as is possible.
10. Respondent may, in writing, request Transnet to confirm and/or make available any personal information in its possession in relation to Respondent and if such personal information has been accessed by third parties and the identity thereof in terms of the POPIA. Respondent may further request that Transnet correct (excluding critical/mandatory or evaluation information), delete,

---

Respondent's Signature

---

Date & Company Stamp

destroy, withdraw consent or object to the processing of any personal information relating to Respondent in Transnet’s possession in terms of the provision of the POPIA and utilizing Form 2 of the POPIA Regulations.

- 11. In submitting any information or documentation requested in this RFP, Respondent is hereby consenting to the processing of their personal information for the purpose of this RFP and further confirming that they are aware of their rights in terms of Section 5 of POPIA

**Respondents are required to provide consent below:**

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

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

- 12. Further, Respondent declares that they have obtained all consents pertaining to other data subject’s personal information included in its submission and thereby indemnifying Transnet against any civil or criminal action, administrative fines or other penalty or loss that may arise as a result of the processing of any personal information that Respondent submitted.
- 13. Respondent declares that the personal information submitted for the purpose of this RFP is complete, accurate, not misleading, is up to date and may be updated where applicable.

Signature of Respondent’s authorised representative: \_\_\_\_\_

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

**1. ANNEXURE A: TECHNICAL SUBMISSION/QUESTIONNAIRE**

**This Annexure will be evaluated under Step Three -Technical/Functionality Criteria**

**1. Previous work done (60 points)**

The bidder’s relevant experience in the provision of Hygiene cleaning services.

**Note to bidders:**

Respondents must submit authenticated references letters or copies of awarded contracts indicating the experience of previous work done for Hygiene cleaning services.

Bidders should indicate each contactable reference and the durations of each contract concerned.

- **It should be on a letterhead from the company where they rendered the service**
- **Contract value**
- **Contract period (start and end dates)**
- **Contact details of the company where they rendered the service**

Please take note that award and appointment letters are not acceptable because the letters are not guaranteed that the work was done previously.

**Index of documentation attached to this schedule:**

.....

.....

.....

.....

.....

.....

.....

.....

The scoring of the bidders experience requirements will be as follows:

\_\_\_\_\_  
Respondent’s Signature

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

TECHNICAL: THRESHOLD	Weightings	Scoring Matrix	Effective Weights
<b>Previous experience relevant to project (work done previously)</b>			
<p>Respondents must submit authenticated references letters or copies of awarded contracts indicating the experience of previous work done for <b>Hygiene</b> cleaning services. <b>Please take note the award and appointment letters are not acceptable because the letters are not guaranteed that the work was done previously.</b></p> <p>Bidders should indicate each contactable reference and the durations of each contract concerned.</p> <p>It should be on a letterhead from the company where they rendered the service</p> <ul style="list-style-type: none"> <li>• Contract value</li> <li>• Contract period (start and end dates)</li> <li>• Contact details of the company where they rendered the service</li> </ul>	<b>60</b>	<p><b>0 = 0</b></p> <p><b>1 = 15</b></p> <p><b>2 = 30</b></p> <p><b>3 = 45</b></p> <p><b>4= 60</b></p>	<p>0 = No reference letters submitted</p> <p>1 =One (1 Reference letters or contracts)</p> <p>2 = Two (2 References letters or contracts)</p> <p>3 =Three (3 References letters or contracts);</p> <p>4 = Four (4 References letters or contracts).</p>

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

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

**2. Service Implementation plan (40 points)**

2.1 Measures to ensure service continuity includes but not limited to:

- (i) induction programme
- (ii) cleaning process and intervals
- (iii) register of cleaning service and gardening services
- (iv) sourcing of consumables, machinery & equipment and timelines
- (v) maintenance and repairs of machinery & equipment in service

2.2 Employment and labour relations includes but not limited to:

- (vi) employment process and management of employment
- (vii) remuneration and wage management
- (viii) management of absenteeism, misconduct, insubordination and disciplinary process
- (ix) labour disputes
- (x) employee retainment/retention plan, resignation and constructive dismissal
- (xi) record keeping

2.3 Training plan includes formal and on the job training but not limited to:

- Occupational Health and Safety
- 2.4 Hygiene and sanitation services
- 2.5 Supervisory skills and management

**Note to bidders:**

Provide a documented Service Implementation plan that fully addresses listed requirements:

1. Measures to ensure continued service
2. Employment and Labour relation matters
3. Training plan

**Index of documentation attached to this schedule:**

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

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

The scoring of the service implementation plan requirements will be as follows:

TECHNICAL: THRESHOLD	Weightings	Scoring Matrix	Effective Weights
<b>Service Implementation plan</b>			
<p>(i) <u>Measures to ensure service continuity</u> includes induction programme, cleaning process and intervals, register of cleaning service, sourcing on consumables, equipment and timelines.</p> <p>(ii) <u>Employment and labour relations</u> includes employment process and management of employment, remuneration and wage management, management of absenteeism, misconduct, insubordination and disciplinary process, labour disputes, employee retention/retention plan, resignations and constructive dismissal, record keeping</p> <p>(iii) <u>Training plan</u> includes formal and on the job training on but not limited to, Occupational Health &amp; Safety, cleaning processes, hygiene and housekeeping, supervisory skills and management</p>	<b>40</b>	<p><b>0 point = 0</b></p> <p><b>1 point = 13.33</b></p> <p><b>2= 26.67</b></p> <p><b>3 = 40</b></p>	<p>No Service Implementation plan provided = 0 points</p> <p>Service Implementation Plan provided with 1 requirement fully addressed with the listed areas</p> <p>Service Implementation Plan provided with 2 requirements fully addressed with the listed the areas</p> <p>Service Implementation Plan provided with all 3 requirements fully addressed with the listed areas</p>

**3 ANNEXURE B: CONTRACT CLEANING MINIMUM WAGE PRICE SCHEDULE  
GAUTENG (PYRAMID SOUTH)**

Contract Cleaning Minimum Wage Price Schedule, at R27.97 / hour, of this agreement.

	ITEM	DESCRIPTION	SERVICE PROVIDER AMOUNT
<b>1</b>	<b>Basic monthly wage cost</b>	Cleaning sectorial determination	
	Hourly rate	40 hours per week	
	Daily rate	8 hrs per day	
	Weekly wage cost	Hourly wage x 40 hours	
<b>2</b>	<b>Leave provisions</b>		
	Annual leave	15 days per year	
	Sick leave	10 days per year	
	Family responsibility	3 days per year	
<b>3</b>	<b>Other: Employer contribution</b>		
	Provident fund	5.25% of monthly wage	
	Bonus	4.33 weeks for a full 12 months	
	UIF	1% of basic monthly wage	
	COID	1.6% of basic monthly wage	
	NCCA / Union levy fee	1.52% per employee per month	
	Training levy	SDL = 1% of wage	
	Uniform	R500 per year	
	Severance pay	1.92%	
<b>4</b>	<b>Monthly Labour Cost ( per 1 x cleaner )</b>	<b>1 + 2 + 3</b>	

**NB: Failure to commit paying employees as per the department of labour's latest rates, at R 27.97 / hour, will result in the bids disqualification.**

I, \_\_\_\_\_ hereby commit my company, \_\_\_\_\_ to pay my employees at, or above, the minimum labour rate as mentioned above.

**Signature** \_\_\_\_\_

**Capacity** \_\_\_\_\_

**\* Please include the weekend and public holidays rates where applicable**

**4 ANNEXURE C: CONTRACT CLEANING MINIMUM WAGE PRICE SCHEDULE  
(OGIES AND THABAZIMBI)**

Contract Cleaning Minimum Wage Price Schedule, at R25.50 / hour, of this agreement.

	ITEM	DESCRIPTION	SERVICE PROVIDER AMOUNT
<b>1</b>	<b>Basic monthly wage cost</b>	Cleaning sectorial determination	
	Hourly rate	40 hours per week	
	Daily rate	8 hrs per day	
	Weekly wage cost	Hourly wage x 40 hours	
<b>2</b>	<b>Leave provisions</b>		
	Annual leave	15 days per year	
	Sick leave	10 days per year	
	Family responsibility	3 days per year	
<b>3</b>	<b>Other: Employer contribution</b>		
	Provident fund	5.25% of monthly wage	
	Bonus	4.33 weeks for a full 12 months	
	UIF	1% of basic monthly wage	
	COID	1.6% of basic monthly wage	
	NCCA / Union levy fee	1.52% per employee per month	
	Training levy	SDL = 1% of wage	
	Uniform	R500 per year	
	Severance pay	1.92%	
<b>4</b>	<b>Monthly Labour Cost ( per 1 x cleaner )</b>	<b>1 + 2 + 3</b>	

**NB: Failure to commit paying employees as per the department of labour's latest rates, at R 25.50 / hour, will result in the bids disqualification.**

I, \_\_\_\_\_ hereby commit my company, \_\_\_\_\_ to pay my employees at, or above, the minimum labour rate as mentioned above.

**Signature** \_\_\_\_\_

**Capacity** \_\_\_\_\_

**\* Please include the weekend and public holidays rates where applicable**



**STANDARD TERMS AND CONDITIONS OF CONTRACT**

**between**

**TRANSNET SOC LTD**

Registration Number 1990/000900/30

**And**

.....

Registration Number .....

**FOR THE APPOINTMENT OF SERVICE PROVIDER(S) TO PROVIDE LOCOMOTIVE TOILETS CLEANING SERVICES AT THREE DEPOTS IN PYRAMID SOUTH, OGIES AND THABAZIMBI FOR PERIOD OF THREE (03) YEARS**

**CONTRACT NUMBER                      ERACMM-PRC-48818**

**DURATION                                      THREE (03) YEARS**

**COMMENCEMENT DATE                      .....**

**EXPIRY DATE                                      .....**

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**Schedule 1 – SCHEDULE OF REQUIREMENTS**

## **1 SOLE AGREEMENT**

Unless otherwise agreed in writing, these terms [**Terms** and each **Term**] and Transnet's purchase order(s) [**Order** or **Orders**] represent the only conditions upon which Transnet SOC Ltd [**Transnet**] procures Goods (**cleaning kits**) specified in the Order from the person to whom the Order is addressed [**the Supplier**].

Transnet does not accept any other conditions which the Supplier may specify, unless otherwise agreed to by Transnet in writing. In the event of any inconsistency between these Terms and any Order, these Terms shall take precedence.

## **2 CONFORMITY WITH ORDER**

Goods shall conform strictly with the Order. The Supplier shall not vary the quantities specified and/or the specification, if any, stipulated in the Order, without the prior written consent of Transnet. The Supplier warrants that the Goods shall be fit for their purpose and of satisfactory quality.

## **3 DELIVERY AND TITLE**

3.1 The delivery dates and addresses are those in the Order. Time shall be of the essence in respect of the Supplier obligations under the Order.

3.2 The Supplier will not be excused for delay in delivery or performance except due to circumstances outside its control and then only subject to the Supplier having notified Transnet in writing on becoming aware of such circumstances. Transnet may terminate an Order, in whole or in part, without incurring any liability to the Supplier if such a delay becomes, in Transnet's absolute opinion, significant.

3.3 Risk of loss or damage to Goods shall pass to Transnet on delivery, and title shall pass to Transnet when payment to the Supplier for the Goods has been effected.

3.4 If on delivery, the Goods do not conform to the Order, Transnet may reject the Goods and the Supplier shall promptly rectify any defects or in Transnet's opinion, supply appropriate replacement Goods at the Supplier's expense within the specified delivery times, without any liability due by Transnet. Goods shall be subject to such testing and/or inspection as Transnet may consider necessary.

## **4 PRICE AND PAYMENT**

4.1 Prices specified in an Order cannot be increased. Payment for the Goods shall be made by Transnet against an original undisputed invoice(s) [a Tax Invoice], supporting documentation and month-end statement from the Supplier. Tax Invoices plus supporting documentation shall be posted to the address shown in the Order.

4.2 Payment of the Suppliers valid Tax Invoice(s) will be made by Transnet in the South African currency and on the terms stated in the Order, the standard payment terms being 30 [thirty] days from date of receipt by Transnet of a month-end statement, unless

otherwise agreed to in writing. Transnet shall arrange for payment of such Tax Invoices and any pre-authorized additional expenses incurred, provided that the authorised expenses are supported by acceptable documentary proof of expenditure incurred [where this is available]. Any amounts due in terms of these Terms shall be paid to the Supplier, taking into account any deduction or set-off and bank charges.

## **5 LOCAL CONTENT OBLIGATIONS & NON COMPLIANCE PENALTIES**

- 5.1 In terms of Annexure A (SBD 6.2) and Annexure C of the RFQ, the Supplier has undertaken to implement the local content and production requirements set by National Treasury for the Rail Rolling Stock designated sector ("local content undertaking"). It is recorded that the local content undertaking was a prequalification criterion of the RFP and it is therefore mandatory for the Supplier to comply with Annexures A and C in order for it to fulfil its local content obligations.
- 5.2 The Supplier is required to note that Transnet, the Department of Trade and Industry [DTI] and/or the body appointed by the DTI as the verification authority for local content may conduct compliance audits with regard to the local content requirements as prescribed in Regulation 9 of the Preferential Procurement Regulations, 2011 issued in terms of the Preferential Procurement Policy Framework Act.
- 5.3 Breach of Local Content obligations also provides Transnet cause to terminate the contract in certain cases where material noncompliance with Local Content requirements are not achieved.
- 5.4 If for any reason the Supplier is unable to achieve the local content undertaking, the Supplier must approach the Department of Trade and Industry ("DTI") to obtain exemption in order to supply the goods at a lower local content threshold. The Supplier is obliged to approach DTI for exemption within 10 (ten) days of determining that it is unable to achieve the local content threshold. Should the DTI provide exemption, the Supplier shall be entitled to provide the goods at the lower local content threshold set by DTI. Should DTI not provide the necessary exemption, the Supplier shall be obliged to meet the local content undertaking.
- 5.5 Should the Supplier fail to meet the local content undertaking, the following remedies shall apply without limiting any of Transnet's other rights in law:
  - i. Transnet shall afford the Supplier a period of thirty (30) days to remedy its non-compliance.
  - ii. Should the Supplier fail to meet its obligations within the further 30 day period, the Supplier shall pay a Non-Compliance penalty ("Non-compliance Penalty") to Transnet in respect of such Non-compliance as set out in clause iv below. The penalties shall be imposed against the non-delivery of committed values where local content undertakings must be met immediately.

iii. To the extent that the Actual Local Content Spend is lower than the Required Local Content Spend (or the Adjusted Required Local Content Spend, as the case may be), the Supplier shall be liable for Penalties which is the difference in value between the Actual Local Content Spend and the Required Local Content Spend (or the Adjusted Required Local Content Spend, as the case may be) plus an additional percentage of such difference. Such Non-compliance Penalties shall be imposed against the non-delivery of committed values where local content undertakings must be met immediately, in accordance with clause iv below.

iv. Non-compliance penalties shall apply at the following rate: the difference in value between the Required Local Content Spend and the Actual Local Content Spend, plus 5% of such difference.

## **6 NON-COMPLIANCE PENALTIES FOR SUBCONTRACTING**

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

### **Non-compliance Penalty Certificate:**

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

### **Payment of Non-compliance Penalties:**

- f) Subject to Clause (e) above, the Supplier shall pay the Non-compliance Penalty indicated in the Non-compliance Penalty Certificate within 10 (ten) Business Days of Transnet

issuing a valid Tax Invoice to the Supplier for the amount set out in that certificate. If Transnet does not issue a valid Tax Invoice to the Supplier for Non-compliance Penalties accrued during any relevant period, those Non-compliance Penalties shall be carried forward to the next period.

- g) The Supplier shall pay the amount due within 10 (ten) days after receipt of a valid Tax Invoice from Transnet, failing which Transnet shall, without prejudice to any other rights of Transnet under this Agreement, be entitled to call for payment which may be in any form Transnet deems reasonable and/or appropriate.
- h) Should the Supplier fail to pay any Non Compliance Penalties within the time indicated above (as applicable), Transnet shall be entitled to deduct (set off) the amount not paid by the Supplier from the account of the Supplier in the ensuing month.
- i) The Non Compliance Penalties set forth in this Clause are stated exclusive of VAT. Any VAT payable on Non Compliance Penalties will be for the account of the Supplier.

## **7 PROPRIETARY RIGHTS LIABILITY**

If any allegations should be made or any claim asserted against Transnet that ownership of, or any act or omission by Transnet in relation to Goods or any written material provided to Transnet relating to any Goods or pursuant to an Order being a violation or infringement of any third party's contractual, industrial, commercial or intellectual property rights including but not limited to any patent, registered design, design right, trade mark, copyright or service mark on any application thereof, the Supplier hereby indemnifies Transnet against and hold it harmless from any and all losses, liabilities, costs, claims, damages and expenses [including any legal fees] arising directly or indirectly from such allegation or claim provided that this indemnity shall not apply where the allegation or claim arises solely as a result of the Supplier following a design or process originated and furnished by Transnet. The Supplier shall either

- a) procure for Transnet the right to continue using the infringing Goods/Services; or
- b) modify or replace the Goods so that they become non-infringing,

provided that in both cases the Goods shall continue to meet Transnet's requirements and any specifications stipulated in the Order. Should neither option be possible, the Supplier may remove, with Transnet's prior written consent, such Goods and will pay to Transnet a sum equivalent to the purchase price. If Transnet refuses to give such consent, the Supplier shall have no liability in respect of any continued use of the infringing Goods after Supplier/Service Provider's prior written request to remove the same.

## **8 PROPRIETARY INFORMATION**

All information which Transnet has divulged or may divulge to the Supplier and any information relating to Transnet's business which may have come into the Supplier possession whilst carrying out an Order, and the existence of the Order, shall be treated by the Supplier as

confidential information and shall not, without Transnet's prior written consent, be disclosed to any third party, or be used or copied for any purposes other than to perform the Order. This clause does not apply to information which is public knowledge or available from other sources other than by breach of this Term. Upon request by Transnet, the Supplier shall return all materials issued pursuant to the Order and, pending this, shall protect Transnet's rights in any such materials. Such confidential information shall at all material times be the property of Transnet.

## **9 PROTECTION OF PERSONAL INFORMATION**

a) The following terms shall bear the same meaning as contemplated in Section 1 of the Protection of Personal Information Act 4 of 2013 ("POPIA"):

consent; person; personal information; processing; record; Regulator as well as any terms derived from these terms of the POPIA

b) Transnet will process all information by the Respondent in terms of the requirements contemplated in Section 4(1) of the POPIA:

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

c) Transnet agrees that in submitting any information or documentation requested in the RFP and in this Agreement, the Supplier consents to the processing of their personal information for the purpose of, but not limited to, risk assessment, contract award, contract management, auditing, legal opinions/litigation, investigations (if applicable), document storage, destruction, de-identification and publishing of personal information by Transnet and/or its authorised appointed third parties.

d) The Parties agree that they may obtain and have access to personal information for the fulfilment of the rights and obligations contained herein. In performing the obligations as set out in this Agreement, the Parties shall at all times ensure that:

- i. they process personal information only for the express purpose for which it was obtained;
- ii. once processed for the purposes for which it was obtained, all personal information will be destroyed to an extent that it cannot be reconstructed to its original form, subject to any legal retention requirements;
- iii. Personal information is provided only to authorised personnel who strictly require the personal information to carry out the Parties' respective obligations under this Agreement;
- iv. they do not disclose personal information of the other Party, other than in terms of this Agreement;

- v. they have all reasonable technical and organisational measures in place to protect all personal information from unauthorised access and/or use;
  - vi. they have appropriate technical and organisational measures in place to safeguard the security, integrity and authenticity of all information in their possession or under their control in terms of this Agreement;
  - vii. they identify all reasonably foreseeable internal and external risks to personal information in their possession or under their control; establish and maintain appropriate safeguards against the risks identified; regularly verify that the safeguards are effectively implemented; and ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards;
  - viii. such personal information is protected against unauthorised or unlawful processing, accidental loss, destruction or damage, alteration, disclosure or access.
- 9.1. The Parties agree that if personal information will be processed for additional purposes beyond the original purpose for which it was obtained, explicit consent must be obtained beforehand from those persons whose information will be subject to such processing.
- 9.2. Should it be necessary for either Party to disclose or otherwise make available the personal information to any third party (including sub-contractors and employees) that is not already consented to, it may do so only with the prior written consent of the other Party. The Party requiring such consent shall require of all such third parties, appropriate written undertakings to be provided, containing similar terms to that set forth in this clause, and dealing with that third party's obligations in respect of its processing of the personal information. Following approval by the other Party, the Party requiring consent agrees that the provisions of this clause shall mutatis mutandis apply to all authorised third parties who process personal information.
- 9.3. The Parties shall ensure that any persons authorized to process information on their behalf (including employees and third parties) will safeguard the security, integrity and authenticity of all information. Where necessary to meet this requirement, the Parties shall keep all personal information and any analyses, profiles, or documents derived therefrom logically separated from all other information and documentation held by it.
- 9.4. The Parties shall carry out regular assessments to identify all reasonably foreseeable internal and external risks to the personal information in its possession or under its control. The Parties shall implement and maintain appropriate safeguards against the risks which it identifies and shall also regularly verify that the safeguards which it has in place have been effectively implemented.
- 9.5. The Parties agree that they will promptly return, destroy or de-identify any personal information in their possession or control which belongs to the other Party once it no longer

serves the purpose for which it was collected in relation to this Agreement, subject to any legal retention requirements. This may be at the request of the other Party and includes circumstances where a person has requested the Parties to delete all instances of their personal information. The information will be destroyed or de-identified in such a manner that it cannot be reconstructed to its original form, linking it to any particular individual or organisation.

**9.6. Personal Information security breach:**

- a) Each Party shall notify the other party in writing as soon as possible after it becomes aware of or suspects any loss, unauthorised access or unlawful use of any personal information and shall, at its own cost, take all necessary remedial steps to mitigate the extent of the loss or compromise of personal information and to restore the integrity of the affected personal information as quickly as is possible. The Parties shall also be required to provide each other with details of the persons affected by the compromise and the nature and extent of the compromise, including details of the identity of the unauthorised person who may have accessed or acquired the personal information.
- b) The Parties shall provide on-going updates on the progress in resolving the compromise at reasonable intervals until such time as the compromise is resolved.
- c) Where required, the Parties must notify the South African Police Service; and/or the State Security Agency and the Information Regulator and the affected persons of the security breach. Any such notification shall always include sufficient information to allow the persons to take protective measures against the potential consequences of the compromise.
- d) The Parties undertake to co-operate in any investigations relating to security which is carried out by or on behalf of the other including providing any information or material in its possession or control and implementing new security measures.

**10 PUBLICITY**

The Supplier shall not name Transnet or use its trademarks, service marks [whether registered or not] or Goods in connection with any publicity without Transnet's prior written consent.

**11 DEVELOPMENT WORK IN THE PRODUCTION OF GOODS**

If the production or supply of any Goods involves research and/or development which are wholly or partly funded by Transnet, then all intellectual property or other rights as a result thereof shall be the property of Transnet on creation.

**12 AFTER SALES SERVICE**

The Supplier shall provide replacement parts necessary to ensure the uninterrupted operation of the Goods supplied for the duration of the warranty period, from delivery of any particular item of the Goods and if requested by Transnet shall make these parts available to a third party

maintainer of Transnet's choice at the same price as if the parts had been supplied to Transnet. The Supplier undertakes to provide a maintenance service for Goods, should Transnet so request, on terms to be agreed. If the Order so indicates, the Supplier will provide a warranty service for the Goods at a level to be agreed with Transnet.

### **13 TERMINATION OF ORDER**

- 13.1 Notwithstanding the date of signature hereof, the commencement date of this Order is once off and will expire on [REDACTED], unless:
- this Order is terminated by either Party in accordance with the provisions incorporated herein or in any schedules or annexures appended hereto, or otherwise in accordance with law or equity; or
  - this Order is extended at Transnet's option for a further period to be agreed by the Parties; or
  - the allocated maximum contract value is depleted before the contract expiry date.
- 13.2 Transnet may cancel this Order in whole or in part at any time upon at least 30 [thirty] days' written notice to the Supplier, or when there is a change in control of the Supplier or the Supplier commits any serious breach or any repeated or continued material breach of its obligations under these Terms and/or Order or shall have been guilty of conduct tending to bring itself into disrepute, on written notice to the Supplier when such work on the Order shall stop.
- 13.3 Transnet shall pay the Supplier a fair and reasonable price for justified work in progress, where such price reflects only those costs not otherwise recoverable by the Supplier/, at the time of termination, and the Supplier shall give Transnet full assistance to check the extent of such work in progress. Payment of such price shall be in full and final satisfaction of any claims arising out of such termination and upon such payment the Supplier shall deliver to Transnet all work, including any materials, completed or in progress. The sum payable to the Supplier under this clause will not in any event exceed the total amount that would have been payable to the Supplier had the Order not been terminated.
- 13.4 In the event of termination, the Supplier must submit all claims within 2 [two] months of termination after which time claims will only be met in what Transnet considers exceptional circumstances.
- 13.5 If the Goods are not provided in accordance with an Order, the Order shall be deemed terminated and the Supplier shall compensate Transnet for any costs incurred in obtaining substitute Goods or any damage caused due to the failure or delay in the delivery.
- 13.6 Both parties to this agreement reserve the right to terminate this agreement:

- 12.6.1. If the other commits a material breach of this contracts and fails to remedy such breach within a stipulated time frame or within a reasonable time;
- 12.6.2. There is non-performance from either of the parties; or
- 12.6.3. If the other party is unable to perform its obligations under this agreement.

#### **14 ACCESS**

The Supplier shall be liable for the acts, omissions and defaults of its personnel or agents who, for the purposes of the Order, shall be treated as if they are the Supplier's employees. The Supplier shall ensure that any such personnel or agents, whilst on Transnet's premises, shall comply with Transnet's health and safety, security and system security rules and procedures as and where required.

#### **15 WARRANTY**

The Supplier warrants that it is competent to supply the Goods in accordance with these Terms to the reasonable satisfaction of Transnet and that all Goods delivered under the Order: (a) conform and comply in all relevant legislation, standards, directives and orders related to [*inter alia*] the Goods in force at the time of delivery, and to any specifications referred to in the Order; (b) will not cause any deterioration in the functionality of any Transnet equipment; and (c) do not infringe any third party rights of any kind. The Supplier hereby indemnifies Transnet against all losses, liabilities, costs, claims, damages, expenses and awards of any kinds incurred or made against Transnet in connection with any breach of this warranty.

#### **16 INSOLVENCY**

If the Supplier shall have a receiver, manager, administrator, liquidator or like person appointed over all or any part of its assets or if the Supplier compounds with its creditors or passes a resolution for the writing up or administration of the Supplier, Transnet is at liberty to terminate the Order or Orders forthwith, or at its option, to seek performance by any such appointed person.

#### **17 SUBCONTRACTING**

- 17.1 The Supplier may only enter into a subcontracting arrangement with the approval of Transnet. If the Supplier subcontracts a portion of the contract to another person without declaring it to Transnet, Transnet must penalise the Supplier up to 10% of the value of the contract.
- 17.2 Should Transnet approve the Supplier's subcontracting arrangement, the Supplier and not the sub-contractor will at all times be held liable for performance in terms of its contractual obligations.

- 17.3 The Supplier may not subcontract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- 17.4 The Supplier may not subcontract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level of contributor than the Supplier, unless the contract is subcontracted to an Exempted Micro Enterprise (EME) that has the capability and ability to execute the subcontract.

## **18 PAYMENT TO SUB-CONTRACTORS**

- 18.1 Transnet reserves the right, in its sole discretion, to make payment directly to the sub-contractor of the Supplier, subject to the following conditions:
- a) Receipt of an undisputed invoice from the sub-contractor; and
  - b) Receipt of written confirmation from the Supplier that the amounts claimed by the sub-contractor are correct and that the services for which the sub-contractor has requested payment were rendered to the satisfaction of the Supplier, against the required standards.
- 18.2 Nothing contained in this clause must be interpreted as bestowing on any sub-contractor a right or legitimate expectation to be paid directly by Transnet. Furthermore, this clause does not bestow any right or legitimate expectation on the Supplier to demand that Transnet pay its sub-contractor directly. The decision to pay any sub-contractor directly, remains that of Transnet alone.
- 18.3 The Supplier remains liable for its contractual obligations under the Agreement, including all services rendered by the sub-contractor.
- 18.4 This clause does not establish any contractual relationship between Transnet and any sub-contractor of the Supplier, whatsoever.

## **19 ASSIGNMENT**

The Supplier shall not assign its obligations under an Order without Transnet's prior written consent, which consent shall not be unreasonably withheld or delayed.

## **20 SUPPLIER INTEGRITY PACT**

The Supplier shall observe and ensure compliance with all requirements and objectives of the Transnet Supplier Integrity Pact as agreed to in response to the RFQ. The general purpose of the Supplier Integrity Pact is to agree to avoid all forms of dishonesty, fraud and corruption by following a system that is fair, transparent and free from any undue influence prior to, during and subsequent to the currency of the procurement event leading to this Agreement and this Agreement itself;

## **21 DATABASE OF RESTRICTED SUPPLIERS**

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

## **22 NOTICES**

Notices under these Terms shall be delivered by hand to the relevant addresses of the parties in the Order or may be served by facsimile or by email, in which event notice shall be deemed served on acknowledgement of receipt by the recipient.

## **23 LAW**

Orders shall be governed by and interpreted in accordance with South African law and any disputes arising herein shall be subject to South African arbitration under the rules of the Arbitration Foundation of South Africa, which rules are deemed incorporated by reference in this clause. The reference to arbitration shall not prevent Transnet referring the matter to any South African courts, having jurisdiction, to which the Supplier hereby irrevocably submits but without prejudice to Transnet's right to take proceedings against the Supplier in other jurisdictions and/or obtaining interim relief on an urgent basis from a court of competent jurisdiction pending the decision in other courts or from instituting in any court of competent jurisdiction any proceedings for an interdict or any other injunctive relief. If the Supplier does not have a registered office in the South Africa it will at all times maintain an agent for service of process in South Africa and shall give Transnet the name and address of such agent as such may be amended, in writing, from time to time.

## **24 GENERAL**

Completion or termination of an Order shall be without prejudice to any Term herein which by its nature would be deemed to continue after completion or termination, including but not limited to clauses 5, 6, 7, 8 and 10. Headings are included herein for convenience only. If any Term herein be held illegal or unenforceable, the validity or enforceability of the remaining Terms shall not be affected. No failure or delay by Transnet to enforce any rights under these Terms will operate as a waiver thereof by Transnet. All rights and remedies available to either party under these Terms shall be in addition to, not to the exclusion of, rights otherwise available at law.

## **25 COUNTERPARTS**

These Terms and conditions may be signed in any number of counterparts, all of which taken together shall constitute one and the same instrument. Any party may enter into this agreement by signing any such counterpart.

DRAFT



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

SIGNED for and on behalf of <b>Transnet SOC Ltd</b> duly authorised hereto	SIGNED for and on behalf of ..... duly authorised hereto
Registration Number 1990/000900/30	Registration Number .....
Signature .....	Signature .....
Name: .....	Name:
Position: .....	Position:
Date:	Date:
Place: .....	Place:
AS WITNESS:  Signature ..... Name .....	AS WITNESS:  Signature ..... Name .....



**NON DISCLOSURE AGREEMENT**

**[April 2020]**

**THIS AGREEMENT is made between**

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

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

**and**

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

**WHEREAS**

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

**IT IS HEREBY AGREED**

**1. INTERPRETATION**

In this Agreement:

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



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

## 2. CONFIDENTIAL INFORMATION

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



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

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

### **4. ANNOUNCEMENTS**

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

### **5. DURATION**

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

### **6. PRINCIPAL**

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

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

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

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

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



## 9. GENERAL

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

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## **GENERAL BID CONDITIONS**

**[June 2022]**

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## 1 DEFINITIONS

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

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

## 2 GENERAL

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

## 3 SUBMITTING OF BID DOCUMENTS

- 3.1 A Bid, which shall hereinafter include reference to an RFP or RFQ, shall be submitted to Transnet no later than the closing date and time specified in accordance with the directions issued in the Bid Documents. Late Bids will not be considered.
- 3.2 The Bid Documents must be completed in their entirety and Respondents are required to complete and submit their Bid submissions by uploading them into the system against each tender selected. The bidder guide can be found on the Transnet Portal [transnetetenders.azurewebsites.net](https://transnetetenders.azurewebsites.net).

## 4 USE OF BID FORMS

- 4.1 Where special forms and/or formats are issued by Transnet for the submission of Bids, Respondents are required to submit their Bids by completion of the appropriate sections on such official forms and/or formats and not in other forms and/or formats or documents bearing their own terms and conditions of contract. Non-compliance with this condition may result in the rejection of a Bid.
- 4.2 Respondents must note that the original Bid forms and/or formats must be completed for submission.
- 4.3 Only if insufficient space has been allocated to a particular response may a Respondent submit additional information under separate cover using the Company's letterhead. This must be duly cross-referenced in the RFX.

## **5 BID FEES**

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

## **6 VALIDITY PERIOD**

6.1 The Respondents must hold their Bid valid for acceptance by Transnet at any time within the requested validity period after the closing date of the bid.

6.2 Respondents may be requested to extend their validity period for a specified additional period. In such instances, Respondents will not be allowed to change any aspect of their Bid, unless they are able to demonstrate that the proposed change/s is as a direct and unavoidable consequence of Transnet's extension of the validity period.

## **7 SITE VISITS / BRIEFING SESSIONS**

Respondents may be requested to attend a site visit or briefing session where it is necessary to view the site in order to prepare their Bids, or where Transnet deems it necessary to provide Respondents with further information to allow them to complete their Bids properly. Where such visits or sessions are indicated as compulsory in the RFX Document, Respondents are obliged to attend these meetings as failure to do so will result in their disqualification.

## **8 CLARIFICATION BEFORE THE CLOSING DATE**

Should clarification be required on any aspect of the Bid before the closing date, the Respondent must upload questions onto the Transnet e-Tender Submission Portal or direct such queries to the contact person listed in the RFX Document in the stipulated manner.

## **9 COMMUNICATION AFTER THE CLOSING DATE**

After the closing date of a Bid (i.e. during the evaluation period) the Respondent may only communicate with the contact person listed in the RFX Document.

## **10 UNAUTHORISED COMMUNICATION ABOUT BIDS**

Respondents may at any time communicate with the contact person listed in the RFX Document on any matter relating to its Bid but, in the absence of written authority from the delegated individual (BEC chairperson), no communication on a question affecting the subject of a Bid shall take place between Respondents or other potential service providers or any member of the Bid Adjudication Committee or official of Transnet during the period between the closing date for the receipt of the Bid and the date of the notification of the successful Respondent(s). A Bid, in respect of which any such unauthorised communication has occurred, may be disqualified.

## **11 RETURNABLE DOCUMENTS**

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

## **12 DEFAULTS BY RESPONDENTS**

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

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

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

### **13 CURRENCY**

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

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

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

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

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

### **16 EXCHANGE AND REMITTANCE**

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

## **17 ACCEPTANCE OF BID**

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

## **18 NOTICE TO UNSUCCESSFUL RESPONDENTS**

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

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

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

## **20 CONTRACT DOCUMENTS**

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

## **21 LAW GOVERNING CONTRACT**

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

## **22 IDENTIFICATION**

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

## **23 RESPONDENT'S SAMPLES**

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

## **24 SECURITIES**

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

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

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

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

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

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

## **26 EXPORT LICENCE**

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

## **27 QUALITY OF MATERIAL**

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

## **28 VALUE-ADDED TAX**

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

28.2 In respect of foreign Services rendered:

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

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

29.1 Method of Payment

- a) The attention of the Respondent is directed to the Terms and Conditions of Contract which set out the conditions of payment on which Bid price(s) shall be based.
- b) However, in addition to the foregoing the Respondent is invited to submit offers based on alternative methods of payment and/or financing proposals.
- c) The Respondent is required to give full particulars of the terms that will be applicable to its alternative offer(s) and the financial merits thereof will be evaluated and taken into consideration when the Bid is adjudicated.

- d) The Respondent must, therefore, in the first instance, tender strictly in accordance with clause 29.1 (a) above. Failure to comply with clause 29.1 (a) above may preclude a Bid from further consideration.

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

#### 29.2 Conditional Discount

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

### 30 CONTRACT QUANTITIES AND DELIVERY REQUIREMENTS

#### 30.1 Contract Quantities

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

#### 30.2 Delivery Period

- a) **Period Contracts and Fixed Quantity Requirements**  
It will be a condition of any resulting contract/order that the delivery period embodied therein will be governed by the provisions of the Terms and Conditions of Contract.
- b) **Progress Reports**  
The Supplier/Service Provider may be required to submit periodical progress reports with regard to the delivery of the Goods/Services.
- c) **Emergency Demands as and when required**  
If, due to unforeseen circumstances, supplies of the Goods/Services covered by the Bid are required at short notice for immediate delivery, the Supplier/Service Provider will be given first right of refusal for such business. If it is unable to meet the desired critical delivery period, Transnet reserves the right to purchase such supplies as may be required to meet the emergency outside the contract if immediate delivery can be offered from any other source.

The *Total or Partial Failure to Perform the Scope of Supply* section in the Terms and Conditions of Contract will not be applicable in these circumstances.

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

#### 31.1 Copyright

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

#### 31.2 Drawings and specifications

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

#### 31.3 Respondent's drawings

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

#### 31.4 Foreign specifications

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

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

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

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

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

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

a) Such Power of Attorney must comply with Rule 63 (Authentication of documents executed outside the Republic for use within the Republic) of the Uniform Rules of Court: Rules

regulating the conduct of the proceedings of the several provincial and local divisions of the Supreme Court of South Africa.

- b) The Power of Attorney must be signed by the principal under the same title as used in the Bid Documents.
- c) If a Power of Attorney held by the South African representative or agent includes matters of a general nature besides provision for the entering into and signing of a contract with Transnet, a certified copy thereof should be furnished.
- d) The Power of Attorney must authorise the South African representative or agent to choose the *domicilium citandi et executandi*.

32.5 If payment is to be made in South Africa, the foreign Supplier/Service Provider [i.e. the principal, or its South African agent or representative], must notify Transnet in writing whether, for payment by electronic funds transfer [EFT]:

- a) funds are to be transferred to the credit of the foreign Supplier/Service Provider's account at a bank in South Africa, in which case the name and branch of such bank shall be furnished; or
- b) funds are to be transferred to the credit of its South African agent or representative, in which case the name and branch of such bank shall be furnished.

32.6 The attention of the Respondent is directed to clause 24 above [Securities] regarding the provision of security for the fulfilment of contracts and orders and the manner and form in which such security is to be furnished.

### **33 DATABASE OF RESTRICTED SUPPLIERS**

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

### **34 CONFLICT WITH ISSUED RFX DOCUMENT**

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

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