



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

TRANSNET FREIGHT RAIL

an Operating Division of **TRANSNET SOC LTD**

[hereinafter referred to as **Transnet**]

[Registration No. 1990/000900/30]

REQUEST FOR PROPOSAL [RFP] [SERVICES]

FOR THE PROVISION OF CLEANING AND GARDENING SERVICES AT GERMISTON FOR A PERIOD OF TWENTY-FOUR (24) MONTHS.

RFP NUMBER	HOAC-HO-35528
ISSUE DATE:	25 JUNE 2021
CLOSING DATE:	27 JULY 2021
CLOSING TIME:	12:00 PM
BID VALIDITY PERIOD:	14 FEBRUARY 2022-180 Business Days from Closing Date

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

- **RESPONDENTS WITH A MINIMUM B-BBEE STATUS LEVEL OF 1 THAT ARE;**
- **EXEMPTED MICRO ENTERPRISES (EMEs) AND/OR QUALIFYING SMALL ENTERPRISES (QSEs);**

RESPONDENTS ARE REQUIRED TO SUBMIT THEIR TECHNICAL AND FINANCIAL PROPOSALS IN TWO SEPARATE ENVELOPES. FAILURE TO COMPLY WITH THESE REQUIREMENTS WILL LEAD TO DISQUALIFICATION OF THE BID.

BIDDERS MUST SUBMIT IN **THE RESPECTIVE SEPARATE ENVELOPES** AS FOLLOWS:-

- THE FINANCIAL PROPOSAL/S (PRICING LIST/S) ARE TO BE SUBMITTED IN THE ENVELOPE MARKED **"FINANCIAL PROPOSAL"**
- ALL THE RETURNABLE DOCUMENTS/OTHER PROPOSALS ARE TO BE SUBMITTED IN THE ENVELOPE MARKED **"ALL RETURNABLE DOCUMENTS/ OTHER PROPOSAL"**



SCHEDULE OF BID DOCUMENTS

Section No	Page
SECTION 1: SBD1 FORM.....	4
PART A	4
PART B	6
SECTION 2 : NOTICE TO BIDDERS	7
1 INVITATION TO BID.....	7
2 FORMAL BRIEFING.....	8
3 PROPOSAL SUBMISSION.....	8
4 RFP INSTRUCTIONS.....	9
5 JOINT VENTURES OR CONSORTIUMS	9
6 PREFERENTIAL PROCUREMENT PREQUALIFICATION CRITERIA	10
8 COMMUNICATION.....	10
9 CONFIDENTIALITY	10
10 COMPLIANCE.....	10
11 EMPLOYMENT EQUITY ACT.....	11
12 DISCLAIMERS	11
13 LEGAL REVIEW	12
14 SECURITY CLEARANCE	12
15 NATIONAL TREASURY'S CENTRAL SUPPLIER DATABASE	12
16 TAX COMPLIANCE	12
17 PROTECTION OF PERSONAL DATA	12
SECTION 3: BACKGROUND, OVERVIEW AND SCOPE OF REQUIREMENTS	14
1 GREEN ECONOMY / CARBON FOOTPRINT	36
2 GENERAL SERVICE PROVIDER OBLIGATIONS	36
3 EVALUATION METHODOLOGY	36
3.1 EVALUATION CRITERIA	36
SECTION 5: PROPOSAL FORM AND LIST OF RETURNABLE DOCUMENTS	42
SECTION 7: RFP DECLARATION AND BREACH OF LAW FORM.....	50
SECTION 8: RFP CLARIFICATION REQUEST FORM.....	53
SECTION 9 : B-BBEE PREFERENCE POINTS CLAIM FORM	54
SECTION 10: SBD 9- CERTIFICATE OF INDEPENDENT BID DETERMINATION.....	60



RFP ANNEXURES:

ANNEXURE A	100% COMPLIANCE TO SPECIFICATION (CLAUSE BY CLAUSE DECLARATION)
ANNEXURE B	SALARY SCHEDULE-INDICATING LABOUR REGULATED RATES PER CLEANER AND GARDENER
ANNEXURE C	100% COMPLETION OF SHE MANAGEMENT QUESTIONNAIRES
ANNEXURE D	MASTER AGREEMENT
ANNEXURE E	TRANSNET'S SUPPLIER INTEGRITY PACT
ANNEXURE F	NON-DISCLOSURE AGREEMENT
ANNEXURE G	SUPPLIER DECLARATION FORM



**RFP FOR THE PROVISION OF CLEANING AND GAREINING SERVICES AT
GERMISTON FOR A PERIOD OF TWENTY FOUR (24) MONTHS
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:	CRAC-VAR 34429	ISSUE DATE:	25 JUNE 2021	CLOSING DATE:	27 JULY 2021	CLOSING TIME:	10:00 AM
DESCRIPTION	FOR THE PROVISION OF CLEANING AND GAREINING SERVICES AT GERMISTON FOR A PERIOD OF TWENTY FOUR (24) MONTHS						
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)							
Reception, Tender Advice Centre, Inyanda House 1, Ground Floor, 21 Wellington Rd, Parktown, Johannesburg							
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO				TECHNICAL ENQUIRIES MAY BE DIRECTED TO:			
CONTACT PERSON	Tshepiso Modjela			CONTACT PERSON			
TELEPHONE NUMBER	011 584 0606			TELEPHONE NUMBER			
FACSIMILE NUMBER	N/A			FACSIMILE NUMBER			
E-MAIL ADDRESS	Tshepiso.modjela@transnet.net			E-MAIL ADDRESS			
SUPPLIER INFORMATION							
NAME OF BIDDER							
POSTAL ADDRESS							
STREET ADDRESS							
TELEPHONE NUMBER	CODE			NUMBER			
CELLPHONE NUMBER							
FACSIMILE NUMBER	CODE			NUMBER			
E-MAIL ADDRESS							
VAT REGISTRATION NUMBER							
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:			OR	CENTRAL SUPPLIER DATABASE	UNIQUE REGISTRATION REFERENCE NUMBER: MAAA	
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] ☐ Yes ☐ No			B-BBEE STATUS LEVEL SWORN AFFIDAVIT		[TICK APPLICABLE BOX] ☐ Yes ☐ No	

[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]			
1 ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	☐ Yes ☐ No [IF YES ENCLOSE PROOF]	2 ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	☐ Yes ☐ No [IF YES, ANSWER QUESTIONNAIRE BELOW]
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS			
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? ☐ YES ☐ NO DOES THE ENTITY HAVE A BRANCH IN THE RSA? ☐ YES ☐ NO DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? ☐ YES ☐ NO DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? ☐ YES ☐ NO IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? ☐ YES ☐ NO 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.			

PART B

TERMS AND CONDITIONS FOR BIDDING

1. TAX COMPLIANCE REQUIREMENTS

- 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-CONTRACTORS 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 SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.

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

SIGNATURE OF BIDDER:

CAPACITY UNDER WHICH THIS BID IS SIGNED:

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

DATE:_____



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**].

DESCRIPTION	FOR THE PROVISION OF CLEANING AND GAREINING SERVICES AT GERMISTON FOR A PERIOD OF TWENTY FOUR (24) MONTHS [the Services]
RFP DOWNLOADING	This RFP may be downloaded directly from National Treasury's e-Tender Publication Portal at to etenders.treasury.gov.za free of charge or the Transnet Freight Rail website https://www.transnetfreightrail-tfr.net/Supplier/Pages/Tenders.asp. To download RFP and Annexures: • Click on "Tender Opportunities"; • Select "Advertised Tenders"; • In the "Department" box, select Transnet SOC Ltd; Once the tender has been located in the list, click on the "Tender documents" tab and process to download all uploaded documents.
COMMUNICATION	Once Bidders download the RFP off the Portal, they are required to send their contact details to the following address: Lerato.Morailane@Transnet.net and Anthonie.Erasmus@transnet.net. This is to ensure that any required communication in relation to this RFP reaches those intending to respond. Furthermore, any addenda to the RFP or clarifications will be published on the e-tender portal. Bidders are required to check the e-tender portal prior to finalising their bid submissions for any changes or clarifications to the RFP. 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.
ISSUE AND COLLECTION DATE DEADLINE	Bidders are to note that the RFP documents will be available for download from 25 June 2021 may be collected between 09:00 am and 03:00 pm from 25 June 2021 until 27 July 2021. Bidders wishing to collect a CD, USB or hard copy of such RFP documents from the Transnet issuing office, are required to inform that office at the contact details indicated below on the day before collection in order to allow for timeous reproduction of the documentation.
BRIEFING SESSION	No – Compulsory Refer to paragraph 2 for details.

CLOSING DATE	10:00 pm on Tuesday 27 July 2021 Bidders must ensure that bids are delivered timeously to the correct address. As a general rule, if a bid is late or delivered to the incorrect address, it will not be accepted for consideration.
BID OPENING	A public opening will not be held for this bid, however Respondents will be provided with a copy of the opening register indicating the names of the Respondents, upon request.
VALIDITY PERIOD	14 February 2022-180 days Business Days from Closing Date 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. With regard to the validity period of next highest ranked bidders, please refer to Section 2, paragraph 11.12

Any additional information or clarification will be faxed or emailed to all Respondents, if necessary.

2 FORMAL BRIEFING

A formal briefing session will not be held but should Respondents have specific queries they should email these to the Transnet employee(s) indicated in paragraph 7 *[Communication]* below.

3 PROPOSAL SUBMISSION

Proposals must be addressed on the cover as follows:

The Secretariat, Transnet Acquisition Council

RFP No: **HOAC-HO-35528**

Description: FOR THE PROVISION OF CLEANING AND GARDENING SERVICES AT GERMISTON FOR A PERIOD OF TWENTY FOUR (24) MONTHS

Closing date and time: **27 JULY 2021**

Closing address: THE SECRETARIAT
TRANSNET ACQUISITION COUNCIL
RECEPTION
TENDER ADVICE CENTRE
INYANDA HOUSE 1
GROUND FLOOR
21 WELLINGTON ROAD
PARKTOWN, JOHANNESBURG

4 RFP INSTRUCTIONS

- 4.1 The measurements of the "tender slot" are 350mm wide x 200mm high. Bid responses which are larger than the dimensions mentioned must be split into two or more files and clearly marked. **Transnet will not be held responsible if bid documents do not comply with the mentioned dimensions and Respondents experience difficulty in submitting their bids as a result.**
- 4.2 It should also be noted that the above tender box is located at the street level in the main entrance in **Reception, Tender Advice Centre, Inyanda House 1, Ground Floor, 21 Wellington Road, Parktown, and Johannesburg** and is accessible to the public from 08:00 am until 04:30 pm business working days only.
- 4.3 Respondents are to note that Transnet is utilising a two-envelope system for the purposes of receiving this bid. As such, Respondents are required to submit their technical and financial proposals in two separate envelopes. Respondents are required to place and seal the returnable documents listed in the Bid in an envelope marked "financial proposal" and place the remaining returnable documents in an envelope marked "technical proposal". **Failure to comply with these requirements will lead to disqualification of the Bid.**
- 4.4 Proposals must be submitted in duplicate hard copies [1 original and 1 copy] and must be bound.
- 4.5 Sign one set of original documents [sign, stamp and date the bottom of each page]. This set will serve as the legal and binding copy. A duplicate set of documents is also required. This second set must be a copy of the original signed Proposal.
- 4.6 Both sets of documents are to be submitted to the address specified, and Respondents must ensure that the original and copies (where applicable) are identical in all respects.
- 4.7 A CD copy of the RFP Proposal must be submitted. Please provide files in MS Word / Excel format, not PDF versions, noting that the signed original set will be legally binding.
- 4.8 **All returnable documents tabled in the Proposal Form [Section 5] must be returned with proposals.**
- 4.9 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.
- 4.10 Any additional conditions must be embodied in an accompanying letter. Subject only to clause 15 [Alterations made by the Respondent to Bid Prices] of the General Bid Conditions, paragraph 13 below (Legal Review) and Section 6 of the RFP, alterations, additions or deletions must not be made by the Respondent to the actual RFP documents.

5 JOINT VENTURES OR CONSORTIUMS

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



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

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.

6 PREFERENTIAL PROCUREMENT PREQUALIFICATION CRITERIA

6.1. Exempted Micro Enterprises & Qualifying Small Enterprises

Transnet has set a prequalification criterion that only Exempted Micro Enterprises (EMEs) **and/or** Qualifying Small Enterprises may participate in this RFP process. A bid that fails to meet this pre-qualifying criteria will be regarded as an unacceptable bid.

6.2. Minimum B-BBEE level

Transnet has decided to set a minimum B-BBEE threshold for participation in this RFP process. The minimum B-BBEE threshold in this instance is a B-BBEE Level 1, and Respondents who do not have at least this B-BBEE status

7 COMMUNICATION

- 7.1 For specific queries relating to this RFP, an RFP Clarification Request Form should be submitted to [Tshepiso Modjela – tshepiso.modjela@transnet.net] before **12:00 pm on 15 July 2021**, 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 to etenders.treasury.gov.za free of charge or the Transnet Freight Rail website <https://www.transnetfreightrail-tfr.net/Supplier/Pages/Tenders.asp>.
- 7.2 After the closing date of the RFP, a Respondent may only communicate with the Secretariat Transnet Secretary of the Acquisition Council, at telephone number 011-584 0821, email prudence.nkabinde@transnet.net on any matter relating to its RFP Proposal.
- 7.3 Respondents are to note that changes to its submission will not be considered after the closing date.
- 7.4 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.
- 7.5 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.

8 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.

9 COMPLIANCE

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



10 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.

11 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:

- 11.1 modify the RFP's Goods/Services and request Respondents to re-bid on any such changes;
- 11.2 reject any Proposal which does not conform to instructions and specifications which are detailed herein;
- 11.3 disqualify Proposals submitted after the stated submission deadline [closing date];
- 11.4 award a contract in connection with this Proposal at any time after the RFP's closing date;
- 11.5 award a contract for only a portion of the proposed Goods/Services which are reflected in the scope of this RFP;
- 11.6 split the award of the contract between more than one Supplier/Service provider, should it at Transnet's discretion be more advantageous in terms of, amongst others, cost or developmental considerations;
- 11.7 cancel the bid process;
- 11.8 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;
- 11.9 request audited financial statements or other documentation for the purposes of a due diligence exercise;
- 11.10 not accept any changes or purported changes by the Respondent to the bid rates after the closing date and/or after the award of the business, unless the contract specifically provided for it;
- 11.11 to cancel the contract and/request that National Treasury place the Respondent on its Database of Restricted Suppliers for a period not exceeding 10 years, on the basis that a contract was awarded on the strength of incorrect information furnished by the Respondent or on any other basis recognised in law;
- 11.12 to award the business to the next ranked bidder, provided that he/she is still prepared to provide the required Goods/Services 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 next ranked bidder(s) were issued with a Letter of Regret. Bidders may therefore be requested to advise whether they would still be prepared to provide the required Goods/Services at their quoted price, even after they have been issued with a Letter of Regret.

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

**12 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.

13 SECURITY CLEARANCE

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

14 NATIONAL TREASURY'S CENTRAL SUPPLIER DATABASE

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

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

15 TAX COMPLIANCE

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

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

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

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

16 PROTECTION OF PERSONAL DATA

In responding to this bid, Transnet acknowledges that it may obtain and have access to personal data of the Respondents. Transnet agrees that it shall only process the information disclosed by Respondents in their response to this bid for the purpose of evaluating and subsequent award of business and in accordance with any applicable law. Furthermore, Transnet will not otherwise modify, amend or alter any personal data



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

submitted by Respondents or disclose or permit the disclosure of any personal data to any Third Party without the prior written consent from the Respondents. Similarly, Transnet requires Respondents to process any personal information disclosed by Transnet in the bidding process in the same manner. The detailed mutual duties of Transnet and the Respondents to protect personal information is contained in paragraph 35 of the General Bid Conditions.

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

TIP-OFFS ANONYMOUS: 0800 003 056



SECTION 3: BACKGROUND, OVERVIEW AND SCOPE OF REQUIREMENTS

1. Background

- 1.1. Transnet Freight Rail requires the services of a cleaning and gardening service provider for the provision of good quality cleaning service for **GERMISTON**
- 1.2. The scope of works includes cleaning of building's internal floors, ablutions, kitchens, external surroundings, deep cleaning, vacuuming and other cleaning-related and complementary services.
- 1.3. The appointed Service provider shall provide all necessary machinery, tools and materials for the proper cleaning of above mentioned areas and execution of the work. Such machinery and materials shall be of a high standard, appropriately maintained and suitable for use within the Buildings.
- 1.4. The appointed Service provider shall ensure that the OHS Act and any other relevant legislative prescripts, policies and procedures are observed, and shall ensure that all cleaning functions and activities are carried out in a compliant manner.

1.5. SELECTION OF AREAS FOR CLEANING AND GARDENING SERVICES

Transnet reserves the right to split the award of business between one or more Service Provider(s) for the provision of cleaning, and gardening services in Germiston.

Respondents are required to select and confirm the specific categories (Site/depot) that they intend submitting a proposal for. Respondents are permitted to select more than one area and type of service.

1.6. SERVICE REQUIREMENTS FOR CLEANING SERVICES FOR THE FOLLOWING CATEGORIES:

Description	Selection (·)
Category 1: Cleaning services for Germiston Premises	
Category 2: Gardening services for Germiston Premises	



2. SERVICE REQUIREMENTS FOR CLEANING SERVICES FOR GERMISTON

Description	Selection (·)
Category 1: Cleaning services for Germiston Premises	

2.1 General service requirement

- 2.1.1 The appointed Service provider is always duly required to ensure the neat appearance of TFR buildings. Effectiveness of manual cleaning depends on the worker; therefore, Transnet requires all personnel to be appropriately trained in the cleaning competencies needed for the service that they provide.
- 2.1.2 The Selected bidder shall conduct proper training and induction of cleaning requirements to ensure personnel are well-trained in all areas they service. Attendance registers will be requested on an as-and-when basis.
- 2.1.3 The appointed Service provider shall provide suitable equipment, protective clothing and training on proper use of chemicals, to ensure appropriate safety and wellness measures are taken to protect his employees and those of Transnet.
- 2.1.4 The minimum requirements and frequency of intervention are as illustrated in the schedule.
- 2.1.5 The appointed bidder's cleaning programme must demonstrate fair distribution of the work-load; ensuring that each and every person is productive.
- 2.1.6 Situations of over-utilisation and under-utilisation of staff i.e. where person has either too much or too little work to do, must be addressed as soon reported through an improved service programme with more efficient use of all personnel and fair model of work allocation.
- 2.1.7 This contract requires hands-on supervision with each Supervisor being aware of the contribution of their personnel. The Supervisor must be able to identify gaps, and ensure that the personnel receive the required training.
- 2.1.8 Service concerns and areas of development will also form part of the Supervisor's responsibilities to ensure personnel are developed and given the right support.
- 2.1.9 The appointed service provider shall take cognisance that cleaning service is regarded as an essential service and shall therefore ensure the continuity of service in the event of employees' absenteeism, sickness or any form of leave, during industrial action or any other service interruptive actions.
- 2.1.10 Duties and responsibilities assigned to personnel must be well balanced in the allocated working area.
- 2.1.11 The appointed service provider shall consider and adopt industry cleaning standards and norms where personnel are kept up to date with new developments, cost saving initiatives are institutionalised, appropriate benchmarks for cleaning in terms of type of cleaning required, frequency of such cleaning, correct cleaning methods that not damage surfaces and upholsteries are used and correct chemicals and equipment are at all times used.
- 2.1.12 Working hours are between 07h00 and 15h00 weekdays Monday to Friday and on weekends where required, for depots that does not require 24/7 cleaning.
- 2.1.13 Monday to Sunday (including public holidays) for Operations Depots that require 24/7 cleaning.
- 2.1.14 24/7 working hours for 24/7 operational depots are as follows:
- 2.1.15 Night shift to include 18h00 to 06h00
- 2.1.16 Saturday / Sunday / Public holidays from 07h00 to 15h00
- 2.1.17 Transnet shall monitor the cleaning activities to ensure adherence to the agreement.

2.2 Personnel requirements

- 2.2.1 The average personnel requirements are as indicate in Table A below. Figures are indicative staff compliment based on historic service level requirements and are therefore intended to serve as minimum requirement.
- 2.2.2 Bidder is expected to allocate as a minimum the number of personnel stipulated in the schedule to the contract.
- 2.2.3 The appointed Bidder shall deploy the total number of personnel contracted for to site, daily for the total number of designated hours for entire duration of the contract. Not at any point shall there be less staff than was agreed.

Table 1 Personnel requirements

Total staff	9 cleaners and including full time Supervisor on site 1 cleaner for Saturday, Sunday including public holidays.
-------------	--

- 2.2.4 The contractor shall bear sole responsibility for the recruitment, training, and provision of uniform, remuneration and engagement with cleaning personnel whatsoever is required for the provision cleaning services.
- 2.2.5 The appointed service provider shall provide to Transnet within 7 days of appointment, the identity of all staff allocated to the contract, specifying whether they are employed on a permanent or temporary basis and furthermore supply copies of identification documents for each individual.
- 2.2.6 Transnet prefer low supervisor to personnel ration to avoid Supervisors being overwhelmed by the large number of employees to supervise.
- 2.2.7 There must be good coordination and communication between supervisors and their subordinate, and teams must be efficiently managed.

2.3 Cleaning personnel

- 2.3.1 Cleaners should be observant, keen, alert, efficient, willing and pleasant; and adequately trained to guarantee a high cleaning standard.
- 2.3.2 Personnel shall at all times be neatly dressed in identifiable uniform.
- 2.3.3 The appointed service provider is encouraged to retain their staff for total duration of the contract, however in the event of staff replacement; the Contractor shall inform Transnet in writing immediately prior to the replacement of any staff and submit identification of the new appointee(s).
- 2.3.4 The appointed Service provider shall immediately substitute any staff found to be absent for whatever reason in order to ensure continued of service, refer to clause 2.4.
- 2.3.5 Personnel shall report maintenance matters, faults, and health and safety concerns to their supervisor for attention. Supervisors must follow up and escalate maintenance issues to Property Management.



2.4 Relief staff

- 2.4.1 The appointed Service provider is responsible for providing a continuous service to Transnet. If a cleaner is ill, away or on leave, it is the Contractor's responsibility to ensure that the service is still provided, as such shall make alternative arrangements.
- 2.4.2 The contractor is expected to have bank of temporary relief staff as contingency to absenteeism.
- 2.4.3 The Site Manager shall be responsible for the proper arrangement of substitute staff and such person shall be on site for total working hours for the total days for which they are required.
- 2.4.4 In case of emergency or unplanned leave, the Site Manager shall be allowed until 09h00 to have the substitute staff on site.

2.5 The Supervisor

- 2.5.1 The Supervisor, who has sound knowledge and experience in supervising cleaning works for high quality buildings, shall effectively supervise cleaning personnel and all daily operations at the Contractor's own cost.
- 2.5.2 Such supervisor shall be on the premises daily to report and where possible remedy any faults or irregularities which may affect daily operation.
- 2.5.3 The Supervisor must escalate all faults, health and safety concerns and maintenance issues reported by personnel to Property Management.
- 2.5.4 The onsite Supervisor must be trained and understand the contract requirements so they can translate the requirements into tasks that a cleaning person can handle and execute in a timely manner.
- 2.5.5 The Supervisor must furthermore ensure the balance of activities between personnel, working time, equipment and supplies required to execute the tasks.
- 2.5.6 The supervisor shall draw-up daily work schedules for staff under their management.
- 2.5.7 The Supervisor shall ensure relevant personnel are registered in the work schedules including areas to which they are assigned.
- 2.5.8 Supervisor shall ensure the monitoring schedule is displayed on rest room doors and shall be responsible for the management and sign off of the schedule during hourly rounds.
- 2.5.9 The Supervisor shall keep accurate records of attendance of staff and work schedules. These records must be made available to Transnet Property Management when required.
- 2.5.10 The Supervisor shall perform daily walk-about and evaluation of all cleaning operations for areas under their supervision.
- 2.5.11 The onsite Supervisor must be able to conduct a work orientation of the service personnel to provide in areas of the buildings.
- 2.5.12 The Supervisor must be able to train personnel. This would include on the job training and facilitation of personnel to ensure they understand the layout of their run, the time allotted for each task, equipment and chemicals utilised and their proper and safe use.
- 2.5.13 The Supervisor must ensure balanced and even distribution of equipment and consumables between personnel.
- 2.5.14 The onsite Supervisor must have sufficient soft skills to engage personnel, building manager/s and Transnet employees who may have need of his/her time and attention.
- 2.5.15 People skills, basic math, training ability and scheduling are few of the skill sets required of competent Supervisor assigned to this contract.



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

2.5.16 A well-motivated supervisor shall go a long way in providing good service to Transnet and its employees.

2.6 Site Manager/Customer Service Manager

2.6.1 The appointed Service provider shall appoint a Site Manager/Customer Service Manager to the contract.

2.6.2 The Manager shall have the experience and competence to address contractual and service problems, provide guidance to supervisors and personnel alike, remedy situations that arise and present feedback to Transnet Property Manager as required.

2.6.3 Transnet representative shall direct all communication to Manager of their delegated person regarding any service and contract related matters and the onus shall rest with the Manager to communicate further to Supervisors and cleaning staff and/or remedy the situation as the situation may require.

2.7. Training

2.7.1. Training shall be given to the staff and be exposed to mentoring and coaching.

2.7.2. Staff shall be afforded the opportunity to be up skilled and developed during the course of the contract.

2.7.3. The bidder shall provide a comprehensive training plan on formal and on the job training various skills and modules at the start of the contract and thereafter on a quarterly basis.

2.7.4. The selected bidder is expected to conduct refresher training for personnel, assess skill gaps and developmental needs and provide the needed training to personnel.

2.8. Site File

2.8.1. The appointed service provider is required to provide a Transnet specific Site File which will include all statutory and management information and documents such as:

- OHS Policy and Procedures;
- Safe works Procedures;
- Risk Assessments Procedures;
- Department of Labour documents e.g. COIDA, UIF and etc.

2.8.2. The appointed Service provider will be required to provide a comprehensive site file within 30 days after appointment.

2.8.3. The appointed service provider will conduct a site assessment and to update, if required, any of its standard procedures as listed above, to suit any Transnet specific site requirements.

2.9. Orientation sessions

2.9.1. Orientation sessions will be conducted annually by the Property Manager for the newly appointed Service provider and staff.

2.9.2. Newly appointed staff will be orientated if there is staff turnover during the contract period. However, the selected bidder is encouraged to retain their staff for total duration of the contract and a plan on how this will be achieved should be submitted.



2.10. Meetings

- 2.10.1. Monthly meetings shall be held between Property Management, Contract manager/Site manager to discuss the contract and service. Minutes of these must be kept in the Site file and be made available to Property Management on request.
- 2.10.2. Emergency meetings may be held in urgent and emergency situations.
- 2.10.3. The Service provider shall hold monthly meetings with personnel to discuss among other things hygiene and cleanliness, Occupational Health and Safety, skills and development, training etc.

2.11. General service requirements

- 2.11.1. The Contractor shall provide and promote good customer service
- 2.11.2. Display openness and transparency
- 2.11.3. Utilise protective clothing in all cleaning functions as appropriate
- 2.11.4. Ensure timeous cleaning of venues before and after events
- 2.11.5. Display signage all times in areas where cleaning personnel are working.
- 2.11.6. Cleaning during emergencies:
 - In the event of an emergency, cleaning service must only be conducted as soon as it is deemed safe to do so.
 - In the event of flooding, emergency cleaning must be undertaken within 24 hours or as soon as deemed safe.
- 2.11.7. Contractor's staff are prohibited from taking in their possession any objects property of Transnet irrespective of size or value.

2.12. Equipment

- 2.12.1. The appointed service Provider shall supply all equipment and tools required to render the daily cleaning service.
- 2.12.2. Maintenance of equipment shall be responsibility of the Service Provider and all costs associated with maintenance of equipment shall be borne by him.
- 2.12.3. The appointed Service Provider shall ensure that defective equipment is either be replaced or repaired as the case may require, within 24 hours from the time that such defective equipment is reported by personnel or Transnet Freight Rail Property Management.

Equipment list	
Low noise industrial vacuum cleaners	
Mops/mop caddy	
Floor machines and burnishes	
Mop bucket and wringer	
Pressure washer	
Mops and pads	microfiber
Wet/dry mop	
Janitorial trolleys	
Cleaning caddy	

Buckets	Single and double bucket
Ladders	Long & short
Industrial cleaner	
High pressure cleaner	
Industrials scrubbing machine with buffing accessories	
Colour coded cleaning cloths	Microfiber (3 per cleaner)
Brooms	Hard and soft brooms
Extension cord	
Caution/hazard sign	
Toilet brushes	
General purpose/ Heavy duty elbow-length gloves	
Spray bottle	
Dustpan and brush sets	
Feather duster	short and long
Plastic putty knife/soft scrub (to scrape soap scum)	
Scrubby sponge/ sponges	
Dish scrubber	
plunger	
Knee pads	
Flood pumper	
Squeegee	
Janitor's cart with heavy duty bag	

2.12.4. Great care must be taken to assure that brushes and equipment are cleaned to avoid cross-contamination

2.12.5. Cloths, mops and pads must be laundered after use and dried as necessary.

2.12.6. No dirty or foul smelling equipment shall be used.

2.13. Cleaning consumables

2.13.1. The contractor shall provide chemicals and materials which are not harmful to either persons or the environment.

2.13.2. Alternative products may be considered provided they are proven safe and desirable.

2.13.3. Such alternative products may be subject to Transnet prior approval, and samples may be required from shortlisted bidders when appropriate during the tender process.

List of consumables
Ammoniated cleaner
Ammonia stripper/ non ammoniated stripper
Liquid polish stripper
Heavy duty refuse bags



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

All Purpose cleaner (For removal of lime and urine deposits on toilet bowls. Thick. Highly foaming. Extremely acidic)
Toilet scrubber
Anti-war
General degreaser
Probiotic Cleaner
Floor emulsion polish and wax
Shoe covers
Disposable gloves
Deep cleaning liquid
Wood polish
Window cleaner
Dishwasher
Furniture Polish
Colour coding cloth
Mutton cloth
General disinfectant
Heavy duty soap
Neutral soap
Carpet cleaner/ shampoo
Paper towels and cleaning rags
Waste bags (to fit rubbish bins)
Air freshener
Antibacterial soap
Dish soap
Bleach
Anti-dust spray
Insecticides
Two ply toilet paper

2.14. Scope of service and schedule

- The appointed Service provider shall render good quality service wherein proper equipment, biodegradable chemicals and material are used, well trained personnel and experienced supervisors provide the cleaning service and general expertise is applied in ensure a satisfactory service.
- Cleaning personnel shall have access to areas in the building as inducted by the Property manager. Personnel should be allowed to carry out their duties in these areas, unless a department requests differently.
- The confidentiality and sensitivity of some work areas must be considered; therefore reasonable arrangement must be made with Property management for access to these areas.
- It shall be the responsibility of related employees to ensure adherence to good governance and have all confidential documentation kept under lock and key.



2.15. Cleaning of floor types

- **Polished concrete floors**

- Sweep clean of soil and dust – mop floor with wet mop in detergent solution – remove all excess water from surface with wringed mop.
- An approved floor wax may be applied where a highly polished finish is desirable.

2.16. Tiles

- Sweep clean of all dust – scrub with approved liquid detergent solution – wash down thoroughly with clean water – remove all excessive water from surface with clean cloth.
- An approved water emulsion polish may be applied to tile walls where a highly polished finish is desirable.

N.B. – Unsafe cleaning detergents that will eat away the concrete grouting surrounding the tiles must be avoided.

2.17. Terrazzo

- Sweep clean of all dust – scrub with approved liquid detergent solution – wash down thoroughly with clean water – remove all excess water from surface with clean cloth.
- An approved water emulsion polish may be applied to mosaic tile walls and dados where a highly polished finish is desirable.

N.B. – Avoid unsafe cleaning detergents, acids or other corrosive liquids that may eat the concrete matrix away from the marble chips.

2.18. White or Coloured Rubbed Granite

- Sweep clean of all dust – scrub with approved liquid detergent solution – wash down thoroughly with clean water and remove all excess water with clean cloth.

N.B. – Avoid the use of metal brushes or wire wool.

2.19. Marble

- Sweep clean of all dust – scrub with warm water and a non-caustic detergent. Wash down with clean water and remove all excessive water with clean cloth.
- The surface may be polished where a brilliant finish is desirable. As required, a non-slippery liquid wax may be applied onto marble finishes.

N.B. – Avoid the use of acid which is harmful to marble.

2.20. Thermo-Plastic (asphalt or Vinyl) Tiles

- Sweep clean of all dust – wash with a weak solution of approved liquid detergent, wash down thoroughly with clean water and dry with clean cloth.
- Apply a thin film of water emulsion Polymer type polish which is self-polishing and dries with a bright surface in about 20 minutes.
- After repeated applications of polish, a “build-up” old polish may occur – this may be removed by the use of an approved concentrated detergent cleanser of the appropriate type of stripping agent.



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

2.21. Quarry Tiles

- Sweep cleans of all dust – scrub with an approved liquid detergent solution - wash down thoroughly with clean water and dry thoroughly with clean cloth.
- If a dust free surface is required a coat of spirit solvent wax can be applied.
- Allow drying out and when thoroughly dried buffs to a brilliant finish preferably with a suitable polishing machine.

N.B. Do not use pigmented polishes without prior consent from the Manager.

2.22. Teak Block Floors

- Sweep clean of all dust – apply a film of spirit solvent wax (do not use water emulsion wax unless the floor has been thoroughly sealed), or, where the traffic density is high, natural paste wax.
- Allow the liquid polish time to harden. Buff daily with a suitable polishing machine.

2.23. Glazed Tiles

- Brush clean of all dust – scrub with an approved liquid detergent solution – wash down thoroughly with clean water and dry thoroughly with clean cloth.

N.B. – Each operator should clean, rinse and dry an area of about 1m² at one time. This allows time to rinse before the cleaning solution has had time to dry and cause streaks.

2.24. Linoleum

- As for Thermo-plastic Tiles.

N.B. – High quality paste wax and spirit solvent wax can be used if traffic conditions are heavy. They should be applied generously, allowed to dry thoroughly and then buffed to a brilliant finish using a suitable polishing machine.

2.25. Rubber Flooring

- Before waxing it is essential that the surface should be perfectly clean.
- Avoid excessive use of water as this might creep between the joints of the flooring and affect the adhesion of the rubber to the sub-floor.
- The best method of cleaning of the rubber floor is by means of a paste cleanser applied with a damp cloth.
- Thorough rinsing is essential, again a minimum amount of water should be used and the floor dried thoroughly with a clean cloth.
- Good quality bar or liquid soap can also be used but soft soaps with high alkalinity, liquids containing essential oils (e.g. turpentine and pine oil) and coarse abrasives should be avoided.
- When clean, the floor should be treated with an approved water emulsion Polymer type polish, which should be allowed to dry thoroughly before traffic is allowed to pass over it.

N.B. – Solvent based waxes should not be used on rubber floors. White spirit and other solvents such as petrol, benzene and paraffin attack rubber flooring causing it to become soft and sticky and “bleeding” of colours may occur.



2.26. Cork Flooring

- The floor should first be cleaned with a good quality neutral soap or detergent.
- A minimum amount of water should be used as excess water may seep between the tiles and loosen them from the floor.
- The floor should then be rinsed with clean water and thoroughly dried. Then dry steel wool (or gauze) may be used to remove stains and clean badly soiled areas.
- When dry, the floor should be sealed with either a polyurethane or oleo resinous seal. Such sealing is a specialized process and should not be attempted other than under experienced supervision.
- If the floor is not sealed, it then requires to treat the surface with several coats of high-grade polish or to fill up the pores. Over this base any polish including emulsions can be used. However, whatever polish is applied, it is to be stripped at regular intervals and followed by frequent maintenance detailed below.
- For subsequent maintenance, an occasional application of floor wax, either solvent bound or an emulsion polish will considerably extend the life of the seal and provide a better resistance to scuff marks.

2.27. Painted Surface (Oil)

- (i) Flat finish
 - Remove all surface dust with a soft brush, wipe down with damp cloth containing weak approved detergent solution. Wipe down with a clean damp cloth.
 - Persistent stains may be removed by the sparing use of a fine abrasive paste or powder.
- (ii) High gloss finishes
 - As above, but do not use any form of abrasive to remove stains.
 - The use of washing soda or any other highly alkaline material should also be avoided.
 - For a superior finish a high quality paste wax can be applied and buffed to the required finishes.

2.28. Stainless Steel

- To maintain the original bright and clean appearance, accumulation of deposit from the atmosphere must be prevented.
- Frequent careful washing with soap and water or an approved detergent solution will maintain appearance indefinitely.
- Avoid the use of abrasives and steel wool. Accumulated dirt may be removed by the use of nylon web pad.

2.29. Bronze Finishes

- Bright bronze must be kept free from dust during the process of toning down, so that the atmosphere may act on it evenly until the required colour is obtained. This action must then be checked and the surface preserved by building up on it (by frequent applications of wax polish) a coating of hard wax, impervious to moisture and easily polished.
- Chemically toned bronze requires the action of the atmosphere for a short time after fixing to "see" it to its permanent shade, during which it should be kept free from dust by occasionally cleaning with a little petrol. After which the surface should be protected in the same way as natural toned bronze.

N.B. – The usual kinds of metal polish, and oil such as paraffin, should on no account be used. An approved natural wax may be used. Apply with a cloth pad and allow to dry. When thoroughly dry buff to a brilliant finish.

2.30. Aluminium

- Thoroughly wash down with water containing non-alkaline soap or detergent and dry thoroughly with clean cloth. Accumulated dirt may be removed by the use of nylon pad. Occasional application of a wax polish may preserve an attractive appearance.

N.B. – Avoid the use of abrasive and steel wool.

2.31. Chrome Finishes

- Chrome finishes rarely require anything more than a rub down with a soft cloth, but to prevent pitting such finishes may be cleaned once a month with chrome cleaners.

2.32. Windows and blinds

- Blinds in offices to be deep cleaned twice a year;
- High windows to be cleaned four times a year;
- Window sills must be wiped clean of all dust daily;
- Window handles must be cleaned and polished with metallic polish once monthly;
- All ground and eye level windows (inside and outside) must be cleaned once monthly.

2.33. Doors

- All revolving / entrance glass doors must be cleaned daily;
- Office doors must be wiped clean of dust and dirt weekly;
- Door handles to be dusted and cleaned weekly.

2.34. Walls and surfaces

- Walls and surfaces must be wiped clean of all marks and dirt with a clean damp cloth, daily;
- High dusting of walls and corners to be done weekly;
- Low walls must be wiped off weekly;
- Washing of walls monthly using SABS approved cleaning detergents;
- Damp cleaning of doors, door frames and cupboard doors weekly.

2.35. Restrooms and ablution facilities:

- Restrooms and ablution facility floors must be cleaned daily;
- Walls and wall tiles cleaning of weekly
- Daily cleaning and disinfection of all toilets, urinals, basins and drains;
- Cleaning of restroom door handles, taps, and equipment must be done weekly;
- Mirrors must be cleaned weekly to a clear and shiny finish.

2.36. Equipment and appliances

- Cleaning and disinfection of domestic appliances with SABS approved cleaning materials daily.



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

2.37. **Workstations**

- Tables must be wiped clean twice weekly with clean damp cloth;
- Office machinery and utilities (telephones, photocopier machine, desktop, laptop etc.) must be dusted and wiped clean twice weekly

2.38. **Upholstery (suites, chairs, couches etc.)**

- Deep cleaning of upholstered furniture quarterly.

2.39. **Cleaning scope and schedule**

- Water/detergent solutions must be changed frequently and cleaning must be done with clean water solution.
- Soil must be removed from the equipment by scraping the surfaces or soft rubbing depending on surface type, and swept off prior to application of water solution.

Area	Cleaning function	Frequency
Offices, workstations, boardrooms and entertainment areas		
Office equipment, Photocopier Machines, Printers , Phones, handsets, computers/Laptops	Dust all equipment with microfiber cloth	Twice weekly
	Wipe clean with clean damp cloth	Twice weekly
Desk, tables, chairs	Dust clean with microfiber cloth	Twice weekly
	Wipe clean with clean damp cloth	Twice weekly
	Polish with furniture/wood polish	Twice weekly
Waste bins	Empty bins in morning and afternoon	Twice daily
	Wipe bins clean	Daily
	Disinfect with liquid disinfectant	Daily
Floors	<Clean according to floor type>	Daily
Kitchen		
Appliances and kitchen equipment	Wash with liquid soap solution and wipe clean	Twice weekly
	Wipe clean	Daily
Kitchen sink	Wash with liquid soap solution and wipe clean	Daily
	Disinfect with liquid disinfectant	Daily
Floors	<Clean according to floor type>	Daily
Light fitting and switches	Wipe clean with damp cloth	Twice weekly
Furniture	Wipe clean with damp cloth	Twice weekly
	Polish	

		Twice weekly
Cupboards and counters The cleaning of will take place at specific intervals during the day	Wipe clean with damp cloth Polish with furniture/wood polish	Twice weekly Weekly
Tea cups and utensils	Wash with warm water and liquid dishwasher Rinse and dry	Twice daily
Rest rooms and ablution facilities		
Ablutions must be cleaned fully once a day (in the morning) and spot cleaned in the afternoon. In a reception area or in high traffic areas ablutions must be fully cleaned twice daily.		
Toilet bowls	Wash the inside with soapy solution and toilet brush Wipe clean with clean damp cloth Sanitize	Twice daily
Urinals	Wash the inside with soapy solution and brush Wipe clean with clean damp cloth Sanitize	Twice daily
Hand basins	Wash with soapy solution and cloth Wipe clean with clean damp cloth Sanitize	Twice daily
Taps	Wash with soapy solution and cloth Wipe clean with clean damp cloth Sanitize	
Mirrors	Wipe clean with damp cloth and window cleaner dry with dry cloth Shine with cloth and window cleaner	Daily
Floors	<Clean according to floor type>	Daily
Walls and wall tiles	Wipe with damp cloth Disinfect Spot clean	Daily When required
Doors, door frames and handles	Spot clean Wipe with damp cloth and polish	When required Weekly
Vanity tops	Clean with cloth and soapy solution Sanitise	Daily

Toilet equipment (paper dispensers, SHE Bins, waste bins, etc.)	Clean and wipe with damp cloth and disinfectant solution Disinfect	Weekly Weekly
Common rooms and areas (reception areas, entrance hall)		
Furniture	Dust Polish with furniture/wood polish Steam clean	Daily Weekly Quarterly
Upholstery	Dust Steam cleaning	Daily Quarterly
Stairwells and landings		
Handrails and fittings	Wipe clean with damp cloth sanitize	Weekly
Floors	Sweep clean of soil and dust Mop according to floor type	Twice weekly
Walkways and corridors		
Skirting tiles and boards	Wipe with semi dry cloth	Weekly
Corridors and walkways		
Floor area and skirting	Sweep and dust Damp mop and buff	Daily Weekly
Walls	Spot clean	Daily
Lifts		
Floors	Remove refuse and litter Damp clean	Daily Weekly
Doors	Wipe clean with disinfectant solution	Weekly
External area		
Parking area	Remove refuse and litter	Daily
Main entrance	Damp mop Polish	Weekly Weekly

Common facilities and amenities that require cleaning function:

Facility/amenity	Cleaning function	Frequency
Waste bins		
All waste bins	Empty Wipe clean Disinfect	Twice daily Daily
Blinds		
Blinds	Dust clean Damp wipe	Weekly Weekly

	Vacuum	Twice yearly
Curtains		
Curtain	Dust and fluff dust off	Weekly
Curtain rail	Dust clean Wipe with damp cloth	Monthly
Windows		
Interior windows	Wipe clean with damp cloth and window cleaner	Weekly
	Dry and shine	
	Wash thoroughly	Quarterly
Exterior windows	Wash thoroughly	Quarterly
Window sills	Dust clean Wipe with damp cloth Polish	Weekly
Window burglar proofing	Dust clean	Weekly
	Wipe with damp cloth	Weekly
Doors		
Burglar gates	Dust clean	Weekly
	Wipe with damp cloth	Weekly
Door handles	Wipe with damp cloth	Weekly
	Polish	Weekly
Glass doors	Wipe clean with damp cloth and window cleaner Dry and shine	Weekly
Carpets		
Fitted carpets	Vacuum/dry cleaning	Weekly
	Spot clean	When required
	Steam clean	Quarterly
Loose mats	Vacuum	Weekly
	Spot clean	When required
	Steam clean	Quarterly
High and low surfaces		
Necessary safety precautions must be exercised when cleaning high lying areas		
High ledges/shelves	Dust clean Clean with semi dry cloth where required	Once monthly
Low ledges, skirting boards	Dust clean	Weekly
	Clean with semi dry cloth where required	Weekly

Walls		
All walls	Wash	Quarterly
	Spot clean	When required
	Clean with damp cloth	Weekly
Pot plant holder		
Pot plant holders	Spot clean	Weekly

2.40. Carpet shampooing/Dry cleansing to be done quarterly

- (i) **Rotary brush method** – Dry vacuum the area first, then shampoo carpeting carefully with a good quality appropriately diluted liquid shampoo & to comply with the manufacturer's instructions for operating the rotary machine. Use wet vacuum immediately to remove excessive water and slurry. After shampooing brush the carpet pile in the direction with a carpet pile brush and warn users not to walk on the carpet until it is completely dry. As a final operation, dry vacuum on the following day to remove any loose fluff and lint loosened by the refinishing process.
- (ii) **Dry foam method** – Use a pile-lifting machine to run over the area first. A fully automatic dry-foam machine which converts the liquid shampoo & into a foaming fluffy solution will be operated (i) lay the fluffy solution, (ii) scrub with brushes in one pass and in one direction and immediately suck up the slurry.
- (iii) **Steam extraction method** – Use a fully automatic steam machine to jet heated solution of appropriately mixed water and shampoo into the carpet under pressure in one pass and in one direction and remove all loosened dirt instantly by simultaneous vacuum action.

N.B. – Before cleaning carpets with any of the above methods, it is essential to clear the room of all light furniture and scrub a small area to check for colourfastness and backing wetness. Only skilled operators are allowed to carry out such carpet shampooing and great care must be taken to prevent shrinkage and over-wetting. A second pass may be necessary in heavily soiled areas.

2.41. Strip and seal

2.41.1. Strip and seal should be done twice a year for vinyl and stone/ceramic floors.

2.42. Insurance

The appointed service provider will be required to have insurance to protect himself and Transnet against liability claims. Proof of such insurance must be submitted within 7 days of having been appointed.

1. Insurance of workmen in terms of provisions of the Compensation for Occupational Injuries and Disease Act No.130 of 1993.

**3. GARDENING SPECIFICATION:**

Description	Selection (·)
Category 2: Gardening services for Germiston Premises	

All gardens and grass and areas within 20m of the building or where applicable, inside the fence off depots and 5m outside the fence.

3.1. GARDEN SERVICE

➤ Cutting of lawn areas to fair finish and trimming of edges weekly	Weekly
➤ Cultivating, digging and pruning of flowerbeds weekly	Weekly
➤ Removal of all dead flowers and pruning of trees as required by the Project Manager from time to time	As required Seasonally
➤ Provide seasonal flowers	Weekly
➤ Trim branches and shrubs	
➤ Clear of weeds on site's where there is no grass	Daily
➤ Trim branches, shrubs and cut grass	
➤ Remove all grass, branches and rubble from site	Daily
➤ Every porch entrance must be swept, as well as the paving and tarred road in front of the buildings	Daily As required
➤ No grass to be left on premises	Daily
➤ Sweep and remove soil and/or leaves on entrances and exterior areas	
➤ Tree felling & trimming at the depot to be conducted safely by using a trained team and Safety precautions to be followed e.g. height management, machinery and etc. (Supplier to supply their own equipment to perform this job)	As and when necessary
➤ Personnel must be able to operate the borehole system or taps i.e monitor and report to the Facilities Manager if it is broken/leaking.	Weekly

3.2. SCOPE OF WORK**AREAS TO BE CLEANED**

- (A) Entertainment areas / lapa / braai area outside
- (B) Parking area
- (C) Surrounding area (at main entrance) and garden area
- (D) Diesel Pump House and Surrounding Area
- (E) Decanting and surrounding Area
- (F) Refuelling and surrounding Area
- (G) Garden Services



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

3.3. DUTIES (all areas where applicable)

3.3.1. ALL PARKING AREAS / RAMP / GUARD HOUSE & OUT BUILDINGS

All surface refuse to be removed	Daily
Sweep around buildings	Daily

3.3.2. EXTERNAL AREA AT MAIN ENTRANCE & VARIOUS ASSEMBLY POINTS

All surface refuse to be removed	Daily
Area to be swept	Daily
Garden area to be kept clean & neat where necessary	Daily

3.3.3. ENTERTAINMENT AREAS / BRAAI AND LAPAS (OUTSIDE)

Area to be swept	Daily
Garden area to be cleaned and grass cut	Weekly

3.3.4. DIESEL PUMP HOUSE AND SURROUNDING AREA

Grass to be cut and trimmed around premises	As required
Flower beds to be kept neat and clean	As required
Trees to be pruned	As required
Rough cutting	As required
Contractor to supply lawn movers, weed-eater / brush	As required
cutter, garden tools and PPE	As required
All garden refuse (leaves, etc.) to be removed by contractor	As required
Pump House to be cleaned	Daily
Spillages to be cleaned	Daily
Equipment to be cleaned	Daily

3.3.5. DECONTAMINATING AND SURROUNDING AREA

Grass to be cut and trimmed around premises	As required
Flower beds to be kept neat and clean	As required
Trees to be pruned	As required
Rough cutting	As required
Contractor to supply lawn movers, weed-eater / brush	As required
cutter, garden tools and PPE	As required
All garden refuse (leaves, etc.) to be removed by contractor	As required
Cement floors to be washed with chemical	As required
Spillages to be cleaned with chemical	As required
Equipment to be cleaned	Daily



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

3.3.6. REFUELING AND SURROUNDING AREA

Cement floors to be washed with chemical	As required
Spillages to be cleaned with chemical	As required
Equipment to be cleaned	Daily
Safety file to be on site and to consist of the following:	Daily
Risk Assessment and Safety Plan	
Written Safe Work Procedures and Job Observations	
Valid Appointment letters (First Aid / Pest Control / SHE Reps)	
Valid Certificates (First Aid / Pest Control / SHE Rep / Site Access)	
Recording of IOD Incidents	
Audit and Inspection of all machinery	
Minutes of Meetings	As required
Register of Personal Protective Equipment	
Training Certificates for all employees	
General issues	As required

3.3.7. GARDEN SERVICE

Grass to be cut and trimmed in and around premises	Weekly
Flower beds to be kept neat and clean	Weekly
Flower to be planted if necessary and to be kept neat and clean	As required
Trees to be pruned	As required
Rough cutting	As required
clear of weeds on sites where there is no grass	Weekly
Remove all grass, branches and rubble from site	Weekly
Provide season flowers for gardening	As required
Every porch entrance must be swept, as well as the paving and tarred road in front of the buildings weekly	
Contractor to supply lawn movers, weed-eater / brush cutter, garden tools and PPE	As required
Contractor to supply grass where is necessary	As required
All garden refuse (leaves, etc.) to be removed by contractor	As required

3.3.8. SUPERVISION

Full time supervision to be provided by Contract	Daily
Quality Control will be done by client on site (sign job cards)	Weekly
Safety file to be on site and to consist of the following:	
Risk Assessment and Safety Plan	
Written Safe Work Procedures and Job Observations	
Valid Appointment letters (First Aid / SHE Reps)	
Valid Certificates (First Aid / SHE Rep / Site Access)	
Recording of IOD Incidents	
Audit and Inspection of all machinery	
Minutes of Meetings	
Register of Personal Protective Equipment	



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

Training Certificates for all employees

General issues

Valid letter of Good Standing - Cleaning

3.3.10. EQUIPMENT / MATERIALS / CONSUMABLES

TO BE PROVIDED / SERVICED BY CONTRACTOR AND DELIVERED TIMEOUSLY

1. Lawn movers
2. Weed- Eater
3. Brooms
4. Brush cutter
5. All Garden tools and Chemicals (properly marked)
6. Consumables e.g. toilet paper of an acceptable standard (double ply)
7. Buckets
8. Necessary sign boards (e.g. floor Wet / Slippery, etc.)
9. Contractor to conform with all Safety Requirements including
10. Safety, Health, Environment (SHE) Induction for Contractors as specified by Transnet Freight Rail (copy enclosed)
11. Consumables e.g. cleaning chemicals be in an acceptable standard meaning SABS approved of equivalent.

NB: All cleaning chemicals and cleaning machinery to be supplied by the cleaning company and clearly marked by the contractor.

NB: All equipment to be kept in a good and safe condition at all times and to comply with all safety regulations including all extension cords, etc.

- Toilet Areas are not be used as change rooms. Cleaning of equipment will not be allowed in toilet / kitchen areas
- Disposal of dirty water to be deposited directly into toilet pans, toilet areas to be cleaned after work has been completed or minimum twice daily.

3.3.11. STAFF REQUIREMENTS / WORKING HOURS

- Cleaning to commence from Monday to Friday 07:00 to 16:00 (times can be altered due to emergency requirements)
- Areas to be serviced on Saturday & Sunday at all times (24/7) N/A
- Site book to be kept at each depot to record working hours of employees and to record complaints.

3.3.12. UNIFORM CLOTHING

- The Contractor shall at all times ensure that all cleaning staff has been provided with all necessary protective clothing, e.g. gloves, shoes, masks, etc.
- All cleaning staff to be identifiable with (visible) identification at all times



3.3.13. TERMS OF CONTRACT

- Contract period 24 Months

3.3.14. PAYMENT

ACCREDITED BEE SUPPLIERS

The following payment terms shall apply:

- All suppliers shall be paid within 30 days from date/receipt of invoice by accounting office, following acceptance of services by Transnet Freight Rail, provided normal procurement procedures have been followed. All suppliers must submit their BBBEE Certificate.
- A month will be calculated from the 1st of the month to the 30/31st of the month.
- In the event of full staff compliment not available, payment for that specific day will be withheld / deducted.
- Signed register of worked performed to be submitted with the invoice.
- Noted that the invoice should indicate all buildings (per depot) by using the asset number of the serviced building as per Section 4.
- Register to be signed by Supervisor of the specific area.
- Invoice to be signed by the relevant Manager to indicate that the work was performed to satisfaction before submitting for payment.

3.3.15. OTHER TRADE SUPPLIERS

- All suppliers are paid within 30 days from month end statement.
- Early settlements are discouraged unless very special circumstances prevail.
- Early settlements will only be approved by the Chief Procurement Officer, or his delegate, based on the settlement discount being more advantageous than the financing cost incurred by Transnet Freight Rail.

3.3.16. BREACH OF CONTRACT

- Transnet Freight Rail will be allowed to terminate the contract by giving 30 days' notice should the cleaning service not be according to specification and to the client's full satisfaction. This will include non-conformance to all Health and Safety Standards as required by Transnet Freight Rail.



1 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.*

2 GENERAL SERVICE PROVIDER OBLIGATIONS

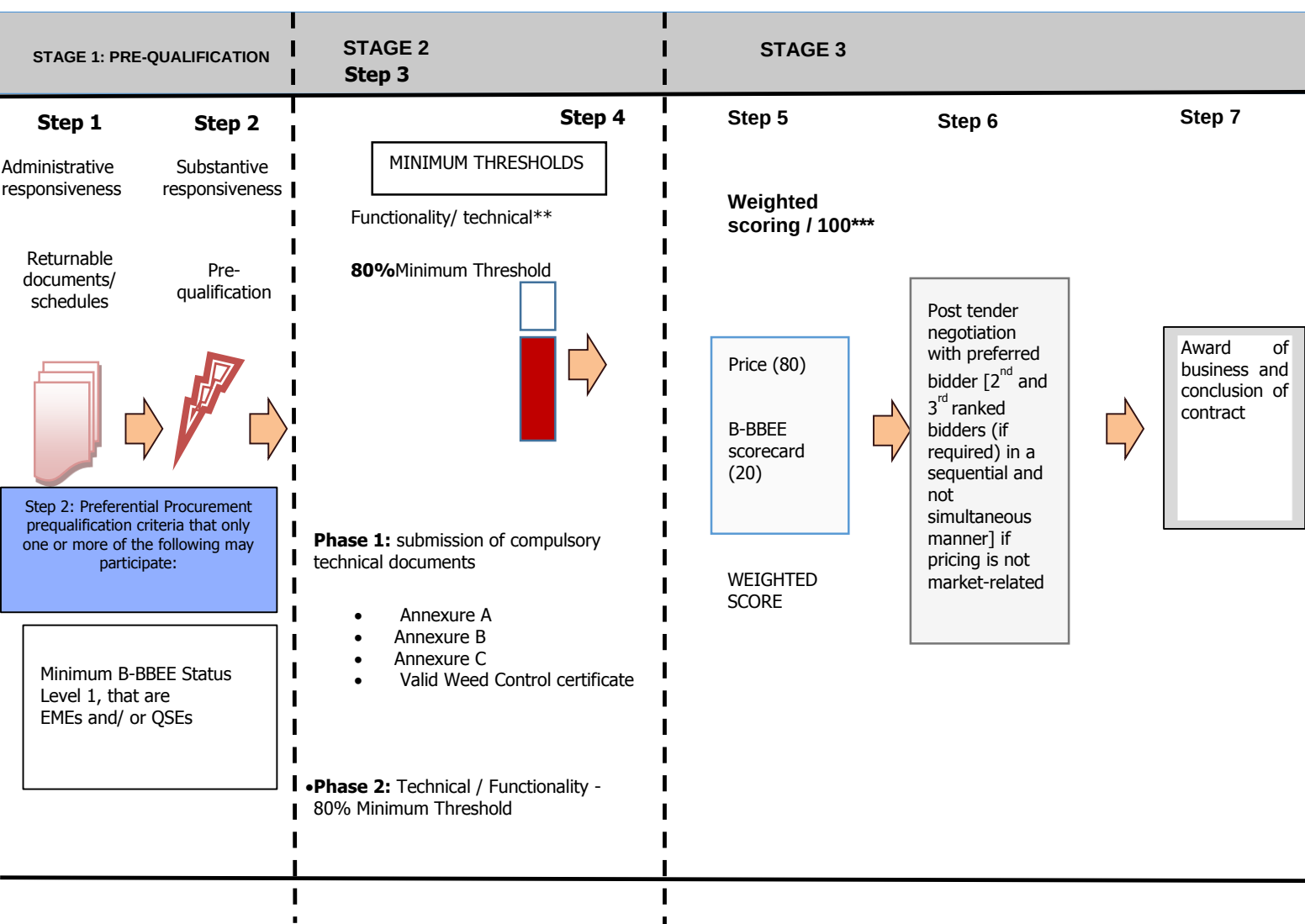
- 2.1 The Service provider(s) shall be fully responsible to Transnet for the acts and omissions of persons directly or indirectly employed by them.
- 2.2 The Service provider(s) must comply with the requirements stated in this RFP.

3 EVALUATION METHODOLOGY

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

3.1 Evaluation Criteria

Transnet will utilise the following methodology and criteria in selecting a preferred Supplier/Service provider:



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

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 stages 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).



3.1 STEP ONE: Test for Administrative Responsiveness

The test for administrative responsiveness will include the following:

Administrative responsiveness check	RFP Reference
Whether the Bid has been lodged on time	<i>Section 1 paragraph 3</i>
Whether all Returnable Documents and/or schedules [where applicable] were completed and returned by the closing date and time	<i>Section 5</i>
Verify the validity of all returnable documents	<i>Section 5</i>
Verify if the Bid document has been duly signed by the authorised respondent	<i>All sections</i>
Respondents must provide with a valid Registration Certificate: COIDA or Letter of good standing	<i>Section 1</i>
Respondents are required to submit their technical and financial proposals in two separate envelopes. Failure to comply with these requirements will lead to disqualification of the Bid.	<i>Section 1</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

3.2 STEP TWO: Test for Substantive Responsiveness to RFP

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

Check for substantive responsiveness	RFP Reference
Whether any set prequalification criteria for preferential procurement have been met: - Minimum B-BBEE Level 1 that are - EME and/or QSE (provide a valid Sworn Affidavit or valid B-BBEE Certificate)	<i>All sections including: Section 2 paragraphs 2.2, 6, 10.2, General Bid Conditions clause 20</i>
SBD1 Form – fully completed	<i>Sections 1</i>

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

4.1.3. STEP THREE: Technical Evaluation

4.1.3.1. Phase 1- Submission of compulsory technical documents

Compulsory Technical Documents	RFP Reference
- Annexure A: 100% Compliance to Specification (Clause by Clause Declaration) - Annexure B1: Normal Salary schedule-indicating labour regulated rates per cleaner for normal hours (100% Completed) - Annexure B2: Over Time Salary schedule-indicating labour regulated rates per cleaner for night shift (100% Completed) - Annexure B3: Salary schedule-indicating labour regulated rates per gardener (100% Completed) - Annexure C: Completion of SHE Management Questionnaire - Valid Weed Control certificate of Registration from Department of Agriculture, Forestry and Fisheries for all Supervisors.	<i>Scope of work</i>

Note: Bidders must comply with the requirement for phase 1 to proceed to Phase 2

4.1.4.2. Phase 2: Minimum Threshold 80% for Technical Criteria

TECHNICAL: THRESHOLD 80%	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 gardening and/or office cleaning. 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	50%	0 = 0% 1 = 20% 2 = 30% 3 = 40% 4 = 50%	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).
Service Implementation plan	50%	0 = 0.00%	0= No Service Implementation plan

TECHNICAL: THRESHOLD 80%	Weightings	Scoring Matrix	Effective Weights
(i) <u>Measures to ensure service continuity</u> includes induction programme, cleaning process and intervals, register of cleaning service and gardening services, sourcing on consumables, machinery & equipment and timelines, maintenance of repairs of machinery & equipment in service. (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 (iii) <u>Training plan</u> includes formal and on the job training on but not limited to, Occupational Health & Safety, cleaning processes, hygiene and housekeeping, supervisory skills and management		1 =25% 2 = 50%	provided; 1= Service Implementation Plan provided with less than 3 requirements fully address with the listed areas; 2= Service Implementation Plan provided with all 3 requirement fully addressed with the listed areas
Total Weighting:		100%	
Minimum qualifying score required:		80%	

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

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

3.3 **STEP FOUR: Evaluation and Final Weighted Scoring**a) **Price Criteria** [Weighted score 80 points]:

Evaluation Criteria	RFP Reference
Commercial offer SECTION 4: Pricing and Delivery Schedule (pricing schedule must be fully completed for all items)	Section 4

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) **Broad-Based Black Economic Empowerment criteria** [Weighted score 20 points]

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

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

Thresholds	Minimum Percentage [%]
Technical	80%

Evaluation Criteria	Final Weighted Scores
Price	80
B-BBEE - Scorecard	20
TOTAL SCORE:	100

3.5 **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.



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

- 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).

3.6 **STEP SIX: Award of business and conclusion of contract**

- Immediately after approval to award the contract has been received, the successful or preferred bidder(s) will be informed of the acceptance of his/their Bid either by way of a Letter of Award or Letter of Intent where Transnet will negotiate any final terms and conditions of the contract with the successful Respondent(s). Thereafter the final contract will be concluded with the successful Respondent(s).
- Otherwise, a final contract will be concluded and entered into with the successful Bidder at the acceptance of a letter of award by the Respondent.

Please refer to attached RFP Section 4 for pricing schedule

**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/intent, 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 intent [the **Letter of Intent**], this Proposal [and, if any, its covering letter and any subsequent exchange of correspondence] together with Transnet's Letter of Intent, shall constitute a binding contract between Transnet and me/us until the formal contract is signed.



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

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.

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, failure to meet Subcontracting, etc.

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

ADDRESS FOR NOTICES

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

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

Name of Entity:

Facsimile:

Address:

NOTIFICATION OF AWARD OF RFP

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

VALIDITY PERIOD

Transnet requires a validity period of **14 February 2022**- 180 Business Days [from closing date] against this RFP, excluding the first day and including the last day.

HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months



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

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

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:

Mandatory Returnable Documents	<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>
Returnable Documents Used for Scoring	<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>
Essential Returnable Documents	<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>

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:

MANDATORY RETURNABLE DOCUMENTS	SUBMITTED [Yes/No]
Section 1: SBD1 Form	
Respondents must submit a valid sworn affidavit or a valid BBBEE Certificate as a proof that Respondent is compliance to B-BBEE requirements stipulated in Section 9 of this RFP)	
Annexure B1: Normal Salary schedule-indicating labour regulated rates per cleaner for normal hours (100% Completed)	

MANDATORY RETURNABLE DOCUMENTS	SUBMITTED [Yes/No]
Annexure B2: Over Time Salary schedule-indicating labour regulated rates per cleaner for night shift (100% Completed)	
Annexure B3: Salary schedule-indicating labour regulated rates per gardener (100% Completed)	
Valid Weed Control certificate of Registration from Department of Agriculture, Forestry and Fisheries for all Supervisors.	

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:

<u>RETURNABLE DOCUMENTS USED FOR SCORING</u>	SUBMITTED [Yes or No]
Phase 1 – Technical Requirement	
Annexure A: 100% Compliance to Specification (Clause by Clause Declaration)	
Annexure C: Completion of SHE Management Questionnaire	
<i>Bidder/s failure to comply with requirement above will result in bid being overlooked</i>	
Phase 2: Functionality – 100%	
Previous work done – 50%	
Service Implementation plan- 50%	

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:

ESSENTIAL RETURNABLE DOCUMENTS & SCHEDULES	SUBMITTED [Yes or No]
Receipt for payment of RFP documents, where a bid fee is applicable [Section 2, paragraph 1]	
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	
Respondents must provide with a valid Registration Certificate: COIDA or Letter of good standing	
SECTION 5 : Proposal Form and List of Returnable documents	
SECTION 6 : Certificate Of Acquaintance with RFP, Terms & Conditions & Applicable Documents	
SECTION 7 : RFP Declaration and Breach of Law Form	
SECTION 9 : B-BBEE Preference Claim Form	
Supplier Declaration Form	

CONTINUED VALIDITY OF RETURNABLE DOCUMENTS

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

SIGNED at _____ on this _____ day of _____ 20____

SIGNATURE OF WITNESSES

ADDRESS OF WITNESSES

1 _____
Name _____

2 _____
Name _____



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

SIGNATURE OF RESPONDENT'S AUTHORISED REPRESENTATIVE:

NAME: _____

DESIGNATION: _____



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

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

1	Transnet's General Bid Conditions
2	Master Agreement and SLA attached
3	Transnet's Supplier Integrity Pact
4	Non-disclosure Agreement
5	Supplier Declaration Form and all supporting documents (first time vendors only). Alternatively, for all existing vendors, please complete the table below under the heading "Existing vendors".

Existing vendors: existing vendors are required to confirm whether all the information (e.g. company address, contact details, banking details, etc.) relating to the existing vendor number is still correct at the time of submission of this bid failing which such Respondents are required to indicate so below and provide the updated information in their bid submission:

Transnet Operating Division [e.g. TFR, TE, etc.]	Vendor Number	Information still current [tick if applicable]	Information change [indicate detail of change/s & attach appropriate proof]

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.**



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

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: _____



SECTION 7: RFP DECLARATION AND BREACH OF LAW FORM

NAME OF ENTITY: _____

We _____ do hereby certify that:

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



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

10. If such a relationship as indicated in paragraph 7, 8 and/or 9 exists, the 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]

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.

BREACH OF LAW

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

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

NATURE OF BREACH:

DATE OF BREACH: _____

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



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

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 8: RFP CLARIFICATION REQUEST FORM

RFP deadline for questions / RFP Clarifications: Before 12:00 pm on 15 July 2021

RFP Clarification No [to be inserted by Transnet]

REQUEST FOR RFP CLARIFICATION

[illegible]



SECTION 9: B-BBEE PREFERENCE POINTS CLAIM FORM

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

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

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

1. GENERAL CONDITIONS

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

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

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

1.3 Preference points for this bid shall be awarded for:

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

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

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

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

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



2. DEFINITIONS

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

3. POINTS AWARDED FOR PRICE

3.1 THE 80/20 PREFERENCE POINT SYSTEMS

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

80/20

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

Where

P_s = Points scored for comparative price of bid under consideration

HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

Pt = Comparative price of bid under consideration

Pmin = Comparative price of lowest acceptable bid

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

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

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

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

Enterprise	B-BBEE Certificate & Sworn Affidavit
Large	Certificate issued by SANAS accredited verification agency
QSE	Certificate issued by SANAS accredited verification agency Sworn Affidavit signed by the authorised QSE representative and attested by a Commissioner of Oaths confirming annual turnover and black ownership (only black-owned QSEs - 51% to 100% Black owned) [Sworn affidavits must substantially comply with the format that can be obtained on the DTI's website at www.dti.gov.za/economic_empowerment/bee_codes.jsp.]
EME¹	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

¹ In terms of the Implementation Guide: Preferential Procurement Regulations, 2017, Version 2, paragraph 11.11 provides that in the Transport Sector, EMes can provide a letter from accounting officer or get verified and be issued with a B-BBEE certificate by SANAS accredited professional or agency as the Transport Sector Code has not been aligned to the generic Codes. EMes in the Transport Sector are not allowed to provide a sworn affidavit as the generic codes are not applicable to them.



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

5. BID DECLARATION

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

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

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

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

7. SUB-CONTRACTING

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

(*Tick applicable box*)

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

- 7.1.1 If yes, indicate:

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

(*Tick applicable box*)



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

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

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

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

8. DECLARATION WITH REGARD TO COMPANY/FIRM

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

8.2 VAT registration number:.....

8.3 Company registration number:.....

8.4 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

.....

8.6 COMPANY CLASSIFICATION

- ☐ Manufacturer
- ☐ Supplier
- ☐ Professional 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:.....



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

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

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If a bidder submitted false information regarding its B-BBEE status level of contributor, local production and content, or any other matter required in terms of the Preferential Procurement Regulations, 2017 which will affect or has affected the evaluation of a bid, or where a bidder has failed to declare any subcontracting arrangements or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have
 - (a) disqualify the person from the bidding process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) if the successful bidder subcontracted a portion of the bid to another person without disclosing it, Transnet reserves the right to penalise the bidder up to 10 percent of the value of the contract;
 - (e) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the audi alteram partem (hear the other side) rule has been applied; and
 - (f) forward the matter for criminal prosecution.

WITNESSES

1.
2.

.....

SIGNATURE(S) OF BIDDERS(S)

DATE:

ADDRESS.....

**SECTION 10: SBD 9- CERTIFICATE OF INDEPENDENT BID DETERMINATION**

1. Section 4(1)(b)(iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging). Collusive bidding is a per se prohibition meaning that it cannot be justified under any grounds. Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.
2. Transnet will take all reasonable steps to prevent abuse of the supply chain management system and to:
 - a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
 - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
3. This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
4. In order to give effect to the above, the following certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of Institution)

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

I certify, on behalf of: _____ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - a. has been requested to submit a bid in response to this bid invitation;
 - b. could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - c. provides the same goods and services as the bidder and/or is in the same line of business as the bidder
6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium² will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - a. prices;
 - b. geographical area where product or service will be rendered (market allocation)

² 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.



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

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

.....

Signature

.....

Date

.....

Position

.....

Name of Bidder

HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months



ANNEXURE A: 100% COMPLIANCE TO SPECIFICATION (CLAUSE BY CLAUSE DECLARATION)

RFP NUMBER: HOAC-HO-35528

The compliance response is to contain ONLY the following statement, "**Comply**" or "**Do not comply**".

Bidders are to refer to the specifications (page 14-35) for full detailed description For the Provision of Cleaning and Gardening Services at Germiston for a Period of Twenty Four (24) Months

The compliance response is to contain ONLY the following statement, "**Comply**" or "**Do not comply**". Failure to provide with a response in the below table (e.g. leaving a blank space, partial completion and incorrect completion) will result non-responsiveness.

FAILURE TO FULLY (100%) COMPLY AND SUBMIT OF ANNEXURE A WILL RENDER THE BID AS BEING NON-COMPLIANT.

SERVICE REQUIREMENTS:	Comply	Do not comply	Comments
1. CATERGORY 1 : CLEANING SERVICE FOR GERMISTON PREMISES			
1.1-1.4			
2.			
2.1			
2.1.1-2.1.17			
2.2			
2.2.1-2.2.7			
2.3			
2.3.1-2.3.5			
2.4			
2.4.1-2.4.4			
2.5			
2.5.1-2.5.16			
2.6			
2.6.1-2.6.3			
2.7			
2.7.1-2.7.4			
2.8			
2.8.1-2.8.3			
2.9			
2.9.1-2.9.2			
2.10			

2.10.1-2.10.3			
2.11			
2.11.1-2.11.7			
2.12			
2.12.1-2.12.6			
2.13			
2.13.1-2.13.4			
2.14			
2.15			
2.16			
2.17			
2.18			
2.19			
2.20			
2.21			
2.22			
2.23			
2.24			
2.25			
2.26			
2.27			
2.28			
2.29			
2.30			
2.31			
2.32			
2.33			
2.34			
2.35			
2.36			
2.37			
2.38			
2.39			
2.40			



2.41			
2.42			
<u>3. CATEGORY 2: GARDENING SERVICES FOR GERMISTON PREMISE</u>			
3.1			
3.2			
3.3			
3.3.1-3.3.16			

**ANNEXURE B1: NORMAL SALARY SCHEDULE-INDICATING LABOUR
REGULATED RATES PER CLEANER FOR NORMAL HOURS (100% COMPLETED)**

**CONTRACT CLEANING MINIMUM WAGE PRICE SCHEDULE
(weekdays)**

#	ITEM	DESCRIPTION	AMOUNT
1	Basic monthly wage cost	R23.87 x 40 hours per week x 4.33 weeks	R 4 134,28
	Hourly rate	Hourly rate	R 23,87
	Daily rate	8 hrs per day	R 190,96
	Weekly wage cost	Hourly wage x 40 hours (week)	R 954,80
2	Leave provisions		R 541,05
	Annual leave	21 days per year	R 334,18
	Sick leave	10 days per year	R 159,13
	Family responsibility	3 days per year	R 47,74
3	Other: Employer contribution		R 728,19
	Provident fund	5.25% of monthly wage	R 125,32
	Bonus	4.33 weeks for a full 12 months	R 332,99
	UIF	1% of basiv monthly wage	R 41,34
	COID	1.6% of basic monthly wage	R 66,15
	Training levy	SDL = 1% of wage	R 41,34
	Uniform	R500 per year	R 41,67
	Severance pay	1.92% of basic monthly wage	R 79,38
4	Monthly Labour Cost (per 1 x cleaner)	A1 + A2 + A3	R 4 862,47
5	Total monthly labour cost (per total number of cleaners required)	9	R 43 762,23

TOTAL LABOUR COST FOR THE CONTRACT PERIOD OF 24 MONTHS
R _____

I, _____ hereby commit my company to pay my employees
according to the above-mentioned salary template.

Signed by: _____

Full name and surname



Capacity

IMPORTANCE NOTICE

- * Bidders must not pay anything less than the approved labour rate to its employees. Failure to comply will result in disqualification**
- * Random payslips will be requested from the cleaning personnel once contract is in place**
- * Please include the weekend and public holidays rates where applicable**

Annexure B2: Over Time Salary schedule-indicating labour regulated rates per cleaner for night shift (100% Completed)

CONTRACT CLEANING MINIMUM WAGE PRICE SCHEDULE (overtime)

#	ITEM	DESCRIPTION	AMOUNT
1	Basic monthly wage cost	R23.87 x 40 hours per week x 4.33 weeks	R 4 134,28
	Hourly rate	Hourly rate	R 23,87
	Daily rate	8 hrs per day	R 190,96
	Weekly wage cost	Hourly wage x 40 hours (week)	R 954,80
2	Saturday rate	6 hrs x R23.87 = R137.04 x 4.33 weeks	R 620,14
3	Sunday rate	9 hrs x R23.87 = R205.56 x 4.33 weeks	R 930,21
4	Leave provisions		R 541,05
	Annual leave	21 days per year	R 334,18
	Sick leave	10 days per year	R 159,13
	Family responsibility	3 days per year	R 47,74
5	Other: Employer contribution		R 739,72
	Provident fund	5.25% of monthly wage	R 125,32
	Bonus	4.33 weeks for a full 12 months	R 344,52
	UIF	1% of basiv monthly wage	R 41,34
	COID	1.6% of basic monthly wage	R 66,15
	Training levy	SDL = 1% of wage	R 41,34
	Uniform	R500 per year	R 41,67
	Severance pay	1.92% of basic monthly wage	R 79,38
6	Monthly Labour Cost (per 1 x cleaner)	A1 + A2 + A3 +A4 +A5	R 6 712,18
7	Total monthly labour cost (per total number of cleaners required	1	R 6 712,18

TOTAL LABOUR COST FOR THE CONTRACT PERIOD OF 24 MONTHS

(including all required cleaners and Supervisor)

R _____

I, _____ hereby commit my company to pay my employees according to the above-mentioned salary template.

Signed by: _____



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

Full name and surname

Capacity

IMPORTANCE NOTICE

- * Bidders must not pay anything less than the approved labour rate to its employees. Failure to comply will result in disqualification**
- * Random payslips will be requested from the cleaning personnel once contract is in place**
- * Please include the weekend and public holidays rates where applicable**

Annexure B3: Salary schedule-indicating labour regulated rates per gardener (100% Completed)

Germiston: Gardening , Grass cutting and Weed control Services

CONTRACT GARDENING MINIMUM WAGE PRICE SCHEDULE

#	ITEM	DESCRIPTION	AMOUNT
1	Basic monthly wage cost	R23.87 x 40 hours per week x 4.33 weeks	R 4 134,28
	Hourly rate	Hourly rate	R 23,87
	Daily rate	8 hrs per day	R 190,96
	Weekly wage cost	Hourly wage x 40 hours (week)	R 954,80
2	Leave provisions		R 541,05
	Annual leave	21 days per year	R 334,18
	Sick leave	10 days per year	R 159,13
	Family responsibility	3 days per year	R 47,74
3	Other: Employer contribution		R 728,19
	Provident fund	5.25% of monthly wage	R 125,32
	Bonus	4.33 weeks for a full 12 months	R 332,99
	UIF	1% of basiv monthly wage	R 41,34
	COID	1.6% of basic monthly wage	R 66,15
	Training levy	SDL = 1% of wage	R 41,34
	Uniform	R500 per year	R 41,67
	Severance pay	1.92% of basic monthly wage	R 79,38
4	Monthly Labour Cost (per 1 x cleaner)	A1 + A2 + A3	R 4 862,47
5	Total monthly labour cost (per total number of cleaners required)	4	R 19 449,88

TOTAL LABOUR COST FOR THE CONTRACT PERIOD OF 24 MONTHS
R _____

I, _____ hereby commit my company to pay my employees according to the above-mentioned salary template.

Signed by: _____

Full name and surname _____



Capacity**IMPORTANCE NOTICE**

- * Bidders must not pay anything less than the approved labour rate to its employees. Failure to comply will result in disqualification
- * Random payslips will be requested from the cleaning personnel once contract is in place
- * Please include the weekend and public holidays rates where applicable

Tenderer SHE Management System Questionnaire

NOTE: FAILURE TO FULLY (100%) COMPLY AND SUBMIT OF ANNEXURE C WILL RENDER THE BID AS BEING NON-COMPLIANT.

This questionnaire forms part of the TFR tender evaluation process. It must be completed by all Tenderer's and submitted with their tender offer. The tenderer Health and Safety (SHE) Plan must also be submitted. The objective of the questionnaire is to provide an overview of the status of the Tenderer's SHE management system. Tenderers will be required to verify their responses noted in their questionnaire by providing evidence of their ability and capacity in relevant matters. The tenderer warrants that the information provided below is accurate and correct.

TFR may verify the accuracy of this information during the physical visit as part of the tender evaluation.

The information provided in this questionnaire is an accurate summary of the company's occupational health and safety management system.		
Company Name:		
Signed:	Name:	
Position:	Date:	
Tender Description:		
Tender Number:		
Tenderer SHE Management System Questionnaire	Yes	No
1. SHE Policy		
- <i>Is there a written company SHE policy?</i>		
- If yes provide a copy of the policy		
2. SHE Management		
- <i>Does the company have an independently audited or accredited SHE Management system e.g. NOSA, OHSAS, IRCA System etc.</i>		
- If yes provide details or copy of accreditation		
3. SHE Organogram		

- Is there a company organogram indicating key SHE personnel? - If yes provide a copy		
4. Letter of good standing with COID		
- Is company registered with the Compensation Commissioner under the COID Act and up to date? - If yes provide proof of letter of good standing		
5. SHE Cost		
- Has the tenderer made provision for the cost of safety in the tender price? If yes provide evidence		
6. Training Records		
- Is a record maintained of all training and induction programs undertaken for employees in your company? - If yes provide examples of safety training records		
7. Health and Safety Plan (SHE Plan) Are the following arrangements included and adequately addressed in the Health and Safety Plan:		
- Are SHE responsibilities clearly identified for all levels of Management and employees? - If yes provide details		
- Are Risk Assessments conducted and appropriate techniques used? - If yes provide details or copy of procedure		
- Are safe operating procedures or specific safety instructions relevant to its operations available? - If yes provide a summary listing of procedures or instructions		
- Description on how health and safety training is conducted in your company: -If yes provide details		
- Health and safety inspections at worksites undertaken?		

- If yes provide details		
- Health and Safety Communication i.e Safety talks, incident recalls?		
- If yes provide details		
- Workplace SHE Committee?		
- If yes provide details		
- Appointment of SHE Representatives?		
- If yes provide details		
- SHE Incident Reporting and Investigation?		
- If yes provide details		
- Provision of Personal Protective Equipment (PPE)?		
- If yes provide details		
- Emergency Planning?		
- If yes provide details		
- Fall Protection?		
- If yes provide details		
- Project Security?		
- If yes provide details		
- Medical Surveillance?		
- If yes provide details		
- Substance abuse policy/procedure/testing?		
- If yes provide details		
- Selection, Procurement and management of Subcontractors?		
- If yes provide details		

- Operational Safety? - If yes provide details		
- Is there a system for recording and analysing health and safety performance statistics including injuries and incidents? - If yes provide details		
8. Health and Safety Violations		
- Has the company been fined or convicted of an occupational health and safety offence? - If yes provide details		

Safety Performance Report

Monthly DIFR for previous months

Previous Year	No of Disabling Injuries	Total Number of employees	DIFR calculated over 12 months
Jan			
Feb			
Mar			
Apr			
May			
Jun			
Jul			
Aug			
Sep			
Oct			
Nov			
Dec			



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

DIFR = Number of Disabling injuries x 200000 divided by number of man-hours worked for the period

=====

Signed (Tenderer)

Introduction

This Safety, Health and Environmental (SHE) specification is Transnet Freight Rail (TFR) minimum requirements to be met by the Contractor when performing work for or on behalf of TFR. They set out the requirements to be followed by the Contractor and subcontractors so that the health and safety of all people's potentially at risk may receive the same priority as other facets of the project.

The Contractor shall **develop a SHE plan and prepare a SHE file** based on these requirements, risk assessment as well as all the relevant applicable legislation. The Contractor shall remain accountable for the quality and execution of his health and safety programme for his employees. This specification in no way releases the Contractor from compliance with the relevant legislation.

Purpose

The purpose of this specification is to ensure that the The Contractor provides and maintains, as far as reasonably practicable a safe working environment for all employees and the public whilst performing work for or on behalf of TFR.

This specification forms an integral part of the contract, and the Contractor shall forward this specification to all its subcontractors at the bidding stage so that they can in turn prepare health and safety plans relating to their operations

Scope and Application

This specification is applicable to all contractors, suppliers and all activities and processes carried out for or on behalf of Transnet Freight Rail. The Specification defines the strategies to manage Health and Safety and is a compliance document drawn up in terms of the Occupational Health and Safety Act 85 of 1993 and Construction Regulations, February 2014.

This specification shall also apply to any subcontractors as employers in their own right. The Contractor shall furnish the TFR Contract Representative with full particulars of such subcontractors and shall ensure that they comply with the OHS Act and Regulations and TFR's safety requirements and procedures.

Every effort has been made to ensure that this specification document is accurate and adequate in all respects. Should it however, contain any errors or omissions they may not be considered as grounds for claims under the contract for additional reimbursement or extension of time, or relieve the Principal Contractor from his responsibilities and accountability in respect of the project to which this specification document pertains. Any such inaccuracies, inconsistencies and/or inadequacies must immediately be brought to the attention of the TFR Contract Representative or Client Agent.



General

The Contractor and Transnet Freight Rail are individual employers, each in its own right, with their respective duties and obligations set out in the Occupational Health and Safety Act, Act 85 of 1993 (herein referred as the OHS Act) and applicable Regulations.

- 4.1 The Contractor accepts, in terms of the General Conditions of Contract and in terms of the OHS Act, his obligations as an employer in respect of all persons in his employ, other persons on the premises or the Site or place of work or on the work to be executed by him, and under his control. The Contractor shall, before commencement with the execution of the contract work, comply with the provisions set out in the OHS Act, and shall implement and maintain a SHE Plan approved by Transnet Freight Rail, on the Site and place of work for the duration of the contract.
- 4.2 The Contractor accepts his obligation with complying to the OHS Act and applicable Regulations notwithstanding the omission of some of the provisions of the OHS Act and the Regulations from his document.
- 4.3 Transnet Freight Rail accepts, in terms of the OHS Act, its obligations as an employer of its own employees working on or associated with the site or place of work, and the Contractor and TFR Contract Representative or his deputy shall at all times, co-operate in respect of the health and safety management of the site, and shall agree on the practical arrangements and procedures to be implemented and maintained during execution of the works
- 4.4 In the event of any discrepancies between any legislation and this specification, the applicable legislation will take precedence.

5. Section 37(2) Agreements

- 5.1 Transnet Freight Rail and the Contractor shall enter into an agreement in terms of section 37(2) of the Occupational Health and Safety Act to the arrangements and procedures between them to ensure compliance by the Contractor with the provisions of the OHS Act.
- 5.2 The agreement shall be completed and signed by the Contractor mandated representative as soon as possible and returned to the relevant TFR Project Manager / TFR Contract Representative for his/her signature on behalf of TFR.
- 5.3 The Contractor shall enter into a Section 37(2) Agreement with their respective sub-contractors. Signed copy of such agreement must be kept on the Contractor's SHE file.

6. Definitions

- 6.1 In this Specification the definitions as listed in the Occupational Health and Safety Act 85 of 1993 and Construction Regulations, 2014 shall apply, unless the context otherwise indicates: -
- 6.2 **"Competent Person "**means a person who —
has in respect of the work or task to be performed the required knowledge, training and experience and, where applicable, qualifications, specific to that work or task: Provided that where appropriate qualifications and training are registered in terms of the provisions of the National Qualification Framework Act, 2000 (Act No.67 of 2000), those qualifications and that training must be regarded as



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

the required qualifications and training; and is familiar with the Act and with the applicable regulations made under the Act;

6.3 **"Contractor"** means an employer who performs work for or on behalf of TFR,

6.4 **"Fall Protection Plan "**means a documented plan, which includes and provides for-

- a) All risks relating to working from a fall risk position, considering the nature of work undertaken;
- b) The procedures and methods to be applied in order to eliminate the risk of falling; and
- c) A rescue plan and procedures

6.5 **"Safety, Health and Environmental (SHE) File"** means a file or other record in permanent form, containing the information required to be kept on site in accordance with the OHS Act and applicable Regulations;

6.6 **"Safety, Health and Environmental (SHE) plan"** means a site, activity or project specific documented plan in accordance with the client's health and safety specification;

6.7 **"Risk Assessment"** means a programme to determine any risk associated with any hazard at a work site, in order to identify the steps needed to be taken to remove, reduce or control such hazard;

6.8 **"TFR"** means Transnet Freight Rail, a division of Transnet SOC Ltd (Registration No. 1990/000900/06), a public company incorporated in accordance with the company laws of the Republic of South Africa

6.9 **"TFR Contract Representative"** TFR employee appointed to liaise with the contractor to ensure that the specifications of the contract are met (with special emphasis on safety, technical specifications, inspection of quality and quantity of work). It includes a Technical Officer, Security Depot Manager, Senior Protection Officer, Leading Protection Officer, Maintenance Supervisor's etc.

7. **SHE Policy**

7.1 The Contractor shall submit a Safety, Health and Environmental Policy signed by their Chief Executive Officer. The Policy must outline objectives and how they will be achieved and implemented by the Contractor.

8. Letter of Good standing

- 8.1 The Contractor shall submit proof of registration and Letter of Good Standing with the compensation fund or with a licensed compensation insurer as contemplated in the Compensation for Occupational Diseases Act , 1993 (Act No. 130 of 1993) for his company and each of his sub-contractors’.
- 8.2 No Contractor may do any work for TFR without a valid letter of good standing. The Contractor must ensure that the Letter of Good Standing remains valid for the duration of the contract period.
- 8.3 The letter of good standing must reflect the name of the Contractor, registration number and expiry date.

9. Management and Supervision

- 9.1 The Contractor shall submit a SHE organogram outlining the site SHE management structure including a Supervisor and other relevant appointments/competent persons or the intended appointments where such appointments have not been made.
- 9.2 The Contractor shall, in accordance with the OHS Act and applicable Regulations, make all the necessary appointments of competent persons in writing. Copies should also be retained on the SHE file.
- 9.3 Person responsible to perform cleaning duties are appointed in writing. (Attachment letter 1.14.1 form attached as an example).

10. SHE Committee Meetings and SHE Representatives

- 10.1 The Contractor shall appoint SHE Representative/s in writing after consultation with employees and ensure that they are trained in performing their duties.
- 10.2 SHE Representatives duties shall include inspections of the workplace, taking part in incident investigations, risk assessments, attending SHE Committee meetings etc. Records of monthly inspections of SHE Representatives must be kept on the SHE file.
- 10.3 The number of SHE Representatives appointed shall be on ratio of 1 SHE Representative per 50 employees.
- 10.4 The Contractor must ensure that a SHE Committee meeting is held monthly and minutes of such meeting shall be recorded and records kept on the SHE file. The Contractor representative and appointed SHE representatives shall attend the monthly SHE Committee meeting.
- 10.5 The TFR Contract Representative or his deputy may attend meetings of the Contractor's health and safety committee as an observer.

11. SHE Audits, Inspections and Contractor Monthly Reports

- 11.1 The TFR Contract Representative or his deputy shall ensure that the Contractor SHE Plan is audited at intervals mutually agreed to between them, but at least once every month to ensure that the SHE Plan is implemented and maintained.



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

- 11.2 TFR Safety Officers / Specialists shall at all reasonable times be allowed access to the work sites, the Contractor site offices and tool-sheds to inspect the Contractor and its subcontractor's tools, equipment, registers and workplace.
- 11.3 Should any non-compliances or contraventions to the TFR safety requirements, legal requirements, this specification or the principal contractor's SHE Plan be identified, such non-compliances or contraventions shall be rectified by the contractor at its cost immediately or within a period specified by the TFR Contract Representative, his deputy, or TFR Safety Officers / Specialists.
- 11.4 Should the Contractor refuse or fail to rectify such non-compliances or contraventions, TFR may take remedial action at the Contractor cost as it may deem necessary to ensure the health and safety at the TFR sites at all times.
- 11.5 TFR reserves the right to conduct safety audits without prior warning.
- 11.6 The Contractor shall provide a monthly safety performance report as required by TFR.
- 1.7 The Monthly safety performance report shall be compiled in terms of Annexure 1 or in any format that the Contractor has as long as it includes all items listed in Annexure 1.
- 11.8 The Contractor shall ensure that ablution facilities are inspected on a monthly basis by the Contractor Supervisor or other person so appointed to perform such inspections (Attachment 1.14.2 form attached as an example) and proof of inspections be submitted to TFR Contract Representative in order to ensure deviations are corrected accordingly.

12. Training, Competence and Awareness

12.1 Induction Training

- 12.1.1 The Contractor shall ensure that all his employees undergo a TFR SHE Induction with regard to the general hazards prevalent on the site, rules and regulations, and other related aspects before commencing work. It is the responsibility of the Contractor to inform TFR whenever new employees are appointed after the initial induction was conducted.
- 12.1.2 In addition to the TFR SHE induction, it is the responsibility of the Contractor to develop and implement a site specific SHE Induction programme, a job specific induction programme and a general employee SHE awareness programme, to develop awareness amongst employees on the generic SHE issues associated with the scope of work and the specific environmental issues in question.
- 12.1.3 The Contractor shall ensure that all visitors and suppliers to the site undergo and comply with Contractor site-specific safety induction requirement prior to being allowed access to site. All visitors and suppliers shall sign the attendance register.
- 12.1.4 All visitors and suppliers shall wear the necessary personal protective equipment whilst on site and shall remain in the care of the host who understand the scope of work and associated risks.
- 12.1.5 The Contractor shall maintain comprehensive attendance records of SHE induction training on the SHE file.

12.2 Competency / Training



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

- 12.2.1 The Contractor must ensure that all his employees are adequately trained to perform the tasks allocated to them and that there is the requisite amount of supervision at all times to maintain safe work practices and standards.
- 12.2.2 The Contractor shall identify training requirements of employees whose work may have a significant impact on their health and safety or that might create a significant impact upon the environment and ensure that these employees will receive appropriate training. A Training matrix shall be used as a mechanism to manage and control the training of employees.
- 12.2.3 The Contractor shall identify all training needs and incorporate the site specific training into the SHE plan.
- 12.2.4 The Contractor shall be required to ensure that before an employee commences work on the contract that the supervisor in control with responsibility for the employee has informed the employee of his scope of authority and any hazards associated with the work performed. This will include man-job specifications, the discussion of any standard task procedures or hazardous operational procedures to be performed by the employee
- 12.2.5 The Contractor is to ensure that the supervisor has satisfied himself that the employee is conversant with all hazards associated with any work to be performed by conducting task observations.
- 12.2.6 The Contractor must ensure that certificate/s of competence where applicable is/are provided in the SHE File.

12.3 Awareness Training

- 12.3.1 Awareness training required shall be identified for all employees on the project using the SHE Policy, the SHE Plan, risk assessment, the SHE programmes and procedures.
- 12.3.2 The Contractor shall have a daily safety talk. This talk shall include subcontractor employees.
- 12.3.3 The talk must be brief and concise. Subject topics should be applicable to the job at hand, incidents, accidents and up-and-coming work will be discussed along with suggestions and comments. These meetings can be used as a training meeting with the central idea of educating employees.

13. Health and Safety Plan (SHE Plan)

- 13.1 Potential Contractor submitting tenders shall submit with their tender, a Health and Safety Plan setting out the practical arrangements and procedures to be implemented by him to ensure compliance by him with the OHS Act and Regulations, this SHE specification and particularly in respect of: -

The provision, as far as is reasonably practical, of a working environment that is safe and without risk to the health of his employees in terms of section 8 of the OHS Act;

- the execution of the contract work in such a manner as to ensure in terms of section 9 of the OHS Act that persons other than those in the Contractor's employment, who may be directly affected by the contract work are not thereby exposed to hazards to their health and safety;
- ensuring, as far as is reasonably practical, in terms of section 37 of the OHS Act that no employee or subcontractor of the Contractor does or omits to do any act which would be an offence for the Contractor to do or omit to do.

- 13.2 The Contractor Health and Safety Plan shall be based on a risk assessment in respect of the hazards to health and safety of his employees and other persons under his control that are associated with or directly affected by the Contractor's activities in performing the contract work and shall establish precautionary measures as are reasonable and practical in protecting the safety and health of such employees and persons.
- 13.3 The SHE Plan shall include full particulars in respect of: -
- Safety Management Structure arrangements i.e. Appointments to be done and how;
 - SHE Organisation arrangements i.e. SHE Committees, SHE Audits, Findings and Corrective Actions
 - (a) Risk Management i.e. Risk Assessment frequencies, methodology
 - (b) Education and Training i.e. safety induction, site / job specific training arrangements
 - (c) Emergency Planning
 - (d) Health and Safety Communication i.e. Toolbox talks, incident recall
 - (e) Safe working methods and procedures to be implemented i.e. safe work procedures, task observation
 - (f) Fall Protection Plan i.e. documented plan, training/competency, medical surveillance, rescue plan
(applicable if working at fall risk position/ working at heights)
 - (g) Personal Protective Equipment and Clothing
 - (h) Project Security i.e. site access control and security **(if applicable)**
 - (i) SHE Costs (declaration that adequate provision for cost of health and safety have been made in tender price.)
 - (j) Occupational Health i.e. Medical Surveillance, First Aid, Welfare Facilities, Substance Abuse testing, Noise, Vibration, Manual Handling, Ergonomics etc.
 - (k) Environmental management
 - (l) Incident Management i.e. reporting and investigation
 - (m) Operational Control
 - (n) Review plan of the SHE Plan
- 13.5 The Contractor shall submit a final SHE Plan after awarding of the contract which shall be subject to the TFR Contract Representative's approval and he may, in consultation with the Contractor, order that additional and/or supplementary practical arrangements and procedures be implemented and maintained by the Contractor or that different working methods or safety equipment be used or safety clothing be issued which, in the TFR Contract Representative's opinion, are necessary to ensure full compliance by the Contractor with his obligations as an employer in terms of the OHS Act and Regulations.



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

- 13.6 The Contractor shall approve the SHE Plan of the subcontractor and further take reasonable steps to ensure that each subcontractor's SHE Plan is implemented and maintained on the site: Provided that the steps taken, shall include periodic audits at intervals mutually agreed to between them, but at least once every month.
- 13.7 The Contractor shall stop any subcontractor from executing any work, which is not in accordance with the Contractor's, and/or sub-contractor's SHE Plan for the site or which poses a threat to the health and safety of persons.
- 13.8 The Contractor shall ensure that a copy of the SHE Plan is available on site for inspection by an inspector, TFR Contract Representative, agent, subcontractor, employee, registered employee organisation, health and safety representative or any member of the health and safety committee.

14. Hazards Identification and Potential Hazardous Situations

- 14.1 The Contractor shall ensure a risk assessment is carried out by a competent person, appointed in writing, before commencement of any work and reviewed during the duration of the contract period. The Risk Assessments shall form part of the Health and Safety Plan to be applied on the site and shall include at least the following:
- The identification of the risks and hazards (including ergonomic risks) that persons may be exposed to;
- (b) The analysis and evaluation of the hazards identified;
 - (c) A documented plan, including safe work procedures to mitigate, reduce or control the; risks identified;
 - (d) A monitoring and
 - (e) Review plan
- 14.2 Person conducting such risk assessment use a documented method to analyse and evaluate identified risk and hazards.
- 14.3 The Contractor shall consult with the health and safety committee or, if no health and safety committee exists, with a representative group of employees, on the development, monitoring and review of the risk assessment.
- 14.4 The risk assessment shall be reviewed when there are changes to the operations that may affect the health and safety of persons and may be detrimental to the environment or after an incident.
- 14.5 The Contractor shall ensure that all employees are to be informed, instructed and trained regarding any risks, hazard and related safe work procedures by a competent person as outlined in the risk assessment prior to commencement of work and thereafter at predetermined intervals as outlined in the monitoring plan. Proof of such training shall be kept on the SHE file
- 14.6 The risk assessment shall be available on site for review. Where a risk assessment is not readily available or not communicated to Contractor employees, the activities shall be stopped until such time the Contractor complies.
- 14.7 The Contractor and the TFR Contract Representative shall immediately notify one another of any hazardous or potentially hazardous situations which may arise during performance of the contract.



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

- 14.8 The Contractor shall be required to analyse his scope of work and define critical activities. For each activity, a risk assessment shall be required which defines systems and safe work procedures that will be used in order to complete the activity safely.

15. Safety, Health and Environmental (SHE) File

- 15.1 The Contractor shall prepare a SHE file and submit to TFR Contract Representative for approval prior to commencement of work on site. The approval time of the file is at least 5 working days.
- 15.2 The file shall include SHE Plan, risk assessment and all documentation required as per this specification, the OHS Act and applicable regulations.
- 15.3 The Contractor shall ensure that a copy of the both his SHE File as well as any sub-contractor's SHE File is kept on site and made available to an inspector of the Department of Labour, the TFR Contract Representative, or sub-contractor upon request.
- 15.4 The Contractor shall hand over a consolidated SHE file to the TFR Contract Representative upon completion of the contract.

16. Occupational Health

16.1 Medical Surveillance Programme

- 16.1.1 The Contractor shall ensure that all his and sub-contractor employees have a valid medical certificate of fitness issued by an Occupational Health Practitioner.
- 16.1.2 Medical certificate of fitness must be available and be kept in the SHE file.

16.2 Substance Abuse

- 16.2.1 The Contractor shall comply with the Transnet Substance Abuse Policy and Regulation 2A of the General Safety Regulations of the OHS Act.
- 16.2.2 No Contractor employee may possess, sell, offer to other person, use, store, manufacture, transport, distribute, or transfer drugs or alcohol during work hours, on or off TFR premises.
- 16.2.3 TFR will not tolerate substance abuse or use which put at risk the health and safety of its employees or threatens its services to our stakeholders. It is on this basis that a contractor employee will be considered unfit for work if:

He/she is subjected to alcohol screening and/or alcohol testing and is found to have alcohol in his/her breathe and/or blood;

Refuses to undergo substance screening and/or testing;

He /she produces a positive confirmatory test for any other substances, measured by sample analysis at a registered pathological laboratory and authorised by a medical practitioner; and/or

Through observation by security personnel or TFR Contract Representative, it is evident that the contractor's physical, emotional, mental or behavioural state reflects that they are intoxicated or under the influence.

- 16.2.4 Any transgression of this policy will constitute a breach of the relevant contract and may result in the termination of services/contract.



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

16.2.5 Any Contractor employee using medication that has a narcotic effect must declare before work to his / her supervisor.

16.3 First Aid requirements

- 16.3.1 The Contractor shall ensure that their employees receive prompt first aid treatment in case of injury or emergency. The Contractor must have the necessary equipment and/or facility on site for treatment of injured persons.
- 16.3.2 The Contractor shall ensure that the first aid box / boxes are available and accessible. More first aid boxes shall be provided if the risks, distance between work teams, or the working environment requires it.
- 16.3.3 Taking into account the type of injuries that are likely to occur on site, the nature of activities performed and the number of employees on site, the Contractor shall ensure that the first aid box contain suitable first aid equipment which includes at least the minimum contents as listed on Annexure 1 of General Safety Regulation (GSR).
- 16.3.4 The Contractor must ensure that trained / certificated first-aid personnel are appointed and be available on site at all times. The ratio of first aiders to employees shall be 1:50.

16.4 Asbestos Control

- 16.4.1 The Contractor shall inform the TFR Project Manager or TFR Contract Representative if during the performance of their work, asbestos or suspected asbestos containing material is found. Only Asbestos Approved Contractor can work on asbestos containing material.

16.5 Noise

- 16.5.1 The Contractor shall ensure that the requirements of the Noise Induced Hearing Loss Regulations are complied with.
- 16.5.2 The Contractor shall ensure that machinery and equipment are operated at noise levels not exceeding an equivalent level of 85-dB (A) during normal working conditions.
- 16.5.3 Where the noise levels at the Operator position or to employees working in the vicinity exceed an equivalent level of 85-dB (A) during normal working conditions, the Contractor shall take appropriate measures to reduce such levels to an equivalent level of 85-dB (A). The use of Personal Protective Equipment (PPE) should be the last resort.
- 16.5.4 All employees exposed to noise must be trained on the effects of exposure, precautionary measures to be taken to prevent exposure and the correct use of PPE.
- 16.5.5 The Contractor shall ensure that its employees comply to PPE requirements in demarcated noise zones.

16.6 Manual Handling

- 16.6.1 Contractor must reduce risk of injury due to manual handling by using mechanical assistance involving the use of mechanical aids to assist the manual handling operation. Mechanical aids such as hand-powered hydraulic hoists, specially adapted trolleys etc. can be used.



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

16.6.2 Contractor shall ensure all employees involved in manual handling are trained in good lifting techniques.

16.7 Weather precautions

16.7.1 In the event of adverse weather (high winds, flooding, storm surge, lightning etc.) or other conditions, the Contractor must institute precautionary measures to protect employees on site.

16.7.2 The Contractor shall take steps to prevent heat stroke, dehydration and exhaustion of employees as a result of exposure to excessive heat on site. Such steps may include employees taking regular breaks, consuming enough water, provision of sun brims for their hard hats and sun screen to protect them against sun burn.

16.7.3 The Contractor shall take steps to prevent hypothermia or dangerous overcooling of the body as a result of exposure to cold temperatures.

17 Incidents/Occurrences

17.1 All incidents referred to in Regulation 9 of General Administration Regulations of the OHS Act involving the contractor and his sub-contractor on TFR premises, shall be reported to the TFR Contract Representative and Department of Labour as prescribed by the OHS Act.

17.2 TFR must be forwarded with a copy of a report of any investigation, formal inquiry conducted in terms of Section 31 and 32 of the Act into any incident involving the contractor, his sub-contractor, any person or machinery under his control on TFR premises.

17.3 TFR Contract Representative must be informed of the above incidents/occurrences before the end of shift when the incident/occurrence occurred.

17.4 The Contractor shall make available its employees to attend as witnesses when required so by TFR during an investigation into any incident where TFR believes the said contractor employees were witnesses or may assist in the investigation.

17.5 The Contractor shall make available to TFR any documents required to assist in their investigation.

18. SHE Cost

18.1 The Contractor shall ensure that it has made adequate provision for the cost of health and safety measures in the tender offer. The Contractor must ensure that his tender price is inclusive of the cost of health and safety as they will not be invoiced separately.

18.1 The Contractor shall ensure that its sub-contractors have made adequate provision for the cost of health and safety measures in the tender offer.

19. Personal Protective Equipment (PPE)

19.1 The Contractor shall ensure that all employees are provided with appropriate Personal Protective Equipment (PPE), free of charge, suitable for the type of activities that the employees will perform.



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

19.2 Such PPE shall be approved by credible institution such as SABS, EN, or AN.

19.3 The Contractor shall manage the issuing of PPE and ensure that PPE is used at all times. Employees shall be trained in the proper use of PPE.

20. Emergency Evacuation Plan and Procedure

20.1 The Contractor must establish and implement an emergency evacuation plan to ensure that in the event of fire, explosion structural collapse etc. all staff is able to evacuate the area to a demarcated areas for the purpose.

20.2 The area so selected must be demarcated and the relevant "Assembly Point" sign displayed where applicable or use TFR nearest assembly point.

20.3 An Emergency Evacuation Procedure must be drawn up; all staff members and contractors shall be given awareness training and participate in regular evacuation drills.

20.4 The Contractor and its employees shall collaborate and adhere to TFR evacuation drills and requirements.

21. Access Control and Security

21.1 The Contractor shall, before commencing any work, obtain from the TFR Contract Representative, a Site Access Certificate executed and signed by him or the relevant TFR personnel, permitting and limiting access to the designated site or place of work by the Contractor.

21.2 The Contractor must assess the security risks and implement appropriate measures. All contractors are to strictly adhere to all security requirements on the premises.

21.3 The Contractor in collaboration with the TFR Contract Representative will ensure that proper access control is in place and functional at all times onto and out of the site. A form of access control will be issued to Contractor employees who have been inducted and submitted copies of ID documents or work permits (where required).

21.4 Access Permits should be carried by a contractor employee at all time when on site. Access Permits shall be produced at the point of entry / gate.

21.5 Contractor shall ascertain from TFR Contract Representative the correct route along which their employees may proceed when coming on or going off shift and direct their employees accordingly.

22. Management of Subcontractors

22.1 The Contractor is directly responsible for the actions of his sub-contractors.

22.2 The Contractor will also be responsible for initiating any remedial action (recovery plan) that may be necessary to ensure that the sub-contractor complies with all requirements.

22.3 The Contractor shall provide any sub-contractor who is making a bid or appointed to perform work, with the relevant sections of the documented SHE specification, who would in turn provide a SHE plan for approval.



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

- 22.4 The Contractor shall carry out inspection/audits on the sub-contractor to ensure that their SHE plan is being implemented and maintained and submit audit report to TFR Representative.
- 22.5 The Contractor shall stop any sub-contractor from executing work which poses a threat to the safety and health of persons or detrimental to the environment.
- 22.6 The Contractor shall ensure that the sub-contractors appointed have the necessary competencies and resources to perform the work safely.
- 2.7 The Contractor will be required to enter into a Section 37(2) mandatory agreement between the Contractor and sub-contractor and a copy of each agreement shall be submitted to the TFR Contract Representative.

23. Environmental Management

- 23.1 The Contractor shall adhere to all instructions issued by TFR contract representative in promotion of environmental management and legal compliance.
- 23.2 The Contractor shall ensure that his or her employees are aware of the procedures to be followed when dealing with spills and leaks, which shall include notifying the relevant authorities and TFR as required in terms of National Environmental Management Act (NEMA), 1998 and National Water Act (NWA), 1998. The Contractor shall ensure that all necessary material and equipment required for use during clean-up/rehabilitation of spills and leaks are available on site at all times. Treatment, remediation and/or rehabilitation of contaminated areas shall be undertaken to the reasonable satisfaction of the TFR Environmental Control Officer or relevant Environmental Specialist.
- 23.3 The Contractor must notify the TFR Contract representative immediately of any pollution incident. An incident record system shall be maintained on site for inspection by TFR and relevant authorities.
- 23.4 All vehicles and equipment's shall be kept in good working condition. All leaking equipment's shall be repaired immediately or removed from site. All vehicles and equipment shall be maintained and not emit excessive noise.
- 23.5 Transportation, handling and storage of all substances classified as hazardous must comply with the provisions of the Hazardous Substances Act, 15 of 1973, relevant Regulations and SANS Codes.
- 3.6 No on-site burying or dumping of waste material shall occur. Waste must be collected by a licensed waste transporting contractor and disposed of at a licensed disposal site. Disposal certificate must be made available to TFR on request.

4. Operational Safety

24.1 Cleaning Programme

- 22.2.5 Cleaning programme is compiled and made available to TFR Contract Representative (Attachment 1.14.3 form attached as an example). Copy of cleaning programme be available on the SHE File.

24.2 Vehicle Safety

With respect to vehicles, the Contractor must ensure that:



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

- 24.2.1 They are of an acceptable design and construction, are maintained in a good working order and are used in accordance with their design and the intention for which they were designed.
- 24.2.2 Are operated by a person who has received appropriate training, is certified competent and in possession of proof of competency and is authorised in writing to operate such vehicle.
- 24.2.3 Are operated by a person who has a medical certificate of fitness to operate those vehicle, issued by an Occupational Health Practitioner.
- 24.2.4 Vehicles used to transport employees have seats firmly secured and adequate for the number of employees to be carried. No employees will be allowed to be transported at the back of LDV's / bakkies unless it is provided with a seat and safety belt and further that the risk assessment has indicated it to be a low risk.
- 24.2.5 Vehicles are fitted with structures designed to protect the Operator from falling material or from being crushed should the vehicle overturn.
- 24.2.6 Vehicles must be inspected by the authorised Operator or driver on a daily basis using a relevant checklist prior to use and that the findings of such inspection are recorded in a register kept in the vehicle.
- 24.2.7 Tools, material and equipment are secured and separated by means of a physical barrier in order to prevent movement when transported in the same compartment with employees.
- 24.2.8 Those working or operating on public roads comply with the requirements of the National Road Traffic Act, 1996.

24.3 Housekeeping and general safeguarding

- 24.3.1 Contractor must ensure that good housekeeping practices are continuously implemented on each work site
- 24.3.2 The Contractor must ensure proper storage of materials and equipment and the removal of scrap, waste and debris at appropriate intervals.
- 24.3.3 The Contractor must ensure that materials required for use, are not placed on the site so as to obstruct means of access to and egress from workplaces and passageways
- 24.3.4 The Contractor must ensure that materials which are no longer required for use do not accumulate on and are removed from the site at appropriate intervals.

24.4 Hazardous Chemical Substances (HCS)

- 24.4.1 The Contractor must ensure that all employees exposed to hazardous chemicals are trained on the potential source of exposure, potential risk to health caused by exposure and measures to be taken by the contractor and employees against any risk of exposure.
- 24.4.2 HCS risk assessment to be conducted and where it indicates that any employee may be exposed, the contractor shall ensure that monitoring is carried out in terms of regulation 6 and 7 of the Hazardous Chemical Substances Regulations.



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

24.4.3 Employees exposed to hazardous substances shall be under medical surveillance.

24.4.4 The Contractor shall have a list of all hazardous chemicals used for cleaning and copies of each chemical's Material Safety Data Sheet (MSDS). Copies of such a list and MSDS's shall be available in the SHE File.

24.4.5 The Contractor shall ensure that all employees are trained in the use of cleaning materials according to the manufacturer's specification and MSDS. Proof of training must be recorded on register (Attachment 1.14.4 form attached as an example).

24.5 Stacking and Storage

24.5.1 The Contractor shall ensure that a competent person is appointed in writing with the duty of supervising all stacking and storage of material.

24.5.2 Storage areas provided for the safekeeping of equipment and material are demarcated as storage areas and are kept neat and under control.

24.6 Fire Precautions

24.6.1 The Contractor must ensure that all appropriate measures are taken to avoid the risk of fire. Work areas are clear, at all times, of any material, which could fuel a fire, combustible materials do not accumulate, oily rags, waste and other substances liable to ignite are without delay removed to a safe place.

24.6.2 Sufficient and suitable storage is provided for flammable liquids, solids and gases.

24.6.3 In confined spaces and other places in which flammable gases, vapours or dust can cause danger only suitably protected electrical installations and equipment, including portable lights, are used, there are no flames or similar means of ignition and adequate ventilation is provided.

24.6.4 A thorough inspection is made of the area at the end of any working period to ensure that no material is left at the work site or any situation left in such a manner that a fire or accident could result (all machines to be turned off at main switches, and cylinders to be closed and hoses deflated).

24.6.5 Sufficient number of employees are trained in the use of fire extinguishing equipment.

24.6.6 There is an effective evacuation plan providing for all persons to be evacuated speedily without panic.

24.6.7 The Contractor must ensure that fire-fighting equipment is not used for any purpose other than their intended use.

24.7 General Machinery, Tools and Equipment

24.7.1 The Principal Contractor shall ensure that all machinery, tools and equipment are identified, numbered or tagged, listed on an inventory list.

24.7.2 The Principal Contractor shall ensure that all machinery, tools and equipment are safe to be used and is maintained in a good condition.



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

24.7.3 The Principal Contractor shall ensure that all machines driven by means of belts, gear wheels, chains and couplings shall be adequately guarded in such a manner that persons cannot gain inadvertent access to the moving parts.

24.7.4 All machinery, tools and equipment to be regularly inspected at least monthly or as required by legislation and risk assessments. Records of such inspections shall be kept on the SHE file.

24.7.5 Where applicable machinery, tools and equipment must have the necessary approved test or calibration documentation.

24.7.6 The Principal Contractor shall ensure that all machinery, tools and equipment are operated by persons who have been trained to operate such machinery, tools or equipment.

24.8 SHE Signage (Symbolic Safety Signs) on plant and in buildings

24.8.1 The Contractor employees shall comply with all SHE signage posted at various locations of TFR sites.

24.8.2 The Contractor shall provide "wet floor signage" to warn others when cleaning floors where there is a risk that persons may slip as a result of the wet floor.

24.9 Electrical Equipment

The Contractor must ensure that:

24.9.1 Connections are not made to any power supply without the prior written approval of the TFR Contract Representative.

24.9.2 All electrical machines and appliances provided by the Contractor for his own use on the site are in a serviceable condition

24.9.3 Power tools used on the Site are protected by residual current devices approved by TFR Contract Representative and are double insulated.

24.9.4 All extension cords, portable tools and electrical plant supplied at a voltage above 32 volts are inspected, tested and tagged by a Licensed Electrician at regular monthly intervals. Details of inspections and tests are kept in Log Books available for inspection by the TFR Contract Representative or any other authorised Officer of TFR.

24.9.5 Portable lights have adequate stability and are fitted with a mechanical guard to protect the lamp. Temporary festoon lighting is of the 'double insulated' type and is supported at least 2.5m above the floor, if possible. Hand lamps are of the 'all insulated' type.

24.9.6 All temporary light fittings are supplied from more than one final sub-circuit, with the supply from a residual current device, extra low voltage source or an isolating transformer.

24.9.7 The Contractor must obtain approval from the TFR Contract Representative before any of his employees or Sub-contractors commence work within three (3) metres of conductor rails or high tension wires, or where there is a possibility of equipment coming close to and/or touching a power source, and must provide suitable protective insulating barriers. For the erection of scaffolding, the distance is five (5) metres.



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

- 24.9.8 Only authorised persons may enter Electrical Contactor Houses, Electrical Sub-stations, Motor Rooms, Switch Rooms, Control Rooms or Cable Ducts. Should the Contractor require entering such places to carry out work, he must first obtain permission from the TFR Contract Representative and obtain a valid Permit to Work.
- 24.9.9 Electrical equipment supply cabling distribution boards, fixed lighting and portable appliances, extension leads, welding machines, compressors, pumps and hand portable tools are inspected on a monthly basis and also by the user daily before use.
- 24.9.10 Such monthly inspection(s) are to be performed by an appropriately qualified Electrician.

25. Confidentiality

- 25.1 The Contractor must, at all times, consider all data or information given to him or that is required in connection with the work of the Company, as confidential and not make unauthorized use of it.
- 25.2 He/she must ensure that such data or information is not given to any non-employee of the contractor without written consent of the TFR Project Manager.
- 25.3 The Contractor shall be aware of the confidentiality of the mentioned information and is compelled to treat it accordingly.
- 25.4 The contractor must provide adequate physical protection for any confidential documents, etc., which were obtained from TFR in connection with the contract work as well as any copies made thereof.

**ANNEXURE D****SERVICE PROVIDERS MONTHLY SHE REPORT**

For Month/Year		Name of Contractor		
Name of Project				
Project Number	Date of Commencement	Date of Completion		
Number of employees	Man-hours worked this Month	Cumulative (Project duration man-hours)	Man-hours Since last Lost Time Incident (LTI)	DIFR

1. Details of SHE Incidents

Incident	This Month	Cumulative(Project duration)	Short description of major/ significant incidents and preventative action taken
Number of fatalities			
Number of disabling incidents			
Number of Medical Treatment Cases			
Number of first aid Cases			
Number of near miss incidents			
Motor vehicle incidents			
Number of environmental incidents			
Positive substance abuse incidents			



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

Substandard Act/ Conditions observed			
Legal violations observed			

2. Details of SHE Meetings

Date	No of participants	Major SHE Concerns	Action taken

3. Details of Audits/Inspections

Date	Area / Facility	Findings/Recommendations	Action taken



HOAC-HO-35528: For The Provision Of Cleaning And Gardening Services At Germiston For A Period Of Twenty Four (24) Months

4. Details of any SHE Promotional activities for the month

Date	Activity	Remarks

5. Safety Communication

Month	Number of Safety talks held	Remarks

Attach separate sheets for further or other details

.....

Name of Contractor Representative

.....

Signature

.....

Date

MASTER AGREEMENT

entered into by and between

TRANSNET SOC LTD

and

.....

FOR THE SUPPLY/PROVISION OF :

.....

Agreement Number	
Commencement Date	
Expiry Date	



TABLE OF CONTENTS

1	INTRODUCTION.....	97
2	DEFINITIONS	98
3	INTERPRETATION.....	101
4	NATURE AND SCOPE	102
5	AUTHORITY OF PARTIES	102
6	DURATION/TERM AND CANCELLATION.....	103
7	RISK MANAGEMENT	103
8	TRANSNET'S OBLIGATIONS	103
9	GENERAL OBLIGATIONS OF THE SUPPLIER/SERVICE PROVIDER	103
10	SERVICE PROVIDER'S PERSONNEL [DELETE IF SERVICES ARE NOT BEING PROCURED]	106
11	SUBCONTRACTING.....	106
12	PAYMENT TO SUB-CONTRACTORS	107
13	B-BBEE AND SOCIO-ECONOMIC OBLIGATIONS	107
14	LOCAL CONTENT OBLIGATIONS.....	ERROR! BOOKMARK NOT DEFINED.
15	THE NATIONAL INDUSTRIAL PARTICIPATION PROGRAMME (NIPP).....	ERROR! BOOKMARK NOT DEFINED.
16	JOB-CREATION	ERROR! BOOKMARK NOT DEFINED.
17	PENALTIES	108
18	FEES AND EXPENSES RELATING TO SERVICES	110
19	INVOICES AND PAYMENT	111
20	PRICE ADJUSTMENTS.....	112
21	WARRANTIES APPLICABLE TO GOODS.....	113
22	WARRANTIES APPLICABLE TO SERVICES	113
23	THIRD PARTY INDEMNITY.....	115
24	INSPECTION APPLICABLE TO GOODS	ERROR! BOOKMARK NOT DEFINED.
25	DEFECTIVE GOODS	ERROR! BOOKMARK NOT DEFINED.
26	TOTAL OR PARTIAL FAILURE TO PERFORM.....	115
27	RIGHTS ON CANCELLATION.....	115
28	BREACH AND TERMINATION.....	116
29	CESSION	117
30	FORCE MAJEURE.....	117
31	PROTECTION OF PERSONAL DATA	117
32	CONFIDENTIALITY	119
33	INSURANCES	121
34	LIMITATION OF LIABILITY.....	121
35	INTELLECTUAL PROPERTY RIGHTS	122
36	NON-WAIVER	124
37	PARTIAL INVALIDITY	124
38	DISPUTE RESOLUTION	124
39	ADDRESSES FOR NOTICES	125
40	WHOLE AND ONLY AGREEMENT.....	126
41	AMENDMENT AND CHANGE CONTROL	126
42	GENERAL.....	126
43	DATABASE OF RESTRICTED SUPPLIER.....	127

SCHEDULE 1 – WORK ORDER / SCHEDULE OF REQUIREMENTS

4 INTRODUCTION

This Agreement is entered into by and between:

Transnet SOC Ltd [Registration Number 1990/000900/30] whose registered address is , Republic of South Africa [**Transnet**]

and

..... [Registration Number] whose registered address is [**the Supplier/Service Provider**].

NOW THEREFORE, IT IS AGREED:

- 4.1 Transnet hereby appoints the Supplier/Service Provider to provide, and Transnet undertakes to accept the supply of Goods / provision of Services provided for herein, as formally agreed between the Parties and in accordance with the Schedule of Requirements / Work Orders issued as a schedule to this Agreement; and
- 4.2 the Supplier/Service Provider hereby undertakes to provide the Goods/Services provided for herein, as formally agreed between the Parties and in accordance with the Schedule of Requirements issued as a schedule to this Agreement.

5 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:

- 5.1 **AFSA** means the Arbitration Foundation of South Africa;
- 5.2 **Agreement** means this Agreement and its associated schedules and/or annexures and/or appendices, and/or schedules, including the Schedule of Requirements/Work Orders, the technical specifications for the Goods/Services and such special conditions as shall apply to this Agreement, together with the General Tender Conditions and any additional provisions in the associated bid documents tendered by the Supplier/Service Provider [as agreed, in writing, between the Parties], which collectively and exclusively govern the supply of Goods / provision of Services and provision of ancillary Services by the Supplier/Service Provider to Transnet;
- 5.3 **Background Intellectual Property** means all Intellectual Property introduced and required by either Party to give effect to their obligations under this Agreement owned in whole or in part by or licensed to either Party or their affiliates prior to the Commencement Date or developed after the Commencement Date otherwise pursuant to this Agreement;
- 5.4 **Business Day(s)** means Mondays to Fridays between 07:30 and 16:00, excluding public holidays as proclaimed in South Africa;
- 5.5 **Commencement Date** means, notwithstanding the signature date of this Agreement;
- 5.6 **Confidential Information** means any information or other data, whether in written, oral, graphic or in any other form such as in documents, papers, memoranda, correspondence, notebooks, reports, drawings, diagrams, discs, articles, samples, test results, prototypes, designs, plans, formulae, patents, or inventor's certificates, which a Party discloses or provides to the other Party [intentionally or

unintentionally, or as a result of one Party permitting the representative of the other Party to visit any of its premises], or which otherwise becomes known to a Party, and which is not in the public domain and includes, without limiting the generality of the term:

- a) information relating to methods of operation, data and plans of the disclosing Party;
- b) the contents of this Agreement;
- c) private and personal details of employees or clients of the disclosing Party or any other person where an onus rests on the disclosing Party to maintain the confidentiality of such information;
- d) any information disclosed by either Party and which is clearly marked as being confidential or secret;
- e) information relating to the strategic objectives and planning of the disclosing Party relating to its existing and planned future business activities;
- f) information relating to the past, present and future research and development of the disclosing Party;
- g) information relating to the business activities, business relationships, products, services, customers, clients and Subcontractors of the disclosing Party where an onus rests on the disclosing Party to maintain the confidentiality of such information;
- h) information contained in the software and associated material and documentation belonging to the disclosing Party;
- i) technical and scientific information, Know-How and trade secrets of a disclosing Party including inventions, applications and processes;
- j) Copyright works;
- k) commercial, financial and marketing information;
- l) data concerning architecture, demonstrations, tools and techniques, processes, machinery and equipment of the disclosing Party;
- m) plans, designs, concepts, drawings, functional and technical requirements and specifications of the disclosing Party;
- n) information concerning faults or defects in Goods, equipment, hardware or software or the incidence of such faults or defects; and
- o) information concerning the charges, fees and/or costs of the disclosing Party or its authorised Subcontractors, or their methods, practices or service performance levels actually achieved;

5.7 **Copyright** means the right in expressions, procedures, methods of operations or mathematical concepts, computer program codes, compilations of data or other material, literary works, musical works, artistic works, sound recordings, broadcasts, program carrying signals, published editions, photographic works, or cinematographic works of the copyright owner to do or to authorise the doing of certain acts specified in respect of the different categories of works;

5.8 **Data** means all data, databases, documents, information, graphics, text or other material in an electronic or tangible medium which the Parties to this Agreement generate, collect, process, store or transmit in relation to their business;

- 5.9 **Designs** mean registered Designs and/or Design applications and will include the monopoly right granted for the protection of an independently created industrial design including designs dictated essentially by technical or functional considerations as well as topographies of integrated circuits and integrated circuits;
- 5.10 **Expiry Date** means ;
- 5.11 **Foreground Intellectual Property** means all Intellectual Property developed by either Party pursuant to this Agreement;
- 5.12 **ICC Incoterms** means the the latest version of commercial trade terms as published by the International Chamber of Commerce, Paris [ICC], which are otherwise referred to as purchase terms and which define precisely the responsibilities, costs and risks of the buyer [**Transnet**] and the seller [**the Supplier**]. Incoterms are only applicable to contracts involving the import or export of Goods from one country to another and for the purpose of this Agreement, if applicable, shall mean the designated Incoterm as stipulated in Schedule 1 hereto. Further details of the Incoterm [purchase terms] for this Agreement, if applicable, can be viewed at the International Business Training website - <http://www.i-b-t.net/incoterms.html>;
- 5.13 **Intellectual Property** means Patents, Designs, Know-How, Copyright and Trade Marks and all rights having equivalent or similar effect which may exist anywhere in the world and includes all future additions and improvements to the Intellectual Property;
- 5.14 **Know-How** means all Confidential Information of whatever nature relating to the Intellectual Property and its exploitation as well as all other Confidential Information generally relating to Transnet's field of technology, including technical information, processing or manufacturing techniques, Designs, specifications, formulae, systems, processes, information concerning materials and marketing and business information in general;
- 5.15 **Parties** mean the Parties to this Agreement together with their subsidiaries, divisions, business units, successors-in-title and assigns;
- 5.16 **Party** means either one of these Parties;
- 5.17 **Patents** mean registered Patents and Patent applications, once the latter have proceeded to grant, and includes a right granted for any inventions, products or processes in all fields of technology;
- 5.18 **Permitted Purpose** means any activity or process to be undertaken or supervised by a Staff member of one Party during the term of this Agreement, for which purpose authorised disclosure of the other Party's Confidential Information or Intellectual Property is a prerequisite in order to enable such activity or process to be accomplished;
- 5.19 **Price(s)** means the agreed Price(s) for the Goods/Services to be purchased from the Supplier/Service Provider by Transnet, as detailed in the Schedule of Requirements, issued in accordance with this Agreement, as amended by mutual agreement between the Parties and in accordance with the terms and conditions in this Agreement from time to time;
- 5.20 **Purchase Order(s)** means official orders issued by an operating division of Transnet to the Supplier/Service Provider for the supply of Goods or Services;

- 5.21 **Service(s)** means..... , the Service(s) provided to Transnet by the Service Provider, pursuant to the Work Order(s) in terms of this Agreement; **Service Level Agreement** or **SLA** means the processes, deliverables, key performance indicators and performance standards relating to the Goods/Services to be provided by the Supplier/Service Provider;
- 5.22 **Service Provider Materials** means all works of authorship, products and materials [including, but not limited to, data, diagrams, charts, reports, specifications, studies, inventions, software, software development tools, methodologies, ideas, methods, processes, concepts and techniques] owned by, or licensed to, the Service Provider prior to the Commencement Date or independently developed by the Service Provider outside the scope of this Agreement at no expense to Transnet, and used by the Service Provider in the performance of the Services
- 5.23 **Staff** means any partner, employee, agent, consultant, independent associate or contractor, Subcontractor and the staff of such Subcontractor, or other authorised representative of either Party;
- 5.24 **Schedule of Requirements** means Schedule 1 hereto;
- 5.25 **Subcontract** means any contract or agreement or proposed contract or agreement between the Supplier/Service Provider and any third party whereby that third party agrees to provide to the Supplier the Goods or related Services or any part thereof or material used in the manufacture of the Goods or any part thereof;
- 5.26 **Subcontractor** means the third party with whom the Supplier/Service Provider enters into a Subcontract;
- 5.27 **Tax Invoice** means the document as required by Section 20 of the VAT Act, as may be amended from time to time;
- 5.28 **Trade Marks** mean registered Trade Marks and Trade Mark applications and include any sign or logo, or combination of signs and/or logos capable of distinguishing the goods or services of one undertaking from those of another undertaking;
- 5.29 **VAT** means Value-Added Tax chargeable in terms of the VAT Act, 89 of 1991, as may be amended from time to time; and
- 5.30 **VAT Act** means the Value Added Tax Act, No 89 of 1991, as may be amended from time to time.
- 5.31 **Work Order(s)** means a detailed scope of work for a Service required by Transnet, including **timeframes**, Deliverable, Fees and costs for the supply of the Service to Transnet, which may be appended to this Agreement from time to time.

6 INTERPRETATION

- 6.1 Clause headings in this Agreement are included for ease of reference only and do not form part of this Agreement for the purposes of interpretation or for any other purpose. No provision shall be construed against or interpreted to the disadvantage of either Party hereto by reason of such Party having or being deemed to have structured or drafted such provision.
- 6.2 Any term, word or phrase used in this Agreement, other than those defined under the clause heading "*Definitions*" shall be given its plain English meaning, and those terms, words, acronyms, and phrases used in this Agreement will be interpreted in accordance with the generally accepted meanings accorded thereto.

- 6.3 A reference to the singular incorporates a reference to the plural and *vice versa*.
- 6.4 A reference to natural persons incorporates a reference to legal persons and *vice versa*.
- 6.5 A reference to a particular gender incorporates a reference to the other gender.

7 NATURE AND SCOPE

- 7.1 This Agreement is an agreement under the terms and conditions of which the Supplier/Service Provider will arrange for the supply/provision to Transnet of the Goods/Services which meet the requirements and specifications of Transnet, the delivery of which is controlled by means of Purchase Orders to be issued by Transnet and executed by the Supplier/Service Provider in accordance with this Agreement.
- 7.2 Such Purchase Orders and deliveries to Transnet shall be agreed between the Parties from time to time, subject to the terms of the Schedule of Requirements/Work Order.
- 7.3 Each properly executed Purchase Order forms an inseparable part of this Agreement as if it were fully incorporated into the body of this Agreement.
- 7.4 During the period of this Agreement, both Parties can make written suggestions for amendments to the Schedule of Requirements/Work Orders in accordance with procedures set out in clause 39 [*Amendment and Change Control*]. A Party will advise the other Party within 14 [fourteen] Business Days, or such other period as mutually agreed, whether the amendment is acceptable.
- 7.5 Insofar as any term, provision or condition in the Schedule of Requirements/Work Order conflicts with a like term, provision or condition in this Agreement and/or a Purchase Order, the term or provision or condition in this Master Agreement shall prevail, unless such term or provision or condition in this Master Agreement has been specifically revoked or amended by mutual written agreement between the Parties.
- 7.6 Time will be of the essence and the Supplier/Service Provider will perform its obligations under this Agreement in accordance with the timeframe(s) [if any] set out in the relevant schedule, save that the Supplier/Service Provider will not be liable under this clause if it is unable to meet such obligation within the time required as a direct result of any act or omission by Transnet and it has used its best endeavours to advise Transnet of such act or omission. In the event of such delay, any time deadlines detailed in the relevant schedule shall be extended by a period equal to the period of that delay.

8 AUTHORITY OF PARTIES

- 8.1 Nothing in this Agreement will constitute or be deemed to constitute a partnership between the Parties, or constitute or be deemed to constitute the Parties as agents or employees of one another for any purpose or in any form whatsoever.
- 8.2 Neither Party shall be entitled to, or have the power or authority to:
 - a) enter into an agreement in the name of the other; or
 - b) give any warranty, representation or undertaking on the other's behalf; or
 - c) create any liability against the other or bind the other's credit in any way or for any purpose whatsoever.

9 DURATION/TERM AND CANCELLATION

- 9.1 Notwithstanding the date of signature hereof, the Commencement Date if this Agreement is and the duration shall be for a [.....] year period, expiring on, unless:
- a) this Agreement is terminated by either Party in accordance with the provisions incorporated herein or in any schedules or annexures appended hereto, or otherwise in accordance with law or equity; or
 - b) this Agreement is extended at Transnet's option for a further period to be agreed by the Parties.
- 9.2 Notwithstanding clause 26 [*Breach and Termination*], either Party may cancel this Agreement without cause by giving 30 [thirty] calendar days prior written notice thereof to the other Party, provided that in such instance, this Agreement will nevertheless be applicable in respect of all Purchase Orders which have been placed prior to the date of such cancellation.

10 RISK MANAGEMENT

- 10.1 Where Transnet determines appropriate, within 2 weeks from the date of contract signature, the Parties are to meet to prepare and maintain a contract Risk Register. The Risk Register shall include a description of the risks and a description of the actions which are to be taken to avoid or reduce these risks which both Parties shall jointly determine.
- 10.2 Contract progress meetings shall be held monthly, or unless otherwise agreed between the Parties in writing. The purposes of these progress meetings shall be to capture the number of late deliverables against agreed milestones, actual costs against payment plans, performance issues or concerns, contract requirements not achieved, the status of previous corrective actions and risk management. Minutes of meetings shall be maintained and signed off between the Parties throughout the contract period

11 TRANSNET'S OBLIGATIONS

- 11.1 Transnet undertakes to promptly comply with any reasonable request by the Supplier/Service Provider for information, including information concerning Transnet's operations and activities, that relates to the Goods/Services as may be necessary for the Supplier/Service Provider to provide the Goods/Services, but for no other purpose. However, Transnet's compliance with any request for information is subject to any internal security rules and requirements and subject to the observance by the Supplier/Service Provider of its confidentiality obligations under this Agreement.
- 11.2 The Supplier/Service Provider shall give Transnet reasonable notice of any information it requires.
- 11.3 Transnet agrees to provide the Supplier/Service Provider or its Personnel such access to and use of its facilities as is necessary to allow the Supplier/Service Provider to perform its obligations under this Agreement.

12 GENERAL OBLIGATIONS OF THE SUPPLIER/SERVICE PROVIDER

- 12.1 The Supplier/Service Provider shall:
- a) respond promptly to all complaints and enquiries from Transnet;

- b) inform Transnet immediately of any dispute or complaint arising in relation to the storage or delivery of the Goods;
- c) conduct its business in a professional manner which will reflect positively upon the Supplier/Service Provider and the Supplier's/Service Provider's products/services;
- d) keep full records clearly indicating all transactions concluded by the Supplier/Service Provider relating to the delivery of the Goods/Services and keep such records for at least 5 [five] years from the date of each such transaction;
- e) obtain, and at all times maintain in full force and effect, any and all licences, permits and the like required under applicable laws for the provision of the Goods/Services and ancillary Services and the conduct of the business and activities of the Supplier/Service Provider;
- f) observe and ensure compliance with all requirements and obligations as set out in the labour and related legislation of South Africa, including the Occupational Health and Safety Act, 85 of 1993, as may be amended from time to time;
- g) observe and ensure compliance with all requirements and objectives of the Transnet Supplier Integrity Pact as agreed to in response to the RFP. The general purpose of the Supplier Integrity Pact is to agree to avoid all forms of dishonesty, fraud and corruption by following a system that is fair, transparent and free from any undue influence prior to, during and subsequent to the currency of the procurement event leading to this Agreement and this Agreement itself;
- h) comply with all applicable environmental legislation and regulations, demonstrate sound environmental performance and have an environmental management policy which ensures that its products, including the Goods/Services or ancillary Services are procured, produced, packaged, delivered and are capable of being used and ultimately disposed of in a way that is environmentally appropriate; and
- i) ensure the validity of all renewable certifications, including but not limited to its B-BBEE Verification Certificate, throughout the entire term of this Agreement. Should the Supplier/Service Provider fail to present Transnet with such renewals as they become due, Transnet shall be entitled, in addition to any other rights and remedies that it may have in terms of the Agreement, to terminate this Agreement forthwith without any liability and without prejudice to any claims which Transnet may have for damages against the Supplier/Service Provider.

12.2 The Supplier/Service Provider acknowledges and agrees that it shall at all times:

- a) render the supply of the Goods/Services and ancillary Services (if applicable) and perform all its duties with honesty and integrity;
- b) communicate openly and honestly with Transnet regarding the supply and performance of the Goods/Services and demonstrate a commitment to effecting the supply and performing ancillary Services timeously, efficiently and at least to the required standards;
- c) endeavour to provide the highest possible standards of service and workmanship, with a reasonable degree of care and diligence;
- d) use its best endeavours and make every diligent effort to meet agreed deadlines;

- e) treat its own Staff, as well as all Transnet's Staff, with fairness and courtesy and respect for their human rights;
- f) practice and promote its own internal policies aimed at prohibiting and preventing unfair discrimination;
- g) treat all enquiries from Transnet in connection with the supply of the Goods/Services and/or ancillary Services with courtesy and respond to all enquiries promptly and efficiently. Where the Supplier/Service Provider is unable to comply with the provisions of this clause, the Supplier/Service Provider will advise Transnet of the delay and the reasons therefor and will keep Transnet informed of progress made regarding the enquiry;
- h) when requested by Transnet, provide clear and accurate information regarding the Supplier's/Service Provider's own policies and procedures, excluding Know-How and other Confidential Information, except where a non-disclosure undertaking has been entered into between the Parties;
- i) not allow a conflict of interest to develop between its own interests [or the interests of any of its other customers] and the interests of Transnet;
- j) not accept or offer, nor allow, induce or promote the acceptance or offering of any gratuity, enticement, incentive or gift that could reasonably be regarded as bribery or an attempt to otherwise exert undue influence over the recipient;
- k) not mislead Transnet or its officers, employees and stakeholders, whether by act or omission;
- l) not otherwise act in an unethical manner or do anything which could reasonably be expected to damage or tarnish Transnet's reputation or business image;
- m) immediately report to Transnet any unethical, fraudulent or otherwise unlawful conduct of which it becomes aware in connection with Transnet or the supply of Goods/Services or ancillary Services to Transnet;
- n) ensure that at all times, during the currency of this Agreement, it complies with all obligations and commitments in terms of the provisions of the Income Tax Act, No 58 of 1962, the VAT Act or any other tax legislation relating to their liability for Income Tax, VAT, Pay as You Earn or any other tax. The Supplier/Service Provider shall further ensure Tax Clearance Compliance, for the duration of this Agreement;
- o) not victimise, harass or discriminate against any employee of either Party to this Agreement or any applicant for employment with either Party to this Agreement due to their gender, race, disability, age, religious belief, sexual orientation or part-time status. This provision applies, but is not limited to employment, upgrading, work environment, demotion, transfer, recruitment, recruitment advertising, termination of employment, rates of pay or other forms of compensation and selection for training.
- p) shall ensure that its employees, agents and Subcontractors will not breach any applicable discrimination legislation and any amendments and re-enactments thereof.

12.3 In compliance with the National Railway Safety Regulator Act, 16 of 2002, as may be amended from time to time, the Supplier shall ensure that the Goods/Services and ancillary Services, to be supplied to

Transnet under the terms and conditions of this Agreement, comply fully with the Specifications as set forth in Schedule 1 hereto, and shall thereby adhere [as applicable] to railway safety requirements and/or regulations. Permission for the engagement of a Subcontractor by the Supplier, as applicable, shall be subject to a review of the capability of the proposed Subcontractor to comply with the specified railway safety requirements and/or regulations. The Supplier and/or its Subcontractor shall grant Transnet access, during the term of this Agreement, to review any safety-related activities, including the coordination of such activities across all parts of its organisation.

13 SERVICE PROVIDER'S PERSONNEL

- 13.1 The Service Provider's Personnel shall be regarded at all times as employees, agents or Subcontractors of the Service Provider and no relationship of employer and employee shall arise between Transnet and any Service Provider Personnel under any circumstances regardless of the degree of supervision that may be exercised over the Personnel by Transnet.
- 13.2 The Service Provider warrants that all its Personnel will be entitled to work in South Africa or any other country in which the Services are to be performed.
- 13.3 The Service Provider will ensure that its Personnel comply with all reasonable requirements made known to the Service Provider by Transnet concerning conduct at any Transnet premises or any other premises upon which the Services are to be performed [including but not limited to security regulations, policy standards and codes of practice and health and safety requirements]. The Service Provider will ensure that such Personnel at all times act in a lawful and proper manner in accordance with these requirements.
- 13.4 Transnet reserves the right to refuse to admit or to remove from any premises occupied by or on behalf of it, any Service Provider Personnel whose admission or presence would, in the reasonable opinion of Transnet, be undesirable or who represents a threat to confidentiality or security or whose presence would be in breach of any rules and regulations governing Transnet's Personnel, provided that Transnet notifies the Service Provider of any such refusal [with reasons why]. The reasonable exclusion of any such individual from such premises shall not relieve the Service Provider from the performance of its obligations under this Agreement.
- 13.5 The Service Provider agrees to use all reasonable endeavours to ensure the continuity of its Personnel assigned to perform the Services. If any re-assignment by the Service Provider of those Personnel is necessary, or if Transnet advises that any such Personnel assigned are in any respect unsatisfactory, including where any such Personnel are, or are expected to be or have been absent for any period, then the Service Provider will promptly supply a replacement of equivalent calibre and experience, and any such replacement shall be approved by Transnet prior to commencing provision of the Services, such approval not to be unreasonably withheld or delayed.

14 SUBCONTRACTING

- 14.1 The Supplier/Service Provider may only enter into a subcontracting arrangement or replace a subcontractor with the approval of Transnet.

- 14.2 If the Supplier/Service Provider subcontracts a portion of the contract to another person without declaring it to Transnet reserves the right to penalise the Supplier/Service Provider up to 10% of the value of the contract.
- 14.3 Where the Supplier/Service Provider seeks to replace a subcontractor Transnet shall be entitled to obtain representations or input from the initial subcontractor who was part of the tender process whose credentials were used in the Supplier/Service Provider's tender submission. Transnet shall consider input from all parties concerned, in order to take a decision on the proposed replacement of the subcontractor. The subcontracting arrangement or contract remains between the Supplier/Service Provider (main contractor) and the subcontractor.
- 14.4 Should Transnet approve the Supplier's/Service Provider's subcontracting arrangement, the Supplier/Service Provider and not the Sub-contractor will at all times be held liable for performance in terms of its contractual obligations.
- 14.5 The Supplier/Service Provider 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.
- 14.6 The Supplier/Service Provider may not subcontract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level of contributor than the Supplier/Service Provider, unless the contract is subcontracted to an Exempted Micro Enterprise (EME) that has the capability and ability to execute the Subcontract.

15 PAYMENT TO SUB-CONTRACTORS

- 15.1 Transnet reserves the right, in its sole discretion, to make payment directly to the sub-contractor of the Supplier/Service Provider, subject to the following conditions:
 - a) Receipt of an undisputed invoice from the sub-contractor; and
 - b) Receipt of written confirmation from the Supplier/Service Provider that the amounts claimed by the sub-contractor are correct and that the services for which the sub-contractor has requested payment were rendered to the satisfaction of the Supplier/Service Provider, against the required standards.
- 15.2 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/Service provider to demand that Transnet pay its sub-contractor directly. The decision to pay any sub-contractor directly, remains that of Transnet alone.
- 15.3 The Supplier/Service Provider remains liable for its contractual obligations under the Agreement, including all services rendered by the sub-contractor.
- 15.4 This clause does not establish any contractual relationship between Transnet and any sub-contractor of the Supplier/Service Provider, whatsoever.

16 B-BBEE AND SOCIO-ECONOMIC OBLIGATIONS

16.1 B-BBEE Scorecard

- a) Transnet fully endorses and supports the Broad-Based Black Economic Empowerment Programme and is strongly of the opinion that all South African business enterprises have an equal obligation to redress the imbalances of the past.
- b) In response to this requirement, the Supplier/Service Provider shall submit to Transnet's Contract Manager or such other designated person details of its B-BBEE status in terms of the latest Codes of Good Practice issued in terms of the B-BBEE Act and proof thereof at the beginning of March each year during the currency of this Agreement.
- c) The Supplier/Service Provider undertakes to notify and provide full details to Transnet in the event there is:
 - (i) a change in the Supplier's/Service Provider's B-BBEE status which is less than what it was at the time of its appointment including the impact thereof; and
 - (ii) a corporate or internal restructure or change in control of the Supplier/Service Provider which has or likely to impact negatively on the Supplier's/ Service Provider's B-BBEE status.
- d) Notwithstanding any other reporting requirement in terms hereof, the Supplier Service Provider undertakes to provide any B-BBEE data (underlying data relating to the Supplier /Service Provider which has been relied upon or utilised by a verification agency or auditor for the purposes of issuing a verification certificate in respect of the Supplier/Service Provider B-BBEE status) which Transnet may request on written notice within 30 (thirty) calendar days of such request. A failure to provide such data shall constitute a Supplier/ Service Provider Default and may be dealt with in accordance with the provisions of clause 26.
- e) In the event there is a change in the Supplier's/ Service Provider's B-BBEE status, then the provisions of clause 26 shall apply.

16.2 **Green Economy/Carbon Footprint**

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

17 **PENALTIES**

17.1 **Penalties for Non-compliance to Service Level Agreement**

Where the Supplier/Service Provider fails to deliver the Goods/Services within the agreed and accepted milestone timelines and provided that the cause of the delay was not due to a fault of Transnet, penalties shall be imposed at

17.2 **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/Service Provider fails to achieve its subcontracting commitments as per their bid submission ("a **Non-Compliance**"), the Supplier/Service Provider shall pay a Non-Compliance penalty ("Non-compliance Penalty") to Transnet in respect of such Non-compliance.
- c) Such penalty shall be calculated based on the difference 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/Service Provider disputes any of the amounts set out in a Non-compliance Penalty Certificate:
 - the dispute shall be resolved in accordance with the provisions of the Agreement; and
 - if pursuant to that referral, it is determined that the Supplier/Service Provider owes any amount to Transnet pursuant to the Non-compliance Penalty Certificate, then the Supplier/Service Provider shall pay such amount to Transnet within 10 (ten) Business Days of the determination made pursuant to such determination and an accompanying valid Tax Invoice.

Payment of Non-compliance Penalties:

- f) Subject to Clause (e) above, the Supplier/Service Provider shall pay the Non-compliance Penalty indicated in the Non-compliance Penalty Certificate within 10 (ten) Business Days of Transnet issuing a valid Tax Invoice to the Supplier/Service Provider for the amount set out in that certificate. If Transnet does not issue a valid Tax Invoice to the Supplier/Service Provider for Non-compliance Penalties accrued during any relevant period, those Non-compliance Penalties shall be carried forward to the next period.
- g) The Supplier/Service Provider shall pay the amount due within 10 (ten) days after receipt of a valid Tax Invoice from Transnet, failing which Transnet shall, without prejudice to any other rights of Transnet under this Agreement, be entitled to call for payment which may be in any form Transnet deems reasonable and/or appropriate.
- h) Should the Supplier/Service Provider fail to pay any Non Compliance Penalties within the time indicated above (as applicable), Transnet shall be entitled to deduct (set off) the amount not paid by the Supplier/Service Provider from the account of the Supplier/Service Provider 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/Service Provider.

17.3 Non-compliance penalties for Job Creation

- a) Breach of job creation obligations provides Transnet cause to terminate the contract in certain cases where there is a material Non-compliance.

- b) If the Supplier/Service Provider fails to achieve its job creation commitments as per their bid submission ("a **Non-Compliance**"), the Supplier/Service Provider shall pay a Non-Compliance penalty ("Non-compliance Penalty") to Transnet in respect of such Non-compliance.
- c) Such penalty shall be calculated based on the difference between the committed and delivered jobs. For every job not created, a penalty of 2% of the contract value will be applied.

Non-compliance Penalty Certificate:

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

Payment of Non-compliance Penalties:

- f) Subject to Clause (e) above, the Supplier/Service Provider shall pay the Non-compliance Penalty indicated in the Non-compliance Penalty Certificate within 10 (ten) Business Days of Transnet issuing a valid Tax Invoice to the Supplier/Service Provider for the amount set out in that certificate. If Transnet does not issue a valid Tax Invoice to the Supplier/Service Provider for Non-compliance Penalties accrued during any relevant period, those Non-compliance Penalties shall be carried forward to the next period.
- g) The Supplier/Service Provider shall pay the amount due within 10 (ten) days after receipt of a valid Tax Invoice from Transnet, failing which Transnet shall, without prejudice to any other rights of Transnet under this Agreement, be entitled to call for payment which may be in any form Transnet deems reasonable and/or appropriate.
- h) Should the Supplier/Service Provider fail to pay any Non Compliance Penalties within the time indicated above (as applicable), Transnet shall be entitled to deduct (set off) the amount not paid by the Supplier/Service Provider from the account of the Supplier/Service Provider in the ensuing month.

The Non Compliance Penalties set forth in this Clause are stated exclusive of VAT. Any VAT payable on Non Compliance Penalties will be for the account of the Supplier/Service Provider.

18 FEES AND EXPENSES RELATING TO SERVICES

- 18.1 In consideration of the provision of the Services, Transnet will pay to the Service Provider the Fees detailed in the relevant schedule or Work Order.

- 18.2 Transnet will not be invoiced for materials used in the provision of the Services save for those materials [if any] set out in the Work Order and accepted by Transnet or in any relevant Work Order [which will be invoiced to Transnet at cost].
- 18.3 Unless otherwise agreed in a schedule or Work Order, Transnet will reimburse to the Service Provider all reasonable and proper expenses incurred directly and solely in connection with the provision of the Services, provided that all such expenses:
- a) are agreed by Transnet in advance;
 - b) are incurred in accordance with Transnet's standard travel and expenses policies;
 - c) are passed on to Transnet at cost with no administration fee; and
 - d) will only be reimbursed if supported by relevant receipts.
- 18.4 All Tax Invoices relating to Fees, out of pocket expenses and, if applicable, travel and accommodation costs, will provide the detail for each of the Personnel carrying out the Services and incurring the expenses, and the Tax Invoice will, where appropriate, include VAT as a separate item.

19 INVOICES AND PAYMENT

- 19.1 Transnet shall pay the Supplier/Service Provider the amounts stipulated in each Purchase Order/Work Order, subject to the terms and conditions of this Agreement.
- 19.2 Transnet shall pay such amounts to the Supplier/Service Provider upon receipt of a valid and undisputed Tax Invoice together with the supporting documentation, as specified in the Schedule of Requirements appended hereto, once the valid and undisputed Tax Invoices or such portions of the Tax Invoices which are valid and undisputed become due and payable to the Supplier/Service Provider for the delivery of the Goods/Services ordered, in terms of clause 19.5 below.
- 19.3 Transnet may, pending an investigation, withhold any payments to the Supplier/Service Provider, in the case where irregular expenditure has been identified in the particular contract and that there is reasonable suspicion that the Supplier/Service Provider is involved or was aware that the contract transgressed any legislation.
- 19.4 All Prices set out in this Agreement and the Schedule of Requirements hereto are to be indicated inclusive and exclusive of VAT, which will be payable at the applicable rate in ZAR.
- 19.5 Unless otherwise provided for in the Schedule of Requirements appended to this Agreement, Tax Invoices shall be submitted together with a month-end statement. Payment against such month-end statement shall be made by Transnet within 30 [thirty] calendar days after date of receipt by Transnet of the Supplier's/Service Provider's statement together with the relevant valid and undisputed Tax Invoice(s) and supporting documentation.
- 19.6 Where the payment of any Tax Invoice, or any part of a Tax Invoice which is not in dispute, is not made in accordance with this clause, the Supplier/Service Provider shall be entitled to charge interest on the outstanding amount, at The Standard Bank of South Africa's prime rate of interest in force, for the period from the due date of payment until the outstanding amount is paid.
- 19.7 The Supplier/Service Provider shall remain the owner of all plant, material, machinery, equipment and the like [collectively, **the Supplier's Goods**] provided to Transnet until Transnet has paid in full for

the Supplier's Goods, it being specifically agreed that Transnet shall acquire no rights [including liens] of whatsoever nature in such Supplier's Goods until date of final payment by Transnet. Subject to the foregoing, all risk and benefit to the Supplier's Goods shall pass from the Supplier to Transnet on delivery of the Supplier's Goods by the Supplier to Transnet.

20 PRICE ADJUSTMENTS

- 20.1 Prices for Goods/Services supplied in terms of this Agreement shall be subject to review as indicated in the Schedule of Requirements/Works Order annexed hereto.
- 20.2 No less than 2 [two] months prior to any proposed Price adjustment, the Parties shall commence negotiations for Prices for the next period or as otherwise indicated in Schedule 1 hereto. The Parties shall have regard for market-related pricing of equivalent goods, continuous improvement initiatives, costs [including labour, raw materials and transport/delivery], order size and frequency and changes to the specification of the Goods/Services.
- 20.3 Pursuant to clause 20.2 above, the Supplier/Service Provider shall keep full and accurate records of all costs associated with the supply of the Goods/Services to Transnet, in a form to be approved in writing by Transnet. The Supplier/Service Provider shall produce such records to Transnet for inspection at all reasonable times on request and such records may, at Transnet's option, be audited by Transnet or its designated representatives.
- 20.4 Should Transnet and the Supplier/Service Provider fail to reach an agreement on Price for the successive period, either Party shall be entitled to submit this matter to dispute resolution in accordance with clause 36 of the Master Agreement [Dispute Resolution].
- 20.5 If during the period of this Agreement Transnet can purchase similar Goods/Services of a like quality from another supplier at a total delivered cost to a Transnet facility that is lower than the total delivered cost of the Goods/Services purchased hereunder from the Supplier/Service Provider, Transnet may notify the Supplier/Service Provider of such total delivered cost and the Supplier/Service Provider shall have an opportunity to adjust the Price of the Goods/Services purchased hereunder, on such a basis as to result in the same total delivered cost to Transnet, within 30 [thirty] calendar days of such notice. If the Supplier/Service Provider fails to do so or cannot legally do so, Transnet may (i) purchase the Goods/Services from such other supplier in which case the obligations, including, but not limited to, any purchase and sale requirements and/or commitments, if any, of Transnet and the Supplier/Service Provider hereunder shall be reduced accordingly; (ii) terminate this Agreement without any penalty, liability or further obligation; or (iii) continue purchases under this Agreement.
- 20.6 If during the period of this Agreement the Supplier/Service Provider sells any materials which are the same as, equivalent to, or substantially similar to the Goods/Services herein, at a total delivered cost to a third party lower than the total delivered cost to a Transnet facility, then the Supplier/Service Provider has an opportunity to adjust its Price for the Goods/Services purchased hereunder within 30 [thirty] calendar days so that the Price is the same or lower than the total delivered cost of such third party. If the Supplier/Service Provider fails to do so or cannot legally do so, Transnet may (i) purchase the Goods/Services from any other such supplier, in which case the obligations, including, but not limited to, any purchase and sale requirements and/or commitments, if any, of Transnet and the Supplier/Service Provider hereunder shall be reduced accordingly; or (ii) terminate this Agreement

without any penalty, liability or further obligation. Within 30 [thirty] calendar days of the Commencement Date of this Agreement or at any time Transnet so requests, the Supplier/Service Provider shall certify in writing to Transnet that it is in compliance with this clause and shall provide all information that Transnet reasonably requests in order to verify such compliance.

21 WARRANTIES APPLICABLE TO GOODS

The Supplier warrants that:

- 21.1 pursuant to clause 12.3 [General Obligations of the Supplier], the Goods will be manufactured in accordance with the specifications appended hereto at Schedule 1, or the manufacturer's specifications, as agreed in writing by both Parties;
- 21.2 the execution and performance of this Agreement by the Supplier does not infringe any rights of a third party or breach any obligation of the Supplier to any third party; and
- 21.3 it has taken all reasonable precautions to ensure that, in the event of a disaster, the impact of such disaster on the ability of the Supplier to comply with its obligations under this Agreement will be reduced to the greatest extent possible, and that the Supplier shall ensure that it has appropriate, tested and documented recovery arrangements in place.

22 WARRANTIES APPLICABLE TO SERVICES

22.1 The Service Provider warrants to Transnet that:

- a) it has full capacity and authority to enter into and to perform this Agreement and that this Agreement is executed by a duly authorised representatives of the Service Provider;
- b) it will discharge its obligations under this Agreement and any annexure, appendix or schedule hereto with all due skill, care and diligence;
- c) it will be solely responsible for the payment of remuneration and associated benefits, if any, of its Personnel and for withholding and remitting income tax for its Personnel in conformance with any applicable laws and regulations;
- d) it will procure licences for Transnet in respect of all Third Party Material detailed in the Work Order(s), and will procure the right for Transnet to take such copies [in whole or in part] of such Third Party Materials as it may reasonably require for the purposes of back-up for archiving and disaster recovery; and
- e) the use or possession by Transnet of any Materials will not subject Transnet to any claim for infringement of any Intellectual Property Rights of any third party.

22.2 The Service Provider warrants that it will perform its obligations under this Agreement in accordance with the Service Levels as defined in the relevant schedule. Transnet may at its discretion audit compliance with the Service Levels, provided that any such audit is carried out with reasonable prior notice and in a reasonable way so as not to have an adverse effect on the performance of the Services. Without prejudice to clause 22.3 below, in the event that the Service Provider fails to meet the Service Levels, Transnet may claim appropriate service credits or invoke a retention of Fees as detailed in the relevant schedule and/or Work Order.

- 22.3 The Service Provider warrants that for a period of 90 [ninety] calendar days from Acceptance of the Deliverables they will, if properly used, conform in all material respects with the requirements set out in the relevant schedule. The Service Provider will at its expense remedy any such non-conformance as soon as possible but in any event within 30 [thirty] calendar days of notification by Transnet. In the event that the Service Provider fails or is unable to remedy such non-conformance within such time-scale, Transnet will be entitled to employ a third party to do so in place of the Service Provider and any excess charges or costs incurred by Transnet as a result shall be paid by the Service Provider.
- 22.4 The Service Provider will remedy any defect within 30 [thirty] calendar days of being notified of that defect by Transnet in writing.
- 22.5 The Service Provider will not be liable to remedy any problem arising from or caused by any modification made by Transnet to the Deliverables, or any part thereof, without the prior approval of the Service Provider.
- 22.6 The Service Provider shall advise Transnet of the effects of any steps proposed by Transnet pursuant to clause 22.5 above, including but not limited to any cost implications or any disruption or delay in the performance of the Services. The Parties agree that any changes to the Services, including the charges for the Services or any timetables for delivery of the Services, will be agreed in accordance with the change control procedure, as set out in clause 39 *[Amendment and Change Control]*.
- 22.7 The Service Provider warrants that:
- a) it has, using the most up-to-date software available, tested for [and deleted] all commonly known viruses in the Materials and for all viruses known by the Service Provider at the date of the relevant Work Order; and
 - b) at the time of delivery to Transnet, the Materials do not contain any trojan horse, worm, logic bomb, time bomb, back door, trap door, keys or other harmful components.
- The Service Provider agrees that, in the event that a virus is found, it will at its own expense use its best endeavours to assist Transnet in reducing the effect of the virus and, particularly in the event that a virus causes loss of operational efficiency or loss of data, to assist Transnet to the same extent to mitigate such losses and to restore Transnet to its original operating efficiency.
- 22.8 The Service Provider undertakes to comply with South Africa's general privacy protection in terms of Section 14 of the Bill of Rights in connection with this Agreement and shall procure that its Personnel shall observe the provisions of Section 14 [as applicable] or any amendments and re-enactments thereof and any regulations made pursuant thereto.
- 22.9 The Service Provider warrants that it has taken all reasonable precautions to ensure that, in the event of a disaster, the impact of such disaster on the ability of the Service Provider to comply with its obligations under this Agreement will be reduced to the greatest extent possible, and that the Service Provider shall ensure that it has appropriate, tested and documented recovery arrangements in place.
- 22.10 In compliance with the National Railway Safety Regulator Act, 16 of 2002, the Service Provider shall ensure that the Services, to be supplied to Transnet under the terms and conditions of this Agreement, comply fully with the specifications as set forth in Schedule 1 hereto, and shall thereby adhere [as applicable] to railway safety requirements and/or regulations. Permission for the engagement of a Subcontractor by the Service Provider [as applicable] shall be subject to a review of the capability of

the proposed Subcontractor to comply with the specified railway safety requirements and/or regulations. The Service Provider and/or its Subcontractor shall grant Transnet access, during the term of this Agreement, to review any safety-related activities, including the coordination of such activities across all parts of its organisation.

23 THIRD PARTY INDEMNITY

The Supplier/Service Provider hereby indemnifies and shall hold Transnet harmless against any direct damages suffered by or claims arising against Transnet in respect of clause 21.2 above.

24 TOTAL OR PARTIAL FAILURE TO PERFORM

24.1 In the case of Goods to be specially manufactured for it, if Transnet at any time ascertains that:

- a) no manufacturing of the Goods specified in a Purchase Order has commenced and there is little or no prospect, in Transnet's opinion, that manufacturing will commence within a reasonable time; or
- b) delivery of any of the Goods is being or is likely to be delayed beyond the promised delivery date(s), and there is little or no prospect of the Purchase Order(s) being carried out within reasonable adherence to the promised delivery rate(s) or time(s),

then Transnet may, irrespective of the cause of the delay, by notice to the Supplier, cancel as from a future date specified in such notice the whole or any part of this Agreement or Purchase Order in respect of which the Goods to be supplied have not been completed by that date, without incurring any liability by reason of such cancellation except as provided in this clause.

24.2 The Supplier/Service Provider shall thereupon, as soon as possible after such date, deliver to Transnet the Goods/Services [if any] already completed, and payment for the part performance shall be made on a pro rata basis, provided the uncompleted part is not an integral or essential part of the completed Goods/Services. Where an integral or essential part of the work has not been completed, the amount to be paid to the Supplier/Service Provider will be calculated on the basis of Transnet's enrichment. The Supplier/Service Provider shall, wherever practicable, supply Transnet with the necessary drawings and/or specifications to enable it to complete the work.

24.3 Whenever, in any case not covered by clause 24.1 above, the Supplier fails or neglects to execute the work or to deliver any portion of the Goods/Services as required by the terms of this Agreement or Purchase Order, or if any Goods/Services are rejected on any of the grounds mentioned in clause **Error! Reference source not found.** [Defective Goods], Transnet may cancel this Agreement or Purchase Order in so far as it relates to the unexecuted work or the undelivered or rejected portion of the Goods/Services, and in such event, the supply of the remaining portion shall remain subject in all respects to these conditions.

25 RIGHTS ON CANCELLATION

25.1 If this Agreement or Purchase Order is cancelled in whole or in part in terms of clause 24 [*Total or Partial Failure to Perform*], Transnet may execute or complete this Agreement with any other entity and do so on such terms as it may deem proper, or may procure other comparable Goods/Services in substitution for those neglected to be manufactured or supplied or rejected as aforesaid, and may

recover from the Supplier the difference between the cost of such Goods/Services and the Price [if the latter was lower] as well as any costs and expenses [including any additional transport costs] which Transnet may have had to incur in consequence of the Supplier's/Service Provider's default.

- 25.2 Any amount which may be recoverable from the Supplier/Service Provider in terms of clause 25.1 above, without prejudice to any other legal remedies available to Transnet, may be deducted in whole or in part from any monies in the hands of Transnet and due for payment to the Supplier/Service Provider.

26 BREACH AND TERMINATION

- 26.1 Termination in accordance with clause 9 [Term and Cancellation] shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to either Party and all provisions which are to survive this Agreement or impliedly do so shall remain in force and in effect.
- 26.2 On termination of this Agreement or a Work Order, the Service Provider will immediately deliver up, and procure that its Personnel will immediately deliver up to Transnet, all Deliverables and property belonging to Transnet [or, in the event of termination of a Work Order, such as is relevant to that Work Order] which may be in the possession of, or under the control of the Service Provider, and certify to Transnet in writing that this has been done.
- 26.3 To the extent that any of the Deliverables and property referred to in clause 26.2 above are in electronic form and contained on non-detachable storage devices, the Service Provider will provide Transnet with unencrypted copies of the same on magnetic media and will irretrievably destroy and delete copies so held.
- 26.4 In the event that this Agreement is terminated by the Service Provider under clause **Error! Reference source not found.** [Term and Cancellation], or in the event that a Work Order is terminated by Transnet under clause **Error! Reference source not found.** [Breach and Consequences of Termination], Transnet will pay to the Service Provider all outstanding Fees [apportioned on a pro rata basis] relating to the work undertaken by the Service Provider up until the date of such termination. Transnet will also pay the costs of any goods and materials ordered by the Service Provider in relation to the such work for which the Service Provider has paid or is legally obliged to pay, in which case, on delivery of such goods or materials, the Service Provider will promptly deliver such goods and materials to Transnet or as it may direct.
- 26.5 If either Party [**the Defaulting Party**] commits a material breach of this Agreement and fails to remedy such breach within 30 [thirty] calendar days of written notice thereof, the other Party [hereinafter **the Aggrieved Party**], shall be entitled, in addition to any other rights and remedies that it may have in terms of this Agreement, to terminate this Agreement forthwith without any liability and without prejudice to any claims which the Aggrieved Party may have for damages against the Defaulting Party.
- 26.6 Either Party may terminate this Agreement forthwith by notice in writing to the other Party when the other Party is unable to pay its debts as they fall due or commits any act or omission which would be an act of insolvency in terms of the Insolvency Act, 24 of 1936 [as amended from time to time], or if any action, application or proceeding is made with regard to it for:
- a) a voluntary arrangement or composition or reconstruction of its debts;
 - b) its winding-up or dissolution;

- c) the appointment of a liquidator, trustee, receiver, administrative receiver or similar officer;
 - d) any similar action, application or proceeding in any jurisdiction to which it is subject.
- 26.7 Transnet may terminate this Agreement at any time within 2 [two] months of becoming aware of a change of control of the Supplier/Service Provider by notice in writing to the Supplier/Service Provider. For the purposes of this clause, **control** means the right to direct the affairs of a company whether by ownership of shares, membership of the board of directors, agreement or otherwise.
- 26.8 Notwithstanding this clause 26, Transnet may cancel this Agreement without cause by giving 30 [thirty] calendar days prior written notice thereof to the Supplier/Service Provider, or
- 26.9 The provisions of clauses 5 [Definitions], 21 [Warranties], 25 [Rights on Cancellation], 292 [Confidentiality], 32 [Limitation of Liability], 33 [Intellectual Property Rights], 36 [Dispute Resolution] and 40.1 [Governing Law] shall survive termination or expiry of this Agreement.

27 CESSIION

- 27.1 Upon written notice to the Supplier/Service Provider, Transnet shall be entitled:
- a) to appoint Transnet's financier of the Goods/Services as first payer under this Agreement, without transferring the ultimate responsibility for payment which will remain with Transnet; and
 - b) to cede, assign and transfer its right, title and interest in the Goods/Services to such financier as part of the funding consideration for the Goods/Services.
- 27.2 The Supplier/Service Provider is not entitled to cede, delegate, assign, Subcontract or in any other manner dispose of any of its rights or obligations in terms of this Agreement without the prior written consent of Transnet, which consent shall not be withheld or delayed unreasonably.

28 FORCE MAJEURE

- 28.1 Neither Party shall have any claim against the other Party arising from any failure or delay in the performance of any obligation of either Party under this Agreement caused by an act of force majeure such as acts of God, fire, flood, war, lockout, government action, laws or regulations, terrorism or civil disturbance, defaults or other circumstances or factors beyond the reasonable control of either Party, and to the extent that the performance of obligations of either Party hereunder is delayed by virtue of the foregoing, any period stipulated for any such performance shall be reasonably extended. Transnet may however rely on strikes, industrial dispute and riots as a ground of force majeure.
- 28.2 Each Party will take all reasonable steps by whatever lawful means that are available to resume full performance as soon as practicable and will seek agreement to modification of the relevant provisions of this Agreement in order to accommodate the new circumstances caused by the act of *force majeure*. If a Party fails to agree with such modifications proposed by the other Party within 90 [ninety] calendar days of the act of *force majeure* first occurring, either Party may thereafter terminate this Agreement with immediate notice.

29 PROTECTION OF PERSONAL DATA

- 29.1 The Parties agree that they may obtain and have access to personal data for the duration of the Agreement 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:
- a) they process data only for the express purpose for which it was obtained;
 - b) once processed for the purposes for which it was obtained, all data will be destroyed to an extent that it cannot be reconstructed to its original form;
 - c) data is provided only to authorised personnel who strictly require the personal data to carry out the Parties' respective obligations under this Agreement;
 - d) they do not disclose personal data of the other Party, other than in terms of this Agreement;
 - e) they have all reasonable technical and organisational measures in place to protect all personal data from unauthorised access and/or use;
 - f) they have appropriate technical and organisational measures in place to safeguard the security, integrity and authenticity of all data in its possession or under its control in terms of this Agreement;
 - g) such personal data is protected against unauthorised or unlawful processing, accidental loss, destruction or damage, alteration, disclosure or access.
- 29.2 The Parties agree that if personal data 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 further processing.
- 29.3 Should it be necessary for either Party to disclose or otherwise make available the personal data to any third party (including sub-contractors and employees), it may do so only with the prior written permission of the other Party. The Party requiring such permission shall require of all such third parties, appropriate written undertakings to be provided, containing similar terms to that set forth in this clause 29, and dealing with that third party's obligations in respect of its processing of the personal data. Following approval by the other Party, the Party requiring permission agrees that the provisions of this clause 29 shall *mutatis mutandis* apply to all authorised third parties who process personal data.
- 29.4 The Parties shall ensure that any persons authorized to process data on their behalf (including employees and third parties) will safeguard the security, integrity and authenticity of all data. Where necessary to meet this requirement, the Parties shall keep all personal data and any analyses, profiles, or documents derived therefrom logically separated from all other data and documentation held by it.
- 29.5 The Parties shall carry out regular assessments to identify all reasonably foreseeable internal and external risks to the personal data 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 has been effectively implemented.
- 29.6 The Parties agree that they will promptly return or destroy any personal data 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 data. The information will be destroyed in such a manner that it cannot be reconstructed to its original form, linking it to any particular individual or organisation.

29.7 Personal Information security breach: Supplier/Service Provider's Obligations

- a) The Supplier/Service Provider shall notify the Information Officer of Transnet, in writing as soon as possible after it becomes aware of or suspects any loss, unauthorised access or unlawful use of any personal data and shall, at its own cost, take all necessary remedial steps to mitigate the extent of the loss or compromise of personal data and to restore the integrity of the affected Goods/Services as quickly as is possible. The Supplier/Service Provider shall also be required to provide Transnet 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 data.
- b) The Supplier/Service Provider shall provide on-going updates on its progress in resolving the compromise at reasonable intervals until such time as the compromise is resolved.
- c) Where required, the Supplier/Service Provider may be required to notify the South African Police Service; and/or the State Security Agency and where applicable, the relevant regulator and/or 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 Supplier/Service Provider undertakes to co-operate in any investigation relating to security which is carried out by or on behalf of Transnet including providing any information or material in its possession or control and implementing new security measures.

30 CONFIDENTIALITY

30.1 The Parties hereby undertake the following with regard to Confidential Information:

- a) not to divulge or disclose to any person whomsoever in any form or manner whatsoever, either directly or indirectly, any Confidential Information of the other without the prior written consent of such other Party, other than when called upon to do so in accordance with a statute, or by a court having jurisdiction, or by any other duly authorised and empowered authority or official, in which event the Party concerned shall do what is reasonably possible to inform the other of such a demand and each shall assist the other in seeking appropriate relief or the instituting of a defensive action to protect the Confidential Information concerned;
- b) not to use, exploit, permit the use of, directly or indirectly, or in any other manner whatsoever apply the Confidential Information disclosed to it as a result of this Agreement, for any purpose whatsoever other than for the purpose for which it is disclosed or otherwise than in strict compliance with the provisions in this Agreement;
- c) not to make any notes, sketches, drawings, photographs or copies of any kind of any part of the disclosed Confidential Information without the prior written consent of such other Party, except when reasonably necessary for the purpose of this Agreement, in which case such copies shall be regarded as Confidential Information;

- d) not to de-compile, disassemble or reverse engineer any composition, compilation, concept application, item, component de-compilation, including software or hardware disclosed and shall not analyse any sample provided by Transnet, or otherwise determine the composition or structure or cause to permit these tasks to be carried out except in the performance of its obligations pursuant to this Agreement;
- e) not to exercise less care to safeguard Transnet Confidential Information than the Party exercises in safeguarding its own competitive, sensitive or Confidential Information;
- f) Confidential Information disclosed by either Party to the other or by either Party to any other party used by such party in the performance of this Agreement, shall be dealt with as "restricted" or shall be dealt with according to any other appropriate level of confidentiality relevant to the nature of the information concerned, agreed between the Parties concerned and stipulated in writing for such information in such cases;
- g) the Parties shall not make or permit to be made by any other person subject to their control, any public statements or issue press releases or disclose Confidential Information with regard to any matter related to this Agreement, unless written authorisation to do so has first been obtained from the Party first disclosing such information;
- h) each Party shall be entitled to disclose such aspects of Confidential Information as may be relevant to one or more technically qualified employees or consultants of the Party who are required in the course of their duties to receive the Confidential Information for the Permitted Purpose provided that the employee or consultant concerned has a legitimate interest therein, and then only to the extent necessary for the Permitted Purpose, and is informed by the Party of the confidential nature of the Confidential Information and the obligations of the confidentiality to which such disclosure is subject and the Party shall ensure such employees or consultants honour such obligations;
- i) each Party shall notify the other Party of the name of each person or entity to whom any Confidential Information has been disclosed as soon as practicable after such disclosure;
- j) each Party shall ensure that any person or entity to which it discloses Confidential Information shall observe and perform all of the covenants the Party has accepted in this Agreement as if such person or entity has signed this Agreement. The Party disclosing the Confidential Information shall be responsible for any breach of the provisions of this Agreement by such person or entity; and
- k) each Party may by written notice to the other Party specify which of the Party's employees, officers or agents are required to sign a non-disclosure undertaking.

30.2 The duties and obligations with regard to Confidential Information in this clause 30 shall not apply where:

- a) a Party can demonstrate that such information is already in the public domain or becomes available to the public through no breach of this Agreement by that Party, or its Staff; or
- b) was rightfully in a Party's possession prior to receipt from the other Party, as proven by the first-mentioned Party's written records, without an infringement of an obligation or duty of confidentiality; or

- c) can be proved to have been rightfully received by a Party from a third party without a breach of a duty or obligation of confidentiality; or
 - d) is independently developed by a Party as proven by its written records.
- 30.3 This clause 30 shall survive termination for any reason of this Agreement and shall remain in force and effect from the Commencement Date of this Agreement and 5 [five] years after the termination of this Agreement. Upon termination of this Agreement, all documentation furnished to the Supplier/Service Provider by Transnet pursuant to this Agreement shall be returned to Transnet including, without limitation, all corporate identity equipment including dyes, blocks, labels, advertising matter, printing matter and the like.

31 INSURANCES

- 31.1 Without limiting the liability of the Supplier/Service Provider under this Agreement, the Supplier/Service Provider shall take out insurance in respect of all risks for which it is prudent for the Supplier/Service Provider to insure against, including any liability it may have as a result of its activities under this Agreement for theft, destruction, death or injury to any person and damage to property. The level of insurance will be kept under review by Transnet, on an annual basis, to ensure its adequacy, provided that any variation to the level of such insurance shall be entirely at the discretion of the Supplier/Service Provider.
- 31.2 The Supplier/Service Provider shall arrange insurance with reputable insurers and will produce to Transnet evidence of the existence of the policies on an annual basis within 30 [thirty] calendar days after date of policy renewals.
- 31.3 Subject to clause 31.4 below, if the Supplier/Service Provider fails to effect adequate insurance under this clause 31, it shall notify Transnet in writing as soon as it becomes aware of the reduction or inadequate cover and Transnet may arrange or purchase such insurance on behalf of the Supplier/Service Provider. The Supplier/Service Provider shall promptly reimburse Transnet for any premiums paid provided such insurance protects the Supplier/Service Provider's liability. Transnet assumes no responsibility for such insurance being adequate to protect all of the Supplier/Service Provider's liability.
- 31.4 In the event that the Supplier/Service Provider receives written notice from its insurers advising of the termination of its insurance cover referred to in clause 31.1 above or if the insurance ceases to be available upon commercially reasonable terms, the Supplier/Service Provider shall immediately notify Transnet in writing of such termination and/or unavailability, whereafter either the Supplier/Service Provider or Transnet may terminate this Agreement on giving the other Party not less than 30 [thirty] calendar days prior written notice to that effect.

32 LIMITATION OF LIABILITY

- 32.1 The Supplier/Service Provider's liability under this clause 32 shall be in addition to any warranty or condition of any kind, express or implied by law or otherwise, relating to the Goods/Services or ancillary Services, including the quality of the Goods/Services or ancillary Services or any materials delivered pursuant to this Agreement.
- 32.2 Neither Party excludes or limits liability to the other Party for:

- a) death or personal injury caused by its negligence, [including its employees', agents' or Subcontractors' negligence]; or
 - b) fraud or theft.
- 32.3 The Supplier/Service Provider shall indemnify and keep Transnet indemnified from and against liability for damage to any Transnet property [whether tangible or intangible] or any other loss, costs or damage suffered by Transnet to the extent that it results from any act of or omission by the Supplier/Service Provider or its Personnel in connection with this Agreement. The Supplier/Service Provider's liability arising out of this clause 32.3 shall be limited to direct damages.
- 32.4 Subject always to clauses 32.1 and 32.2 above, the liability of either the Supplier/Service Provider or Transnet under or in connection with this Agreement, whether for negligence, misrepresentation, breach of contract or otherwise, for direct loss or damage arising out of each Default or series of related Defaults shall not exceed 100% [one hundred per cent] of the Fees paid under the schedule or Work Order to which the Default(s) relates.
- 32.5 Subject to clauses 32.1 to 32.4 above, in no event shall either Party be liable to the other for indirect or consequential loss or damage or including indirect or consequential loss of profits, business, revenue, goodwill or anticipated savings of an indirect nature or loss or damage incurred by the other Party as a result of third party claims.
- 32.6 If for any reason the exclusion of liability in clause 32.5 above is void or unenforceable, either Party's total liability for all loss or damage under this Agreement shall be as provided in clause 32.3 above.
- 32.7 Nothing in this clause 32 shall be taken as limiting the liability of the Parties in respect of clauses 292 [Confidentiality] and 33 [Intellectual Property Rights].

33 INTELLECTUAL PROPERTY RIGHTS

33.1 Title to Confidential Information

- a) Transnet will retain all right, title and interest in and to its Confidential Information and Background Intellectual Property and the Supplier/Service Provider acknowledges that it has no claim of any nature in and to the Confidential Information and Background Intellectual Property that is proprietary to Transnet. For the avoidance of doubt all the Supplier/Service Provider's Background Intellectual Property shall remain vested in the Supplier/Service Provider.
- b) Transnet shall grant to the Supplier/Service Provider an irrevocable, royalty free, non-exclusive licence to use Transnet's Background Intellectual Property only for the Permitted Purpose. This licence shall not permit the Supplier/Service Provider to sub-license to other parties.
- c) The Supplier/Service Provider shall grant to Transnet an irrevocable, royalty free, non-exclusive licence to use the Supplier/Service Provider's Background Intellectual Property for the Permitted Purpose. This licence shall not permit Transnet to sub-license to other parties.
- d) The Supplier/Service Provider shall grant Transnet access to the Supplier/Service Provider's Background Intellectual Property on terms which shall be *bona fide* negotiated between the Parties for the purpose of commercially exploiting the Foreground Intellectual Property, to the extent that such access is required.

- e) The above shall not pertain to any software licenses procured by the Supplier/Service Provider from third parties and used in the supply of the Goods/Services.

33.2 **Title to Intellectual Property**

- a) All right, title and interest in and to Foreground Intellectual Property prepared, conceived or developed by the Supplier/Service Provider, its researchers, agents and employees shall vest in Transnet and the Supplier/Service Provider acknowledges that it has no claim of any nature in and to the Foreground Intellectual Property. The Supplier/Service Provider shall not at any time during or after the termination or cancellation of this Agreement dispute the validity or enforceability of such Foreground Intellectual Property, or cause to be done any act or anything contesting or in any way impairing or tending to impair any part of that right, title and interest to any of the Foreground Intellectual Property and shall not counsel or assist any person to do so.
- b) Transnet shall be entitled to seek protection in respect of the Foreground Intellectual Property anywhere in the world as it shall decide in its own absolute discretion and the Supplier/Service Provider shall reasonably assist Transnet in attaining and maintaining protection of the Foreground Intellectual Property.
- c) Where the Foreground Intellectual Property was created by the Supplier/Service Provider or its researchers, agents and employees and where Transnet elects not to exercise its option to seek protection or decides to discontinue the financial support of the prosecution or maintenance of any such protection, Transnet shall notify the Supplier/Service Provider who shall have the right of first refusal to file or continue prosecution or maintain any such applications and to maintain any protection issuing on the Foreground Intellectual Property.
- d) No consideration shall be paid by Transnet to the Supplier/Service Provider for the assignment of any Foreground Intellectual Property from the Supplier/Service Provider to Transnet, over and above the sums payable in terms of this Agreement. The Supplier/Service Provider undertakes to sign all documents and do all things as may be necessary to effect, record and perfect the assignment of the Foreground Intellectual Property to Transnet.
- e) Subject to anything contrary contained in this Agreement and/or the prior written consent of Transnet [which consent shall not be unreasonably be withheld], the Supplier/Service Provider shall under no circumstances be entitled as of right, or to claim the right, to use Transnet's Background Intellectual Property and/or Foreground Intellectual Property.

33.3 **Title to Improvements**

Any improvements, developments, adaptations and/or modifications to the Foreground Intellectual Property, and any and all new inventions or discoveries, based on or resulting from the use of Transnet's Background Intellectual Property and/or Confidential Information shall be exclusively owned by Transnet. The Supplier/Service Provider shall disclose promptly to Transnet all such improvements, developments, adaptations and/or modifications, inventions or discoveries. The Supplier/Service Provider hereby undertakes to sign all documents and do all things as may be necessary to effect, record and perfect the assignment of such improvements, developments, adaptations and/or modifications, inventions or discoveries to Transnet and the Supplier/Service Provider shall reasonably

assist Transnet in attaining, maintaining or documenting ownership and/or protection of the improved Foreground Intellectual Property.

33.4 Unauthorised Use of Confidential Information

The Supplier/Service Provider shall not authorise any party to act on or use in any way any Confidential Information belonging to Transnet whether or not such party is aware of such Confidential Information, and shall promptly notify Transnet of the information if it becomes aware of any party so acting, and shall provide Transnet the information with such assistance as Transnet reasonably requires, at Transnet's cost and expense, to prevent such third party from so acting.

33.5 Unauthorised Use of Intellectual Property

- a) The Supplier/Service Provider agrees to notify Transnet in writing of any conflicting uses of, and applications of registrations of Patents, Designs and Trade Marks or any act of infringement, unfair competition or passing off involving the Intellectual Property of Transnet of which the Supplier/Service Provider acquires knowledge and Transnet shall have the right, as its own option, to proceed against any party infringing its Intellectual Property.
- b) It shall be within the sole and absolute discretion of Transnet to determine what steps shall be taken against the infringer and the Supplier/Service Provider shall co-operate fully with Transnet, at Transnet's cost, in whatever measure including legal action to bring any infringement of illegal use to an end.
- c) The Supplier/Service Provider shall cooperate to provide Transnet promptly with all relevant ascertainable facts.
- d) If proceedings are commenced by Transnet alone, Transnet shall be responsible for all expenses but shall be entitled to all damages or other awards arising out of such proceedings. If proceedings are commenced by both Parties, both Parties will be responsible for the expenses and both Parties shall be entitled to damages or other awards arising out of proceedings.

34 NON-WAIVER

- 34.1 Failure or neglect by either Party, at any time, to enforce any of the provisions of this Agreement, shall not in any manner be construed to be a waiver of any of that Party's rights in that regard and in terms of this Agreement.
- 34.2 Such failure or neglect shall not in any manner affect the continued, unaltered validity of this Agreement, or prejudice the right of that Party to institute subsequent action.

35 PARTIAL INVALIDITY

If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, or shall be required to be modified, the validity, legality and enforceability of the remaining provisions shall not be affected thereby.

36 DISPUTE RESOLUTION

- 36.1 Should any dispute of whatsoever nature arise between the Parties concerning this Agreement, the Parties shall try to resolve the dispute by negotiation within 10 [ten] Business Days of such dispute arising.

- 36.2 If the dispute has not been resolved by such negotiation, either of the Parties may refer the dispute to AFSA and notify the other Party accordingly, which proceedings shall be held in Johannesburg.
- 36.3 Such dispute shall be finally resolved in accordance with the rules of AFSA by an arbitrator or arbitrators appointed by AFSA.
- 36.4 This clause constitutes an irrevocable consent by the Parties to any proceedings in terms hereof, and neither of the Parties shall be entitled to withdraw from the provisions of this clause or claim at any such proceedings that it is not bound by this clause 36.
- 36.5 This clause 36 is severable from the rest of this Agreement and shall remain in effect even if this Agreement is terminated for any reason.
- 36.6 This clause 36 shall not preclude either Party from seeking urgent relief in a court of appropriate jurisdiction, where grounds for urgency exist.

37 ADDRESSES FOR NOTICES

- 37.1 The Parties to this Agreement select the physical addresses and fax numbers, as detailed hereafter, as their respective addresses for giving or sending any notice provided for or required in terms of this Agreement, provided that either Party shall be entitled to substitute such other address or fax number, as may be, by written notice to the other:

a) **Transnet**

- (i) For legal notices:
-
-
- Fax No.
- Attention: Group Legal Department

- (ii) For commercial notices:
-
-
- Fax No.
- Attention:

b) **The Supplier/Service Provider**

- (i) For legal notices:
-
-
- Fax No.
- Attention:

- (ii) For commercial notices:
-
-

Fax No.

Attention:

- 37.2 Any notice shall be addressed to a Party at its physical address, or delivered by hand, or sent by fax or email.
- 37.3 Any notice shall be deemed to have been given:
- a) if hand delivered, on the day of delivery;
 - b) if faxed, on the date and time of sending of such fax, as evidenced by a fax confirmation printout, provided that such notice shall be confirmed by prepaid registered post on the date of dispatch of such fax, or, should no postal facilities be available on that date, on the next Business Day; or
 - c) if sent by email, on the date and time received, provided that such notice shall be confirmed by prepaid registered post on the date of dispatch of such email, or, should no postal facilities be available on that date, on the next Business Day.

38 WHOLE AND ONLY AGREEMENT

- 38.1 The Parties hereby confirm that this Agreement constitutes the whole and only agreement between them with regard to the subject matter of this Agreement.
- 38.2 The Parties hereby confirm that this Agreement replaces all other agreements which exist or may have existed in any form whatsoever between them, with regard to the subject matter dealt with in this Agreement, any annexures appended hereto and the Schedule of Requirements/Work Order.

39 AMENDMENT AND CHANGE CONTROL

- 39.1 Any amendment or change of any nature made to this Agreement and the Schedule of Requirements thereof shall only be valid if it is in writing, signed by both Parties and added to this Agreement as an addendum hereto. In this regard a Change Notice must first be defined and issued by the requesting Party. A Change Notice Response must then be issued by responding Party. A formal approval of the Change Request will then trigger the issue of the addendum to this Agreement.
- 39.2 In the event the Parties cannot agree upon changes, the Parties shall in good faith seek to agree any proposed changes using the dispute resolution procedures in clause 36 [*Dispute Resolution*].

40 GENERAL

40.1 Governing Law

This Agreement is exclusively governed by and construed in accordance with the laws of the Republic of South Africa and is subject to the jurisdiction of the courts of the Republic of South Africa.

40.2 Change of Law

In this Agreement, unless the context otherwise requires, references to a statutory provision include references to that statutory provision as from time to time amended, extended or re-enacted and any regulations made under it, provided that in the event that the amendment, extension or re-enactment of any statutory provision or introduction of any new statutory provision has a material impact on the obligations of either Party, the Parties will negotiate in good faith to agree such amendments to this

Agreement as may be appropriate in the circumstances. If, within a reasonable period of time, the Supplier/Service Provider and Transnet cannot reach agreement on the nature of the changes required or on modification of Prices, delivery schedules, warranties, or other terms and conditions, either Party may seek to have the matter determined in accordance with clause 36 [*Dispute Resolution*] above.

40.3 Counterparts

This Agreement may be signed in any number of counterparts, all of which taken together shall constitute one and the same instrument. Either Party may enter into this Agreement by signing any such counterpart.

41 DATABASE OF RESTRICTED SUPPLIER

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

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

For and on behalf of TRANSNET SOC LTD duly authorised hereto	For and on behalf of duly authorised hereto
Name:	Name:
Position:	Position:
Signature:	Signature:
Date:	Date:
Place:	Place:

AS WITNESS: Name:	AS WITNESS: Name:
Signature:	Signature:

AS WITNESS: Name:	AS WITNESS: Name:
Signature:	Signature:

ANNEXURE E

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

INTEGRITY PACT

Between

TRANSNET SOC LTD

Registration Number: 1990/000900/30

("Transnet")

and

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

PREAMBLE

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

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

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

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

A) OBJECTIVES

- a. Transnet and the Bidder / Supplier agree to enter into this Integrity Pact, to avoid all forms of dishonesty, fraud and corruption including practices that are anti-competitive in nature, negotiations made in bad faith and under-pricing by following a system that is fair, transparent and free from any influence / unprejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to:

RFP NUMBER

- a) Enable Transnet to obtain the desired contract at a reasonable and competitive price in conformity to the defined specifications of the works, goods and services; and
- b) Enable Bidders / Suppliers to abstain from bribing or participating in any corrupt practice in order to secure the contract.

B) COMMITMENTS OF TRANSNET

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

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

C) OBLIGATIONS OF THE BIDDER / SUPPLIER

- a. The Bidder / Supplier commits itself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of its bid or during any ensuing contract stage in order to secure the contract or in furtherance to secure it and in particular the Bidder / Supplier commits to the following:
 - a) The Bidder / Supplier will not, directly or through any other person or firm, offer, promise or give to Transnet or to any of Transnet's employees involved in the bidding process or to any third person any material or other benefit or payment, in order to obtain in exchange an advantage during the bidding process; and
 - b) The Bidder / Supplier will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any employee of Transnet, connected directly or indirectly with the bidding process, or to any person, organisation or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the contract.
- b. The acceptance and giving of gifts may be permitted provided that:
 - a) the gift does not exceed R1 000 (one thousand Rand) in retail value;
 - b) many low retail value gifts do not exceed R 1 000 within a 12 month period;
 - c) hospitality packages do not exceed R5 000 in value or many low value hospitality packages do not cumulatively exceed R5 000;

- d) a Bidder / Supplier does not give a Transnet employee more than 2 (two) gifts within a 12 (twelve) month period, irrespective of value;
 - e) a Bidder / Supplier does not accept more than 1 (one) gift in excess of R750 (seven hundred and fifty Rand) from a Transnet employee within a 12 (twelve) month period, irrespective of value;
 - f) a Bidder / Supplier may under no circumstances, accept from or give to, a Transnet employee any gift, business courtesy, including an invitation to a business meal and /or drinks, or hospitality package, irrespective of value, during any bid evaluation process, including a period of 12 (twelve) months after such tender has been awarded, as it may be perceived as undue and improper influence on the evaluation process or reward for the contract that has been awarded; and
 - g) a Bidder / Supplier may not offer gifts, goods or services to a Transnet employee at artificially low prices, which are not available to the public at those prices.
- c. The Bidder / Supplier will not collude with other parties interested in the contract to preclude a competitive bid price, impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract. The Bidder / Supplier further commits itself to delivering against all agreed upon conditions as stipulated within the contract.
 - d. The Bidder / Supplier will not enter into any illegal or dishonest agreement or understanding, whether formal or informal with other Bidders / Suppliers. This applies in particular to certifications, submissions or non-submission of documents or actions that are restrictive or to introduce cartels into the bidding process.
 - e. The Bidder / Supplier will not commit any criminal offence under the relevant anti-corruption laws of South Africa or any other country. Furthermore, the Bidder /Supplier will not use for illegitimate purposes or for restrictive purposes or personal gain, or pass on to others, any information provided by Transnet as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
 - f. A Bidder / Supplier of foreign origin shall disclose the name and address of its agents or representatives in South Africa, if any, involved directly or indirectly in the registration or bidding process. Similarly, the Bidder / Supplier of South African nationality shall furnish the name and address of the foreign principals, if any, involved directly or indirectly in the registration or bidding process.
 - g. The Bidder / Supplier will not misrepresent facts or furnish false or forged documents or information in order to influence the bidding process to the advantage of the Bidder / Supplier or detriment of Transnet or other competitors.
 - h. The Bidder / Supplier shall furnish Transnet with a copy of its code of conduct, which code of conduct shall reject the use of bribes and other dishonest and unethical conduct, as well as compliance programme for the implementation of the code of conduct.
 - i. The Bidder / Supplier will not instigate third persons to commit offences outlined above or be an accessory to such offences.

D) INDEPENDENT BIDDING

- a. For the purposes of that Certificate in relation to any submitted Bid, the Bidder declares to fully understand that the word "competitor" shall include any individual or organisation, other than the Bidder, whether or not affiliated with the Bidder, who:
 - a) has been requested to submit a Bid in response to this Bid invitation;

- b) could potentially submit a Bid in response to this Bid invitation, based on their qualifications, abilities or experience; and
 - c) provides the same Goods and Services as the Bidder and/or is in the same line of business as the Bidder.
- b. The Bidder has arrived at his submitted Bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium will not be construed as collusive bidding
- c. In particular, without limiting the generality of paragraph 5 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
- a) prices;
 - b) geographical area where Goods or Services will be rendered [market allocation];
 - c) methods, factors or formulas used to calculate prices;
 - d) the intention or decision to submit or not to submit, a Bid;
 - e) the submission of a Bid which does not meet the specifications and conditions of the RFP; or
 - f) bidding with the intention of not winning the Bid.
- d. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the Goods or Services to which his/her Bid relates.
- e. The terms of the Bid as submitted have not been, and will not be, disclosed by the Bidder, directly or indirectly, to any competitor, prior to the date and time of the official Bid opening or of the awarding of the contract.
- f. Bidders are aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, Bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and/or may be reported to the National Prosecuting Authority [NPA] for criminal investigation and/or may be restricted from conducting business with the public sector for a period not exceeding 10 [ten] years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.
- g. 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.

E) DISQUALIFICATION FROM BIDDING PROCESS

- a. If the Bidder / Supplier has committed a transgression through a violation of section 3 of this Integrity Pact or in any other form such as to put its reliability or credibility as a Bidder / Supplier into question, Transnet may reject the Bidder's / Supplier's application from the registration or bidding process and remove the Bidder / Supplier from its database, if already registered.
- b. If the Bidder / Supplier has committed a transgression through a violation of section 3, or any material violation, such as to put its reliability or credibility into question. Transnet may after

following due procedures and at its own discretion also exclude the Bidder / Supplier from future bidding processes. The imposition and duration of the exclusion will be determined by the severity of the transgression. The severity will be determined by the circumstances of the case, which will include amongst others the number of transgressions, the position of the transgressors within the company hierarchy of the Bidder / Supplier and the amount of the damage. The exclusion will be imposed for up to a maximum of 10 (ten) years. However, Transnet reserves the right to impose a longer period of exclusion, depending on the gravity of the misconduct.

- c. If the Bidder / Supplier can prove that it has restored the damage caused by it and has installed a suitable corruption prevention system, or taken other remedial measures as the circumstances of the case may require, Transnet may at its own discretion revoke the exclusion or suspend the imposed penalty.

F) TRANSNET'S LIST OF EXCLUDED TENDERERS (BLACKLIST)

- a. All the stipulations around Transnet's blacklisting process as laid down in Transnet's Supply Chain Policy and Procurement Procedures Manual are included herein by way of reference. Below follows a condensed summary of this blacklisting procedure.
- b. Blacklisting is a mechanism used to exclude a company/person from future business with Transnet for a specified period. The decision to blacklist is based on one of the grounds for blacklisting. The standard of proof to commence the blacklisting process is whether a "*prima facie*" (i.e. on the face of it) case has been established.
- c. Depending on the seriousness of the misconduct and the strategic importance of the Goods/Services, in addition to blacklisting a company/person from future business, Transnet may decide to terminate some or all existing contracts with the company/person as well.
- d. A supplier or contractor to Transnet may not subcontract any portion of the contract to a blacklisted company.
- e. Grounds for blacklisting include: If any person/Enterprise which has submitted a Bid, concluded a contract, or, in the capacity of agent or subcontractor, has been associated with such Bid or contract:
 - a) Has, in bad faith, withdrawn such Bid after the advertised closing date and time for the receipt of Bids;
 - b) has, after being notified of the acceptance of his Bid, failed or refused to sign a contract when called upon to do so in terms of any condition forming part of the bid documents;
 - c) has carried out any contract resulting from such bid in an unsatisfactory manner or has breached any condition of the contract;
 - d) has offered, promised or given a bribe in relation to the obtaining or execution of the contract;
 - e) has acted in a fraudulent or improper manner or in bad faith towards Transnet or any Government Department or towards any public body, Enterprise or person;
 - f) has made any incorrect statement in a certificate or other communication with regard to the Local Content of his Goods or his B-BBEE status and is unable to prove to the satisfaction of Transnet that:
 - (i) he made the statement in good faith honestly believing it to be correct; and
 - (ii) before making such statement he took all reasonable steps to satisfy himself of its correctness;

- g) caused Transnet damage, or to incur costs in order to meet the contractor's requirements and which could not be recovered from the contractor;
- h) has litigated against Transnet in bad faith.
- f. Grounds for blacklisting include a company/person recorded as being a company or person prohibited from doing business with the public sector on National Treasury's database of Restricted Suppliers or Register of Tender Defaulters.
- g. Companies associated with the person/s guilty of misconduct (i.e. entities owned, controlled or managed by such persons), any companies subsequently formed by the person(s) guilty of the misconduct and/or an existing company where such person(s) acquires a controlling stake may be considered for blacklisting. The decision to extend the blacklist to associated companies will be at the sole discretion of Transnet.

G) PREVIOUS TRANSGRESSIONS

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

H) SANCTIONS FOR VIOLATIONS

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

I) CONFLICTS OF INTEREST

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

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

L) MONITORING

- a. Transnet will be responsible for appointing an independent Monitor to:
 - a) Conduct random monitoring of compliance to the provisions of this Integrity Pact for contracts entered into between Transnet and the Bidder / Supplier for less than R100,000.000 (one hundred million Rand) in value;
 - b) Monitor compliance to the provisions of this Integrity Pact for contracts entered into between Transnet and the Bidder / Supplier for greater than R100,000.000 (one hundred million Rand) in value; and
 - c) Investigate any allegation of violation of any provisions of this Integrity Pact for contracts entered into between Transnet and the Bidder / Supplier, irrespective of value.
- b. The Monitor will be subjected to Transnet's Terms of Conditions of Contract for the Provision of Services to Transnet, as well as to Transnet's Supplier Code of Conduct.

M) EXAMINATION OF FINANCIAL RECORDS, DOCUMENTATION AND/OR ELECTRONIC DATA

For the purpose of Monitoring, as stipulated above, the Monitor shall be entitled to:

- a) Examine the financial records, documentation and or electronic data of the Bidder / Supplier / Transnet. The Bidder / Supplier / Transnet shall provide all requested information / documentation / data to the Monitor and shall extend all help possible for the purpose of such examination.

N) DISPUTE RESOLUTION

- a. Transnet recognises that trust and good faith are pivotal to its relationship with its Bidders / Suppliers. When a dispute arises between Transnet and its Bidder / Supplier, the parties should use their best endeavours to resolve the dispute in an amicable manner, whenever possible. Litigation in bad faith negates the principles of trust and good faith on which commercial relationships are based. Accordingly, following a blacklisting process as mentioned in paragraph f) above, Transnet will not do business with a company that litigates against it in bad faith or is involved in any action that reflects bad faith on its part. Litigation in bad faith includes, but is not limited to the following instances:
 - a) **Vexatious proceedings:** these are frivolous proceedings which have been instituted without proper grounds;
 - b) **Perjury:** where a supplier make a false statement either in giving evidence or on an affidavit;

- c) **Scurrilous allegations:** where a supplier makes allegations regarding a senior Transnet employee which are without proper foundation, scandalous, abusive or defamatory; and
- d) **Abuse of court process:** when a supplier abuses the court process in order to gain a competitive advantage during a bid process.

O) GENERAL

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

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

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ANNEXURE F

NON DISCLOSURE AGREEMENT - SERVICES

THIS AGREEMENT is made between

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

whose registered office is at 49th 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:

- a) 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
- b) 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
- c) 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:

- a) 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
- b) 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 b) 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:

- a) return all written Confidential Information [including all copies]; and
- b) 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 b) 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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ANNEXURE G: SUPPLIER DECLARATION FORM



SUPPLIER DECLARATION FORM

The "Transnet Vendor Management" department has received a request to load / change your company details onto the Transnet Vendor Master database. Please return the completed "Annexure A: Supplier Declaration Form (SDF)" together with the required supporting documents as per **Appendix A** to the Transnet Official who is intending to procure your company's services / products, to enable us to process this request. Please only submit the documentation relevant to your company as per attached "Appendixes" in line with the request to register or change your company details on the Transnet Vendor Master database.

Please Note: all organisations, institutions and individuals who wish to provide goods and/or services to organs of the State must be registered on the National Treasury's Central Supplier Database (CSD). This needs to be done via their portal at <https://secure.csd.gov.za/> **before applying to Transnet.**

General Terms and Conditions:

Please Note: Failure to submit the relevant documentation will delay the vendor creation / change process.

Where applicable, the respective Transnet Operating Division processing your application may request further or additional information from your company.

The Service Provider warrants that the details of its bank account ("the nominated account") provided herein, are correct and acknowledges that payments due to the Supplier will be made into the nominated account. If details of the nominated account should change, the Service Provider must notify Transnet in writing of such change, failing which any payments made by Transnet into the nominated account will constitute a full discharge of the indebtedness of Transnet to the Supplier in respect of the payment so made. Transnet will incur no liability for any payments made to the incorrect account or any costs associated therewith. In such an event, the Service Provider indemnifies and holds Transnet harmless in respect of any payments made to an incorrect bank account and will, on demand, pay Transnet any costs associated herewith.

Transnet expects its suppliers to timeously renew their Tax Clearance and B-BBEE certificates (Large Enterprises and QSEs less than 51% black owned) as well as sworn affidavits in the case of EMEs and QSEs with more than 51% black ownership as per Appendixes III and IV.

In addition, please note of the following very important information:

1. **If your annual turnover is R10 million or less**, then in terms of the DTI Generic Codes of Good Practice, you are classified as an Exempted Micro Enterprise (EME). If your company is classified as an EME, please include in your submission a sworn affidavit confirming your company's most recent annual turnover is less than R10 million and percentage of black ownership and black female ownership in the company (Appendix III) Or B-BBEE certificate issued by a verification agency accredited by SANAS in terms of the EME scorecard should you feel you will be able to attain a better B-BBEE score. It is only in this context that an EME may submit a B-BBEE verification certificate.

2. **If your annual turnover is between R10 million and R50 million**, then in terms of the DTI codes, you are classified as a Qualifying Small Enterprise (QSE). A QSE which is at least 51% black owned, is required to submit a sworn affidavit confirming their annual total revenue of between R10 million and R50 million and level of black ownership (Appendix IV). QSEs "that do not" qualify for 51% of black ownership, are required to submit a B-BBEE verification certificate issued by a verification agency accredited by SANAS.

Please Note: Only B-BBEE certificate and detailed scorecard obtained from a SANAS accredited rating agency will be acceptable.



3. If your annual turnover exceeds R50 million, then in terms of the DTI codes, you are classified as a Large Enterprise. Large Enterprises are required to submit a B-BBEE level verification certificate issued by a verification agency accredited by SANAS.

Please Note: B-BBEE certificate and detailed scorecard should be obtained from a SANAS accredited rating agency.

4. The supplier to furnish proof to the procurement department as required in the Fourth Schedule of the Income Tax Act. 58 of 1962 whether a supplier of service is to be classified as an "employee", "personal service provider" or "labour broker". Failure to do so will result in the supplier being subject to employee's tax.

5. No payments can be made to a vendor until the vendor has been registered / updated, and no vendor can be registered / updated until the vendor application form, together with its supporting documentation, has been received and processed. No payments can be made to a vendor until the vendor has met / complied with the Transnet procurement requirements/mechanisms.

6. In line with PPPFA Regulations, only valid B-BBEE status level certificate issued by an accredited / authorised body or person OR a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice, OR any other requirement prescribed in terms of the Broad- Based Black Economic Empowerment Act is recommended.

7. As per the IRBA communique dated 04 March 2016 addressed to the Members of the IRBA, informing them of its withdrawal from the regulation of the B-BBEE verification industry on **30 September 2016** – subsequently the IRBA is no longer the "Approved Regulatory Body" as per Code Series 000, Statement 005 of the Codes of Good Practice. Any entity that seeks to apply for B-BBEE Accreditation to issue B-BBEE Verification Certificates post 30 September 2016 or wishes to participate in the B-BBEE Verification Industry must thus follow the Code Series 000, Statement 005, Section 5 of the Codes of Good Practice application process to the Accreditation Body (SANAS).

8. **Presenting banking details;** for proof of banking details we will require and only accept;
- A Bank letter on the bank's letterhead, the letter must contain the bank stamp, the signature of an authorised bank official and the date of the letter must not be older than 3 months. (unsigned bank letter will not be accepted or;
 - In case of online Bank Account verification/confirmation, the verification/confirmation letter must contain a valid verification code.



ANNEXURE A: SUPPLIER DECLARATION FORM						
Important Notice: all organisations, institutions and individuals who wish to provide goods and/or services to organs of the State must be registered on the National Treasury Central Supplier Database (CSD). This needs to be done via their portal at https://www.csd.gov.za/ before applying to Transnet.						
CSD Number (MAAA xxxxxx):						
Company Trading Name						
Company Registered Name						
Company Registration No Or ID No If a Sole Proprietor						
Company Income Tax Number						
Form of Entity	CC	Trust	Pty Ltd	Limited	Partnership	Sole Proprietor
	Non-profit (NPO's or NPC)	Personal Liability Co	State Owned Co	National Govt	Provincial Govt	Local Govt
	Educational Institution	Specialised Profession	Financial Institution	Joint Venture	Foreign International	Foreign Branch Office
Did your company previously operate under another name? (If YES state the previous details below)					Yes	No
Trading Name						
Registered Name						
Company Registration No Or ID No If a Sole Proprietor						
Form of Entity	CC	Trust	Pty Ltd	Limited	Partnership	Sole Proprietor
	Non-profit (NPO's or NPC)	Personal Liability Co	State Owned Co	National Govt	Provincial Govt	Local Govt
	Educational Institution	Specialised Profession	Financial Institution	Joint Venture	Foreign International	Foreign Branch Office
Your Current Company's VAT Registration Status (please attach relevant supporting document for VAT)			VAT Registered		Not VAT Registered	
VAT Registration Number						
If Exempted from VAT registration, state reason and submit proof from SARS in confirming the exemption status						
If your business entity is not VAT Registered, please submit a current original sworn affidavit (see example in Appendix I). Your "Non VAT Registration Status" must be renewed and confirmed annually.						
Company Banking Details						
Account Holder Name						
Bank Account Number		Universal Branch Code				
Company Physical Address						
				Code		
Company Postal Address						
				Code		
Telephone Number		FAX Number				
E-Mail Address						
Company Website Address						



Company Contact Person													
Designation													
Telephone Number													
E-Mail													
Main Product / Service Supplied e.g. Stationery / Consulting / Labour etc.													
Is your company a Labour Broker?		YES						NO					
How many personnel does the business employ? (please state number)		Full Time						Part Time					
Please Note: Should your business employ more than 2 full time employees who are not connected persons as defined in the Income Tax Act, please submit a sworn affidavit, as per Appendix II.													
Most Recent Financial Year's Annual Turnover		<R10 Million EME						>R10 Million <R50 Million QSE					
Does your company have a valid Proof of B-BBEE Status?		YES						NO					
Please Indicate your Broad Based BEE status (Level 1 to 9)		1	2	3	4	5	6	7	8	9			
Majority Race of Ownership (please selected correct Majority Ownership for your company)		Black						White					
BBBEE Score		% Black Ownership		% Black Women Ownership		% Black Disabled person(s) Ownership							
% Black Youth Ownership		% Black Unemployed		% Black People Living in Rural Areas		% Black Military Veterans							
Please Note: Please provide proof of B-BBEE status as per Appendix III and IV:													
- Large Enterprise and QSEs with less than 51% Black Ownership need to obtain a B-BBEE certificate and detailed scorecard from an accredited rating agency; - EMEs and QSEs with at least 51% black ownership may provide an affidavit using the templates provided in Appendix III and IV respectively; - Black Disabled person(s) Ownership will only be accepted if accompanied with a certified letter signed by a physician on the physician's letterhead confirming the disability; - A certified South African Identification document will be required for all Black Youth Ownership.													
Supplier Development Information Required													
EMPOWERING SUPPLIER		YES		☐		NO		☐					
FIRST TIME SUPPLIER		YES		☐		NO		☐					
SUPPLIER DEVELOPMENT PLAN		YES		☐		NO		☐					
DEVELOPMENT PLAN DOCUMENT		If Yes - Attach supporting documents											
ENTERPRISE DEVELOPMENT BENEFICIARY		YES		☐		NO		☐					
SUPPLIER DEVELOPMENT BENEFICIARY		YES		☐		NO		☐					
GRADUATION FROM ED TO SD BENEFICIARY		YES		☐		NO		☐					
ENTERPRISE DEVELOPMENT RECIPIENT		YES		☐		NO		☐					
By signing below, I hereby verify that I am duly authorised to sign for and on behalf of firm / organisation and that all information contained herein and attached herewith are true and correct													
Name and Surname						Designation							
Signature						Date							

Appendix III

Example of an Affidavit or Solemn Declaration as to EME B-BBEE Status

SWORN AFFIDAVIT – B-BBEE EXEMPTED MICRO ENTERPRISE

I, the undersigned,

Full Name & Surname	
Identity Number	

Hereby declare under oath as follows:

1. The contents of this statement are to the best of my knowledge a true reflection of the facts.
2. I am a member / director / owner of the following enterprise and am duly authorised to act on its behalf.

Enterprise Name	
Trading Name	
Registration Number	
Enterprise Address	

3. I hereby declare under oath that:

- The enterprise is _____ % black owned;
- The enterprise is _____ % black woman owned;
- The enterprise is _____ % black youth owned;
- The enterprise is _____ % black disabled owned;
- Based on the management accounts and other information available for the _____ financial year, the income did not exceed R10, 000,000.00 (ten million rand).

Please confirm on the table below the B-BBEE level contributor, **by ticking the applicable box**.

100% black owned	Level One (135% B-BBEE procurement recognition) More than 51% black	
More than 51% black owned	Level Two (125% B-BBEE procurement recognition) Less than 51% black	
Less than 51% black owned	Level Four (100% B-BBEE procurement recognition)	

4. The entity is an empowering supplier in terms of the dti Codes of Good Practice.
5. I know and understand the contents of this affidavit and I have no objection to take the prescribed oath and consider the oath binding on my conscience and on the owners of the enterprise which I represent in this matter.
6. The sworn affidavit will be valid for a period of 12 months from the date signed by commissioner.

Deponent Signature: _____

Date: _____

**Commissioner of Oaths
Signature & stamp**

Appendix IV

Example of an Affidavit or Solemn Declaration as to QSE B-BBEE Status

SWORN AFFIDAVIT – B-BBEE QUALIFYING SMALL ENTERPRISE

I, the undersigned,

Full Name & Surname	
Identity Number	

Hereby declare under oath as follows:

- The contents of this statement are to the best of my knowledge a true reflection of the facts.
- I am a member / director / owner of the following enterprise and am duly authorised to act on its behalf.

Enterprise Name	
Trading Name	
Registration Number	
Enterprise Address	

3. I hereby declare under oath that:

- The enterprise is _____ % black owned;
- The enterprise is _____ % black woman owned;
- The enterprise is _____ % black youth owned;
- The enterprise is _____ % black disabled owned;
- Based on the management accounts and other information available for the _____ financial year, the income did not exceed R50,000,000.00 (fifty million rand);
- The entity is an empowering supplier in terms of Clause 3.3 (a) or (b) or (c) or (d) or as amended 3.3 (e) of the dti Codes of Good Practice. (Tick appropriate box in table below).

(a) At least 25% of cost of sales, (excluding labour costs and depreciation) must be procurement from local producers or suppliers in South Africa; for the services industry include labour costs but capped at 15%		(b) Job Creation – 50% of jobs created are for black people, provided that the number of black employees in the immediate prior verified B-BBEE measurement is maintained	
(c) At least 25% transformation of raw material / beneficiation which include local manufacturing, production and /or assembly, and / or packaging		(d) At least 12 days per annum of productivity deployed in assisting QSE and EME beneficiaries to increase their operation or financial capacity	
(e) At least 85% of labour costs should be paid to South African employees by service industry entities			

Please confirm on the table below the B-BBEE level contributor, by ticking the applicable box.

100% black owned	Level One (135% B-BBEE procurement recognition)	
More than 51% black owned	Level Two (125% B-BBEE procurement recognition)	

- I know and understand the contents of this affidavit and I have no objection to take the prescribed oath and consider the oath binding on my conscience and on the owners of the enterprise which I represent in this matter.
- The sworn affidavit will be valid for a period of 12 months from the date signed by commissioner.

Deponent Signature: _____

Date: _____

Commissioner of Oaths
Signature & stamp