

**TRANSNET NATIONAL PORTS AUTHORITY**

an Operating Division of **TRANSNET SOC LTD**

[hereinafter referred to as **Transnet**]

[Registration No. 1990/000900/30]

**REQUEST FOR PROPOSAL [RFP]**

**FOR THE APPOINTMENT OF CONSTRUCTION HEALTH AND SAFETY AGENT/S AT THE PORT OF EAST LONDON FOR A PERIOD OF 26 MONTHS**

<b>RFP NUMBER</b>	:	<b>TNPA/2024/02/0029/57859/RFP</b>
<b>ISSUE DATE</b>	:	<b>27 MARCH 2024</b>
<b>NON-COMPULSORY BRIEFING SESSION</b>	:	<b>04 APRIL 2024 FROM 11H00</b>
<b>CLOSING DATE</b>	:	<b>12 APRIL 2024 AT 16H00</b>
<b>CLOSING TIME</b>	:	<b>16H00 PM</b>
<b>BID VALIDITY PERIOD</b>	:	<b>180 BUSINESS DAYS FROM CLOSING DATE</b>

**Note to the bidders:**

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

**PLEASE NOTE OF TECHNICAL PREQUALIFICATION LEGAL REQUIREMENT:**

Valid proof of registration with South African Council for the Project and Construction Management Profession (SACPCMP) as Pr. CHSA

### BIDDING OPTIONS

<b>Bidder's Name:</b>		
<b>Project Description</b>	<b>Are you bidding to provide Construction Health and Safety Agent services for which project?</b>  <b>Respond with either:</b>  <b>Yes or No</b>	
1	Deepening and Strengthening of N-Berth	
2	Security Fence Upgrade	
3	Refurbishment of Latimer's Landing	

<b>For Office Use Only</b>			
<b>Project Description</b>	<b>Total number of projects where Construction Health and Safety Agent services will be provided to:</b>		
1	Deepening and Strengthening of N-Berth		
2	Security Fence Upgrade	<b>1</b>	<b>2</b>
3	Refurbishment of Latimer's Landing		<b>3</b>

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**RFP FOR THE APPOINTMENT OF CONSTRUCTION HEALTH AND SAFETY AGENT/S FOR THE PORT OF EAST LONDON FOR A PERIOD OF 26 MONTHS**

**SECTION 1: SBD1 FORM**

**PART A**

**INVITATION TO BID**

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF TRANSNET NATIONAL PORTS AUTHORITY, A DIVISION TRANSNET SOC LTD</b>							
BID NUMBER:	<b>TNPA/2024/02/0029/57859/RFP</b>	ISSUE DATE:	<b>27 MARCH 2024</b>	CLOSING DATE:	<b>12 APRIL 2024</b>	CLOSING TIME:	<b>16H00</b>
DESCRIPTION	<b>FOR THE APPOINTMENT OF CONSTRUCTION HEALTH AND SAFETY AGENT/S FOR THE PORT OF EAST LONDON FOR A PERIOD OF 26 MONTHS</b>						
<b>BID RESPONSE DOCUMENTS SUBMISSION</b>							
<b>RESPONDENTS ARE TO UPLOAD THEIR BID RESPONSE PROPOSALS ONTO THE TRANSNET SYSTEM AGAINST EACH TENDER SELECTED</b> (please refer to section 2, paragraph 3 for a detailed process on how to upload submissions): <a href="https://transnetenders.azurewebsites.net">https://transnetenders.azurewebsites.net</a>							
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</b>				<b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b>			
CONTACT PERSON	<b>Kwanele Mtembu</b>			CONTACT PERSON	<b>Kwanele Mtembu</b>		
TELEPHONE NUMBER	<b>None</b>			TELEPHONE NUMBER	<b>None</b>		
FACSIMILE NUMBER	<b>None</b>			FACSIMILE NUMBER	<b>None</b>		
E-MAIL ADDRESS	<a href="mailto:TNPAPOELABOVE@transnet.net">TNPAPOELABOVE@transnet.net</a>			E-MAIL ADDRESS	<a href="mailto:TNPAPOELABOVE@transnet.net">TNPAPOELABOVE@transnet.net</a>		
<b>SUPPLIER INFORMATION</b>							
NAME OF BIDDER							
POSTAL ADDRESS							
STREET ADDRESS							
TELEPHONE NUMBER	CODE			NUMBER			
CELLPHONE NUMBER							
FACSIMILE NUMBER	CODE			NUMBER			
E-MAIL ADDRESS							
VAT REGISTRATION NUMBER							
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:			<b>OR</b>	CENTRAL SUPPLIER DATABASE	UNIQUE REGISTRATION REFERENCE NUMBER: MAAA	
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No			B-BBEE STATUS LEVEL SWORN AFFIDAVIT			[TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No

Respondent's Signature

Date & Company Stamp

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

**PART B**  
**TERMS AND CONDITIONS FOR BIDDING**

<b>1. TAX COMPLIANCE REQUIREMENTS</b>
1.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS. 1.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS. 1.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA. 1.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID. 1.5 IN BIDS WHERE UNINCORPORATED CONSORTIA / JOINT VENTURES / SUB-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 **Proposal**] are requested from persons, companies, close corporations or enterprises [hereinafter referred to as an **entity, Respondent** or **Bidder**].

<b>DESCRIPTION</b>	<b>FOR THE APPOINTMENT OF CONSTRUCTION HEALTH AND SAFETY AGENT/S AT THE PORT OF EAST LONDON FOR A PERIOD OF 26 MONTHS [the Services]</b>
<b>TENDER ADVERT</b>	All Transnet tenders are advertised on the National Treasury's e-Tender Publication Portal and the Transnet website. Should one of these media (i.e. National Treasury's e-Tender Publication Portal or Transnet website) not be available, bidders are advised to check on the other media for advertised tenders.
<b>RFP DOWNLOADING</b>	<p>This RFP may be downloaded directly from National Treasury's e-Tender Publication Portal at <a href="http://www.etenders.gov.za">www.etenders.gov.za</a> free of charge.</p> <p>To download RFP and Annexures:</p> <ul style="list-style-type: none"> <li>• Click on "Tender Opportunities";</li> <li>• Select "Advertised Tenders";</li> <li>• In the "Department" box, select Transnet SOC Ltd.</li> </ul> <p>Once the tender has been in the list, click on the "Tender documents" tab and process to download all uploaded documents.</p> <p>The RFP may also be downloaded from the Transnet Portal at <a href="https://transnetetenders.azurewebsites.net">https://transnetetenders.azurewebsites.net</a> (please use <b>Google Chrome</b> to access Transnet link/site) free of charge (<i>refer to section 2, paragraph 3 below for detailed steps</i>)</p>
<b>COMMUNICATION</b>	<p>Transnet will publish the outcome of this RFP on the National Treasury e-tender portal and Transnet website within 10 days after the award has been finalised. All unsuccessful bidders have a right to request for reasons for their bid not being successful. This request must be directed to the contact person stated in the SBD 1 form.</p> <p>Any addenda to the RFP or clarifications will be published on the e-tender portal and Transnet website. Bidders are required to check the e-tender portal or Transnet website prior to finalising their bid submissions for any changes or clarifications to the RFP.</p> <p>Transnet will not be held liable if Bidders do not receive the latest information regarding this RFP with the possible consequence of either being disadvantaged or disqualified as a result thereof.</p>
<b>BRIEFING SESSION</b>	<p>Yes Non-compulsory</p> <p>Bidders are required to attend the non-compulsory briefing session by clicking on the Microsoft Teams meeting link <a href="#">Click here to join the meeting</a> at least 5 minutes prior to the start of the non-compulsory briefing session.</p> <p>Refer to paragraph 2 for details.</p>
<b>CLOSING DATE</b>	<p><b>16h00 pm on Friday 12 April 2024</b></p> <p>Bidders must ensure that bids are uploaded timeously onto the system. Generally, if a bid is late, it will not be accepted for consideration.</p> <p><b><i>Bidders are required to ensure that electronic bid submissions are done at least a day before the closing date to prevent issues which they may encounter due to their internet speed, bandwidth or the size of the number of uploads they are submitting. Transnet will not be held liable for any challenges experienced by bidders as a result of the technical challenges. Please do not wait for the last hour to submit. A</i></b></p>

	<b><i>Bidder can upload 30mb per upload and multiple uploads are permitted.</i></b>
<b>VALIDITY PERIOD</b>	<p><b>180 Business Days from Closing Date</b></p> <p>Bidders are to note that they may be requested to extend the validity period of their bid, at the same terms and conditions, if the internal evaluation process has not been finalised within the validity period. However, once the adjudication body has approved the process and award of the business to the successful bidder, the validity of the successful bidder's bid will be deemed to remain valid until a final contract has been concluded.</p> <p>Should a bidder fail to respond to a request for extension of the validity period before it expires, that bidder will be excluded from tender process.</p> <p>With regard to the validity period of next highest ranked bidders, please refer to Section 2, paragraph 9.12</p>

Any additional information or clarification will be published on the e-Tender portal and Transnet website, if necessary.

## 2 FORMAL BRIEFING

- 2.1. A non-compulsory pre-proposal RFP briefing session will be conducted on Microsoft Team by accessing the meeting on this link [Click here to join the meeting](#) on the **4<sup>th</sup> of April 2024**, at 11h00 am for a period of ± one (1) hour. The briefing session will start punctually, and information will not be repeated for the benefit of Respondents arriving late.
- 2.2. Despite the briefing session being non-compulsory, Transnet nevertheless encourages all Respondents to attend. Transnet will not be held responsible if any Respondent who did not attend the **non-compulsory** session subsequently feels disadvantaged as a result thereof.
- 2.3. Respondents are encouraged to bring a copy of the RFP to briefing session.

## 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.

- 3.1. The Transnet e-Tender Submission Portal can be accessed as follows:
  - 3.1.1. Log on to the Transnet e-Tenders management platform website/ Portal ([\(\(transnetetenders.azurewebsites.net\)\)](https://transnetetenders.azurewebsites.net)) Please use **Google Chrome** to access Transnet link/site);
  - 3.1.2. Click on "ADVERTISED TENDERS" to view advertised tenders;
  - 3.1.3. Click on "SIGN IN/REGISTER – for bidder to register their information (must fill in all mandatory information);
  - 3.1.4. Click on "SIGN IN/REGISTER" - to sign in if already registered;
  - 3.1.5. Toggle (click to switch) the "Log an Intent" button to submit a bid;
  - 3.1.6. Submit bid documents by uploading them into the system against each tender selected.
  - 3.1.7. No late submissions will be accepted. The bidder guide can be found on the Transnet Portal [transnetetenders.azurewebsites.net](https://transnetetenders.azurewebsites.net)

#### 4 RFP INSTRUCTIONS

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

#### 5 JOINT VENTURES OR CONSORTIUMS

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

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

#### COMMUNICATION

- 5.1 For specific queries relating to this RFP, an RFP Clarification Request Form should be submitted onto the system and to Kwanele Mtembu at [TNPAPOELABOVE@transnet.net](mailto:TNPAPOELABOVE@transnet.net) before **15h00 pm on 11 April 2024**, 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 the Kwanele Mtembu, at [TNPAPOELABOVE@transnet.net](mailto:TNPAPOELABOVE@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.
- 5.6 Transnet will publish the outcome of this RFP in the National Treasury e-tender portal and Transnet website within 10 days after the award has been finalised. Respondents are required to check the



National Treasury e-tender Portal and Transnet website for the results of the tender process. All unsuccessful bidders have a right to request Transnet to furnish individual reasons for their bid not being successful. This request must be directed to the contact person stated in the SBD 1 form.

## 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 scope of services which are detailed herein;
- 9.3 disqualify Proposals submitted after the stated submission deadline [closing date];
- 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 proposed price, should the preferred bidder fail to sign or commence with the contract within a reasonable period after being requested to do so. Under such circumstances, the validity of the bids of the next ranked bidder(s) will be deemed to remain valid, irrespective of whether the outcome of the tender has been published and the outcome of the bid process on the National Treasury e-tender Portal and Transnet website. Bidders may therefore be requested to advise whether they would still be prepared to provide the required Services at their proposed price.

Note that Transnet will not reimburse any Respondent for any preparatory costs or other work performed in connection with its Proposal, whether or not 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 Professional Services Contract 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 an essential 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.

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

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

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

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

Respondent's Signature

Date & Company Stamp

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

### 1 BACKGROUND

The Employer's objective is to enter into a professional services contract to acquire services in the Construction Health and Safety Management discipline, specifically services of one (1) or more professionally registered Health and Safety Agent/s as Pr. CHSA for the Port of East London in the Central Region to serve Transnet National Port Authority's (TNPA) emerging needs and requirements of capital projects.

### 2 EXECUTIVE OVERVIEW

Whereas Transnet is seeking a partner(s) to provide solutions for its Construction Health and Safety Agent/s needs at the Port of East London, it also seeks to improve its current processes for providing these Services to its end user community throughout the Port.

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/s with respect to 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

The employer seeks to acquire the services of Construction Health & Safety Agent/s registered as a Pr. CHSA to oversee the execution of three (3) projects at the Port of East London as follows:

- the Deepening and Strengthening of N-Berth,
- the security fence upgrade, and
- the refurbishment of Latimer's Landing.

The appointed Pr. CHSA will oversee full compliance of either one (1) or two(2) or all three (3) projects named above, but not limited to, Occupational Health and Safety Act, 1993 (Act 85 of 1993), all applicable

Regulations, Standards and By-Laws, have oversight, perform audits and attend project meetings and workshops on safety and health matters during the construction phases of the projects.

### **3.1. Responsibilities before execution**

- 3.1.1. Evaluate and review designs in terms of health and safety requirements.
- 3.1.2. Review, provide input into and sign off all required health and safety documents.

### **3.2. Responsibilities during execution**

- 3.2.1. Prepare and submit the Construction Work Permit application (CWP) to the Department of Employment and Labour.
- 3.2.2. Assume overall responsibility for the effective implementation and administration of all Health and Safety compliances during execution of the project and close out.
- 3.2.3. Ensure that the Clients Health and Safety (H&S) specification and Baseline Risk Assessment is made available to the Principal Contractor and appointed sub-contractors.
- 3.2.4. Undertake regular inspections of the project site to check for compliance with the Clients specification and Principal Contractor's H&S Plan in terms of the outlined specifications as set out in the project documents.
- 3.2.5. Keep a register of all incidents (spills, injuries, complaints, legal transgressions, etc.) and other documentation.
- 3.2.6. Implement recommendations of internal and/or external audits.
- 3.2.7. Ensure that construction staff are trained in accordance with requirements of the H&S Plan.
- 3.2.8. Implement recommendations for incidents of non-compliance.
- 3.2.9. Ensure that health and safety issues receive adequate attention during the site induction training.
- 3.2.10. Conduct monthly H&S audits on the project on behalf of the Client.
- 3.2.11. Monitor the Contractor's compliance on the projects.
- 3.2.12. Ensure that all required and applicable H&S monitoring programmes (sampling, measuring, recording etc. when specified) are carried out in accordance with protocols and schedules.
- 3.2.13. Maintain site documentation related to H&S management (permits, method statements, Risk Assessment, reports, audits, monitoring results, etc.). Documentation to be maintained on the relevant site Document Control System.
- 3.2.14. Attendance at scheduled H&S meetings and project coordination meetings.
- 3.2.15. Report, investigate and close-out all H&S incidents and ensure corrective actions arising from investigations are implemented.
- 3.2.16. Keep a regular photographic record of all SHE incidents as well as non-compliances to legislative and other applicable requirements.
- 3.2.17. Implementation of SHE-related actions arising out of the minutes from scheduled meetings.
- 3.2.18. Management of complaints register.
- 3.2.19. Review and sign off all required H&S documents such as, but not limited to, Method Statements, Risk Assessments, Safe Work Procedures, H&S Plans, Fall Protection Plans etc., as prepared by the Contractor.

- 3.2.20. Collate information received, including monitoring results into a monthly report to the Construction Manager showing progress against targets.
- 3.2.21. Sign off all project-specific H&S documentation and the sign-off implies that the Pr. CHSA is satisfied and approves the contents of the documents as covering H&S risks and legal exposures before submission to TNPA.
- 3.2.22. The appointed H&S Agent must monitor and ensure the projects comply with the statutory requirements under the Occupational Health and Safety Act and applicable regulations, SANS codes, policies, procedures, by-laws pertaining to the project.

**N.B. The appointed Construction Health and Safety Agent/s will be expected to mentor TNPA H&S specialist during the execution and close out of the projects as per requirements of Section 10. The construction period is estimated to take approximately 26 months as there are parallel construction activities of the projects.**

**4 GREEN ECONOMY / CARBON FOOTPRINT**

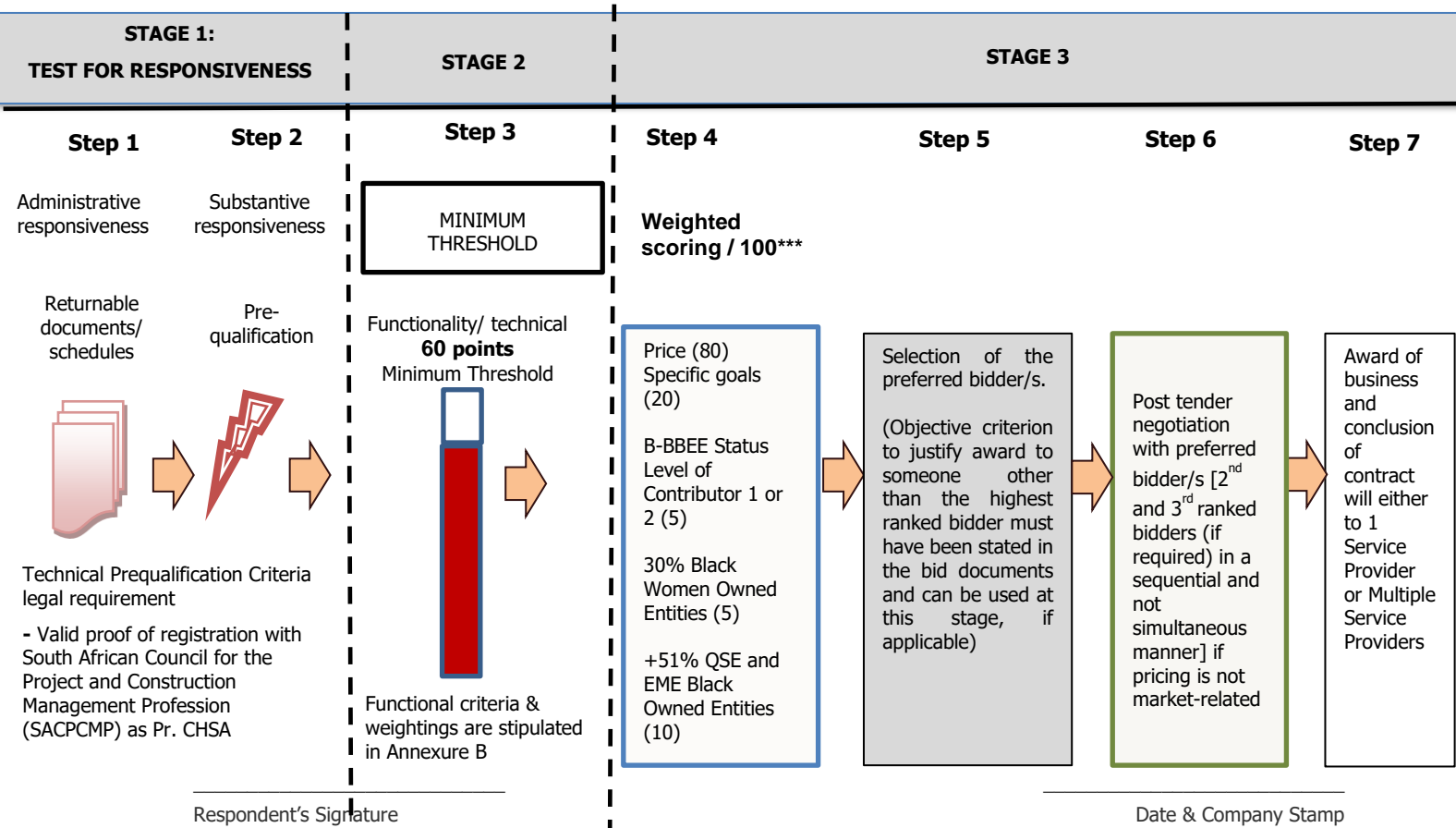
Transnet wishes to have an understanding of your company’s position with regard to environmental commitments, including key environmental characteristics such as waste disposal, recycling and energy conservation. Please submit details of your entity’s policies in this regard.

**5 GENERAL SERVICE PROVIDER/S 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/s:



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 STAGE ONE STEP ONE: Test for Administrative Responsiveness

The test for administrative responsiveness **will be for all bidders** and will include the following:

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

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

#### 6.2 STAGE ONE STEP TWO: Test for Substantive Responsiveness

The test for substantive responsiveness **will be for all bidders** and will include the following:

Check for substantive responsiveness	RFP Reference
<ul style="list-style-type: none"> <li>Whether any general and legislation qualification criteria set by Transnet, have been met</li> </ul>	<i>All Sections</i>
<ul style="list-style-type: none"> <li>Whether the Bid contains a priced offer as prescribed in the pricing and delivery schedule</li> </ul>	<i>Section 4</i>
<ul style="list-style-type: none"> <li>Whether the Bid materially complies with the scope services given</li> </ul>	<i>All Sections</i>
<ul style="list-style-type: none"> <li>Whether any Technical pre-qualification/eligibility criteria set by Transnet have been met as follows:  Valid <b>proof of registration</b> with South African Council for the Project and Construction Management Profession (SACPCMP) as Pr. CHSA</li> </ul>	<i>As outlined on the Scope of Services (Annexure A) and functionality evaluation criteria (Annexure B)</i>

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

6.3 **STAGE TWO STEP THREE: Minimum Threshold is 60 points for Functionality Evaluation Criteria**

The test for the Functional threshold **will be for all bidders** and will include the following elements with a scoring guideline of 0 to 100:

Technical Evaluation Criteria	Points Weightings
Bidder’s completed projects	25.00
Experience of Health and Safety Agent (Pr. CHSA)	25.00
Qualifications of Health and Safety Agent (Pr. CHSA)	25.00
Experience of Health and Safety Agent (Pr. CHSA) in acquiring construction work permit	25.00
<b>Total Weighting:</b>	<b>100.00</b>
<b>Minimum qualifying score required:</b>	60.00

A Respondent’s compliance with the minimum functionality threshold will be measured by their responses to **Annexure B**.

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 functionality threshold has been met.

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

6.4 **STAGE THREE STEP FOUR: Evaluation and Final Weighted Scoring (Preference Point System) will be for all bidders**

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

Evaluation Criteria	RFP Reference
• Commercial offer	<i>Section 4</i>
• Commercial discounts <sup>1</sup>	<i>Section 4</i>
• Disbursements	

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

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

Where:

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

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

- Specific goals preference points claim form

<sup>1</sup> Only unconditional discounts will be taken into account during evaluation. A discount which has been offered conditionally will, despite not being taken into account for evaluation purposes, be implemented when payment is effected



- Preference points will be awarded to a bidder for attaining the specific goals requirements in accordance with the table indicated in Section 4.1 of the specific goals Claim Form.
- As the award of business may be to one (1) or more (multiple) bidders, the selection of the number of preferred bidder/s will be determined by the overall outcome of the preference point system evaluation in consideration of the three (3) projects that the Construction Health and Safety Agent/s services is for.

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

Thresholds	Minimum Threshold
Functionality	60.00

Evaluation Criteria	Final Weighted Scores
Price and Total Cost of Ownership	80.00
Specific goals - Scorecard	20.00
<b>TOTAL SCORE:</b>	<b>100.00</b>

6.6 **STAGE THREE STEP FIVE: Objective Criteria (Not applicable)**

Transnet reserves the right to award the business to the highest scoring bidder unless objective criteria justify the award to another bidder. The objective criteria Transnet may apply in this bid process include:

- 6.6.1. Skills Transfer and Capacity Building for Transnet;
- 6.6.2. Impact on Transnet’s Return on Investment;
- 6.6.3. Rotation of Service Provider/s to promote opportunities for other Service Providers, by overlooking a Service Provider that has been awarded business repeatedly overtime in order to benefit other Service Providers in the market;
- 6.6.4. the bidder:
  - 6.6.4.1. is not under restrictions, or has principals who are under restrictions, preventing participating in the employer’s procurement,
  - 6.6.4.2. is not undergoing a process of being restricted by Transnet or other state institution that Transnet may be aware of,
  - 6.6.4.3. can, as necessary and in relation to the proposed contract, demonstrate that he or she possesses the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and the personnel, to perform the contract,
  - 6.6.4.4. has the legal capacity to enter into the contract,
  - 6.6.4.5. is not insolvent, in receivership, under Business Rescue as provided for in chapter 6 of the Companies Act, 2008, bankrupt or being wound up, has his affairs administered by a court or a judicial officer, has suspended his business activities, or is subject to legal proceedings in respect of any of the foregoing,
  - 6.6.4.6. complies with the legal requirements, if any, stated in the tender data and

6.6.4.7. is able, in the option of the employer to perform the contract free of conflicts of interest.

6.7 **STAGE THREE STEP SIX: Post Tender Negotiations (PTN - if applicable)**

6.7.1. Respondents are to note that Transnet may not award a contract if the price offered is not market related. In this regard, Transnet reserves the right to engage in PTN with the view to achieving a market-related price or to cancel the tender. Negotiations will be done in a sequential manner i.e.:

6.7.1.1. first negotiate with the highest ranked bidder or cancel the bid, should such negotiations fail,

6.7.1.2. negotiate with the 2nd and 3rd ranked bidders (if required) in a sequential manner.

6.7.2. In the event of any Respondent being notified of such short-listed/preferred bidder status, his/her bid, as well as any subsequent negotiated best and final offers (BAFO), will automatically be deemed to remain valid during the negotiation period and until the ultimate award of business.

6.7.3. Should Transnet conduct post tender negotiations, Respondents will be requested to provide their best and final offers to Transnet based on such negotiations. Where a market related price has been achieved through negotiation, the contract will be awarded to the successful Respondent(s).

6.8 **STAGE THREE STEP SEVEN: Award of business and conclusion of contract/s**

6.8.1. 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/s of Award. Thereafter the final contract will be concluded with the successful Respondent/s.

6.8.2. A final contract will be concluded and entered into with the successful Bidder/s at the acceptance of a letter/s of award by the Respondent/s.

6.8.3. Bidders will be ranked from the highest scoring Tender offer to the lowest scoring Tender offer using the preference point system.

6.8.4. The award of business will be to either one (1) bidder or multiple bidders informed by the preference point system evaluation outcome.

**6.8.5. The award options are as follows:**

6.8.5.1 **OPTION 1 FOR AWARDING:** the award of business to one (1) bidder who will provide the Construction Health and Safety Agent Services for all three (3) projects, or

6.8.5.2 **OPTION 2 FOR AWARDING:** the award of business to multiple bidders based on the projects they will provide the Construction Health and Safety Agent "Agent" services to, further as detailed:

a) One (1) Agent for 1 project AND another one (1) Agent for 2 projects equating to two (2) Agents, or

b) one (1) Agent for each project equating to three (3) Agents.

#### SECTION 4: PRICE ACTIVITY SCHEDULES

The pricing activity schedules are attached as **Annexure C**. The price activity schedules are three (3) for each project where the Construction Health and Safety Agent services are offered. Bidders must complete the price activity schedule for the Construction Health and Safety Agent services bidding for as selected on page 2 of this RFP document.

The projects have different durations and will be executed parallel.

- Refurbishment of Latimer's Landing will take 24 months hence the 26 months project duration. It is anticipated to start in July 2024.
- Deepening and Strengthening of N-Berth (N-Berth) will take 12 months and it has already contracted some of the activities which are no longer required hence the zeroes on the quantity of the pricing activity schedule. The Construction Health and Safety Agent/s will take over and finish the remaining period in parallel with other projects. N-Berth started on the 01st of November 2023 with a completion date of the 13 November 2024.
- Security Fence Upgrade has already been awarded with a scheduled completion date of 30 October 2024, it is anticipated to be delayed due to a late sourcing of the Safety Agent, it will also be executed in parallel with these other 2 projects.
- The Construction Health and Safety Agent/s being procured will be facilitating different projects, each project will be facilitated independently.
- The zero (0) quantities on the price activity schedule indicates that the activity has been completed and the Construction Health and Safety Agent is not required to provide services on those activities.
- The award of this tender is per price activity schedule as would have been selected by bidders on the number of project/s the Construction Health and Safety Agent services bidding for on page 2 of this RFP document.

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

#### Notes to Pricing:

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

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

- b) Prices must be quoted in South African Rand inclusive of VAT.
- c) Any disbursement not specifically priced for will not be considered/accepted by Transnet.
- d) To facilitate like-for-like comparison bidders must submit pricing strictly in accordance with this pricing schedule and not utilise a different format. Deviation from this pricing schedule could result in a bid being declared non-responsive.

- e) Rates proposed must be aligned with the Guide on professional rates by SACPCMP;
- f) Please note that should you have offered a discounted price(s), Transnet will only consider such price discount(s) in the final evaluation stage if offered on an unconditional basis.
- g) Respondents, if awarded the contract, are required to note that their prices quoted would be kept firm and fixed for the contract duration. [Not to be confused with bid validity period Section 2]

YES	
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**7. DISCLOSURE OF CONTRACT INFORMATION**

**PRICES TENDERED**

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

**JOHANNESBURG STOCK EXCHANGE DEBT LISTING REQUIREMENTS**

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

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

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

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

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

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

		(Nature of interest/ Participation)				
1						
2						
3						

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

**8. SERVICE LEVELS**

- 8.1 An experienced account representative is required to work with Transnet’s procurement department. [No sales representatives are needed for individual department or locations]. Additionally, there shall be a minimal number of people, fully informed and accountable for this agreement.
- 8.2 Transnet will have quarterly reviews with the Service provider’s account representative on an on-going basis.
- 8.3 Transnet reserves the right to request that any member of the Service provider’s team involved on the Transnet account be replaced if deemed not to be adding value for Transnet.
- 8.4 The Service provider guarantees that it will achieve a 95% [ninety-five per cent] service level on the following measures:
  - a) Random checks on compliance with quality/quantity/scope of services
  - b) On-time delivery

If the Service provider does not achieve this level as an average over each quarter, Transnet will receive a 1.5% [one and a half per cent] rebate on quarterly sales payable in the next quarter.

- 8.5 The Service provider must provide a telephone number for customer service calls.
- 8.6 Failure of the Service provider to comply with stated service level requirements will give Transnet the right to cancel the contract in whole, without penalty to Transnet, giving 30 [thirty] calendar days’ notice to the Service provider of its intention to do so.

**Acceptance of Service Levels:**

<b>YES</b>		<b>NO</b>	
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**9. TOTAL COST OF OWNERSHIP AND CONTINUOUS IMPROVEMENT INITIATIVES**

- 9.1 Respondents shall indicate whether they would be committed, for the duration of any contract which may be awarded through this RFP process, to participate with Transnet in its continuous improvement initiatives to reduce the total cost of ownership [TCO], which will reduce the overall cost of transportation Services and related logistics provided by Transnet’s operating divisions within South Africa to the ultimate benefit of all end-users.

**Accepted:**

<b>YES</b>		<b>NO</b>	
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If “yes”, please specify details in paragraph 9.2 below.

9.2 Respondents must briefly describe their commitment to TCO and continuous improvement initiatives and give examples of specific areas and strategies where cost reduction initiatives can be introduced. Specific areas and proposed potential savings percentages should be included. Additional information can be appended to the Respondent's Proposal if there is insufficient space available below.

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**10. RISK**

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

10.1 **Quality and scope of services rendered:**

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10.2 **Continuity of supply:**

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

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

SIGNATURE OF WITNESSES

ADDRESS OF WITNESSES

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

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

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

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

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

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

I/We \_\_\_\_\_

*[name of entity, company, close corporation or partnership] of [full address]*

\_\_\_\_\_

carrying on business trading/operating as

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

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

being duly authorised thereto by a Resolution of the Board of Directors or Members or Certificate of Partners, dated \_\_\_\_\_ to enter into, sign execute and complete any documents relating to this proposal and any subsequent Agreement. The following list of persons are hereby authorised to negotiate on behalf of the abovementioned entity, should Transnet decide to enter into Post Tender Negotiations with highest ranked bidder(s).

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

I/We hereby offer to supply 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) Professional Services Contract;
- (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,

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

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

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. Transnet will also publish the outcome of the tender, including successful and unsuccessful bidders, in the National Treasury e-tender portal. Any unsuccessful bidder has a right to request reasons for the bid not to be successful and Transnet has a duty to provide those reasons on receipt of the request from the bidder.

#### VALIDITY PERIOD

Transnet requires a validity period of 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. \_\_\_\_\_

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

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



(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 (3) types of returnable documents as indicated below and Respondents are urged to ensure that these documents are returned with their bids based on the consequences of non-submission as indicated below:

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

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

**a) Mandatory Returnable Documents**

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

<b>MANDATORY RETURNABLE DOCUMENTS</b>	<b>SUBMITTED [Yes/No]</b>
SECTION 4: Pricing Activity Schedule/s	
Valid proof of registration with South African Council for the Project and Construction Management Profession (SACPCMP) as Pr. CHSA	

**b) Returnable Documents Used for Scoring**

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

<b>RETURNABLE DOCUMENTS USED FOR SCORING</b>	<b>SUBMITTED [Yes or No]</b>
Respondent's valid proof of evidence to claim points for compliance with Specific Goals' requirements as stipulated in Section 9 of this RFP as follows:	

Respondent's Signature

Date &amp; Company Stamp

<b>RETURNABLE DOCUMENTS USED FOR SCORING</b>	<b>SUBMITTED [Yes or No]</b>
B-BBEE Certificate / Sworn - Affidavit / B-BBEE CIPC Certificate (in case of JV, a consolidated B-BBEE scorecard will be accepted) as per DTIC guidelines	
Certified copy of ID Documents of the Owners	
Doctor's note and /or EEA1 form confirming the disability	
List of completed projects	
Curriculum Vitae with required experience of the Construction Health and Safety Agent	
Proof of certified qualification	
Copies of Construction Work Permit/s	

**c) Essential Returnable Documents:**

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

<b>ESSENTIAL RETURNABLE DOCUMENTS &amp; SCHEDULES</b>	<b>SUBMITTED [Yes or No]</b>
In the case of Joint Ventures, a copy of the Joint Venture Agreement or written confirmation of the intention to enter into a Joint Venture Agreement	
Section 1: SBD1 Form	
Section 5: Proposal Form and List of Returnable documents	
Section 6: Certificate Of Acquaintance with RFP, Terms & Conditions & Applicable Documents	
Section 7: RFP Declaration and Breach of Law Form	
Section 9: Specific Goals Points Claim Form	
Section 10: Mentoring and Skills Development Schedule	
Section 11: Protection of Personal Information	
Letter of Good Standing with the Workmen's compensation fund by the bidding entity or separate Letters of Good Standing from all members of a newly constituted JV	
Authority to complete and sign bid documents	

**CONTINUED VALIDITY OF RETURNABLE DOCUMENTS**

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

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 Respondent's Signature

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 Date & Company Stamp

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

SIGNATURE OF WITNESSES

ADDRESS OF WITNESSES

1 \_\_\_\_\_

\_\_\_\_\_

Name \_\_\_\_\_

\_\_\_\_\_

2 \_\_\_\_\_

\_\_\_\_\_

Name \_\_\_\_\_

\_\_\_\_\_

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

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

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

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

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

**SECTION 6: CERTIFICATE OF ACQUAINTANCE WITH RFP, PROFESSIONAL SERVICES  
CONTRACT & 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	Professional Services Contract
3	Transnet’s Supplier Integrity Pact
4	Non-disclosure Agreement
5	Scope of Services attached to this RFP

**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 \_\_\_\_\_ 20\_\_

SIGNATURE OF WITNESSES

ADDRESS OF WITNESSES

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

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

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

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

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

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

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

\_\_\_\_\_  
Respondent’s Signature

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

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

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

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

1. Transnet has supplied and we have received appropriate responses to any/all questions [as applicable] which were submitted by ourselves for RFP Clarification purposes;
2. We have received all information we deemed necessary for the completion of this Request for Proposal [**RFP**];
3. We have been provided with sufficient access to the existing Transnet facilities/sites and any and all relevant information relevant to the 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 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:

\_\_\_\_\_  
Respondent's Signature\_\_\_\_\_  
Date & Company Stamp

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

ADDRESS:

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Indicate nature of relationship with Transnet:

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***[Failure to furnish complete and accurate information in this regard 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 interest<sup>2</sup> in the enterprise, employed by the state? **YES/NO**

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

Full Name	Identity Number	Name of State institution

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

\_\_\_\_\_  
 Respondent’s Signature

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

Full Name	Identity Number	Name of State institution

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

13.2.1. If so, furnish particulars:  
 .....  
 .....

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

13.3.1. If so, furnish particulars:  
 .....  
 .....

**14 DECLARATION**

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

- 14.1 I have read and I understand the contents of this disclosure;
- 14.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 14.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium<sup>3</sup> will not be construed as collusive bidding.
- 14.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or

<sup>3</sup> Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

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 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:

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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.

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

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



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

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

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

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

**SECTION 8: RFP CLARIFICATION REQUEST FORM**

RFP No: TNPA/2024/02/0029/57859/RFP

RFP deadline for questions / RFP Clarifications: Before 15h00 pm on 11 April 2024.

TO: Transnet SOC Ltd  
 ATTENTION: Kwanele Mtembu  
 EMAIL: [TNPAPOELABOVE@transnet.net](mailto:TNPAPOELABOVE@transnet.net)  
 DATE: \_\_\_\_\_  
 FROM: \_\_\_\_\_  
 \_\_\_\_\_

RFP Clarification No

**REQUEST FOR RFP CLARIFICATION**

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Respondent's Signature

Date & Company Stamp

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

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

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

**1. GENERAL CONDITIONS**

- 1.1 The following preference point systems are applicable to all bids:
- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
  - the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).
- 1.2 The value of this bid is estimated to not exceed R50 000 000 (all applicable taxes included) and therefore the 80/20 preference point system shall be applicable. Despite the stipulated preference point system, Transnet shall use the lowest acceptable bid to determine the applicable preference point system in a situation where all received acceptable bids are received outside the stated preference point system.
- 1.3 Preference points for this bid shall be awarded for:
- (a) Price;
  - (b) B-BBEE Status Level of Contribution; and
  - (c) Any other specific goal determined in Transnet preferential procurement policy.
- 1.4 The maximum points for this bid are allocated as follows:

	<b>POINTS</b>
<b>Price</b>	<b>80.00</b>
<b>B-BBEE status level of contribution 1 or 2</b>	<b>05.00</b>
<b>30% Black Women Owned Entities</b>	<b>05.00</b>
<b>+51% QSE and EME Black Owned Entities</b>	<b>10.00</b>
<b>Non-Compliant and/or B-BBEE level 3-8 Contributors</b>	<b>0.00</b>
<b>Total points for Price and Specific Goals must not exceed</b>	<b>100.00</b>

- 1.5 Failure on the part of a bidder to submit proof of evidence for any of the specific goals together with the bid will be interpreted to mean that preference points are not claimed.
- 1.6 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.

**2. DEFINITIONS**

- (a) **"all applicable taxes"** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- (b) **"B-BBEE"** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (c) **"B-BBEE status level of contributor"** means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good

Respondent's Signature

Date & Company Stamp

Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

- (d) **"Ownership"** means 51% black ownership
- (e) **"bid"** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the supply/provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;
- (f) **"Broad-Based Black Economic Empowerment Act"** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (g) **"EME"** means an Exempted Micro Enterprise as defines by Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (h) **"functionality"** means the ability of a bidder to provide goods or services in accordance with specification as set out in the bid documents
- (i) **"Price"** includes all applicable taxes less all unconditional discounts.
- (j) **"Proof of B-BBEE Status Level of Contributor"**
- i) the B-BBEE status level certificate issued by an authorised body or person;
  - ii) a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice; or
  - iii) any other requirement prescribed in terms of the B-BBEE Act.
- (k) **"QSE"** means a Qualifying Small Enterprise as defines by Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 ( Act No. 53 of 2003);
- (l) **"rand value"** means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties.
- (m) **"Specific goals"** means targeted advancement areas or categories of persons or groups either previously disadvantaged or falling within the scope of the Reconstruction and Development Programme identified by Transnet to be given preference in allocation of procurement contracts in line with section 2(1) of the PPPFA.

### 3. POINTS AWARDED FOR PRICE

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

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

80/20

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

Where

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

$P_t$  = Comparative price of bid under consideration

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

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

Specific Goal	Points
Price	80.00
B-BBEE status level of contribution 1 or 2	05.00
30% Black Women Owned Entities	05.00
+51% QSE and EME Black Owned Entities	10.00
Non-Compliant and/or B-BBEE level 3-8 Contributors	0.00
<b>Total points for Price and Specific Goals must not exceed</b>	<b>100.00</b>

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

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

Specific Goals	Acceptable Evidence
B-BBEE	(1) B-BBEE Certificate / Sworn - Affidavit / B-BBEE CIPC Certificate (in case of JV, a consolidated B-BBEE scorecard will be accepted) as per DTIC guidelines
30% Black Women Owned Entities	(1) B-BBEE Certificate / Sworn- Affidavit / B-BBEE CIPC Certificate (in case of JV, a consolidated B-BBEE scorecard will be accepted) as per DTIC guideline (2) Certified copy of ID Documents of the Owners
+51% QSE and EME Black Owned Entities	(1) Certified copy of ID Documents of the Owners and (2) B-BBEE Certificate / Sworn - Affidavit / B-BBEE CIPC Certificate (in case of JV, a consolidated B-BBEE scorecard will be accepted) as per DTIC guidelines

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

Enterprise	B-BBEE Certificate & Sworn Affidavit
<b>Large</b>	Certificate issued by SANAS accredited verification agency
<b>QSE</b>	Certificate issued by SANAS accredited verification agency Sworn Affidavit signed by the authorised QSE representative and attested by a Commissioner of Oaths confirming annual turnover and black ownership (only black-owned QSEs - 51% to 100% Black owned) [Sworn affidavits must substantially comply with the format that can be obtained on the DTIC's website at <a href="http://www.thedtic.gov.za/economic_empowerment/bee_codes.jsp">www.thedtic.gov.za/economic_empowerment/bee_codes.jsp</a> .]
<b>EME<sup>4</sup></b>	Sworn Affidavit signed by the authorised EME representative and attested by a Commissioner of Oaths confirming annual turnover and black ownership Certificate issued by CIPC (formerly CIPRO) confirming annual turnover and black ownership Certificate issued by SANAS accredited verification agency only if the EME is being measured on the QSE scorecard

4.3 A trust, consortium or joint venture (including unincorporated consortia and joint ventures) must submit a consolidated B-BBEE Status Level verification certificate for every separate bid.

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

**5. BID DECLARATION**

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

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

6.1 B-BBEE Status Level of Contribution: = ..... (maximum of 05 points)

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

**7. SUB-CONTRACTING**

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

*(Tick applicable box)*

YES	NO
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7.1.1 If yes, indicate:

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

*(Tick applicable box)*

YES	NO
-----	----

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

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

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

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

8.2 VAT registration number:.....

8.3 Company registration number:.....

**8.4 TYPE OF COMPANY/ FIRM**

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

[TICK APPLICABLE BOX]

**8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES**

.....  
 .....

**8.6 COMPANY CLASSIFICATION**

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

[ TICK APPLICABLE BOX]

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

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

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If a bidder submitted false information regarding its B-BBEE status level of contributor or any other matter required in terms of the Preferential Procurement Regulations, 2022 which will affect or has affected the evaluation of a bid the purchaser may, in addition to any other remedy it may have
  - (a) disqualify the person from the bidding process;
  - (b) recover costs, losses, or damages it has incurred or suffered as a result of that person's conduct;
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
  - (d) if the successful bidder subcontracted a portion of the bid to another person without disclosing it, Transnet reserves the right to penalise the bidder up to 10 percent of the value of the contract;
  - (e) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the audi alteram partem (hear the other side) rule has been applied; and
  - (f) forward the matter for criminal prosecution.

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

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

WITNESSES

1. ....

2. ....

.....

SIGNATURE(S) OF BIDDERS(S)

DATE: .....

ADDRESS.....

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

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



**SECTION 10: MENTORING AND SKILLS DEVELOPMENT SCHEDULE**

1. The bidder’s Construction Health and Safety Agent/s will be expected to mentor the TNPA Health and Safety resource/s on the outlined deliverables as part of skills development.
  
2. The deliverables will lead to the Construction Health and Safety (Pr. CHSA) sharing his/her knowledge and experience so that TNPA Health and Safety resource/s can successfully become Agents as well.

No.	Activities	Deliverables
1.	Align with Contractor on Client Health and Safety requirements and documentation during execution	Advise the TNPA resource of any gaps identified in Client requirements compared to legislation. Advise the TNPA resource on any best practices which could be implemented.
2.	Ensure required documentation is submitted to the relevant authorities	Review documentation with TNPA resource before submission to Authorities.
3.	Attend the contractors site handover meeting, site meetings, progress meetings, risk workshops and technical meetings (not limited to)	Assist the TNPA resource to understand the type of information disseminated through these various platforms
4.	Evaluate the levels of compliance of principal contractor and subcontractors to their project specific health and safety plans and client specifications through inspections and audits	Inform and go along with TNPA resource about scheduled visits to the projects so that the TNPA resource can accompany Agent on these visits in order to gain knowledge and skills transfer where the TNPA resource has gaps.
5.	Oversee the reporting and investigation of project related incidents	Advise and share with TNPA resource the process and procedure regarding incident investigation and inform the TNPA resource in advance of incident investigations to take place.

3. Are the mentorship and skills development requirements understood by the bidder?

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

<b>NO</b>	
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- 3.1 If not, which requirement is not clear?

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4. The number of TNPA health and safety resources to be mentored and skills developed will be at the discretion of TNPA considering its requirements. Therefore, the bidder’s quoted price on mentorship is not depended on the number of resources to be mentored.

5. How many TNPA health and safety resources will the bidder be willing to mentor on each project?

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**SECTION 11: 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:**

<b>YES</b>		<b>NO</b>	
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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/inforeg/>, click on contact us, click on complaints.IR@justice.gov.za.



# ANNEXURE B

## **FUNCTIONALITY EVALUATION CRITERIA**

FUNCTIONALITY EVALUATION CRITERIA



Tender Number: TNPA/2024/02/0029/57859/RFP

Tender Description: RFP for the Appointment of a Construction Health and Safety Agent at the Port of East London for a period of 26 months

Column1	Column2	Column3	Column4	Column5	Column6
Nr	Category	Total Weight	Requirements	Type of Proof / Detail to be submitted	Model Answer
	Scope of Services: Evaluation Criteria				100 - The bidder has innovative and outstanding solutions to requirements. 80- The bidder exceeds requirements , has adequately mitigated risks in requirements beyond those listed. 60 - Meets critical requirements. 40- Partially meets requirements. 20- Partially meets requirements. 0 - Company can not meet, high risk.
1	Bidder's Completed Projects	25	Bidder to submit a list of atleast 3 previously completed similar projects. The submitted list must at least outline the five (5) minimum elements as below to be considered valid: (1) project value, (2) project duration, (3) number of incidents during project duration, (4) Name of client , responsible person(s) and contactable number(s). (5) Permit application date and permit received date from Department of Employment and Labour	List of previously completed projects	100 = 3 projects with all 5 elements provided 80 = 3 projects with 4 of the 5 elements provided 60 = 3 projects submitted with 3 of the five 5 elements provided 40 = 3 projects with 2 of the 5 elements provided 20 = 3 projects with 1 of the 5 elements provided 0 = No information provided
2	Experience of Health and Safety Agent (Pr. CHSA)	25	A bidder should have an experienced Health and Safety Agent (Pr. CHSA) in managing Construction projects during all phases of the project. The minimum number of year's required in experience is 10 years	The bidder should submit a Curriculum Vitae of the Health and Safety Agent (Pr. CHSA) outlining the required experience	100 = The experience of the Construction Health & Safety Agent is more than 13 years of construction health and safety experience. 80 = The experience of the Construction Health & Safety Agent is more than 10 but less than 13 years of construction health and safety experience. 60 = The experience of the Construction Health & Safety Agent is 10 years of construction health and safety experience. 40 = The experience of the Construction Health & Safety Agent is from 7 up to and including 9 years of construction health and safety experience. 20 = The experience of the Construction Health & Safety Agent is less than 7 years construction health and safety experience. 0 = No submission of experience
3	Qualification of Health and Safety Agent (Pr. CHSA)	25	The bidder should have a Health and Safety Agent (Pr.CHSA) that is competent by being qualified in either Safety Management or Environmental Health or equivalent. A minimum qualification of a National Diploma (NQF Level 6) in Safety Management or Environmental Health or equivalent is required.	The bidder should submit proof of a certified qualification not older than 3months	100 = Bachelor Honours Degree or higher in Safety Management or Environmental Health (NQF Level 8) or equivalent 80 = Degree / B-Tech in Safety Management or Environmental Health (NQF Level 7) or equivalent 60 = National Diploma in Safety Management or Environmental Health (NQF Level 6) or equivalent 40 = Higher Certificate in Safety Management or Environmental Health (NQF Level 5) or equivalent 20 = Programmes in Safety Management or Environmental Health or equivalent (<NQF Level 5) 0 = The bidder has submitted no information, or the bidder does not possess the required qualification
4	Construction Work Permit	25	Health and Safety Agent (Pr.CHSA) must demonstrate experience in acquiring Construction Work Permits previously acquired. At least a minimum of 3 Construction Work Permits is required.	Copies of Construction Work Permits acquired previously as a Health and Safety Agent (Pr.CHSA)	100 = 5 or more Construction Work Permits per Health and Safety Agent (Pr.CHSA) 80 = 4 Construction Work Permits per Health and Safety Agent (Pr.CHSA) 60 = 3 Construction Work Permits per Health and Safety Agent (Pr.CHSA) 40 = 2 Construction Work Permits per Health and Safety Agent (Pr.CHSA) 20 = 1 Construction Work Permit per Health and Safety Agent (Pr.CHSA) 0 = No response
		100			



# ANNEXURE C

## **PRICE ACTIVITY SCHEDULES**

The Appointment of Construction of Health and Safety Agent for the Port of East London for a period of 26 months

Tender Number: TNPA/2024/02/0029/57859/RFP



The projects have different durations and will be executed parallel.

- Refurbishment of Latimer’s Landing will take 24 months hence the 26 months project duration. It is anticipated Deepening and Strengthening of N-Berth (N-Berth) will take 12 months and it has already contracted some of the activities which are no longer required hence the zeroes on the quantity of the pricing activity schedule. The Construction Health and Safety Agent/s will take over and finish the remaining period in parallel with other projects. N-Berth started on the 01st of November 2023 with a completion date of the 13 November 2024.
- Security Fence Upgrade has already been awarded with a scheduled completion date of 30 October 2024, it is anticipated to be delayed due to a late sourcing of the Safety Agent, it will also be executed in parallel with these other 2 projects.
- The Construction Health and Safety Agent/s being procured will be facilitating different projects, each project will be facilitated independently.

**Price Activity Schedule 1: Deepening and Strengthening of N-Berth for a period of 9 months**

Item	Ref	Description	Unit	Qty	Rate	Amount
<b>1</b>		<b>Project Execution</b>				
1.1	Scope of Services	Construction Kick-off Meeting	No	0		
1.2		Review and approval of Health and Safety File	No	0		
1.3		Application and Obtaining of Construction Work Permit	No	0		
1.4		Extension of Construction Work Permit ( As and when required)	No	1		
1.5		Ensure Health and Safety compliance on site during construction.	Months	9		
1.6		Attendance and input into Construction Progress Meetings, Risk workshops, any other sessions/meetings as deemed required.	No	18		
<b>2</b>		<b>Close out Requirements</b>				
2.1	Scope of Services	Health and Safety close-out report	Item	1		
2.2		Final Health and Safety project register and documentation approval	Item	1		
<b>3</b>		<b>Mentorship for all health &amp; safety resource/s as per Section 10 of RFP (per project)</b>	Months	9		
<b>4</b>		<b>Provisional allowance for disbursements (flights, accommodation, car hire etc.). Claims will based on proven costs</b>	Provisional Sum		R 200,000.00	R 200,000.00
<b>Total Price for Deepening and Strengthening of N-Berth (Excluding VAT)</b>						
<b>Add 15% VAT</b>						
<b>Total Price for Deepening and Strengthening of N-Berth (Including VAT)</b>						

## Price Activity Schedule 2: Security Fence Upgrade for a period of 12 months



Item No	Ref	Description	Unit	Qty	Rate	Amount
<b>1</b>		<b>Project Execution</b>				
1.1	Scope of Services	Construction Kick-off Meeting	No	0		
1.2		Review and approval of Health and Safety File	No	1		
1.3		Application and Obtaining of Construction Work Permit	No	1		
1.4		Extension of Construction Work Permit ( As and when required)	No	1		
1.5		Ensure Health and Safety compliance on site during construction.	Months	12		
1.6		Attendance and input into Construction Progress Meetings, Risk workshops, any other sessions/meetings as deemed required.	No	24		
<b>2</b>		<b>Close out Requirements</b>				
2.1	Scope of Services	Health and Safety close-out report	Item	1		
2.2		Final Health and Safety project register and documentation approval	Item	1		
<b>3</b>		<b>Mentorship (per project)</b>	Months	12		
<b>4</b>		<b>Provisional allowance for disbursements (flights, accommodation, car hire etc.). Claims will based on proven costs</b>	Provisional Sum		R 220,000.00	R 220,000.00
<b>Total Price for Security Fence Upgrade (Excluding VAT)</b>						
<b>Add 15% VAT</b>						
<b>Total Price for Security Fence Upgrade (Including VAT)</b>						





## Price Activity Schedule 3: Refurbishment of Latimer's Landing for a period of 24 months

Item No	Ref	Description	Unit	Qty	Rate	Amount
<b>1</b>		<b>Project Execution</b>				
1.1	Scope of Services	Construction Kick-off Meeting	No	1		
1.2		Review and approval of Health and Safety File	No	1		
1.3		Application and Obtaining of Construction Work Permit	No	1		
1.4		Extension of Construction Work Permit ( As and when required)	No	1		
1.5		Ensure Health and Safety compliance on site during construction.	Months	24		
1.6		Attendance and input into Construction Progress Meetings, Risk workshops, any other sessions/meetings as deemed required.	No	48		
<b>2</b>		<b>Close out Requirements</b>				
2.1	Scope of Services	Health and Safety close-out report	Item	1		
2.2		Final Health and Safety project register and documentation approval	Item	1		
<b>3</b>		<b>Mentorship (per project)</b>	Months	24		
<b>4</b>		<b>Provisional allowance for disbursements (flights, accommodation, car hire etc.). Claims will based on proven costs</b>	Provisional Sum		R 440,000.00	R 440,000.00
<b>Total Price for Refurbishment of Latimer's Landing (Excluding VAT)</b>						
<b>Add 15% VAT</b>						
<b>Total Price for Refurbishment of Latimer's Landing (Including VAT)</b>						
<b>Total Price Activity Schedule 1 (including VAT)</b>						
<b>Total Price Activity Schedule 2 (including VAT)</b>						
<b>Total Price Activity Schedule 3 (including VAT)</b>						
<b>Total Price for all projects bidding for carried to form of Offer and Acceptance (Including VAT)</b>						

Note to Bidders!  
Add total number of projects bidding for to the form of offer and acceptance (Professional Services Contact) as that will be the final Total price that



# ANNEXURE D

## **PROFESSIONAL SERVICES CONTRACT**

## C1.2 Contract Data

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

Clause	Statement	Data
1	<b>General</b>	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option	<b>A: Priced contract with activity schedules</b>
	dispute resolution Option and secondary Options	<b>W1: Dispute resolution procedure</b>
		<b>X1: Price adjustment for inflation</b>
		<b>X2 Changes in the law</b>
		<b>X7: Delay damages</b>
		<b>X9: Transfer of rights</b>
		<b>X10 <i>Employer's Agent</i></b>
		<b>X18: Limitation of liability</b>
		<b>Z: <i>Additional conditions of contract</i></b>
	of the NEC3 Professional Services Contract (June 2005) (amended June 2006 and April 2013)	
10.1	The <i>Employer</i> is (Name):  Address	<b>Transnet SOC Ltd</b>  Registered address: <b>Transnet Corporate Centre</b> <b>138 Eloff Street</b> <b>Braamfontein</b> <b>Johannesburg</b> <b>2000</b>
	Having elected its Contractual Address for the purposes of this contract as:	<b>Transnet National Ports Authority</b> <b>Port of East London</b> <b>Port Control</b> <b>Ganteaume Crescent</b> <b>Quigney</b> <b>East London</b> <b>5200</b>



Transnet National Ports Authority

Contract Number: TNPA/2024/02/0029/57859/RFP

Description of Services: For the Appointment of Construction Health and Safety Agent/s at the Port of East London for a period of 26 months

11.2(9)	The <i>services</i> are	The Appointment of the Construction Health and Safety Agent/s (Pr. CHSA) at the Port of East London for a period of 26 months
11.2(10)	The following matters will be included in the Risk Register	N/A
11.2(11)	The Scope is in	<b>Part C3.1: The Scope of Services (Annexure A of RFP)</b>
12.2	The <i>law of the contract</i> is the law of	<b>the Republic of South Africa subject to the jurisdiction of the Courts of South Africa.</b>
13.1	The <i>language of this contract</i> is	<b>English</b>
13.3	The <i>period for reply</i> is	<b>2 (two) weeks</b>
13.6	The <i>period for retention</i> is	<b>5 (five) years following Completion or earlier termination.</b>

## 2 The Parties' main responsibilities

25.2	The <i>Employer</i> provides access to the following persons, places, and things	<b>access to</b>	<b>access date</b>
		1	02 May 2024
		1.1	
		1.2	
		1.3	

## 3 Time

31.2	The <i>starting date</i> is	<b>02 May 2024</b>	
11.2(3)	The <i>completion date</i> for the whole of the <i>services</i> is	<b>01 June 2026</b>	
11.2(6)	The <i>key dates</i> and the <i>conditions</i> to be met are:	<b>Condition to be met</b>	<b>key date</b>
		1	31 January 2025
		1.1	
		1.2	31 March 2025
		1.3	30 May 2026
31.1	The <i>Agent</i> is to submit a first programme for acceptance within	<b>2 (two) weeks of the Contract Date.</b>	



Transnet National Ports Authority

Contract Number: TNPA/2024/02/0029/57859/RFP

Description of Services: For the Appointment of Construction Health and Safety Agent/s at the Port of East London for a period of 26 months

32.2	The <i>Agent</i> submits revised programmes at intervals no longer than	<b>4 (four) weeks.</b>	
<b>4</b>	<b>Quality</b>		
40.2	The quality policy statement and quality plan are provided within	<b>2 (two) weeks of the Contract Date.</b>	
41.1	The <i>defects date</i> is	<b>52 weeks after Completion of the whole of the services.</b>	
<b>5</b>	<b>Payment</b>		
50.1	The <i>assessment interval</i> is on the	<b>18<sup>th</sup> day of each successive month.</b>	
50.3	The <i>expenses</i> stated by the <i>Employer</i> are	<b>Item</b>	<b>Amount</b>
		Economy air fares	Charged at proven costs strictly on limits as set out in National Treasury Instructions as amended from time to time.
		Car hire not exceeding group B	Charged at proven costs strictly on limits as set out in National Treasury Instructions as amended from time to time.
		Accommodation	Charged at proven costs strictly on limits as set out in National Treasury Instructions as amended from time to time.
51.1	The period within which payments are made is	<b>Payment will be affected on or before the last day of the month following the month during which a valid Tax Invoice and Statement were received.</b>	
51.2	The <i>currency of this contract</i> is the	<b>South African Rand (ZAR).</b>	
51.5	The <i>interest rate</i> is	<b>The prime lending rate of Rand Merchant Bank of South Africa.</b>	
<b>6</b>	<b>Compensation events</b>	<b>No additional data required for this section of the <i>conditions of contract</i>.</b>	
<b>7</b>	<b>Rights to material</b>	<b>No additional data required for this section of the <i>conditions of contract</i>.</b>	
<b>8</b>	<b>Indemnity, insurance, and liability</b>		
81.1	The amounts of insurance and the periods for which the <i>Agent</i> maintains insurance are		



Event	Cover	Period following Completion of the whole of the services or earlier termination
failure by the <i>Agent</i> to use the skill and care normally used by professionals providing services similar to the <i>services</i>	<b>Professional Indemnity insurance for not less than R500 000.00 (Five Hundred Thousand Rand) in respect of each claim, without limit to the number of claims.</b>	<b>52 Weeks</b>
death of or bodily injury to a person (not an employee of the <i>Agent</i> ) or loss of or damage to property resulting from an action or failure to take action by the <i>Agent</i>	<b>General Third-Party Liability Insurance for all amounts falling within the excess of the policy, currently R5 000.00 (Five Thousand Rand) each and every claim, and/or for all amounts in excess of the policy limits as detailed in the policy document or whatever the <i>Agent</i> deems desirable in respect of each claim, without limit to the number of claims</b>	<b>0 Weeks</b>
death of or bodily injury to employees of the <i>Agent</i> arising out of and in the course of their employment in connection with this contract	<b>The minimum limit of indemnity for insurance in respect of death of or bodily injury to employees of the <i>Agent</i> arising out of and in connection with this contract for any one event is that which is prescribed by the Compensation for Occupation Injuries and Diseases Act No. 130 of 1993 as amended.</b>	<b>0 Weeks</b>
Motor Vehicle Liability Insurance	<b>Comprising (as a minimum) "Balance of Third Party" Risks including Passenger Liability Indemnity for an amount of not less than R 1 000 000.00</b>	



81.1	The <i>Employer</i> provides the following insurances	<p><b>Professional Indemnity insurance in respect of failure of the <i>Agent</i> to use the skill and care normally used by Professionals providing services similar to the services</b></p> <p><b>General Third-Party Liability cover in respect of death of or bodily injury to a person (not an employee of the <i>Agent</i>) or loss of or damage to property resulting from an action or failure to take action by the <i>Agent</i></b></p>
82.1	The <i>Consultant's</i> total liability to the <i>Employer</i> for all matters arising under or in connection with this contract, other than the excluded matters, is limited to	<p><b><i>For all matters covered under the Employer's Professional Indemnity (PI) and General Third-Party Liability policies, the Agent's liability will be limited to the excesses applicable under the Employer's Professional Indemnity and General Third-Party Liability policies as detailed in the policy wordings. The current excesses amounts to R500 000.00 (Five Hundred Thousand Rand) PI and R5 000.00 (Fifty Thousand Rand) General Third-Party Liability, respectively, each and every claim. For all matters not covered under the Employer's Professional Indemnity and General Third-Party Liability policies the Agent liability will be limited to the final total of the Prices.</i></b></p>
<b>9</b>	<b>Termination</b>	<b>No additional data required for this section of the conditions of contract.</b>
<b>10</b>	<b>Data for main Option clause</b>	
<b>A</b>	<b>Priced contract with activity schedules</b>	
21.3	The <i>Agent</i> prepares forecasts of the total of the <i>expenses</i> at intervals of no longer than	<b>25<sup>th</sup> day of each successive month</b>
<b>11</b>	<b>Data for Option W1</b>	
W1.1	The <i>Adjudicator</i> is	<b>Both parties will agree to an <i>Adjudicator</i> as and when a dispute arises. If the parties cannot reach an agreement on the <i>Adjudicator</i>, the Chairman of the Association of Arbitrators (Southern Africa) will appoint an <i>Adjudicator</i>.</b>
W1.2(3)	The <i>Adjudicator nominating body</i> is:	<b>the Association of Arbitrators (Southern Africa)</b>
W1.4(2)	The <i>tribunal</i> is:	<b>Arbitration</b>
W1.4(5)	The <i>arbitration procedure</i> is	<b>The latest addition of the South African Rules for the Conduct of Arbitrations of the Association of Arbitrators (Southern Africa)</b>
	The place where arbitration is to be held is	<b>East London, South Africa</b>



The person or organisation who will choose an arbitrator

- if the Parties cannot agree a choice or
- if the *arbitration procedure* does not state who selects an arbitrator, is

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

## 12 Data for secondary Option clauses

### X2 Changes in the law

X2.1 The *law of the project* is **South African Law**

### X7 Delay damages

X7.1 Delay damages for late Completion of the whole of the *services* are **N/A**

### X9 Transfer of rights

**The *Employer* owns the *Agent* rights over any of the material whatsoever prepared for the *Services* of this Contract by the *Agent*. The *Agent* provides on request by the *Employer's Agent*, all documentation in whatever form as required (native's, PDF's, CD's, etc) and all other material items which transfer these rights to the *Employer*.**

### X10 The *Employer's Agent*

X10.1 The *Employer's Agent* is

Name: **Sharifa Ahmed**

Address **Transnet National Ports Authority  
eMendi Building  
N2 Neptune Road  
Off Klub Road  
Port of Ngqura  
Port Elizabeth  
6100**

The authority of the *Employer's Agent* is **Fully empowered to act on behalf of the *Employer* for the services covered by the contract.**

### X18 Limitation of liability

X18.1 The *Agent's* liability to the *Employer* for indirect or consequential loss is limited to: **Nil**





X18.2	The <i>Agent's</i> liability to the <i>Employer</i> for Defects that are not found until after the <i>defects date</i> is limited to:	<b>The cost of correcting the defect (The Total of the Prices)</b>
X18.3	The <i>end of liability date</i> is	<b>2 (Two) years after Completion of the whole of the <i>services</i>.</b>

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**Z Additional conditions of contract**


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The *additional conditions of contract* are

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**Z1 Obligations in respect of Joint Venture Agreements**


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Z1.1	<p>Insert the additional core clause 21.5</p> <p>21.5.1 In the instance that the <i>Agent</i> is a joint venture, the <i>Agent</i> shall provide the <i>Employer</i> with a certified copy of its signed joint venture agreement, and in the instance that the joint venture is an 'Incorporated Joint Venture,' the Memorandum of Incorporation, within 4 (four) weeks of the Contract <i>starting date</i>.</p> <p>The Joint Venture agreement shall contain but not be limited to the following:</p> <ul style="list-style-type: none"> <li>• A brief description of the Contract and the Deliverables;</li> <li>• The name, physical address, communications addresses and domicilium citandi et executandi of each of the constituents and of the Joint Venture;</li> <li>• The constituents' interests;</li> <li>• A schedule of the insurance policies, sureties, indemnities and guarantees which must be taken out by the Joint Venture and by the individual constituents;</li> <li>• Details of an internal dispute resolution procedure;</li> </ul>
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- Written confirmation by all of the constituents:
  - i. of their joint and several liability to the *Employer* to Provide the *services*;
  - ii. proof of separate bank account/s in the name of the joint venture;
  - iii. identification of the leader in the joint venture confirming the authority of the leader to bind the joint venture through the *Agent's* representative;
  - iv. Identification of the roles and responsibilities of the constituents to provide the *services*.
- Financial requirements for the Joint Venture:
  - i. the working capital requirements for the Joint Venture and the extent to which and manner whereby this will be provided and/or guaranteed by the constituents from time to time;
  - ii. the names of the auditors and others, if any, who will provide auditing and accounting services to the Joint Venture

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Z1.2	Insert additional core clause 21.6
	21.6. The <i>Agent</i> shall not alter its composition or legal status of the Joint Venture without the prior approval of the <i>Employer</i> .

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## **Z2 Additional obligations in respect of Termination**

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Z2.1	<p>The following will be included under core clause 90.1: In the second main bullet, after the word 'partnership' add 'joint venture whether incorporate or otherwise (including any constituent of the joint venture)' and</p> <p>Under the second main bullet, insert the following additional bullets after the last sub-bullet:</p> <ul style="list-style-type: none"> <li>• commenced business rescue proceedings</li> <li>• repudiated this Contract</li> </ul>
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Z2.2	<p><i>Clause 90.5 is added as an additional clause</i></p> <p>Where all or part of the Services are suspended for a period of six (6) months or more either party may terminate the Contract by notifying the other.</p>
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## **Z3 Right Reserved by the *Employer* to Conduct Vetting through SSA**

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Z3.1

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

1. Confidential – this clearance is based on any information which may be used by malicious, opposing or hostile elements to harm the objectives and functions of an organ of state.
  2. Secret – clearance is based on any information, which may be used by malicious, opposing or hostile elements to disrupt the objectives and functions of an organ of state.
  3. Top Secret – this clearance is based on information, which may be used by malicious, opposing or hostile elements to neutralise the objectives and functions of an organ of state.
- 

**Z4 Additional Clause Relating to the *Employer's* rights to take appropriate action**

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Z4.1	<b>The contract award is made without prejudice to any rights the <i>Employer</i> may have to take appropriate action later with regard to:</b>	Any declared, exposed or confirmed tender rigging.
Z4.1.1		The <i>Agent</i> further undertakes: not to give or cause any offer, payment, consideration, or benefit of any kind, which constitutes or could be construed as an illegal or corrupt practice, either directly or indirectly, as an inducement or reward for the award or in execution of this contract.
Z 4.1.2		To comply with all laws, regulations or policies relating to the prevention and combating of bribery, corruption, and money laundering to which it or the <i>Employer</i> is subject, including but not limited to the Prevention and Combating of Corrupt Activities Act, 12 of 2004.
Z4.1.3		The <i>Agent's</i> breach of this clause constitutes grounds for terminating the <i>Agent's</i> obligation to Provide the Services or taking any other action as appropriate against the <i>Agent</i> (including civil or criminal action). However, lawful inducements and rewards shall not constitute grounds for termination.
Z4.1.4		If the <i>Agent</i> is found guilty by a competent court, administrative or regulatory body of participating in illegal or corrupt practices, including but not limited to the making of offers (directly or indirectly), payments, gifts, gratuity, commission or benefits of any kind, which are in any way whatsoever in connection with the contract with the <i>Employer</i> , the <i>Employer</i> shall be entitled to terminate the contract forthwith and take any other action as appropriate against the <i>Agnt</i> (including civil or criminal action).
Z4.2	<b>The contract award is made without prejudice to any rights the <i>Employer</i> may have to take appropriate action later with regard to:</b>	Politically Exposed Persons including any allegations with regards to State Capture.
Z4.3	<b>The contract award is made without prejudice to any rights the <i>Employer</i> may have to take appropriate action later with regard to:</b>	Blacklisting by any State Entity on the National Treasury database.
<b>Z5</b>	<b>Protection of Personal Information Act</b>	



Z5.1	The <i>Employer</i> and the <i>Agent</i> are required to process information obtained for the duration of the Contract in a manner that is aligned to the Protection of Personal Information Act.
<b>Z6</b>	<b>Time</b>
Z6.1	<p><i>Clause 33.2. is added as an additional clause.</i></p> <p>The <i>Employer</i> may at any time suspend part or all of the <i>services</i>. As a consequence, if the <i>Agent</i> is required to demobilise and then remobilise its staff and equipment, the <i>Agent</i> will be reimbursed at cost. The <i>Agent</i> will be required to reduce and mitigate all its costs during the period of suspension and will be entitled to compensation only to the extent that it can demonstrate it has incurred costs which were not capable of being mitigated.</p>
<b>Z7</b>	<b>Compensation Events</b>
Z7.1	Clause 61.4: The first bullet point is amended to read as follows: arises from the fault, error, negligence, or default of the <i>Agent</i> .
<b>Z8</b>	<b>Limitation of liability</b>
Z8.1	<p>Add to core clause 82.1 and X18</p> <p>For the avoidance of doubt the parties expressly agree that the total liability of the <i>Agent</i> to the <i>Employer</i> applies jointly and severally across all organisations comprising of the <i>Agent</i>.</p>
<b>Z9</b>	<b>Additional clauses relating to cession of rights</b>
Z9.1	The <i>Agent</i> shall not cede any rights under this contract without the approval of the <i>Employer</i> .
Z9.2	The <i>Employer</i> may on written notice to the <i>Agent</i> cede and assign its rights and obligations under this contract to any of its subsidiaries or any of its present divisions or operations which may be converted into separate legal entities as a result of the restructuring of the <i>Employer</i> .
<b>Z10</b>	<b>Additional clauses relating to interpretation of the law</b>
Z10.1	Add to core clause 12.3 Any extension, concession, waiver or relaxation of any action by the Parties, the <i>Employers' Agent</i> or <i>Adjudicator</i> does not constitute a waiver of rights and does not give rise to an Estoppel or Lien, unless the Parties agree otherwise and confirm such an agreement in writing.



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**Z11**      ***Employer's Step-in rights***

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Z11.1

If the *Agent* defaults by failing to comply with his obligations and fails to remedy such default within 2 weeks of the notification of the default by the *Employer's Agent*, the *Employer*, without prejudice to his other rights, powers, and remedies under the contract, may remedy the default either himself or procure a third party (including any *sub-agent* or supplier of the *Agent*) to do so on his behalf. The reasonable costs of such remedial works shall be borne by the *Agent*.

Z11.2

The *Agent* co-operates with the *Employer* and facilitates and permits the use of all required information, materials and other matter (including but not limited to documents and all other drawings, CAD materials, data, software, models, plans, designs, programs, diagrams, evaluations, materials, specifications, schedules, reports, calculations, manuals or other documents or recorded information (electronic or otherwise) which have been or are at any time prepared by or on behalf of the *Agent* under the contract or otherwise for and/or in connection with any subsequent *works*) and generally does all things required by the *Employers' Agent* to achieve this end.

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# C1.2 Contract Data

## Part two - Data provided by the Construction Health and Safety Agent/s

The tendering Agent is advised to read both the NEC3 Professional Services Contract (April 2013) and the relevant parts of its Guidance Notes (PSC3-GN) in order to understand the implications of this Data which the tenderer is required to complete. An example of the completed Data is provided on pages 151 to 159 of the PSC3 Guidance Notes.

Completion of the data in full, according to Options chosen, is essential to create a complete contract.

Clause	Statement	Data
10.1	The <i>Agent</i> is (Name): Address Tel No. Fax No.	
22.1	The <i>Agent's key persons</i> are:  1 Name: Job: Responsibilities: Qualifications: Experience:  2 Name: Job: Responsibilities: Qualifications: Experience:	
Info.		<b>CV's (and further <i>key persons</i> data including CVs) are appended to Tender Schedule entitled.....</b>
11.2(3)	The <i>completion date</i> for the whole of the <i>services</i> is	
11.2(10)	The following matters will be included in the Risk Register	
11.2(13)	The <i>staff rates</i> are:	<b>name/designation                      rate</b>



25.2	The <i>Employer</i> provides access to the following persons, places, and things	<b>access to</b>	<b>access date</b>
		1 N Berth completion	31 January 2025
		2 Security Fence Upgrade completion	31 March 2025
		3 Latimer’s Landing Completion	30 May 2026

31.1 The programme identified in the Contract Data is

50.3	The <i>expenses</i> stated by the <i>Agent</i> are	<b>item</b>	<b>amount</b>
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**A Priced contract with activity schedules**

11.2(14)	The <i>activity schedule</i> is in		
11.2(18)	The tendered total of the Prices is	.....(in figures)	
		.....(in words),	
		excluding VAT	





# ANNEXURE E

## **GENERAL BID CONDITIONS**

## **GENERAL BID CONDITIONS**

**[March 2024]**

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## 1 DEFINITIONS

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

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

## 2 GENERAL

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

## 3 SUBMITTING OF BID DOCUMENTS

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

## 4 USE OF BID FORMS

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

## **5 BID FEES**

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

## **6 VALIDITY PERIOD**

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

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

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

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

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

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

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

## **10 UNAUTHORISED COMMUNICATION ABOUT BIDS**

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

## **11 RETURNABLE DOCUMENTS**

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

## **12 DEFAULTS BY RESPONDENTS**

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

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

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

### **13 CURRENCY**

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

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

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

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

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

### **16 EXCHANGE AND REMITTANCE**

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

## **17 ACCEPTANCE OF BID**

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

## **18 NOTICE TO UNSUCCESSFUL RESPONDENTS**

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

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

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

## **20 CONTRACT DOCUMENTS**

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

## **21 LAW GOVERNING CONTRACT**

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

## **22 IDENTIFICATION**

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

## **23 RESPONDENT'S SAMPLES**

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

## **24 SECURITIES**

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

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

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



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

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

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

## **26 EXPORT LICENCE**

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

## **27 QUALITY OF MATERIAL**

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

## **28 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 24 above [Securities] regarding the provision of security for the fulfilment of contracts and orders and the manner and form in which such security is to be furnished.

#### **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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# ANNEXURE F

## **SUPPLIER INTEGRITY PACT**



**Important Note: All potential bidders must read this document and certify in the RFP 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 Bidder / Service Provider (hereinafter referred to as the "Bidder / Service Provider")

## **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 / Service Providers.

In order to achieve these goals, Transnet and the Bidder / Service Provider hereby enter into this agreement hereinafter referred to as the "Integrity Pact" which will form part of the Bidder's / Service Provider'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 / Service Providers 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 / Service Provider 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 / Service Providers 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 / Service Providers with equity, transparency and fairness. Transnet will in particular, before and during the registration process, provide to all Bidders / Service Providers the same information and will not provide to any Bidders / Service Providers confidential / additional information through which the Bidders / Service Providers 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 / Service Provider 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 / Service Providers participating in the bidding process.

### 3 OBLIGATIONS OF THE BIDDER / SERVICE PROVIDER

- 3.1 Transnet has a '**Zero Gifts**' Policy. No employee is allowed to accept gifts, favours or benefits.
- a) Transnet officials and employees **shall not** solicit, give or accept, or from agreeing to solicit, give, accept or receive directly or indirectly, any gift, gratuity, favour, entertainment, loan, or anything of monetary value, from any person or juridical entities in the course of official duties or in connection with any operation being managed by, or any transaction which may be affected by the functions of their office.
  - b) Transnet officials and employees **shall not** solicit or accept gifts of any kind, from vendors, Service Providers, customers, potential employees, potential vendors, and Service Providers, 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 Service Providers 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 / Service Provider 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 / Service Provider commits to the following:
- a) The Bidder / Service Provider 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 / Service Provider 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 / Service Provider 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 / Service Provider further commits itself to delivering against all agreed upon conditions as stipulated within the contract.
- 3.4 The Bidder / Service Provider will not enter into any illegal or dishonest agreement or understanding, whether formal or informal with other Bidders / Service Providers. 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 / Service Provider will not commit any criminal offence under the relevant anti-corruption laws of South Africa or any other country. Furthermore, the Bidder /Service Provider 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 / Service Provider 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 / Service Provider 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 / Service Provider 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 / Service Provider or detriment of Transnet or other competitors.
- 3.8 Transnet may require the Bidder / Service Provider 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 / Service Provider will not instigate third persons to commit offences outlined above or be an accessory to such offences.
- 3.10 The Bidder/Service Provider 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 Goods and 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 Goods or Services will be rendered [market allocation];
- c) methods, factors or formulas used to calculate prices;
- d) the intention or decision to submit or not to submit, a Bid;
- e) the submission of a Bid which does not meet the specifications and conditions of the RFP; or
- f) bidding with the intention of not winning the Bid.

- 4.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the Goods or Services to which his/her 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 / Service Provider 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 / Service Provider into question, Transnet may reject the Bidder's / Service Provider's application from the registration or bidding process and remove the Bidder / Service Provider from its database, if already registered.
- 5.2 If the Bidder / Service Provider 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 / Service Provider 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 / Service Provider 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 / Service Provider 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 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.

- 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 Goods/Services, in addition to restricting a company/person from future business, Transnet may decide to terminate some or all existing contracts with the company/person as well.
- 6.6 A Service Provider or contractor to Transnet may not subcontract any portion of the contract to a 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 / Service Provider 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 / Service Provider's database or any bidding process.

- 7.2 If it is found to be that the Bidder / Service Provider made an incorrect statement on this subject, the Bidder / Service Provider can be rejected from the registration process or removed from the Bidder / Service Provider 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 / Service Provider from the bidding process or call off the pre-contract negotiations without giving any compensation to the Bidder / Service Provider. However, the proceedings with the other Bidders / Service Providers may continue;
  - b) Immediately cancel the contract, if already awarded or signed, without giving any compensation to the Bidder / Service Provider;
  - 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 / Service Provider, in order to recover the payments, already made by Transnet, along with interest;
  - e) Cancel all or any other contracts with the Bidder / Service Provider;
  - f) Exclude the Bidder / Service Provider from entering into any bid with Transnet and other organs of state in future for a specified period; and
  - g) If the Service Provider subcontracted a portion of the bid to another person without declaring it to Transnet, Transnet must penalise the Service Provider 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 / supplying entity; and
  - b) A Transnet employee has private interests or personal considerations or has an affiliation or a relationship which affects, or may affect, or may be perceived to affect his / her judgment in action in the best interest of Transnet, or could affect the employee's motivations for acting in a particular manner, or which could result in, or be perceived as favouritism or nepotism.
- 9.2 A Transnet employee uses his / her position, or privileges or information obtained while acting in the capacity as an employee for:
- a) Private gain or advancement; or
  - b) The expectation of private gain, or advancement, or any other advantage accruing to the employee must be declared in a prescribed form.
- Thus, conflicts of interest of any bid committee member or any person involved in the sourcing process must be declared in a prescribed form.
- 9.3 If a Bidder / Service Provider 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 / Service Provider:
- 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 / Service Provider 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 / Service Provider.

## 10 DISPUTE RESOLUTION

10.1 Transnet recognises that trust and good faith are pivotal to its relationship with its Bidders / Service Providers. When a dispute arises between Transnet and its Bidder / Service Provider, 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 Service Provider make a false statement either in giving evidence or on an affidavit;
- c) **Scurrilous allegations:** where a Service Provider makes allegations regarding a senior Transnet employee which are without proper foundation, scandalous, abusive or defamatory; and
- d) **Abuse of court process:** when a Service Provider 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 / Service Provider be confronted with dishonest, fraudulent or corruptive behaviour of one or more Transnet employees, Transnet expects its Bidders / Service Providers to report this behaviour directly to a senior Transnet official / employee or alternatively by using Transnet's "Tip-Off Anonymous" hotline number 0800 003 056, whereby your confidentiality is guaranteed.

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

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# ANNEXURE G

## **NON-DISCLOSURE AGREEMENT**



**NON-DISCLOSURE AGREEMENT**

**[March 2024]**

**THIS AGREEMENT is made between**

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

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

**and**

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

**WHEREAS**

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

**IT IS HEREBY AGREED**

**1. INTERPRETATION**

In this Agreement:

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



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

## 2. CONFIDENTIAL INFORMATION

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

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

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

### **4. ANNOUNCEMENTS**

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

### **5. DURATION**

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

### **6. PRINCIPAL**

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

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

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

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

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

**9. GENERAL**

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

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