

**TRANSNET PORT TERMINALS**

an Operating Division of **TRANSNET SOC LTD**

[hereinafter referred to as **Transnet**]

[Registration No. 1990/000900/30]

REQUEST FOR PROPOSAL [RFP] [SERVICES]

INVITATION TO SERVICE PROVIDERS FOR THE INCLUSION ONTO AN APPROVED LIST OF SERVICE PROVIDERS FOR THE PROVISION OF INFORMATION, COMMUNICATION AND TECHNOLOGY (ICT) MULTIPLE RESOURCES ON AD HOC BASIS FOR TRANSNET SOC LTD (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS ("TPT") FOR A PERIOD OF TWELVE (12) MONTHS.

RFP NUMBER	ICLM HQ 729/TPT
ISSUE DATE:	22 February 2023
CLOSING DATE:	24 March 2023
CLOSING TIME:	13:00 PM
BID VALIDITY PERIOD:	180 Business Days from Closing Date

Note to the bidders:

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

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RFP FOR THE INVITATION TO SERVICE PROVIDERS FOR THE INCLUSION ONTO AN APPROVED LIST OF SERVICE PROVIDERS FOR THE PROVISION OF INFORMATION, COMMUNICATION AND TECHNOLOGY (ICT) MULTIPLE RESOURCES ON AD HOC BASIS FOR TRANSNET SOC LTD (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS ("TPT")) FOR A PERIOD OF TWELVE (12) MONTHS.

SECTION 1: SBD1 FORM

PART A

INVITATION TO BID

INVITATION TO SERVICE PROVIDERS FOR THE INCLUSION ONTO AN APPROVED LIST OF SERVICE PROVIDERS FOR THE PROVISION OF INFORMATION, COMMUNICATION AND TECHNOLOGY (ICT) MULTIPLE RESOURCES ON AD HOC BASIS FOR TRANSNET SOC LTD (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS ("TPT")) FOR A PERIOD OF TWELVE (12) MONTHS.

BID NUMBER:	iCLM HQ 729/TPT	ISSUE DATE:	22 February 2023	CLOSING DATE:	24 March 2023	CLOSING TIME:	13:00PM
DESCRIPTION	Invitation to service providers for the inclusion onto an approved list of service providers for the provision of Information, Communication and Technology (ICT) multiple resources on ad hoc basis for Transnet SOC Ltd (Reg. No 1990/000900/30) Operating as Transnet Port Terminals (hereinafter referred to as ("TPT")) for a period of twelve (12) months.						
BID RESPONSE DOCUMENTS SUBMISSION							
RESPONDENTS ARE TO UPLOAD THEIR BID RESPONSE PROPOSALS ONTO THE TRANSNET SYSTEM AGAINST EACH TENDER SELECTED <i>(please refer to section 2, paragraph 3 for a detailed process on how to upload submissions):</i> https://www.transnet.net							
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO				TECHNICAL ENQUIRIES MAY BE DIRECTED TO:			
CONTACT PERSON	Nomathamsanqa Dlamini			CONTACT PERSON	Not Applicable		
TELEPHONE NUMBER	031 308 8196			TELEPHONE NUMBER	Not Applicable		
FACSIMILE NUMBER	Not Applicable			FACSIMILE NUMBER	Not Applicable		
E-MAIL ADDRESS	Nomathamsanqa.dlamini@transnet.net			E-MAIL ADDRESS	Not Applicable		
SUPPLIER INFORMATION							
NAME OF BIDDER							
POSTAL ADDRESS							

Invitation to service providers for the inclusion onto an approved list of service providers for the provision of Information, Communication and Technology (ICT) multiple resources on ad hoc basis for Transnet SOC Ltd (Reg. No 1990/000900/30) Operating as Transnet Port Terminals (hereinafter referred to as ("TPT") for a period of twelve (12) months. **Returnable document**

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 FOR PURPOSES OF COMPLIANCE WITH THE B-BBEE ACT]					
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					

Respondent's Signature

Date & Company Stamp

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	Invitation to service providers for the inclusion onto an approved list of service providers for the provision of Information, Communication and Technology (ICT) multiple resources on ad hoc basis for Transnet SOC Ltd (Reg. No 1990/000900/30) Operating as Transnet Port Terminals (hereinafter referred to as ("TPT") for a period of twelve (12) months. [the Services]
TENDER ADVERT	All Transnet tenders are advertised on the National Treasury's e-Tender Publication Portal and the Transnet website. Should one of these media (i.e. National Treasury's e-Tender Publication Portal or Transnet website) not be available, bidders are advised to check on the other media for advertised tenders.
RFP DOWNLOADING	This RFP may be downloaded directly from National Treasury's e-Tender Publication Portal at www.etenders.gov.za free of charge. 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. The RFP may also be downloaded from the Transnet website at www.transnet.net free of charge. To access the Transnet

	eTender portal, please click here (refer to section 2, paragraph 3 below for detailed steps)
COMMUNICATION	Any addenda to the RFP or clarifications will be published on the e-tender portal and Transnet website. Bidders are required to check the e-tender portal or Transnet website prior to finalising their bid submissions for any changes or clarifications to the RFP. 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.
BRIEFING SESSION	Not Applicable
CLOSING DATE	13:00 pm on Friday, 24 March 2023 Bidders must ensure that bids are uploaded timeously onto the system. As a general rule, if a bid is late, it will not be accepted for consideration. <i>Bidders are required to ensure that electronic bid submissions are done at least a day before the closing date to prevent issues which they may encounter due to their internet speed, bandwidth or the size of the number of uploads they are submitting. Transnet will not be held liable for any challenges experienced by bidders as a result of the technical challenges. Please do not wait for the last hour to submit. A Bidder can upload 30mb per upload and multiple uploads are permitted.</i>
VALIDITY PERIOD	180 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.
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Any additional information or clarification will be published on the e-Tender portal and Transnet website, if necessary.

2 FORMAL BRIEFING

A 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 5 *[Communication]* below:

3 PROPOSAL SUBMISSION

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

a) The Transnet e-Tender Submission Portal can be accessed as follows:

- Log on to the Transnet eTenders management platform website (<https://www.transnet.net>);
- Click on "TENDERS";
- Scroll towards the bottom right hand side of the page;
- On the blue window click on "register on our new eTender Portal";
- Click on "ADVERTISED TENDERS" to view advertised tenders;
- Click on "SIGN IN/REGISTER – for bidder to register their information (must fill in all mandatory information);
- Click on "SIGN IN/REGISTER" - to sign in if already registered;
- Toggle (click to switch) the "Log an Intent" button to submit a bid;
- Submit bid documents by uploading them into the system against each tender selected.
- No late submissions will be accepted. The bidder guide can be found on the Transnet Portal transnetetenders.azurewebsites.net

4 RFP INSTRUCTIONS

- 4.1 Please sign documents [sign, stamp and date the bottom of each page] before uploading them on the system. The person or persons signing the submission must be legally authorised by the respondent to do so.
- 4.2 **All returnable documents tabled in the Proposal Form [Section 4] must be returned with proposals.**
- 4.3 Unless otherwise expressly stated, all Proposals furnished pursuant to this RFP shall be deemed to be offers. Any exceptions to this statement must be clearly and specifically indicated.
- 4.4 Any additional conditions must be embodied in an accompanying letter. Subject only to Alterations made by the Respondent to Bid Prices of the General Bid Conditions, paragraph 10 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 COMMUNICATION

- 5.1 For specific queries relating to this RFP, an RFP Clarification Request Form should be submitted onto the system and to [**Nomathamsanqa Tammara Dlamini**] before **10:00am on Wednesday, 22 March 2023**, substantially in the form set out in Section 7 hereto. In the interest of fairness and transparency, Transnet's response to such a query will be published on the e-tender portal and Transnet website.
- 5.2 After the closing date of the RFP, a Respondent may only communicate with **Nomathamsanqa Tammara Dlamini**, at telephone number 031 308 8196, email Nomathamsanqa.dlamini@transnet.net on any matter relating to its RFP Proposal.
- 5.3 Respondents are to note that changes to its submission will not be considered after the closing date.
- 5.4 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.
- 5.5 Respondents found to be in collusion with one another will be automatically disqualified and restricted from doing business with organs of state for a specified period.

6 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.

7 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.

8 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.

9 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:

- 9.1 modify the RFP's Services and request Respondents to re-bid on any such changes;
- 9.2 reject any Proposal which does not conform to instructions and specifications which are detailed herein;
- 9.3 disqualify Proposals submitted after the stated submission deadline [Friday, 24 March 2023];
- 9.4 award a contract in connection with this Proposal at any time after the RFP's closing date;
- 9.5 award a contract for only a portion of the proposed Services which are reflected in the scope of this RFP;
- 9.6 split the award of the contract between more than one Service provider, should it at Transnet's discretion be more advantageous in terms of, amongst others, cost or developmental considerations;
- 9.7 cancel the bid process;
- 9.8 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;

- 9.9 request audited financial statements or other documentation for the purposes of a due diligence exercise;
- 9.10 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;
- 9.11 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;
- 9.12 to award the business to the next ranked bidder, provided that he/she is still prepared to provide the required 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 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.

10 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.

11 SECURITY CLEARANCE

Acceptance of this bid could be subject to the condition that the Successful Respondent, its personnel providing the 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.

12 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.

13 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.

Invitation to service providers for the inclusion onto an approved list of service providers for the provision of Information, Communication and Technology (ICT) multiple resources on ad hoc basis for Transnet SOC Ltd (Reg. No 1990/000900/30) Operating as Transnet Port Terminals (hereinafter referred to as ("TPT")) for a period of twelve (12) months. **Returnable document**

Transnet urges its clients, suppliers and the general public to report any fraud or corruption toTIP-OFFS ANONYMOUS:

**Ethics Helpdesk** (Pty) LTD.
Ethics Management System™

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



AI Voice BoT "Jack"
Speak to our AI Voice Chat Bot "JACK", you converse with him like chatting to a human, with the option to record a message and speak to an agent at anytime.

What's App
Speak to an Agent via What's App.

Speak to an Agent
Speak to an Agent via the platform with no call or data charge

Telegram
Speak to an Agent via Telegram

**0800 003 056****086 551 4153****reportit@ethicshelpdesk.com*****120*0785980808#**

SECTION 3: BACKGROUND, OVERVIEW AND SCOPE OF REQUIREMENTS

1 BACKGROUND

TPT's roadmap over the next few years, is to transform its IT landscape in line with leading technology offerings and solution implementation methodologies, i.e. Cloud Computing, IOT, Machine Learning, Augmented Reality, Cognitive Learning, AI, Virtual and e-Learning, Big Data and Business Intelligence, mobile and remote computing, SharePoint, ICT governance and agile solutions development.

2 EXECUTIVE OVERVIEW

Whereas Transnet is seeking a partner(s) to provide solutions for invitation to service providers for the inclusion onto an approved list of service providers for the provision of Information, Communication and Technology (ICT) multiple resources on ad hoc basis for Transnet SOC Ltd (Reg. No 1990/000900/30) Operating as Transnet Port Terminals (hereinafter referred to as ("TPT") for a period of twelve (12) months., it also seeks to improve its current processes for providing these Services to its end user community throughout its locations.

The selected Service provider(s) must share in the mission and business objectives of Transnet. These mutual goals will be met by meeting contractual requirements and new challenges in an environment of teamwork, joint participation, flexibility, innovation and open communications. In this spirit of partnership, Transnet and its Service provider(s) will study the current ways they do business to enhance current practices and support processes and systems. Such a partnership will allow Transnet to reach higher levels of quality, service and profitability.

Specifically, Transnet seeks to benefit from this partnership in the following ways:

- 2.1 Transnet must receive reduced cost of acquisition and improved service benefits resulting from the Service provider's economies of scale and streamlined service processes.
- 2.2 Transnet must achieve appropriate availability that meets user needs while reducing costs for both Transnet and the chosen Service provider(s).
- 2.3 Transnet must receive proactive improvements from the Service provider with respect to supply/provision of Services and related processes.
- 2.4 Transnet's overall competitive advantage must be strengthened by the chosen Service provider's leading edge technology and service delivery systems.

2.5 Transnet end users must be able to rely on the chosen Service provider's personnel for service enquiries, recommendations and substitutions.

2.6 Transnet must reduce costs by streamlining its acquisition of Services, including managed service processes on a Group basis.

3 SCOPE OF REQUIREMENTS

A detailed scope of work is attached as **Annexure A**.

4 GREEN ECONOMY / CARBON FOOTPRINT

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

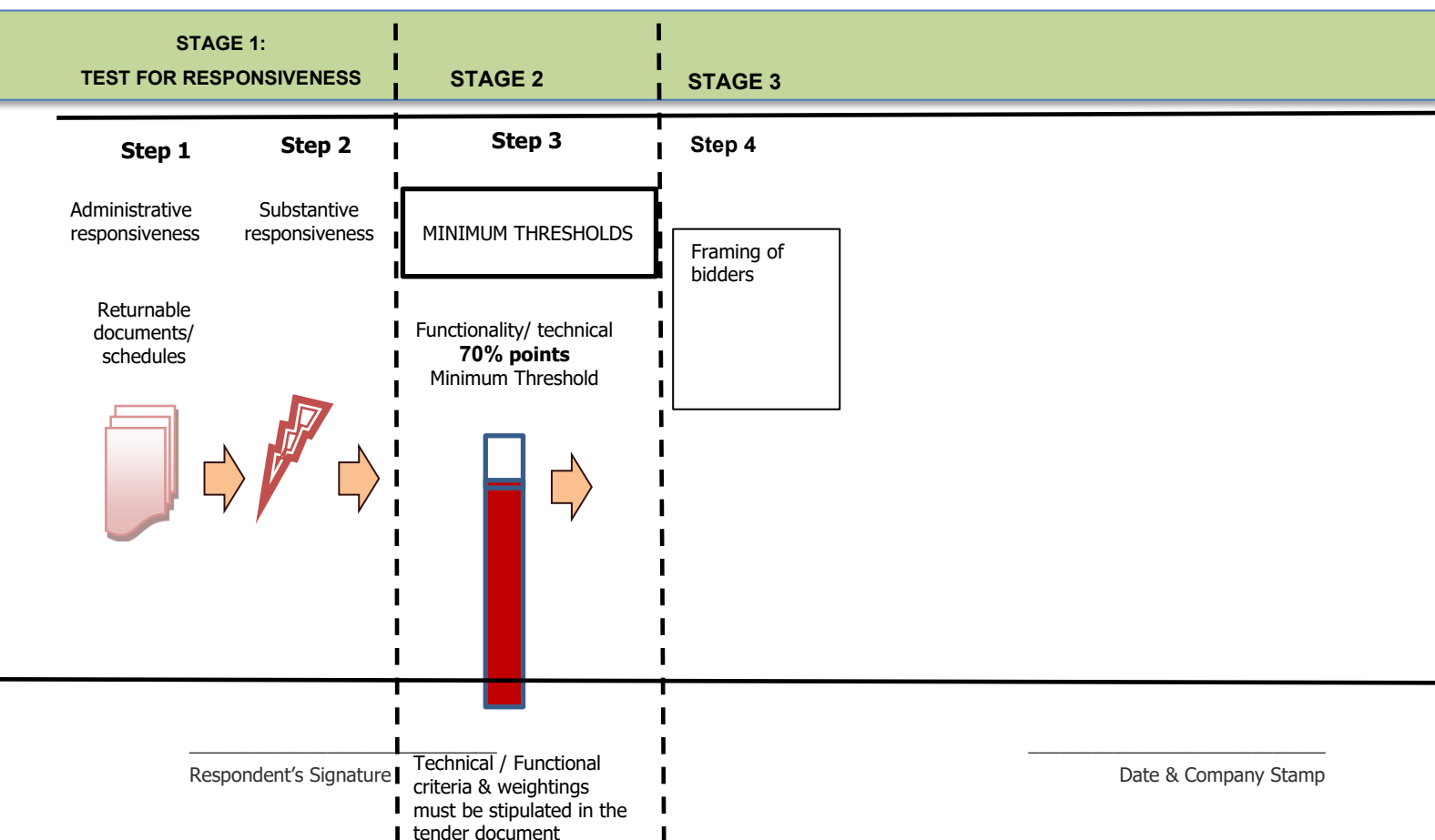
5 GENERAL SERVICE PROVIDER OBLIGATIONS

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

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

6 EVALUATION METHODOLOGY

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



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

6.1 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</i>
Whether all Returnable Documents and/or schedules [where applicable] were completed and returned by the closing date and time	<i>Section 4</i>
Verify the validity of all returnable documents	<i>Section 4</i>
Verify if the Bid document has been duly signed by the authorised respondent	<i>All sections</i>

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

6.2 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 general and legislation qualification criteria set by Transnet, have been met	<i>General Bid Conditions clause 20</i>
Whether the Bid materially complies with the scope and/or specification given	<i>All Sections</i>

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

6.3 STEP THREE: Minimum Threshold 70% points for Technical Criteria

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

Technical Evaluation Criteria	Points Weightings	Scoring guideline (0 to 5)/ (0 to 10)
Service History Bidder to submit a minimum of five (5) reference letters in official company letterheads from different clients where the bidder provided ICT consultants for projects in the past 24-48 months and letters must not be dated older than 12 months. The reference letters must be for any previous ICT projects or roles detailing the type of work which was done, as outlined in the scope of work (Annexure A) under Appendix A to Appendix L.	30	0 Reference Letters=0; 1-3 Reference Letters=10, 4-5 Reference Letters=20, >5 Reference Letters=30
Lead Time Bidder to submit confirmation of their lead times in their company letterhead, signed by company executive and they need to demonstrate the timelines for delivery of a resource to TPT from the date of receiving the PO. Bidder to note that short lead times and are to ensure that offering shortest period will gain an advantage. Refer to returnable Appendix 2.	30	5- 7 Days = 30 points 8- 20 Days = 20 points 21 - 30 Days = 10 points >31 Days = 0 points
Service Provider Mobilisation Bidder is able to provide written confirmation that on-site services with established processes will be in place to support the project deliverables, as well as	40	0 Mobilisation Areas = 0, 1 Mobilisation Area = 10, 2-3 Mobilisation Area = 30, 4-5 Mobilisation Area =40

Technical Evaluation Criteria	Points Weightings	Scoring guideline (0 to 5)/ (0 to 10)
detailed descriptions of how they manage the following: 1) Onboarding 2) Transition/ hand over between resources 3) SLA Management 4) Time Management 5) Quality Management Refer to returnable Appendix 3.		
Total Weighting:	100	
Minimum qualifying score required:	70%	

*Respondents must note that **Annexure B (Technical evaluation criteria)** will be used to score as per their proposals and returnable documents. A Respondent's compliance with the minimum functionality/technical threshold will be measured by their proposals.*

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 final evaluation

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

Thresholds	Minimum Threshold
Technical / functionality	70%

6.5 **STEP SIX: Framing of bidders**

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

SECTION 4: 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 provide the abovementioned Services at the prices quoted in the schedule of prices in accordance with the terms set forth in the documents listed in the accompanying schedule of RFP documents.

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

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

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

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

I/We further agree that if, after I/we have been notified of the acceptance of my/our Proposal, I/we fail to enter into a formal contract if called upon to do so, or fail to commence the provision of 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 Services due to non-performance by ourselves, etc.

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

ADDRESS FOR NOTICES

The law of the Republic of South Africa shall govern any contract created by the acceptance of this RFP. The *domicilium citandi et executandi* shall be a place in the Republic of South Africa to be specified by 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 Service provider**] will be informed of the acceptance of its Proposal. Unsuccessful Respondents will be advised in writing of the name of the successful 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 180 Business Days [from closing date] against this RFP, excluding the first day and including the last day.

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

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.

(i) Registration number of company / C.C. _____

(ii) Registered name of company / C.C. _____

(iii) 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 Documents	Returnable	<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 Used for Scoring	Documents	<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 Documents	Returnable	<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	

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]
Bidder to submit a minimum of five (5) reference letters in official company letterheads from different clients where the bidder provided ICT consultants for projects in the past 24-48 months and letters must not be dated older than 12 months. The reference letters must be for any previous ICT projects or roles detailing the type of work which was done, as outlined in the scope of work (Annexure A).	
Bidder to submit confirmation of their lead times in their company letterhead, signed by company executive and they need to demonstrate the timelines for delivery of a resource to TPT from the date of receiving the PO. Bidder to note that short lead times and are to ensure that offering shortest period will gain an advantage. Refer to returnable appendix 2 .	
Bidder is able to provide written confirmation that on-site services with established processes will be in place to support the project deliverables, as well as detailed descriptions of how they manage the following: 1) Onboarding 2) Transition/ hand over between resources 3) SLA Management 4) Time Management 5) Quality Management Refer to returnable appendix 3 .	

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:

CONTINUED VALIDITY OF RETURNABLE DOCUMENTS

ESSENTIAL RETURNABLE DOCUMENTS & SCHEDULES	SUBMITTED [Yes or No]
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	
SECTION 4: Proposal Form and List of Returnable documents	
SECTION 5: Certificate of Acquaintance with RFP, Terms & Conditions & Applicable Documents	
SECTION 6: RFP Declaration and Breach of Law Form	
SECTION 7: RFP Clarification request Form	
SECTION 8: Protection of Personal Information	

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.

Invitation to service providers for the inclusion onto an approved list of service providers for the provision of Information, Communication and Technology (ICT) multiple resources on ad hoc basis for Transnet SOC Ltd (Reg. No 1990/000900/30) Operating as Transnet Port Terminals (hereinafter referred to as ("TPT")) for a period of twelve (12) months. **Returnable document**

SIGNED at _____ on this _____ day of _____ 2023.

SIGNATURE OF WITNESSES

ADDRESS OF WITNESSES

1 _____

Name _____

2 _____

Name _____

SIGNATURE OF RESPONDENT'S AUTHORISED REPRESENTATIVE:

NAME: _____

DESIGNATION: _____

SECTION 5: 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

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

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

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

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

SIGNED at _____ on this _____ day of _____ 2023.

SIGNATURE OF WITNESSES

ADDRESS OF WITNESSES

1 _____

Name _____

2 _____

Name _____

SIGNATURE OF RESPONDENT'S AUTHORISED REPRESENTATIVE: _____

NAME: _____

DESIGNATION: _____

SECTION 6: 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
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. Information provided in the declarations may be used by Transnet and/or its affiliates to verify the correctness of the information provided]

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

BIDDER'S DISCLOSURE (SBD4)

12 PURPOSE OF THE FORM

- 12.1 Any person (natural or juristic) may make an offer or offers in terms of this invitation to bid. In line with the principles of transparency, accountability, impartiality, and

ethics as enshrined in the Constitution of the Republic of South Africa and further expressed in various pieces of legislation, it is required for the bidder to make this declaration in respect of the details required hereunder.

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

13 Bidder's declaration

13.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest¹ in the enterprise: employed by the state or is a previous employee of Transnet within the past 12 months?

YES/NO

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

Full Name	Identity Number	Name of State institution (please complete table below where the party was a previous employee of Transnet within the past 12 months)

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

Invitation to service providers for the inclusion onto an approved list of service providers for the provision of Information, Communication and Technology (ICT) multiple resources on ad hoc basis for Transnet SOC Ltd (Reg. No 1990/000900/30) Operating as Transnet Port Terminals (hereinafter referred to as ("TPT") for a period of twelve (12) months. **Returnable document**

Particulars of previous employment with Transnet within the past 12 months				
1	Name and Surname:			
	Role	Date of termination of employment	Details of any involvement in procurement (if any)	Special reasons for Transnet to do business with the identified person)
2	Name and Surname:			
	Role	Date of termination of employment	Details of any involvement in procurement (if any)	Special reasons for Transnet to do business with the identified person)
3	Name and Surname:			
	Role	Date of termination of employment	Details of any involvement in procurement (if any)	Special reasons for Transnet to do business with the identified person)

--	--	--	--	--

13.2 Do you, or any person connected with the bidder, have a relationship with any person who is employed by the procuring institution?

YES/NO

13.2.1.If so, furnish particulars:

.....

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

YES/NO

13.3.1.If so, furnish particulars:

.....

14 DECLARATION

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

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

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

14.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor.

However, communication between partners in a joint venture or consortium² will not be construed as collusive bidding.

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

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

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

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

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

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING

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.

ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

BREACH OF LAW

We further hereby certify that *I/we* (the bidding entity and/or any of its directors, members or partners) ***have/have not been*** [delete as applicable] found guilty during the preceding 5 [five] years of a serious breach of law, including but not limited to a breach of the Competition Act, 89 of 1998, by a court of law, tribunal or other administrative body. The type of breach that 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.

SIGNED at _____ on this _____ day of _____ 2023.

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

RFP deadline for questions / clarifications: Before 10:00am on 23 March 2023.

FROM: _____

• • • • •

REQUEST FOR RFP CLARIFICATION

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page, providing a template for handwriting practice. There are no margins, text, or other markings on the paper.

Date & Company Stamp

SECTION 8: PROTECTION OF PERSONAL INFORMATION

1. The following terms shall bear the same meaning as contemplated in Section 1 of the Protection of Person information act, No.4 of 2013.("POPIA"):

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

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

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

3. The Parties acknowledge and agree that, in relation to personal information that will be processed pursuant to this RFP, the Responsible party is "Transnet" and the Data subject is the "Respondent". Transnet will process personal information only with the knowledge and authorisation of the Respondent and will treat personal information which comes to its knowledge as confidential and will not disclose it, unless so required by law or subject to the exceptions contained in the POPIA.

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

5. In responding to this bid, Transnet acknowledges that it will obtain and have access to personal information of the Respondent. Transnet agrees that it shall only process the information disclosed by Respondent in their response to this bid for the purpose of evaluating and subsequent award of business and in accordance with any applicable law.

6. Transnet further agrees that in submitting any information or documentation requested in this RFP, the Respondent is consenting to the further processing of their personal information for the purpose of, but not limited to, risk assessment, assurances, contract award, contract management, auditing, legal opinions/litigations, investigations (if applicable), document storage for the legislatively required period, destruction, de-identification and publishing of personal information by Transnet and/or its authorised appointed third parties.

7. Furthermore, Transnet will not otherwise modify, amend or alter any personal data submitted by the Respondent or disclose or permit the disclosure of any personal data to any third party

without the prior written consent from the Respondent. Similarly, Transnet requires the Respondent to process any personal information disclosed by Transnet in the bidding process in the same manner.

8. Transnet shall, at all times, ensure compliance with any applicable laws put in place and maintain sufficient measures, policies and systems to manage and secure against all forms of risks to any information that may be shared or accessed pursuant to this RFP (physically, through a computer or any other form of electronic communication).
9. Transnet shall notify the Respondent in writing of any unauthorised access to information, cybercrimes or suspected cybercrimes, in its knowledge and report such crimes or suspected crimes to the relevant authorities in accordance with applicable laws, after becoming aware of such crimes or suspected crime. The Respondent must take all necessary remedial steps to mitigate the extent of the loss or compromise of personal information and to restore the integrity of the affected personal information as quickly as is possible.
10. The Respondent may, in writing, request Transnet to confirm and/or make available any personal information in its possession in relation to the Respondent and if such personal information has been accessed by third parties and the identity thereof in terms of the POPIA. The Respondent may further request that Transnet correct (excluding critical/mandatory or evaluation information), delete, destroy, withdraw consent or object to the processing of any personal information relating to the Respondent in Transnet's possession in terms of the provision of the POPIA and utilizing Form 2 of the POPIA Regulations.
11. In submitting any information or documentation requested in this RFP, the Respondent is hereby consenting to the processing of their personal information for the purpose of this RFP and further confirming that they are aware of their rights in terms of Section 5 of POPIA

Respondents are required to provide consent below:

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

12. Further, the Respondent declares that they have obtained all consents pertaining to other data subject's personal information included in its submission and thereby indemnifying Transnet against any civil or criminal action, administrative fines or other penalty or loss that may arise as a result of the processing of any personal information that the Respondent submitted.

13. The Respondent declares that the personal information submitted for the purpose of this RFP is complete, accurate, not misleading, is up to date and may be updated where applicable.

Signature of Respondent's authorised representative: _____

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



TRANSNET SOC LTD
CONTRACT NUMBER: ICLM HQ 729/TPT

INVITATION TO FRAMLIST SERVICE PROVIDERS FOR THE PROVISION OF MULTIPLE RESOURCES ON AD HOC BASIS FOR TRANSNET SOC LTD (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS ("TPT") FOR A PERIOD OF TWELVE (12) MONTHS.

PART 3: SCOPE OF WORK

Document reference	Title	No of pages
	INVITATION TO FRAMLIST SERVICE PROVIDERS FOR THE PROVISION OF MULTIPLE RESOURCES ON AD HOC BASIS FOR TRANSNET SOC LTD (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS ("TPT") FOR A PERIOD OF TWELVE (12) MONTHS.	
	Total number of pages	34



INVITATION TO FRAMELIST SERVICE PROVIDERS FOR THE PROVISION OF MULTIPLE RESOURCES ON AD HOC BASIS FOR TRANSNET SOC LTD (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS ("TPT") FOR A PERIOD OF TWELVE (12) MONTHS.

1. INTRODUCTION

Transnet Port Terminals (TPT) is a division of Transnet SOC. Ltd. TPT manages and operates the sixteen (16) port terminals around the country.

TPT has embarked on its digital journey in line with its mission and vision of driving agility, leading collaboration, and pioneering digital technologies.

The objective of TPT's ICT in the short term, is to move itself away from just being a service provider, to establishing itself as an ICT entrepreneur, by collaborating with business and its partners in introducing innovative technologies to unlock growth opportunities. In the long-term ICT's vision is to become a business leader, leading digitally enabled transformation initiatives that is vital to sustained growth and relevance. It is also ICT's vision to partner with service providers to accelerate innovative supply chain solutions and expand its terminal operating solutions into Africa.

2. BACKGROUND

TPT's roadmap over the next few years, is to transform its IT landscape in line with leading technology offerings and solution implementation methodologies, i.e. Cloud Computing, IOT, Machine Learning, Augmented Reality, Cognitive Learning, AI, Virtual and e-Learning, Big Data and Business Intelligence, mobile and remote computing, SharePoint, ICT governance and agile solutions development.

3. SCOPE OF WORK

- 3.1. The services required are of junior, senior and principal resources. Resources must have the appropriate qualifications, certification and experience according to the skill level requirements. See Annexures (A - O) for details.
- 3.2. In addition, resources must have strong oral and written communication skills, must be proactive and display strong leadership skills and at the same time work as part of a team.



INVITATION TO FRAMELIST SERVICE PROVIDERS FOR THE PROVISION OF MULTIPLE RESOURCES ON AD HOC BASIS FOR TRANSNET SOC LTD (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS ("TPT") FOR A PERIOD OF TWELVE (12) MONTHS.

3.3 Scheduling of Candidate Interviews

TPT reserves the right to interview the candidates. The suppliers will be required to assist with arranging the interviews for the shortlisted candidates. Suppliers must ensure that the candidates submitted meet the job description requirements. This is to ensure that the suitable candidate is on boarded:

- Short listing of candidates will be based on the job description requirements. (as per detailed job description annexures).
- Candidates that are based in Durban can attend an interview in person at the Transnet Port Terminals HQ building.
- Candidates that are unable to attend the interview in person, a telephonic interview will be held with the candidate.
- Candidates may be shortlisted for other roles where they meet the requirements of the other job specifications.



TRANSNET SOC LTD
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INVITATION TO FRAMELIST SERVICE PROVIDERS FOR THE PROVISION OF MULTIPLE RESOURCES ON AD HOC BASIS FOR TRANSNET SOC LTD (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS ("TPT") FOR A PERIOD OF TWELVE (12) MONTHS.

3.4 Start date of the Candidates

- The contract Manager and Supply Chain will negotiate starting date when required.
- The candidate to be available within 7 days after issuing of PO and or on agreement on issue of LOA.

3.5 Responses to the Job descriptions.

The suppliers should respond to those job descriptions where they have candidates.

- For example, if job description is for Business Analyst and the supplier doesn't have any resources suitable for the Business Analyst, the supplier may choose to not respond to the Business Analyst Job Specification



TRANSNET SOC LTD
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INVITATION TO FRAMELIST SERVICE PROVIDERS FOR THE PROVISION OF MULTIPLE RESOURCES ON AD HOC BASIS FOR TRANSNET SOC LTD (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS ("TPT") FOR A PERIOD OF TWELVE (12) MONTHS.

3.6 List below are candidate requirements for the different departments:

Qty	Role Name	Months	Hours per Month
1	Project Manager	12	176
1	Project Administrator	12	176
1	Governance Specialist	12	176
1	Risk and Compliance Officer	12	176
1	Enterprise Architects	12	176
1	Data Architect	12	176
1	Business Analysts	12	176
1	BI Developer	12	176
3	Apex Oracle Developer	12	176
1	Senior Apex Oracle Developer	12	176
1	Solution Support Analyst	12	176
1	SharePoint Analyst	12	176
1	SQL Database Administrator	12	176
1	WebMethods developer	12	176
1	Android Developer	8	176
1	Apex Oracle Developer	12	176
1	Senior Apex Oracle Developer	12	176
1	SAP FICO	12	176
1	SAP SD	12	176
1	SAP Basis Resource	12	176



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4. SPECIFIC DELIVERABLES FOR THE TENDER PROCESS

The Service Provider is expected to submit CVs of the candidates that meet the job descriptions at the time of the RFQ for the specific resource as provisioned for at the award of this RFP.

4.1 Service History

Bidder to submit a minimum of five (5) reference letters in official company letterheads from different clients where the bidder provided ICT consultants for projects in the past 24-48 months and letters must not be dated older than 12 months. The reference letters must be for any previous ICT projects or roles detailing the type of work which was done.

The letters must bear the official letterhead of the client which the services were rendered to a sufficiently detailed reference list with contact details of customers.

Details to include

- Customer name and contact details
- Project description
- Duration
- Contract value



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4.2 Lead Times

Bidder to submit confirmation of their lead times in their company letterhead, signed by company executive and they need to demonstrate the timelines for delivery of a resource to TPT from the date of receiving the PO. Bidder to note that short lead times and are to ensure that offering shortest period will gain an advantage.

The bidder is to provide a draft schedule of activities to meet indicated lead time. Failure to provide the draft schedule will nullify the lead time score above.

4.3 Service Provider Mobilisation

Bidder is able to provide written confirmation that on-site services with established processes will be in place to support the project deliverables, as well as detailed descriptions of how they manage the following:

- 1) Onboarding
- 2) Transition/ hand over between resources
- 3) SLA Management
- 4) Time Management
- 5) Quality Management

The bidder is to provide a draft schedule of activities in relation to the five mobilisation areas, the schedule should reflect the indicated confirmed mobilisation area(s). Failure to provide the draft schedule will nullify the Mobilisation score above.

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Appendix A:

Role: Project Manager

Purpose

To plan, execute, monitor and control all aspects of various projects within the Project Management Office. To work closely with the Programme Manager to make sure that the scope and direction of each project is on schedule, within budget and adhering to the quality standards agreed.

Responsibilities

- To be responsible for the initiating, planning, executing, monitoring, controlling and closure of the projects within the programme.
- To ensure that project artefacts are documented completely and accurately and to maintain the living project artefacts.
- To ensure tracking and reporting of project deliverables, outcomes and financials.
- To ensure that the projects that are managed are supported with adequate Organizational Change Management and Communication support and fill the gap with Change Management where a Change Manager is not assigned.
- To identify stakeholders, develop stakeholders' map, define stakeholders' interests, and plan and execute communication plans to stakeholders.
- To ensure project budgets are controlled and reported on as per the agreed frequencies per project.
- To ensure that the central repository is kept up to date with all project artefacts.
- To ensure tracking and management of risks, issues and change requests.
- To ensure project benefits are documented during project scoping and tracked throughout the project life cycle.
- To ensure operational readiness plans are in place and tracked for all projects.
- To manage interdependencies amongst projects.
- To adopt the agreed quality control standards on the project and track quality throughout the project life cycle.



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- To ensure that all project governance requirements are met and accept that auditing and/or health checks on projects could be done at random at any time to ensure that the project governance is in good order.

Qualifications and Experience

- National Diploma in Project Management or Business degree or NQF level 7 equivalent qualification, and above
- Project Management Professional (PMI-PMP) or equivalent Project Management Qualification/ certification
- 5 years of project management experience.
- 10 years of SDLC, information systems and business experience required

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Appendix B:

Role Description: Governance Specialist

Purpose

- Responsible for the Governance function within the ICT department by ensuring that all related legislative and regulatory governance frameworks are complied with.
- Responsible for monitoring and evaluating the governance framework of ICT policies, procedures and standards that are being used at TPT.
- Responsible for the governance of projects ensuring that project deliverables are in accordance with the adopted project methodology and in line with the project plan and the overall strategy of the organization

Responsibilities

- Develop, manage and enhance the ICT governance framework, road map & processes.
- Manage the ICT policies and procedures and frameworks and make sure that they are complying and up to date. Conduct annual reviews with the policy/process owners.
- Research, recommend, manage and participate in implementing any required ICT standards, controls or policies and procedures.
- Identify gaps in the effectiveness of the implemented ICT controls and identify opportunities for enhancements.
- Generate any required ICT governance performance monitoring measures.
- Creates any required templates and standards to be adopted by ICT.
- Plan and conduct any required ICT governance trainings to the ICT staff.
- Manage the creation of the ICT related Management Reports. This would



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include the ICT reports and the Audit management reports.

- Manage and follow up with the Auditors and the ICT departments on any internal or external audit findings raised and make sure that they are closed properly.
- Take appropriate steps to identify trends and improve compliance effectiveness.
- Responsible of the governance if ICT projects – ensuring that deliverables are in line with the adopted methodologies, within time, budget and in line with the organisation strategy.
- Responsible for project gate reviews and influencing go-no-go decisions.
- Advising and influencing project steering committees on project governance, risk and compliance issues.
- Assist the ICT team with compliance and risk.
- Assist the ICT team with information security tasks.



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Qualifications and Experience

- A degree or diploma in Information Technology, Computer Science or Auditing.
- A minimum of five (5) years' experience in ICT Governance, Risk and Compliance;
- Experience and knowledge of Information Security will be an added advantage.
- Experience in working with industry frameworks (ISO 27001/2, COBIT, ITIL);
- Ability to coordinate ICT Governance activities across multiple ICT Departments, Projects and Operations;
- Working within a well-defined service management environment based around ITIL practices
- Ability to operate and engage with Stakeholders at a Senior Management level.
- Experience in the identification, evaluation and documentation of policies, process and controls
- Must have a detailed and analytical approach with hands-on experience with project management tools (e.g. Microsoft Project) and strong organizational skills.
- Experience in analysing, documenting and re-engineering complex business processes.
- A working knowledge of waterfall and agile project methodologies and frameworks.

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APPENDIX C:

Role Description: ICT Risk and Compliance Officer

Purpose

To embed an effective risk management program within ICT and to implement all necessary measures to ensure achievement of the objectives of an effective compliance program by ensuring that all processes are in compliance with the rules and regulations of regulatory frameworks, and that company policies, procedures and standards are being complied with.

Responsibilities RISK

- Provide guidance, feedback and support across ICT regarding identification of risk, risk mitigation and management.
- Create an appropriate metrics to quantify, track and report on identified risk across ICT.
- Analyze and assess for risks associated with relevant ICT projects and initiatives.
- Provide support with tracking of project risks and mitigation actions.
- Conduct ICT risk awareness and training - design and publish communications which develop awareness and accountabilities for risk management activities. Perform training on the risk management tool.
- Development and implementation of an appropriate risk reporting discipline in ICT and to the TPT and Transnet Risk Committees
- Participate in various internal and external audits.
- Working with Audit /Security/Compliance officers in ICT to collate and improve risk reporting and evaluation
- Keeps abreast of developments by identifying emerging risks and creation of associated risks registers
- Contribute to TPT and Transnet risk framework and reporting



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- Maintain a certain level of internal auditing to proactively deal with lower level operational risks
- Provide guidance and identification of emerging ICT strategic risks, within the department and Operating Division and Transnet and global environment
- Provide feedback to related governance forums regarding latest risk posture of TPT ICT i.e. forums such as MANCO and RISCO



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COMPLIANCE

- Develop and test processes to ensure compliance in accordance with all aspects of the ICT PPSG's and frameworks.
- Ensure that IT staff understand their role in compliance
- Ensure that IT compliance issues/concerns are being appropriately evaluated, investigated and resolved
- Identify potential areas of compliance vulnerability and risk; recommend, get approval for and drive corrective action plans
- Participate in various internal and external audits.
- Ensure that all project and task activities comply with the appropriate governance frameworks
- Keeps abreast of developments in the areas of legal, regulatory, corporate requirements.
- Ensure vendor and stakeholder compliance to Transnet's Governance frameworks and adherence to SLA's
- Weekly, monthly and quarterly reporting on the compliance across the various application systems across the organisation.
- Ensure that compliance vulnerabilities are raised, and appropriate steps are taken to resolve.
- Monitor and coordinate IT compliance activities to remain abreast of the status of all compliance activities on a continuing basis.
- Take appropriate steps to identify trends and improve compliance effectiveness.
- Provide feedback to governance forums regarding status of the IT compliance assessments, for example Internal controls steering committee.
- Assist in executing other tasks of the Information Security, Governance, Risk and Compliance function, as and when required.



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Qualifications and Experience

- A bachelor's degree or national diploma in Information Technology, Computer Science or Auditing;
- A minimum of five (5) years' experience in ICT Governance, Risk and Compliance;
- Experiencing in coordinating ICT Risk and Compliance activities across multiple ICT Departments, Projects and Operations;
- Ability to operate and engage with Stakeholders at a Senior Management level.

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Appendix D

Role Description: Enterprise Architect Purpose

The Enterprise Architect provides guidance, road maps, principles, standards and best practices. They are focused on enabling business and IT leaders to make investment decisions that balance and prioritize current operational demands, disruptions, and opportunities with the longer-term strategic vision of the organization.

Responsibilities

The Enterprise Architect plays a hugely significant role in shaping the ICT Strategy and its contents for the CIO.

The Architecture Domains in Transnet span 6 domains:

- Business
- Data/Information
- Applications
- Technology Infrastructure
- Integration
- Security

Deliver models(blueprint) that describe the current and future state of the enterprise Identifying and analyzing of the organization's Business drivers and business development strategies (to derive useful business context).

Analyzing of the current IT ecosystem to detect critical deficiencies and Pain Points.

Recommending solutions for overall Business and Technology innovation and optimization/improvement that will increase sustainability and prepare for future expansion.

Align with the organization's technology and governance strategies, policies and standards – or direct necessary changes to these.

Delivering transition views (models) that are an interim view, in between the current state and a future state.



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Oversight and Guidance of the Integration of the Architecture Domains

Ensuring that the architecture of the enterprise is optimized, it is essential that all Architecture Domains (Business Architecture, Data Architecture, Application architecture, Technology Architecture) integrate (and inter-operate) in a cost-effective manner, with minimum effort and maximum benefit to the organization.



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Provide vision and insight to proactively assist in defining the direction for projects

Guiding the technology, design patterns, design constructs and the (re-usable) solution building blocks that make up a Solution Architecture, defining a conceptual Solution Architecture.

Deliver Innovation and Optimization

Keeping up to date with and having a clear understanding of the capabilities and benefits of new/emerging technologies in order to apply same in a business context.

Business Case Development

Aid in business case development (i.e., research, data collection). Provide factual content to the feasibility studies that are needed for standard development projects and enhancements.

Qualifications and Experience

- Bachelor's degree in Computer Science, Business Administration, Engineering or a related discipline with an Information Technology focus.
- 8 years of experience in IT, with a minimum of two years in Business Process Design.
- TOGAF Certification.
- Experience with process redesign methods and tools.
- Three to five years of demonstrated management / supervisory experience in system management.

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Appendix E

Role Description: Data Architect

Purpose

The Information/Data Architect is responsible for the overall design of the enterprise information architecture, across multiple data types (structured, semi structured and unstructured), balancing the need for access against security and performance requirements. This individual focus primarily on enterprise information requirements: design, access, usage and stewardship. The position also requires an understanding of emerging regulatory issues surrounding information assets (such as consumer privacy laws, data retention policies, outsourced data and specific industry guidelines — especially in healthcare, insurance and banking). Also included are the developments or use of process models, creation or use of information or target data models, interface designs, and development of internal and external checks and controls to ensure proper governance, security and quality of information assets.

Responsibilities

- Translate strategic requirements into a usable enterprise information architecture, which may include an enterprise data model, associated metamodel, common business vocabulary, ontologies and taxonomies, which will then be used to guide enterprise solution development and achieve consistency of information assets across the application portfolio.
- Develop a metadata management and repository strategy to manage all enterprise information architecture project artefacts.
- When necessary, oversee mapping of enterprise information architecture models to package application models, to determine impact or assess suitability of vendor solutions to enterprise information architecture requirements.
- Facilitate the mapping and auditability of information assets as they flow from upstream



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legacy, package, or custom development and interfaces to downstream analytical applications, thus ensuring optimal transparency, quality, consistency and controlled redundancy across the enterprise.

- Facilitate the definition of integrative and canonical views of data or information across multiple content types (structured, semi-structured, XML or unstructured) to support convergence of information asset migration planning or impact analysis.
- Participate in the definition of technical standards and guidelines that pertain to data and information use, security, access and governance (including defining accountabilities in support of data quality mandates).
- Ensure existing data/information assets are identified, stewarded and leveraged across the enterprise.
- Ensure the enterprise information architecture maps to the enterprise architecture.



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- Ensure a focus on information/data quality by developing and publishing enterprise data standards such as a common business vocabulary, naming conventions, data standards, transformation rules and related enterprise consistency specifications.
- Construct, refine and maintain information models, as needed, to meet business requirements.
- Ensure timely and appropriate information models exist to aid projects.
- Develop a model management strategy in support of enterprise reuse and data-sharing objectives.
- Validate audit objectives and assist with creation of audit plans to ensure continued data integrity and transparency.
- Establish guidelines for reporting procedures on the reuse of enterprise information architecture artefacts.
- Analyse information to evaluate the effectiveness of controls, determine the accuracy of reports, and monitor the efficiency and security of operations.
- Review audit reports to ensure findings and recommendations are acted on.
- Coordinate new development activities and ensure they are consistent and well-integrated with the established enterprise information architecture, using metadata management and/or a repository to promote reuse and standards adoption.
- Facilitate consistent business analysis, information acquisition analysis and design, data access analysis and design, archiving and recovery strategies, security, and change management at the enterprise level.
- Assist in post-implementation continuous-improvement efforts to enhance performance and provide increased functionality.
- Participate in key project design reviews as part of the methodology process to ensure application designs adhere to enterprise information architecture guidelines.
- Review corporate data sources for new business information and better sources of data feeds.
- Interface with the business community and provide ongoing status reports.
- Monitor regulatory guidelines (such as consumer privacy issues) to determine



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impact on enterprise information architecture.

- Monitor compliance and related guidance (such as data retention and audit requirements) to determine impact on enterprise information architecture.
- Monitor emerging industry standards (such as XML, RDF, OWL and XBRL) to determine impact on enterprise information architecture

Qualifications and Experience

- Bachelor's degree in Computer Science, Business Administration, Engineering or a related discipline with an Information Technology focus.
- TOGAF Certification.



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- Experience with process redesign methods and tools.
- Seven to 10 years of experience in IT, with a minimum of two years in information systems design.
- Three to five years of demonstrated management / supervisory experience in system management.
- In-depth experience designing and implementing information solutions.
- Knowledgeable in the design and construction of information architectures that enable well integrated transactional, collaborative and analytical systems.
- Data/information modelling expertise at the enterprise level.
- Understanding of differences between relational modelling and object modelling.
- Understanding of taxonomies and ontologies, as well as the challenges of applying structured techniques (data modelling) to less structured sources.
- Understanding of metamodels.

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Appendix F

Role Description: Business Analyst

Purpose

To enable change in an organizational context, by defining business needs and recommending solutions that deliver value to business stakeholders and customers.

Responsibilities

- Liaison - Establish and maintain a liaison relationship between the various functional areas of the business and ICT (solution providers). Seek opportunities to improve and deepen the relationship between ICT and business stakeholders. This is required in order to provide effective solutions.
- Planning - Conduct data gathering and analysis to understand business strategy requirements. May contribute to the business short-and long-term planning sessions. Provide direction within ICT (solution providers), to ensure their understanding of business goals and direction. Provide input from a business and ICT perspective.
- Business Requirements Management - Assess user/stakeholder needs by utilising a structured Requirements Management Process (gathering, analysing, documenting, and managing changes) to assist in identifying business priorities. Develop, write, and communicate business requirements and functional specifications for the implementation of business solutions. Analyse user/stakeholder operations in order to understand their strengths and weaknesses, to determine opportunities for improvement.
- To ensure that the GCOS system is globally accepted by ensuring that is a commercially attractive and competitive system.
- Business Process Management - Document current business processes and models. Assist in the business process redesign and to document as needed. Provide recommendations for business process redesign, and the documentation as needed for new technology.



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- Business Case Development - Aid in business case development (i.e., research, data collection). Provide factual content to the feasibility studies that are needed for standard development projects and enhancements.
- Testing - Assist in the development of user test cases and to validate the test results during testing of the solutions aimed at closing gaps in the business processes.
- Problem Solving - Investigate problems and develop recommendations for resolution. Identify the need for technical assistance that will assist in problem resolution.



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- User/Stakeholder Support - Keep user/stakeholder informed of problems, issues, and resolutions. Analyse performance metrics in order to ensure user/stakeholder satisfaction. Manage client expectations. Ensure solutions meet user/stakeholder needs.
- Playing a significant role in driving and supporting innovation projects with the Innovation Department.

Qualifications and Experience

- Bachelor's degree in Computer Science, Information Systems.
- 5-7 years of relevant technical and business work experience.
- Requires experience/in-depth knowledge of business operations, systems requirements, and processes in the port operations or logistics sector is desirable.



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Appendix G

Role Description: Business Intelligence Developer

Purpose

- The Business Intelligence (BI) Developer is responsible for the design, development, release, maintenance and support of all TPT dashboards and reports developed from its data warehouse and any associated data stores, systems, applications or services. They will be responsible for designing, developing and maintaining BI solutions and models using Microsoft Power BI and other BI tools in the organisation. They will also be responsible for crafting and executing queries upon request for data and presenting information through reports and visualization.
- The BI Developer will use the latest technologies to deliver end-to-end solutions that address business needs and challenges by engaging in a range of analytical projects.
- This individual works closely with customers (internal and external), vendor's / service providers, colleagues, and other stakeholders to identify and maximize opportunities for using data warehouse systems to improve business processes, promote the strategic use of information technology across TPT, and enable the workforce to use leading technologies.
- The incumbent will provide input into the leadership vision and direction for data warehouse/data mart systems, which are also referred to as business intelligence systems, ensuring support of TPT's business objectives and requirements. A key responsibility is ensuring organizational balance and system coherency between desktop/client and data warehouse back-end processing activities.
- The role involves advising the team that designs the data warehouse; constructing and maintaining the data processing back end; ensuring the currency, quality, and integrity of the data in the data warehouse; and providing consistency and synchronization across all platforms. The incumbent will work with Enterprise Architects (EA) and Business



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- Analysts (BA) in developing requirements and design specifications and then refining the conceptual systems design requirements into a technical design. The incumbent will ensure that the data processing performance of the data warehouse meets Transnet Port Terminal needs and SLAs and is accountable for developing data warehouse information security standards, procedures, and guidelines and for implementing programs for user awareness, training, and compliance monitoring.
- Business intelligence (BI) developers must be a data expert, as they will be required to work with databases and different types of visualisation software like



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Microsoft Power BI to develop and fine tune ICT solutions. This will include designing, coding, testing, debugging, and implementing newly developed solutions and tools. The BI developer will be required to spend time researching and planning solutions for existing problems within the company. The BI developer will be responsible for building OLAP data models for multidimensional analysis of business data and provide the capability for complex calculations and trend analysis. They will also be required to work with both relational and multidimensional databases. A Lead BI developer may be responsible for managing other BI resources in the ICT department as projects requirements may require, and in line with strategic direction of the lead EA.

Responsibilities

- Liaison - Establish and maintain a liaison relationship between the various functional areas of the business and ICT (solution providers). This is required to deliver more effective solutions to our customers.
- Planning - Contribute to the business short-and long-term BI planning sessions. Provide expertise in the planning and design of a BI capability within TPT, influencing EA decisions.
- Business Requirements Management – Conduct customer engagements to gather report and dashboard requirements and translate those into a technical specification.
- Design – Create effective and sustainable BI solution designs to satisfy customer and/or strategic requirements.
- Build – Build and deploy BI solutions according to defined technical specifications.
- Support – Maintain and support the BI environment and all developed dashboards and reports, including the ongoing updates of all technical documents. Keep user/stakeholder informed of problems, issues, and resolutions. Analyse performance metrics to ensure user/stakeholder satisfaction. Manage client expectations. Ensure solutions meet user/stakeholder needs.
- Testing - Assist in the development of user test cases and to validate the test results



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- during unit testing.
- Problem Solving - Investigate problems and develop recommendations for resolution. Identify the need for technical assistance that will assist in problem resolution.
- Other Outputs:
- Create business intelligence tools and reports, such as physical data models and dimensional analyses.
- Design, code, test, and aggregate results from SQL queries to provide information to users



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INVITATION TO FRAMELIST SERVICE PROVIDERS FOR THE PROVISION OF MULTIPLE RESOURCES ON AD HOC BASIS FOR TRANSNET SOC LTD (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS ("TPT") FOR A PERIOD OF TWELVE (12) MONTHS.

- Create technical documents to document Oracle or other database contents, concepts, and mapping between databases.
- Participate in the design, development, and analysis of data architecture and warehousing approaches.

Position Challenges

- Predictive analytics for asset utilisation and revenue creation
- Data insights on operations and customers
- Optimizing business processes through data insights
- Manage challenges encountered during the provisioning/development of the solution aimed at addressing requirements.
- Manage challenges with Change Management during solution deployments.
- Manage challenges during UAT (User Acceptance Testing) of the solution.

Decision Making

- Maintaining professional networks within organisational boundaries. Maintaining professional networks beyond organisational boundaries. Obtaining and sharing information, ideas and problems. Soliciting advice, support, championship, sponsorship and commitment that results in smooth transitions of change, as well as the development of mutually acceptable solutions.
- Using his/her understanding of business functions to analyse, design and develop technical strategies and specifications for Business Intelligence, assessing benefits, risks, and costs.
- Providing informative and innovative recommendations to business by keeping abreast of developments and new technologies and processes in the BI domain.
- The ability to analyse new trends and apply the knowledge within best practice.
- Translating current information into improvement activities that enhance performance.



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Qualifications and experience

- Diploma / Bachelor's degree in Computer Science, Information Systems or related discipline.
- 5 - 7 years of relevant technical and business work experience in the Business Intelligence domain.
- Microsoft Power BI dashboard and report development.
- Financial and Management reporting principles.
- SQL Server Reporting Services (SSRS)
- SQL Server Integration Services (SSIS)



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- SQL Server Analysis Services (SSAS)
- SQL queries
- Microsoft Azure Data Technology stack
- Requires experience/in-depth knowledge of data design and system integration.
- Experience in Agile methodology is advantageous.
- Certification is desirable.

INVITATION TO FRAMELIST SERVICE PROVIDERS FOR THE PROVISION OF MULTIPLE RESOURCES ON AD HOC BASIS FOR TRANSNET SOC LTD (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS ("TPT") FOR A PERIOD OF TWELVE (12) MONTHS.

APPENDIX H:

Role Description: Apex Oracle Developer

Purpose

The specification and design of IT solutions to meet defined business needs. The design, creation, testing and documentation of new and amended programs from supplied specifications in accordance with agreed standards. Ensure smooth operations of relevant IT systems that complement the business.

Responsibilities

- Define system requirements, design specifications and systems documentation.
- Data modelling, procedural and technical designs according to application development methods, techniques and
- Standards.
- Structured reviews and software testing.
- Systems Implementation, Training and Support.
- Cost estimation, feasibility studies and other budget requirements
- Project Management and Execution.
- Develop APEX based web applications to assist customer in daily processing.
- Enhance and applications with new required functionality and correct errors in applications when required.
- Develop requirements and specifications to support business needs.
- Develop and enhance JavaScript in APEX applications using either external JavaScript files or dynamic actions in APEX pages.
- Mentor other developers in Oracle development standards.
- Assist in executing other tasks of the Information Security, Governance, Risk and Compliance function, as and when required.



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INVITATION TO FRAMELIST SERVICE PROVIDERS FOR THE PROVISION OF MULTIPLE RESOURCES ON AD HOC BASIS FOR TRANSNET SOC LTD (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS ("TPT") FOR A PERIOD OF TWELVE (12) MONTHS.

Qualifications and Experience

- BTech/ Degree/NQF Level 7 Qualification in Computer Science or IT Related
- 3-5 years of development experience in Oracle / APEX
- 3-5 years of Java development experience

Essential Requirements:

- To independently manage all aspects related to Oracle APEX development and support.



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INVITATION TO FRAMelist SERVICE PROVIDERS FOR THE PROVISION OF MULTIPLE RESOURCES ON AD HOC BASIS FOR TRANSNET SOC LTD (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS ("TPT") FOR A PERIOD OF TWELVE (12) MONTHS.

- Strong front end Oracle Apex Development skills, Database management skills including, integration, backup and recovery, best practices in a high-availability environment.
- Strong skills in maintenance tools and best practices processes.

INVITATION TO FRAMELIST SERVICE PROVIDERS FOR THE PROVISION OF MULTIPLE RESOURCES ON AD HOC BASIS FOR TRANSNET SOC LTD (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS ("TPT") FOR A PERIOD OF TWELVE (12) MONTHS.

APPENDIX I:

Role Description: Senior Apex Oracle Developer

Purpose

The specification and design of IT solutions to meet defined business needs. The design, creation, testing and documentation of new and amended programs from supplied specifications in accordance with agreed standards. Ensure smooth operations of relevant IT systems that complement the business.

Responsibilities

- Define system requirements, design specifications and systems documentation.
- Data modelling, procedural and technical designs according to application development methods, techniques and
- Standards.
- Structured reviews and software testing.
- Systems Implementation, Training and Support.
- Cost estimation, feasibility studies and other budget requirements
- Project Management and Execution.
- Develop APEX based web applications to assist customer in daily processing.
- Enhance and applications with new required functionality and correct errors in applications when required.
- Develop requirements and specifications to support business needs.
- Develop and enhance JavaScript in APEX applications using either external JavaScript files or dynamic actions in APEX pages.
- Mentor other developers in Oracle development standards.
- Assist in executing other tasks of the Information Security, Governance, Risk and Compliance function, as and when required.

Qualifications and Experience

- BTech/ Degree/NQF Level 7 Qualification in Computer Science or IT Related



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- 7-10 years of development experience in Oracle / APEX
- 7-10 years of Java development experience

Essential Requirements:

- To independently manage all aspects related to Oracle APEX development and support.



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INVITATION TO FRAMelist SERVICE PROVIDERS FOR THE PROVISION OF MULTIPLE RESOURCES ON AD HOC BASIS FOR TRANSNET SOC LTD (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS ("TPT") FOR A PERIOD OF TWELVE (12) MONTHS.

- Strong front end Oracle Apex Development skills, Database management skills including, integration, backup and recovery, best practices in a high-availability environment.
- Strong skills in maintenance tools and best practices processes.



INVITATION TO FRAMELIST SERVICE PROVIDERS FOR THE PROVISION OF MULTIPLE RESOURCES ON AD HOC BASIS FOR TRANSNET SOC LTD (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS ("TPT") FOR A PERIOD OF TWELVE (12) MONTHS.

Appendix J:

Role Description: Solution Support Analyst

Purpose

We are looking for a strong Microservices technical lead/ Architect for Cargo Connect Platform. The Technical lead will be responsible for ensuring successful development, delivery of Cargo connect applications. Successfully maintaining the application, ensuring all bugs/defect-closure before SLA, and leading the technical team.

Candidate should have 10+ Years of overall IT experience including 5+ years of experience in Microservices and UI development/support in cloud environment. 3+ years of experience in team lead role. Candidate must have good command on Java, React, Mongo DB.

*Must have in-hand experience in Microservices, Spring Boot, REST APIs based web- application development and Databases.

*Basic understanding of React, React-native or related front-end frameworks for web and native apps development.

*Must understand application hosting in cloud based or managed hosting environments, Kubernetes and Azure.

The lead will work very closely alongside the developers and project manager.

Must have proven experience in managing team, and completion of tasks to strict timelines.

Must have experience in a cloud or managed hosting environment. would be desirable. Professional communication skills, written & verbal ability to self-teach and expand knowledge. The specification and design of IT solutions to meet the system integration requirements of TPT. These include - Integration between TPT systems, Integration



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between TPT systems and those of other Transnet business units, integration between

TPT systems and the systems of our customers, the design, creation, testing and documentation of new and amended programs from supplied specifications in accordance with agreed standards. Ensure smooth operations of relevant IT systems that complement the business.

Responsibilities

- Define and design system integration requirements.
- Design specifications and systems documentation.
- Data modelling, procedural and technical designs according to application development methods, techniques and standards.
- Build and Implementation of system integration solutions.
- Structured reviews and software testing.
- Systems Implementation.



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- Training and Support.
- Cost estimation, feasibility studies and other budget requirements.
- Project Management and Execution.
- Management and Leadership.
- Customer interaction and engagement.
- Evaluate new technologies and industry practices to ensure continuous improvements in department capabilities.

Qualifications and Experience

- B Degree / National Diploma IT
- 5+ Years' experience in Microservices and UI development
- 3+ Years' experience as a team lead
- Experience in managed hosting environments, Kubernetes and Azure
- Demonstrable experience in Java, React, Mongo DB advantageous
- SQL competency advantageous

INVITATION TO FRAMELIST SERVICE PROVIDERS FOR THE PROVISION OF MULTIPLE RESOURCES ON AD HOC BASIS FOR TRANSNET SOC LTD (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS ("TPT") FOR A PERIOD OF TWELVE (12) MONTHS.

Appendix K:

Role Description: SharePoint Analyst

Purpose

The main role of this position is to provide, develop, improve and support with Enterprise Content Management systems (SharePoint), which consist of the following application areas:

- Document Management System (DMS)
- Records Management System (RMS)
- Internet Website
- Intranet Website
- Mobility Content

The incumbent is responsible for all aspects of these systems pertaining to the implementation, research and development and roll out of these systems.

The incumbent applies System analysis and Design skills to provide integrated solutions in a multi-platform environment.

Responsibilities

- Provide technical expertise within ICT department, as a member of a project team as well as a member of the Production Support team, in the solution evaluation design, development and implementation of business applications and enhancements.
- Development of design technical specifications from the functional specification and formulate and define application scope and objectives.
- Devise and modify procedures to solve business problems
- Provide technical consulting support on project or system issues.
- Develop business relationships and integrate activities across other department functions to ensure successful implementation and support of



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project and enhancement efforts.

- Continuously analyse business processes and provide improvements to the design to ensue optimised business flow.
- Perform research on application software packages and make recommendations to management.
- Collaborate with IT team members, customers and stakeholders in new product reviews, tests, and pilots.
- Implementation and adherence to all aspects of change-control.



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- Identify conflicting business practices and integration issues, suggesting alternative solutions.
- Overall availability, system performance and capacity monitoring to adhere to agreed S.L.A's.
- Implementation and adherence to all aspects of Quality assurance of all system functionality.
- Planning, monitoring, managing and report to management on the status of development efforts.
- Compilation and maintenance of all system related documentation.

Qualifications and Experience

- IT relevant experience or a National Diploma IT related
- – 8 years' IT relevant experience and training in SharePoint



INVITATION TO FRAMELIST SERVICE PROVIDERS FOR THE PROVISION OF MULTIPLE RESOURCES ON AD HOC BASIS FOR TRANSNET SOC LTD (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS ("TPT") FOR A PERIOD OF TWELVE (12) MONTHS.

APPENDIX L:

Role Description: SQL Database Administrator Purpose

To deliver expertise of SQL Server database and associated products. The services include and may not be limited to design, installation, configuration, implementation, monitoring, optimization, and maintenance of the operational systems SQL Server databases. The role includes the need to establish and maintain IT General Controls to ensure security and sustainability of these systems and their databases.

Responsibilities

The responsibilities of the SQL Database Administrator are as follows:

- Establish, monitor and maintain backup and recovery policies and procedures that are auditable and are approved by internal and external governance controls.
- Manage the change control procedure for the database environment, this includes review and approval of database related changes.
- Document and maintain an up to date knowledge base for the position functions.
- Implement and maintain database security (Management of the roles, users and privileges assigned).
- Implementation and execution of IT General Controls.
- Perform detailed analysis and tuning of the databases to ensure optimal performance of the systems. Management of the tables, indexes, jobs and health checks.
- Installation, configuration, upgrade, and management of SQL Databases.
- Perform all SQL Server Database maintenance and support tasks. Including support to the application analysts.
- Troubleshoot SQL Server service outages as they occur, including after-hours and during weekends.

Qualifications and Experience

The supplier and resource must have expert experience in the field and the service.



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Experience with enterprise scale SQL Server Databases is crucial.

The following is an indication of the preferred skills:

- Completed BSc/BTech or related ICT Qualification or certification within SQL Server Database Administration.
- Minimum of three (3) years SQL Server Database Administration experience.



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- Experience in upgrades of SQL Server Databases to SQL Server 2014 and above will be highly advantageous.
- Experience in high availability configuration

ANNEXURE B					
iCLM HQ 729 TPT					
INVITATION TO SERVICE PROVIDERS FOR THE INCLUSION ONTO AN APPROVED LIST OF SERVICE PROVIDERS FOR THE PROVISION OF INFORMATION, COMMUNICATION AND TECHNOLOGY (ICT) MULTIPLE RESOURCES ON AD HOC BASIS FOR TRANSNET SOC LTD (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS ("TPT") FOR A PERIOD OF TWELVE (12) MONTHS.					
			Bidder 1	Bidder 2	Bidder 3
Evaluation for Frameless agreement	Scoring Criteria	Weightings			
Service History Bidder to submit a minimum of five (5) reference letters in official company letterheads from different clients where the bidder provided ICT consultants for projects in the past 24-48 months and letters must not be dated older than 12 months. The reference letters must be for any previous ICT projects or roles detailing the type of work which was done. Refer to Appendix 1	0 Reference Letters=0; 1-3 Reference Letters=10, 4-5 Reference Letters=20, >5 Reference Letters=30	30			
Lead Time Bidder to submit confirmation of their lead times in their company letterhead, signed by company executive and they need to demonstrate the timelines for delivery of a resource to TPT from the date of receiving the PO. Bidder to note that short lead times and are to ensure that offering shortest period will gain an advantage. Refer to Appendix 2	Lead time 5- 7 Days = 30 points 8- 20 Days = 20 points 21 - 30 Days = 10 points >31 Days = 0 points	30			
Service Provider Mobilisation Bidder is able to provide written confirmation that on-site services with established processes will be in place to support the project deliverables, as well as detailed descriptions of how they manage the following: 1) Onboarding 2) Transition/ hand over between resources 3) SLA Management 4) Time Management 5) Quality Management Refer to Appendix 3	0 Mobilisation Areas = 0, 1 Mobilisation Area = 10, 2-3 Mobilisation Area = 30, 4-5 Mobilisation Area = 40	40			
		100			
Bidders must meet the minimum technical threshold of 70% to progress to the next stage					

MASTER AGREEMENT

entered into by and between

TRANSNET SOC LTD

and

.....

INVITATION TO SERVICE PROVIDERS FOR THE INCLUSION ONTO AN APPROVED LIST OF SERVICE PROVIDERS FOR THE PROVISION OF INFORMATION, COMMUNICATION AND TECHNOLOGY (ICT) MULTIPLE RESOURCES ON AD HOC BASIS FOR TRANSNET SOC LTD (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS ("TPT") FOR A PERIOD OF TWELVE (12) MONTHS.

Agreement Number	ICLM HQ 729/TPT
Commencement Date	
Expiry Date	

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Agreement between Transnet and

Invitation to service providers for the inclusion onto an approved list of service providers for the provision of Information, Communication and Technology (ICT) multiple resources on ad hoc basis for Transnet SOC Ltd (Reg. No 1990/000900/30) Operating as Transnet Port Terminals (hereinafter referred to as ("TPT") for a period of twelve (12) months.

SCHEDULE 1 SCOPE OF SERVICES

ANNEXURE A – Scope of work

ANNEXURE C – Schedule of Requirements

ANNEXURE F – Service Level Agreement (SLA)

1 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 Service Provider**].

NOW THEREFORE, IT IS AGREED:

- 1.1 Transnet hereby appoints the Service Provider to provide, and Transnet undertakes to accept the supply of 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
- 1.2 the Service Provider hereby undertakes to provide the 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.

2 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:

- 2.1 **AFSA** means the Arbitration Foundation of South Africa;
- 2.2 **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 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 Service Provider [as agreed, in writing, between the Parties], which collectively and exclusively govern the provision of Services and provision of ancillary Services by the Service Provider to Transnet;

- 2.3 **Assignment** refers to the transfer of rights and obligations in a contract from an assigner to an assignee.
- 2.4 **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;
- 2.5 **Business Day(s)** means Mondays to Fridays between 07:30 and 16:00, excluding public holidays as proclaimed in South Africa;
- 2.6 **Cession** refers to the transfer of only the rights a service provider has in terms of a contract from it to a third party.
- 2.7 **Commencement Date** means, notwithstanding the signature date of this Agreement;
- 2.8 **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;

2.9 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;

2.10 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;

2.11 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;

- 2.12 **Expiry Date** means ;
- 2.13 **Foreground Intellectual Property** means all Intellectual Property developed by either Party pursuant to this Agreement;
- 2.14 **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>;
- 2.15 **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;
- 2.16 **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;
- 2.17 **Parties** mean the Parties to this Agreement together with their subsidiaries, divisions, business units, successors-in-title and assigns;
- 2.18 **Party** means either one of these Parties;
- 2.19 **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;
- 2.20 **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;
- 2.21 **Purchase Order(s)** means official orders issued by an operating division of Transnet to the Service Provider for the supply of Goods or Services;

- 2.22 **Service(s)** means Invitation to service providers for the inclusion onto an approved list of service providers for the provision of Information, Communication and Technology (ICT) multiple resources on ad hoc basis for Transnet SOC Ltd (Reg. No 1990/000900/30) Operating as Transnet Port Terminals (hereinafter referred to as ("TPT") for a period of twelve (12) months. The Service(s) provided to Transnet by the Service Provider, pursuant to the Work Order(s) in terms of this Agreement.
- 2.23 **Service Level Agreement** or **SLA** means the processes, deliverables, key performance indicators and performance standards relating to the Services to be provided by the Service Provider;
- 2.24 **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.
- 2.25 **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;
- 2.26 **Schedule of Requirements** means Schedule 1 hereto;
- 2.27 **Subcontract** means any contract or agreement or proposed contract or agreement between the 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;
- 2.28 **Subcontractor** means the third party with whom the Service Provider enters into a Subcontract;
- 2.29 **Tax Invoice** means the document as required by Section 20 of the VAT Act, as may be amended from time to time;
- 2.30 **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;
- 2.31 **VAT** means Value-Added Tax chargeable in terms of the VAT Act, 89 of 1991, as may be amended from time to time; and

2.32 **VAT Act** means the Value Added Tax Act, No 89 of 1991, as may be amended from time to time.

2.33 **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.

3 INTERPRETATION

3.1 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.

3.2 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.

3.3 A reference to the singular incorporates a reference to the plural and *vice versa*.

3.4 A reference to natural persons incorporates a reference to legal persons and *vice versa*.

3.5 A reference to a particular gender incorporates a reference to the other gender.

4 NATURE AND SCOPE

4.1 This Agreement is an agreement under the terms and conditions of which the Service Provider will arrange for the provision to Transnet of the 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 Service Provider in accordance with this Agreement.

4.2 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.

4.3 Each properly executed Purchase Order forms an inseparable part of this Agreement as if it were fully incorporated into the body of this Agreement.

4.4 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 32 [*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.

4.5 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.

4.6 Time will be of the essence and the 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 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.

5 AUTHORITY OF PARTIES

5.1 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.

5.2 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.

6 DURATION/TERM AND CANCELLATION

6.1 Notwithstanding the date of signature hereof, the Commencement Date if this Agreement is and the duration shall be for a twelve [12] months 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.

6.2 Notwithstanding clause 19 [*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.

7 RISK MANAGEMENT

- 7.1 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.
- 7.2 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

8 TRANSNET'S OBLIGATIONS

- 8.1 Transnet undertakes to promptly comply with any reasonable request by the Service Provider for information, including information concerning Transnet's operations and activities, that relates to the Services as may be necessary for the Service Provider to provide the 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 Service Provider of its confidentiality obligations under this Agreement.
- 8.2 The Service Provider shall give Transnet reasonable notice of any information it requires.
- 8.3 Transnet agrees to provide the Service Provider or its Personnel such access to and use of its facilities as is necessary to allow the Service Provider to perform its obligations under this Agreement.

9 GENERAL OBLIGATIONS OF THE SERVICE PROVIDER

- 9.1 The 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 Service Provider and the Service Provider's services;
- d) keep full records clearly indicating all transactions concluded by the Service Provider relating to the delivery of the 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 Services and ancillary Services and the conduct of the business and activities of the 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 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 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 Service Provider.

9.2 The Service Provider acknowledges and agrees that it shall at all times:

- a) render the supply of the 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 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 Services and/or ancillary Services with courtesy and respond to all enquiries promptly and efficiently. Where the Service Provider is unable to comply with the provisions of this clause, the 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 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 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 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.

9.3 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 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.

10 SERVICE PROVIDER'S PERSONNEL

- 10.1 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.
- 10.2 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.
- 10.3 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.

10.4 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.

10.5 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.

10.6 **Green Economy/Carbon Footprint**

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

11 PENALTIES

11.1 Penalties for Non-compliance to Service Level Agreement

Where the Service Provider fails to deliver the 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

Payment of Non-compliance Penalties:

- a) The 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 Service Provider for the amount set out in that certificate. If

Transnet does not issue a valid Tax Invoice to the Service Provider for Non-compliance Penalties accrued during any relevant period, those Non-compliance Penalties shall be carried forward to the next period.

- b) The 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.
- c) Should the 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 Service Provider from the account of the Service Provider in the ensuing month.
- d) 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 Service Provider.

Non-compliance Penalty Certificate:

- e) 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.
- f) A Non-compliance Penalty Certificate shall be prima facie proof of the matters to which it relates. If the 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 Service Provider owes any amount to Transnet pursuant to the Non-compliance Penalty Certificate, then the 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:

- g) Subject to Clause (e) above, the 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 Service Provider for the amount set out in that certificate. If Transnet does not issue a valid Tax Invoice to the Service Provider

for Non-compliance Penalties accrued during any relevant period, those Non-compliance Penalties shall be carried forward to the next period.

- h) The 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.
- i) Should the 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 Service Provider from the account of the 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 Service Provider.

12 FEES AND EXPENSES RELATING TO SERVICES

- 12.1 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.
- 12.2 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].
- 12.3 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.
- 12.4 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.

13 INVOICES AND PAYMENT

- 13.1 Transnet shall pay the Service Provider the amounts stipulated in each Purchase Order/Work Order, subject to the terms and conditions of this Agreement.
- 13.2 Transnet shall pay such amounts to the 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 Service Provider for the delivery of the Services ordered, in terms of clause 13.5 below.
- 13.3 Transnet may, pending an investigation, withhold any payments to the Service Provider, in the case where irregular expenditure has been identified in the particular contract and that there is reasonable suspicion that the Service Provider is involved or was aware that the contract transgressed any legislation.
- 13.4 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.
- 13.5 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 Service Provider's statement together with the relevant valid and undisputed Tax Invoice(s) and supporting documentation.
- 13.6 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 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.
- 13.7 The 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.

14 THIRD PARTY INDEMNITY

The Service Provider hereby indemnifies and shall hold Transnet harmless against any direct damages suffered by or claims arising against Transnet in respect of clause 16.10 above.

15 TOTAL OR PARTIAL FAILURE TO PERFORM

15.1 The Service Provider shall thereupon, as soon as possible after such date, deliver to Transnet the 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 Services. Where an integral or essential part of the work has not been completed, the amount to be paid to the Service Provider will be calculated on the basis of Transnet's enrichment. The Service Provider shall, wherever practicable, supply Transnet with the necessary drawings and/or specifications to enable it to complete the work.

15.2 Whenever, in any case not covered by clause 15.1 above, the Service provider fails or neglects to execute the work or to deliver any portion of the Services as required by the terms of this Agreement or Purchase Order, or if any Services are rejected on any of the grounds, 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 Services, and in such event, the supply of the remaining portion shall remain subject in all respects to these conditions.

16 NON CONFORMANCE OF SERVICES PROCURED

16.1 In the case of services manufactured for and procured by Transnet from the Service Provider in terms of this Agreement, being found not to conform to the Transnet standards, specifications and requirements, Transnet at any time may be entitled to raise a Non Conformance Report (NCR) against a Service Provider whose Services do not conform to Transnet standards, specifications and requirements directing the Service Provider to investigate and remedy the non-conformance within the stipulated time frame as may be determined by Transnet at its discretion.

16.2 Failure by the Service Provider to fully comply with NCR within the period stated in sub-clause 19.1 above, shall entitle Transnet to further conditions to which the Service Provider must discharge in order to close the NCR or to terminate the order without giving the Service Provider written notice of termination in terms of this Agreement.

17 RIGHTS ON CANCELLATION

- 17.1 If this Agreement or Purchase Order is cancelled in whole or in part in terms of clause 15 *[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 Services in substitution for those neglected to be manufactured or supplied or rejected as aforesaid, and may recover from the Service Provider the difference between the cost of such 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 Service Provider's default.
- 17.2 Any amount which may be recoverable from the Service Provider in terms of clause 17.1 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 Service Provider.

18 BREACH AND TERMINATION

- 18.1 Termination in accordance with clause 6 [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.
- 18.2 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.
- 18.3 To the extent that any of the Deliverables and property referred to in clause 18.2 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.
- 18.4 In the event that this Agreement is terminated by the Service Provider under clause 6. [Term and Cancellation], or in the event that a Work Order is terminated by Transnet under clause 18 [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.

18.5 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.

18.6 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.

18.7 Transnet may terminate this Agreement at any time within 2 [two] months of becoming aware of a change of control of the Service Provider by notice in writing to the 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.

18.8 Notwithstanding this clause 18, Transnet may cancel this Agreement without cause by giving 30 [thirty] calendar days prior written notice thereof to the Service Provider, or

18.9 The provisions of clauses 2 [Definitions], 17 [Rights on Cancellation], 25 [Confidentiality], 27 [Limitation of Liability], 28 [Intellectual Property Rights], 31 [Dispute Resolution] and 35.1 [Governing Law] shall survive termination or expiry of this Agreement.

19 CESSIONS AND ASSIGNMENTS AS PER NT INSTRUCTION NOTE 08 OF 2022/2023

19.1 The Service Provider is not allowed to cede its rights for payment in terms of this Agreement without prior written approval from Transnet. Cession shall only be applicable as follows:

- a) Cession must only be applicable to the transfer of right to payment for services delivered/rendered by a Service Provider to an FSP or State Institutions;
- b) The written request for cession must be by the Service Provider and not a third party; and
- c) The written request by the Service Provider must be accompanied by the cession agreement.

19.2 The Service Provider is prohibited from transferring its rights and obligations to perform under this contract. Assignments are against the principles of section 217 of the Constitution mainly, fairness, transparency and competitiveness.

20 FORCE MAJEURE

20.1 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.

20.2 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.

21 PROTECTION OF PERSONAL INFORMATION

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

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

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

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

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

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

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

- vi. they have appropriate technical and organisational measures in place to safeguard the security, integrity and authenticity of all information in their possession or under their control in terms of this Agreement;
 - vii. they identify all reasonably foreseeable internal and external risks to personal information in their possession or under their control; establish and maintain appropriate safeguards against the risks identified; regularly verify that the safeguards are effectively implemented; and ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards;
 - viii. such personal information is protected against unauthorised or unlawful processing, accidental loss, destruction or damage, alteration, disclosure or access.
- 21.1 The Parties agree that if personal information will be processed for additional purposes beyond the original purpose for which it was obtained, explicit consent must be obtained beforehand from those persons whose information will be subject to such processing.
- 21.2 Should it be necessary for either Party to disclose or otherwise make available the personal information to any third party (including sub-contractors and employees) that is not already consented to, it may do so only with the prior written consent of the other Party. The Party requiring such consent shall require of all such third parties, appropriate written undertakings to be provided, containing similar terms to that set forth in this clause, and dealing with that third party's obligations in respect of its processing of the personal information. Following approval by the other Party, the Party requiring consent agrees that the provisions of this clause shall *mutatis mutandis* apply to all authorised third parties who process personal information.
- 21.3 The Parties shall ensure that any persons authorized to process information on their behalf (including employees and third parties) will safeguard the security, integrity and authenticity of all information. Where necessary to meet this requirement, the Parties shall keep all personal information and any analyses, profiles, or documents derived therefrom logically separated from all other information and documentation held by it.
- 21.4 The Parties shall carry out regular assessments to identify all reasonably foreseeable internal and external risks to the personal information in its possession or under its control. The Parties shall implement and maintain appropriate safeguards against the risks which it identifies and shall also regularly verify that the safeguards which it has in place have been effectively implemented.

21.5 The Parties agree that they will promptly return, destroy or de-identify any personal information in their possession or control which belongs to the other Party once it no longer serves the purpose for which it was collected in relation to this Agreement, subject to any legal retention requirements. This may be at the request of the other Party and includes circumstances where a person has requested the Parties to delete all instances of their personal information. The information will be destroyed or de-identified in such a manner that it cannot be reconstructed to its original form, linking it to any particular individual or organisation.

21.6 Personal Information security breach:

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

22 CONFIDENTIALITY

22.1 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.

22.2 The duties and obligations with regard to Confidential Information in this clause 33 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.

22.3 This clause 25 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 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.

23 INSURANCES

- 23.1 Without limiting the liability of the Service Provider under this Agreement, the Service Provider shall take out insurance in respect of all risks for which it is prudent for the 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 Service Provider.
- 23.2 The 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.
- 23.3 Subject to clause 26.4 below, if the Service Provider fails to effect adequate insurance under this clause 34, 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 Service Provider. The Service Provider shall promptly reimburse Transnet for any premiums paid provided such insurance protects the Service Provider's liability. Transnet assumes no responsibility for such insurance being adequate to protect all of the Service Provider's liability.
- 23.4 In the event that the Service Provider receives written notice from its insurers advising of the termination of its insurance cover referred to in clause 26.1 above or if the insurance ceases to be available upon commercially reasonable terms, the Service Provider shall immediately notify Transnet in writing of such termination and/or unavailability, whereafter either the 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.

24 LIMITATION OF LIABILITY

- 24.1 The Service Provider's liability under this clause 24 shall be in addition to any warranty or condition of any kind, express or implied by law or otherwise, relating to the

Services or ancillary Services, including the quality of the Services or ancillary Services or any materials delivered pursuant to this Agreement.

24.2 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.

24.3 The 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 Service Provider or its Personnel in connection with this Agreement. The Service Provider's liability arising out of this clause 24.3 shall be limited to direct damages.

24.4 Subject always to clauses 24.1 and 24.2 above, the liability of either the 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.

24.5 Subject to clauses 24.1 to 24.4 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.

24.6 If for any reason the exclusion of liability in clause 27.5 above is void or unenforceable, either Party's total liability for all loss or damage under this Agreement shall be as provided in clause 24.5 above.

24.7 Nothing in this clause 24 shall be taken as limiting the liability of the Parties in respect of clauses 22 [*Confidentiality*] and 25 [*Intellectual Property Rights*].

25 INTELLECTUAL PROPERTY RIGHTS

25.1 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 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 Service Provider's Background Intellectual Property shall remain vested in the Service Provider.

- b) Transnet shall grant to the 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 Service Provider to sub-license to other parties.
- c) The Service Provider shall grant to Transnet an irrevocable, royalty free, non-exclusive licence to use the Service Provider's Background Intellectual Property for the Permitted Purpose. This licence shall not permit Transnet to sub-license to other parties.
- d) The Service Provider shall grant Transnet access to the 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 Service Provider from third parties and used in the supply of the Services.

25.2 **Title to Intellectual Property**

- a) All right, title and interest in and to Foreground Intellectual Property prepared, conceived or developed by the Service Provider, its researchers, agents and employees shall vest in Transnet and the Service Provider acknowledges that it has no claim of any nature in and to the Foreground Intellectual Property. The 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 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 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 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 Service Provider for the assignment of any Foreground Intellectual Property from the Service Provider to Transnet, over and above the sums payable in terms of this Agreement. The 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 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.

25.3 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 Service Provider shall disclose promptly to Transnet all such improvements, developments, adaptations and/or modifications, inventions or discoveries. The 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 Service Provider shall reasonably assist Transnet in attaining, maintaining or documenting ownership and/or protection of the improved Foreground Intellectual Property.

25.4 Unauthorised Use of Confidential Information

The 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.

25.5 Unauthorised Use of Intellectual Property

- a) The 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 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 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 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.

26 NON-WAIVER

- 26.1 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.
- 26.2 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.

27 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.

28 DISPUTE RESOLUTION

- 28.1 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.

28.2 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.

28.3 Such dispute shall be finally resolved in accordance with the rules of AFSA by an arbitrator or arbitrators appointed by AFSA.

28.4 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 28.

28.5 This clause 28 is severable from the rest of this Agreement and shall remain in effect even if this Agreement is terminated for any reason.

28.6 This clause 28 shall not preclude either Party from seeking urgent relief in a court of appropriate jurisdiction, where grounds for urgency exist.

29 ADDRESSES FOR NOTICES

29.1 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:
.....
.....

Attention: Legal Advisor

(ii) For commercial notices:
.....
.....

Attention:

b) The Service Provider

(i) For legal notices:

.....

.....

Attention:

(ii) For commercial notices:

.....

.....

Attention:

29.2 Any notice shall be addressed to a Party at its physical address, or delivered by hand.

29.3 Any notice shall be deemed to have been given:

a) if hand delivered, on the day of delivery;

30 WHOLE AND ONLY AGREEMENT

30.1 The Parties hereby confirm that this Agreement constitutes the whole and only agreement between them with regard to the subject matter of this Agreement.

30.2 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.

31 AMENDMENT AND CHANGE CONTROL

31.1 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.

31.2 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 28 [*Dispute Resolution*].

32 GENERAL

32.1 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.

32.2 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 28 [*Dispute Resolution*] above.

32.3 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.

33 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:

SCHEDULE 1 – SCHEDULE OF REQUIREMENTS

DESCRIPTION: STANDARD TERMS AND CONDITIONS FOR THE INVITATION TO SERVICE PROVIDERS FOR THE INCLUSION ONTO AN APPROVED LIST OF SERVICE PROVIDERS FOR THE PROVISION OF INFORMATION, COMMUNICATION AND TECHNOLOGY (ICT) MULTIPLE RESOURCES ON AD HOC BASIS FOR TRANSNET SOC LTD (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS ("TPT") FOR A PERIOD OF TWELVE (12) MONTHS.

SERVICE PROVIDER

CONTRACT NUMBER ICLM HQ 729/TPT

DURATION **TWELVE (12) MONTHS.**

COMMENCEMENT DATE

EXPIRY DATE

With reference to the Standard Terms and Conditions of Contract, Reference Number iCLM HQ 729/TPT dated, ("Contract") between Transnet SOC Ltd ("Transnet") and (the "Service Provider") pursuant to which you have agreed to perform certain services for and on behalf of Transnet subject to such Contract.

The defined terms in the Contract will, unless otherwise indicated, have the same meaning in this Schedule of Requirements. In consideration of the mutual covenant and agreements contained in the Contract and in this Schedule of Requirements, it is agreed as follows:

1. Description of the Services

The scope of services to be performed by the service provider is the for the provision of Information, Communication and Technology (ICT) multiple resources on ad hoc basis for Transnet SOC Ltd (Reg. No 1990/000900/30) Operating as Transnet Port Terminals (hereinafter referred to as ("TPT") for a period of twelve (12) months. The details for the services to be provided are as stipulated in clause 2 below.

2. Scope of Services

2.1 Deliverables

Refer to the detailed scope of work referenced as **Annexure A**

3. Contract Manager/s & Personnel to provide the Services

Transnet Contract Manager	
Designation	
Operating Division	
Address	
Telephone	
Email	

Service Provider's Account Manager	
Designation	
Address	
Telephone	
Email	

4. Performance Review Meetings

Contract management and performance review meetings will be held as required by Transnet's Contract Manager.

5. Fees & Disbursements

5.1 In consideration of the performance of the Services by the Service Provider pursuant to this agreement, Transnet will pay to it an amount not exceeding R (excluding VAT) and R (including VAT) over the twelve (12) month period.

IN WITNESS of which this Schedule of Requirements has been duly executed by the parties.

SIGNED for and on behalf of

.....

Signature.....

Name.....

Position.....

Date.....

SIGNED for and on behalf of

Transnet SOC Ltd

Signature.....

Name.....

..

Position.....

.

Date.....

APPENDIX 1

Address for Notices

Any notice or communications between the parties to be given under this Agreement shall be deemed to have been received at the following times:

- i. by hand delivery - immediately upon receipt by the recipient.

Any notice or communications between the parties shall be delivered to the addresses set out below:

The Service Provider

Addressee:

Attention:

Physical Address:

Postal Address:

Transnet

Addressee:

Transnet SOC Ltd

Attention : Legal Advisor

Physical Address:

Postal Address:

Either party may, by a notice given in accordance with this Schedule 1, change its address or the purpose of this Schedule 1.

APPENDIX 2

Non- Disclosure Agreement

Date: 2023.

I (*name*)

Of (*address*)
.....
.....

Undertake to Transnet SOC Ltd ("Transnet") that:

1. I shall keep confidential and not to disclose or make available to any third party, except with the express prior written consent of Transnet, any Confidential Information relating to Transnet business, assets, customers or staff which is disclosed to me or to which I may have access during the course of providing Services to Transnet ("my assignment"); and
2. Upon termination of my assignment, I shall return to Transnet all documents, books, discs, tapes or other records (in whatever medium) which I may have in my possession, custody or control and which are the property of Transnet, its customers, staff or agents and any copies thereof.

For the purposes of this Confidentiality Agreement, "Confidential Information" shall mean any information in whatever form including, without limitation, any information relating to systems, operations, plans, intentions, market opportunities, know-how, trade secrets and business affairs of the Transnet Group or its customers, whether in writing, conveyed orally or by machine-readable medium.

I understand that this Confidentiality Agreement shall survive the termination of my assignment.

SIGNED at _____ on _____ 2023

(*Signature*)

in the presence of:-

Witness name:

Witness Signature:

Witness address:

GENERAL BID CONDITIONS

[June 2022]

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1 DEFINITIONS

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

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

2 GENERAL

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

3 SUBMITTING OF BID DOCUMENTS

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

4 USE OF BID FORMS

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

5 BID FEES

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

6 VALIDITY PERIOD

- 6.1 The Respondents must hold their Bid valid for acceptance by Transnet at any time within the requested validity period after the closing date of the bid.
- 6.2 Respondents may be requested to extend their validity period for a specified additional period. In such instances, Respondents will not be allowed to change any aspect of their Bid, unless they are able to demonstrate that the proposed change/s is as a direct and unavoidable consequence of Transnet's extension of the validity period.

7 SITE VISITS / BRIEFING SESSIONS

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

8 CLARIFICATION BEFORE THE CLOSING DATE

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

9 COMMUNICATION AFTER THE CLOSING DATE

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

10 UNAUTHORISED COMMUNICATION ABOUT BIDS

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

11 RETURNABLE DOCUMENTS

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

12 DEFAULTS BY RESPONDENTS

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

12.1 enter into a formal contract when called upon to do so within such period as Transnet may specify; or

12.2 accept an order in terms of the Bid;

12.3 furnish satisfactory security when called upon to do so for the fulfilment of the contract; or

12.4 comply with any condition imposed by Transnet,

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

13 CURRENCY

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

14 PRICES SUBJECT TO CONFIRMATION

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

15 ALTERATIONS MADE BY THE RESPONDENT TO BID PRICES

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

16 EXCHANGE AND REMITTANCE

16.1 The Respondent should note that where the whole or a portion of the contract or order value is to be remitted overseas, Transnet shall, if requested to do so by the Supplier/Service Provider, effect payment overseas directly to the foreign principal or manufacturer of such percentage of the contract or order value as may be stipulated by the Respondent in its Bid Documents.

16.2 It is Transnet's preference to enter into Rand-based agreements. Transnet would request, therefore, that the Respondent give favourable consideration to obtaining forward exchange cover on the foreign currency portion of the Agreement at a cost

that is acceptable to Transnet to protect itself against any currency rate fluctuation risks for the duration of any resulting contract or order.

- 16.3 The Respondent who desires to avail itself of the aforementioned facility must at the time of bidding furnish the information called for in the Exchange and Remittance section of the Bid Documents and also furnish full details of the principals or manufacturer to whom payment is to be made.
- 16.4 The South African Reserve Bank's approval is required before any foreign currency payments can be made to or on behalf of Respondents.
- 16.5 Transnet will not recognise any claim for adjustment of the order and/or contract price if the increase in price arises after the date on which the Goods/Services were to be delivered, as set out in the order and/or contract, or any subsequent agreement between the parties.
- 16.6 Transnet reserves the right to request a pro-forma invoice/tax invoice in order to ensure compliance with the contract and Value-Added Tax Act no. 89 of 1991 [VAT Act].

17 ACCEPTANCE OF BID

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

18 NOTICE TO UNSUCCESSFUL RESPONDENTS

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

19 TERMS AND CONDITIONS OF CONTRACT

- 19.1 The Supplier/Service Provider shall adhere to the Terms and Conditions of Contract issued with the Bid Documents, together with any schedule of "Special Conditions" or otherwise which form part of the Bid Documents.

19.2 Should the Respondent find any conditions unacceptable, it should indicate which conditions are unacceptable and offer amendments/ alternatives by written submission on a company letterhead. Any such submission shall be subject to review by Transnet's Legal Counsel who shall determine whether the proposed amendments /alternative(s) are acceptable or otherwise, as the case may be. Respondents will be afforded an opportunity to withdraw an unacceptable deviation, failing which the respondent will be disqualified.

20 CONTRACT DOCUMENTS

20.1 The contract documents will comprise these General Bid Conditions, the Terms and Conditions of Contract and any schedule of "Special Conditions" which form part of the Bid Documents.

20.2 The abovementioned documents together with the Respondent's Bid response will constitute the contract between the parties upon receipt by the Respondent of Transnet's letter of acceptance, subject to all additional amendments and/or special conditions thereto as agreed to by the parties.

20.3 Should Transnet inform the Respondent that a formal contract will be signed, the abovementioned documents together with the Respondent's Bid response [and, if any, its covering letter and any subsequent exchange of correspondence] as well as Transnet's Letter of Acceptance, shall constitute a binding contract until the final contract is signed.

21 LAW GOVERNING CONTRACT

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

22 IDENTIFICATION

If the Respondent is a company, the full names of the directors shall be stated in the Bid. If the Respondent is a close corporation, the full names of the members shall be stated

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

23 RESPONDENT'S SAMPLES

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

24 SECURITIES

- 24.1 The successful Respondent, when called upon to do so, shall provide security to the satisfaction of Transnet for the due fulfilment of a contract or order. Such security shall be in the form of a Deed of Suretyship [Deed of Suretyship] furnished by an approved bank, building society, insurance or guarantee corporation carrying on business in South Africa.
- 24.2 The security may be applied in whole or part at the discretion of Transnet to make good any loss or damage which Transnet may incur in consequence of a breach of the contract or any part thereof.
- 24.3 Such security, if required, shall be an amount which will be stipulated in the Bid Documents.
- 24.4 For the purpose of clause 24.1 above, Transnet will supply a Deed of Suretyship form to the successful Respondent for completion and no guarantee in any other form will be accepted. A copy of such form will be supplied to Respondents on request. For this purpose a Deed of Suretyship form will be provided which shall be completed and returned to Transnet or a designated official by the successful

Respondent within 30 [thirty] calendar days from the date of the letter of acceptance. No payment will be made until the form, duly completed, is delivered to Transnet. Failure to return the Deed of Suretyship within the prescribed time shall, save where prior extension has been granted, entitle Transnet without notice to the Supplier/Service Provider to cancel the contract with immediate effect.

24.5 Additional costs incurred by Transnet necessitated by reason of default on the part of the Supplier/Service Provider in relation to the conditions of this clause 24 will be for the account of the Supplier/Service Provider.

25 PRICE AND DELIVERY BASIS FOR GOODS

25.1 Unless otherwise specified in the Bid Documents, the prices quoted for Goods must be on a Delivered Duty Paid [latest ICC Incoterms] price basis in accordance with the terms and at the delivery point or points specified in Transnet's Bid Documents. Bids for supply on any other basis of delivery are liable to disqualification. The lead time for delivery stated by the Respondent must be inclusive of all non-working days or holidays, and of periods occupied in stocktaking or in effecting repairs to or overhauling plant, which would ordinarily occur within the delivery period given by the Respondent.

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

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

26 EXPORT LICENCE

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

27 QUALITY OF MATERIAL

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

28 DELETION OF ITEMS EXCLUDED FROM BID

The Respondent must delete items for which it has not tendered or for which the price has been included elsewhere in its Bid.

29 VALUE-ADDED TAX

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

29.2 In respect of foreign Services rendered:

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

30 IMPORTANT NOTICE TO RESPONDENTS REGARDING PAYMENT

30.1 Method of Payment

- a) The attention of the Respondent is directed to the Terms and Conditions of Contract which set out the conditions of payment on which Bid price(s) shall be based.
- b) However, in addition to the foregoing the Respondent is invited to submit offers based on alternative methods of payment and/or financing proposals.
- c) The Respondent is required to give full particulars of the terms that will be applicable to its alternative offer(s) and the financial merits thereof will be evaluated and taken into consideration when the Bid is adjudicated.
- d) The Respondent must, therefore, in the first instance, tender strictly in accordance with clause 30.1 (a) above. Failure to comply with clause 30.1 (a) above may preclude a Bid from further consideration.

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

30.2 Conditional Discount

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

31 CONTRACT QUANTITIES AND DELIVERY REQUIREMENTS

31.1 Contract Quantities

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

31.2 Delivery Period

- a) **Period Contracts and Fixed Quantity Requirements**
It will be a condition of any resulting contract/order that the delivery period embodied therein will be governed by the provisions of the Terms and Conditions of Contract.
- b) **Progress Reports**
The Supplier/Service Provider may be required to submit periodical progress reports with regard to the delivery of the Goods/Services.
- c) **Emergency Demands as and when required**

If, due to unforeseen circumstances, supplies of the Goods/Services covered by the Bid are required at short notice for immediate delivery, the Supplier/Service Provider will be given first right of refusal for such business. If it is unable to meet the desired critical delivery period, Transnet reserves the right to purchase such supplies as may be required to meet the emergency outside the contract if immediate delivery can be offered from any other source. The *Total or Partial Failure to Perform the Scope of Supply* section in the Terms and Conditions of Contract will not be applicable in these circumstances.

32 PLANS, DRAWINGS, DIAGRAMS, SPECIFICATIONS AND DOCUMENTS

32.1 Copyright

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

32.2 Drawings and specifications

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

32.3 Respondent's drawings

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

32.4 Foreign specifications

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

Respondent in a covering letter attached to the Bid. Non-compliance with this condition may result in disqualification.

33 BIDS BY OR ON BEHALF OF FOREIGN RESPONDENTS

- 33.1 Bids submitted by foreign principals may be forwarded directly by the principals or by its South African representative or agent to the designated official of Transnet according to whichever officer is specified in the Bid Documents.
- 33.2 In the case of a representative or agent, written proof must be submitted to the effect that such representative or agent has been duly authorised to act in that capacity by the principal. Failure to submit such authorisation by the representative or agent shall disqualify the Bid.
- 33.3 When legally authorised to prepare and submit Bids on behalf of their principals not domiciled in the Republic of South Africa, representatives or agents must compile the Bids in the names of such principals and sign them on behalf of the latter.
- 33.4 South African representatives or agents of a successful foreign Respondent must when so required enter into a formal contract in the name of their principals and must sign such contract on behalf of the latter. In every such case a legal Power of Attorney from their principals must be furnished to Transnet by the South African representative or agents authorising them to enter into and sign such contract.
- a) Such Power of Attorney must comply with Rule 63 (Authentication of documents executed outside the Republic for use within the Republic) of the Uniform Rules of Court: Rules regulating the conduct of the proceedings of the several provincial and local divisions of the Supreme Court of South Africa.
 - b) The Power of Attorney must be signed by the principal under the same title as used in the Bid Documents.
 - c) If a Power of Attorney held by the South African representative or agent includes matters of a general nature besides provision for the entering into and signing of a contract with Transnet, a certified copy thereof should be furnished.
 - d) The Power of Attorney must authorise the South African representative or agent to choose the *domicilium citandi et executandi*.
- 33.5 If payment is to be made in South Africa, the foreign Supplier/Service Provider [i.e. the principal, or its South African agent or representative], must notify Transnet in writing whether, for payment by electronic funds transfer [EFT]:

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

33.6 The attention of the Respondent is directed to clause 25 above [Securities] regarding the provision of security for the fulfilment of contracts and orders and the manner and form in which such security is to be furnished.

34 DATABASE OF RESTRICTED SUPPLIERS

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

35 CONFLICT WITH ISSUED RFX DOCUMENT

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

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Important Note: All potential bidders must read this document and certify in the RFX Declaration Form that they 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 Service Provider (hereinafter referred to as the "Bidder")

INVITATION TO SERVICE PROVIDERS FOR THE INCLUSION ONTO AN APPROVED LIST OF SERVICE PROVIDERS FOR THE PROVISION OF INFORMATION, COMMUNICATION AND TECHNOLOGY (ICT) MULTIPLE RESOURCES ON AD HOC BASIS FOR TRANSNET SOC LTD (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS ("TPT") FOR A PERIOD OF TWELVE (12) MONTHS.,

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

In order to achieve these goals, Transnet and the Bidder hereby enter into this agreement hereinafter referred to as the "Integrity Pact" which will form part of the Bidder'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 will be required to sign and comply with undertakings contained in this Integrity Pact, should they want to be registered as a Transnet vendor.

1 OBJECTIVES

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

2 COMMITMENTS OF TRANSNET

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

- 2.1 Transnet hereby undertakes that no employee of Transnet connected directly or indirectly with the sourcing event and ensuing contract, will demand, take a promise for or accept directly or through intermediaries any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the 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.
- 2.2 Transnet will, during the registration and bidding process treat all Bidders with equity, transparency and fairness. Transnet will in particular, before and during the registration process, provide to all Bidders the same information and will not provide to any Bidders confidential / additional information through which the Bidders could obtain an advantage in relation to any bidding process.

- 2.3 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 participating in the bidding process in a fair manner.
- 2.4 Transnet will exclude from the bidding process such employees who have any personal interest in the Bidders participating in the bidding process.

3 OBLIGATIONS OF THE BIDDER

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

further commits itself to delivering against all agreed upon conditions as stipulated within the contract.

- 3.4 The Bidder will not enter into any illegal or dishonest agreement or understanding, whether formal or informal with other Bidders. 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.
- 3.5 The Bidder will not commit any criminal offence under the relevant anti-corruption laws of South Africa or any other country. Furthermore, the Bidder will not use for illegitimate purposes or for restrictive purposes or personal gain, or pass on to others, any information provided by Transnet as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
- 3.6 A Bidder 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 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.
- 3.7 The Bidder 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 or detriment of Transnet or other competitors.
- 3.8 Transnet may require the Bidder to furnish Transnet with a copy of its code of conduct. Such code of conduct must address the compliance programme for the implementation of the code of conduct and reject the use of bribes and other dishonest and unethical conduct.
- 3.9 The Bidder will not instigate third persons to commit offences outlined above or be an accessory to such offences.
- 3.10 The Bidder confirms that they will uphold the ten principles of the United Nations Global Compact (UNGC) in the fields of Human Rights, Labour, Anti-Corruption and the Environment when undertaking business with Transnet as follows:
 - a) Human Rights
 - Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights; and
 - Principle 2: make sure that they are not complicit in human rights abuses.
 - b) Labour
 - Principle 3: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;
 - Principle 4: the elimination of all forms of forced and compulsory labour;
 - Principle 5: the effective abolition of child labour; and

- Principle 6: the elimination of discrimination in respect of employment and occupation.
- c) Environment
 - Principle 7: Businesses should support a precautionary approach to environmental challenges;
 - Principle 8: undertake initiatives to promote greater environmental responsibility; and
 - Principle 9: encourage the development and diffusion of environmentally friendly technologies.
- d) Anti-Corruption
 - Principle 10: Businesses should work against corruption in all its forms, including extortion and bribery.

4 INDEPENDENT BIDDING

- 4.1 For the purposes of this undertaking 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 Services as the Bidder and/or is in the same line of business as the Bidder.
- 4.2 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.
- 4.3 In particular, without limiting the generality of paragraph 4.2 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
- a) prices;
 - b) geographical area where Services will be rendered [market allocation];
 - c) methods, factors or formulas used to calculate prices;
 - d) the intention or decision to submit or not to submit, a 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.

- 4.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the Services to which his/her Bid relates.
- 4.5 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.
- 4.6 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.

5 DISQUALIFICATION FROM BIDDING PROCESS

- 5.1 If the Bidder has committed a transgression through a violation of paragraph 3 of this Integrity Pact or in any other form such as to put its reliability or credibility as a Bidder into question, Transnet may reject the Bidder's application from the registration or bidding process and remove the Bidder from its database, if already registered.
- 5.2 If the Bidder has committed a transgression through a violation of paragraph 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 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 and the amount of the damage. The exclusion will be imposed for up to a maximum of 10 (ten) years. However, Transnet reserves the right to impose a longer period of exclusion, depending on the gravity of the misconduct.
- 5.3 If the Bidder can prove that it has restored the damage caused by it and has installed a suitable corruption prevention system, or taken other remedial measures as the circumstances of the case may require, Transnet may at its own discretion revoke the exclusion or suspend the imposed penalty.

6 DATABASE OF RESTRICTED SUPPLIERS

- 6.1 The process of restriction is used to exclude a company/person from conducting future business with Transnet and other organs of state for a specified period. No 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 Bidders. 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.

- 6.2 All the stipulations on Transnet's restriction 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 restriction procedure.
- 6.3 On completion of the restriction procedure, Transnet will submit the restricted entity's details (including the identity number of the individuals and registration number of the entity) to National Treasury for placement on National Treasury's Database of Restricted Suppliers for the specified period of exclusion. National Treasury will make the final decision on whether to restrict an entity from doing business with any organ of state for a period not exceeding 10 years and place the entity concerned on the Database of Restricted Suppliers published on its official website.
- 6.4 The decision to restrict is based on one of the grounds for restriction. The standard of proof to commence the restriction process is whether a "*prima facie*" (i.e. on the face of it) case has been established.
- 6.5 Depending on the seriousness of the misconduct and the strategic importance of the Services, in addition to restricting a company/person from future business, Transnet may decide to terminate some or all existing contracts with the company/person as well.
- 6.6 A supplier or contractor to Transnet may not subcontract any portion of the contract to a restricted company.
- 6.7 Grounds for restriction 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) has submitted false information regarding any other matter required in terms of the Preferential Procurement Regulations, 2017 issued in terms of the Preferential Procurement Policy Framework Act which will affect the evaluation of a Bid or where a Bidder has failed to declare any subcontracting arrangements;
- h) caused Transnet damage, or to incur costs in order to meet the contractor's requirements and which could not be recovered from the contractor;
- i) has litigated against Transnet in bad faith.

7 PREVIOUS TRANSGRESSIONS

- 7.1 The Bidder 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 database or any bidding process.
- 7.2 If it is found to be that the Bidder made an incorrect statement on this subject, the Bidder can be rejected from the registration process or removed from the Bidder database, if already registered, for such reason (refer to the Breach of Law Form contained in the applicable RFX document.)

8 SANCTIONS FOR VIOLATIONS

- 8.1 Transnet shall also take all or any one of the following actions, wherever required to:
 - a) Immediately exclude the Bidder from the bidding process or call off the pre-contract negotiations without giving any compensation to the Bidder. However, the proceedings with the other Bidders may continue;
 - b) Immediately cancel the contract, if already awarded or signed, without giving any compensation to the Bidder
 - 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, in order to recover the payments, already made by Transnet, along with interest;
 - e) Cancel all or any other contracts with the Bidder;
 - f) Exclude the Bidder from entering into any bid with Transnet and other organs of state in future for a specified period; and
 - g) If the Supplier subcontracted a portion of the bid to another person without declaring it to Transnet, Transnet must penalise the Supplier up to 10% of the value of the contract.

9 CONFLICTS OF INTEREST

- 9.1 A conflict of interest includes, inter alia, a situation in which:
- a) A Transnet employee has a personal financial interest in a bidding entity; and
 - b) A Transnet employee has private interests or personal considerations or has an affiliation or a relationship which affects, or may affect, or may be perceived to affect his / her judgment in action in the best interest of Transnet, or could affect the employee's motivations for acting in a particular manner, or which could result in, or be perceived as favouritism or nepotism.
- 9.2 A Transnet employee uses his / her position, or privileges or information obtained while acting in the capacity as an employee for:
- a) Private gain or advancement; or
 - b) The expectation of private gain, or advancement, or any other advantage accruing to the employee must be declared in a prescribed form.
- Thus, conflicts of interest of any bid committee member or any person involved in the sourcing process must be declared in a prescribed form.
- 9.3 If a Bidder 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:
- a) must disclose the interest and its general nature, in the Request for Proposal ("RFX") declaration form; or
 - b) must notify Transnet immediately in writing once the circumstances has arisen.
- 9.4 The Bidder 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.

10 DISPUTE RESOLUTION

- 10.1 Transnet recognises that trust and good faith are pivotal to its relationship with its Bidders. When a dispute arises between Transnet and its Bidder, 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 restriction process as mentioned in paragraph 6 above, Transnet will not do business with a company that litigates against it in bad faith or is involved in any action that reflects bad faith on its part. Litigation in bad faith includes, but is not limited to the following instances:
- a) **Vexatious proceedings:** these are frivolous proceedings which have been instituted without proper grounds;
 - b) **Perjury:** where a 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.

11 GENERAL

- 11.1 This Integrity Pact is governed by and interpreted in accordance with the laws of the Republic of South Africa.
- 11.2 The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the law relating to any civil or criminal proceedings.
- 11.3 The validity of this Integrity Pact shall cover all the bidding processes and will be valid for an indefinite period unless cancelled by either Party.
- 11.4 Should one or several provisions of this Integrity Pact turn out to be invalid the remainder of this Integrity Pact remains valid.
- 11.5 Should a Bidder be confronted with dishonest, fraudulent or corruptive behaviour of one or more Transnet employees, Transnet expects its Bidders 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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[April 2020]

NON DISCLOSURE AGREEMENT

[April 2020]

INVITATION TO SERVICE PROVIDERS FOR THE INCLUSION ONTO AN APPROVED LIST OF SERVICE PROVIDERS FOR THE PROVISION OF INFORMATION, COMMUNICATION AND TECHNOLOGY (ICT) MULTIPLE RESOURCES ON AD HOC BASIS FOR TRANSNET SOC LTD (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS ("TPT") FOR A PERIOD OF TWELVE (12) MONTHS.

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)

[April 2020]

WHEREAS

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

IT IS HEREBY AGREED

1. INTERPRETATION

In this Agreement:

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

[April 2020]

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

2. CONFIDENTIAL INFORMATION

- 2.1 All Confidential Information given by one party to this Agreement [the **Disclosing Party**] to the other party [the **Receiving Party**] will be treated by the Receiving Party as secret and confidential and will not, without the Disclosing Party's written consent, directly or indirectly communicate or disclose [whether in writing or orally or in any other manner] Confidential Information to any other person other than in accordance with the terms of this Agreement.
- 2.2 The Receiving Party will only use the Confidential Information for the sole purpose of technical and commercial discussions between the parties in relation to the Bid or for the subsequent performance of any contract between the parties in relation to the Bid.
- 2.3 Notwithstanding clause 2.1 above, the Receiving Party may disclose Confidential Information:
 - 2.3.1 to those of its Agents who strictly need to know the Confidential Information for the sole purpose set out in clause 2.2 above, provided that the Receiving Party shall ensure that such Agents are made aware prior to the disclosure of any part of the Confidential Information that the same is confidential and that they owe a duty of confidence to the Disclosing Party. The Receiving Party shall at all times remain liable for any actions of such Agents that would constitute a breach of this Agreement; or

[April 2020]

- 2.3.2 to the extent required by law or the rules of any applicable regulatory authority, subject to clause 2.4 below.
- 2.4 In the event that the Receiving Party is required to disclose any Confidential Information in accordance with clause 2.3.2 above, it shall promptly notify the Disclosing Party and cooperate with the Disclosing Party regarding the form, nature, content and purpose of such disclosure or any action which the Disclosing Party may reasonably take to challenge the validity of such requirement.
- 2.5 In the event that any Confidential Information shall be copied, disclosed or used otherwise than as permitted under this Agreement then, upon becoming aware of the same, without prejudice to any rights or remedies of the Disclosing Party, the Receiving Party shall as soon as practicable notify the Disclosing Party of such event and if requested take such steps [including the institution of legal proceedings] as shall be necessary to remedy [if capable of remedy] the default and/or to prevent further unauthorised copying, disclosure or use.
- 2.6 All Confidential Information shall remain the property of the Disclosing Party and its disclosure shall not confer on the Receiving Party any rights, including intellectual property rights over the Confidential Information whatsoever, beyond those contained in this Agreement.

3. RECORDS AND RETURN OF INFORMATION

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

[April 2020]

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.

[April 2020]

- 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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TRANSNET PORT TERMINALS
ICLM HQ 729/TPT

DESCRIPTION OF THE WORKS: INVITATION TO SERVICE PROVIDERS FOR THE INCLUSION ONTO AN APPROVED LIST OF SERVICE PROVIDERS FOR THE PROVISION OF INFORMATION, COMMUNICATION AND TECHNOLOGY (ICT) MULTIPLE RESOURCES ON AD HOC BASIS FOR TRANSNET SOC LTD (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS ("TPT") FOR A PERIOD OF TWELVE (12) MONTHS.

Appendix 1: Service History
Note to bidders:

- Bidder to submit a minimum of five (5) reference letters in official company letterheads from different clients where the bidder provided ICT consultants for projects in the past 24-48 months and letters must not be dated older than 12 months. The reference letters must be for any previous ICT projects or roles detailing the type of work which was done.
- The letters must bear the official letterhead of the client which the services were rendered to A sufficiently detailed reference list with contact details of customers. Details to include
 - Customer name and contact details
 - Project description
 - Duration
 - Contract value

Number of Reference Letters		Y/N
0 Reference Letters	0 points	
1 – 3 Reference Letters	10 points	
4- 5 Reference Letters	20 points	
>5 Reference Letters	30 points	

Index of documentation attached to this schedule:

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Signed _____ Date _____

Name _____ Position _____

Tenderer/Company Name _____

TRANSNET PORT TERMINALS**ICLM HQ 729/TPT****DESCRIPTION OF THE WORKS: INVITATION TO FRAMLIST SERVICE PROVIDERS FOR THE PROVISION OF MULTIPLE RESOURCES ON AD HOC BASIS FOR TRANSNET SOC LTD (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS ("TPT")) FOR A PERIOD OF TWELVE (12) MONTHS.****Appendix 2: Lead time****Note to bidders:**

Bidder to submit confirmation of their lead times in their company letterhead, signed by company executive and they need to demonstrate the timelines for delivery of a resource to TPT from the date of receiving the PO. Bidder to note that short lead times and are to ensure that offering shortest period will gain an advantage.

Lead Time	Yes/No (Please tick)
5- 7 Days= 30 points	
8- 20 Days= 20 points	
21 - 30 Days= 10 points	
>31 Days = 0 points	

The bidder is to provide a draft schedule of activities to meet indicated lead time. Failure to provide the draft schedule will nullify the lead time score above.

Signed _____

Date _____

Name _____

Position _____

Tenderer/Company
Name _____

TRANSNET PORT TERMINALS

ICLM HQ 729/TPT

DESCRIPTION OF THE WORKS: INVITATION TO FRAMELIST SERVICE PROVIDERS FOR THE PROVISION OF MULTIPLE RESOURCES ON AD HOC BASIS FOR TRANSNET SOC LTD (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS ("TPT") FOR A PERIOD OF TWELVE (12) MONTHS.

Appendix 3 Service Provider Mobilisation

Note to bidders:

Bidder is able to provide written confirmation that on-site services with established processes will be in place to support the project deliverables, as well as detailed descriptions of how they manage the following:

- 1) Onboarding
- 2) Transition/ hand over between resources
- 3) SLA Management
- 4) Time Management
- 5) Quality Management

Lead Time	Yes/No (Please tick)
0 Mobilisation Areas= 0 points	
1 Mobilisation Area= 10 points	
2-3 Mobilisation Area= 30 points	
4-5 Mobilisation Area =40	

The bidder is to provide a draft schedule of activities in relation to the five mobilisation areas, the schedule should reflect the indicated confirmed mobilisation area(s). Failure to provide the draft schedule will nullify the Mobilisation score above.

Signed _____

Date _____

Name _____

Position _____

Tenderer/Company
Name _____

TRANSNET PORT TERMINALS

ICLM HQ 729/TPT

DESCRIPTION OF THE WORKS: INVITATION TO FRAMELIST SERVICE PROVIDERS FOR THE PROVISION OF MULTIPLE RESOURCES ON AD HOC BASIS FOR TRANSNET SOC LTD (REG. NO 1990/000900/30) OPERATING AS TRANSNET PORT TERMINALS (HEREINAFTER REFERRED TO AS ("TPT") FOR A PERIOD OF TWELVE (12) MONTHS.
