

TRANSNET PROPERTY

an Operating Division of **TRANSNET SOC LTD**

[hereinafter referred to as **Transnet**]

Registration Number 1990/000900/30

REQUEST FOR QUOTATION [RFQ] No TP/2024/06/0006/68141/RFQ

FOR THE PROVISION OF PEST CONTROL SERVICES AT CARLTON CENTRE FOR A PERIOD OF THIRTY-SIX (36) MONTHS

ISSUE DATE:	20 JUNE 2024
CLOSING DATE:	04 JULY 2024
CLOSING TIME:	08:00 AM
VALIDITY PERIOD:	180 BUSINESS DAYS FROM CLOSING DATE

Note to the bidders:

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

SECTION 1: SBD1 FORM

PART A

INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF TRANSNET PROPERTY, A DIVISION TRANSNET SOC LTD

BID NUMBER:	TP/2024/06/0006/68141/RFQ	ISSUE DATE:	20 JUNE 2024	CLOSING DATE:	04 JULY 2024	CLOSING TIME:	08H00 AM
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DESCRIPTION **PROVISION OF PEST CONTROL SERVICES AT CARLTON CENTRE FOR A PERIOD OF THIRTY-SIX (36) MONTHS**

BID RESPONSE DOCUMENTS 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.

RESPONDENTS ARE TO UPLOAD THEIR BID RESPONSE PROPOSALS ONTO THE TRANSNET SYSTEM AGAINST EACH TENDER/RFQ SELECTED.

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

- Log on to the Transnet eTenders management platform website/Portal (transnetetenders.azurewebsites.net) (please use **Google Chrome** to access Transnet link/site free of charge);
- Click on "ADVERTISED TENDERS" to view advertised tenders;
- Click on "SIGN IN/REGISTER – for bidder to register their information (must fill in all mandatory information);
- Click on "SIGN IN/REGISTER" - to sign in if already registered;
- Toggle (click to switch) the "Log an Intent" button to submit a bid;
- Submit bid documents by uploading them into the system against each tender selected.
- No late submissions will be accepted. The bidder guide can be found on the Transnet Portal transnetetenders.azurewebsites.net

BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO	TECHNICAL ENQUIRIES MAY BE DIRECTED TO:
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CONTACT PERSON	RICARDO MNISI	CONTACT PERSON	
TELEPHONE NUMBER		TELEPHONE NUMBER	
FACSIMILE NUMBER		FACSIMILE NUMBER	
E-MAIL ADDRESS	RICARDO.MNISI@TRANSNET.NET	E-MAIL ADDRESS	

SUPPLIER INFORMATION

NAME OF BIDDER							
POSTAL ADDRESS							
STREET ADDRESS							
TELEPHONE NUMBER	CODE		NUMBER				
CELLPHONE NUMBER							
FACSIMILE NUMBER	CODE		NUMBER				
E-MAIL ADDRESS							
VAT REGISTRATION NUMBER							
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE	UNIQUE REGISTRATION REFERENCE NUMBER:	MAAA	
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX]		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		[TICK APPLICABLE BOX]		
	<input type="checkbox"/> Yes <input type="checkbox"/> No						

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

PART B TERMS AND CONDITIONS FOR BIDDING

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

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

SIGNATURE OF BIDDER:

CAPACITY UNDER WHICH THIS BID IS SIGNED:

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

DATE: _____

SECTION 2: NOTICE TO BIDDERS

1 Responses to RFQ

Responses to this RFQ [**Quotations**] must not include documents or reference relating to any other quotation or proposal. Any additional conditions must be embodied in an accompanying letter.

2 Formal Briefing

A formal briefing session will not be held but should Respondents have specific queries they should email these to the Transnet employee(s) indicated in paragraph 3 [*Communication*] below:

3 Communication

3.1 Specific queries relating to this RFQ before the closing date of the RFQ should be submitted onto the system and to [**Ricardo.mnisi@transnet.net**] before **16:00 pm on 28 June 2024**. In the interest of fairness and transparency Transnet's response to such a query will then be made available to other bidders.

3.2 It is prohibited for Respondents to attempt, either directly or indirectly, to canvass any officer or employee of Transnet in respect of this RFQ between the closing date and the date of the award of the business.

3.3 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.

3.4 Respondents may also, at any time after the closing date of the RFQ, communicate with Ricardo Mnisi on any matter relating to its RFQ response:

Telephone 011 012 2458

Email: ricardo.mnisi@transnet.net

3.5 All unsuccessful bidders have a right to request Transnet to furnish individual reasons for their bid not being successful. This requested must be directed to the contact person stated in the SBD 1 form

4 Legal Compliance

The successful Respondent shall be in full and complete compliance with any and all applicable national and local laws and regulations.

5 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.

6 Changes to Quotations

Changes by the Respondent to its submission will not be considered after the closing date and time.

7 Binding Offer

Any Quotation furnished pursuant to this Request shall be deemed to be an offer. Any exceptions to this statement must be clearly and specifically indicated.

8 Disclaimers

8.1 Respondents are hereby advised that Transnet is not committed to any course of action as a result of its issuance of this RFQ and/or its receipt of a Quotation in response to it. Please note that Transnet reserves the right to:

- modify the RFQ's goods / service(s) and request Respondents to re-bid on any changes;
- reject any Quotation which does not conform to instructions and specifications which are detailed herein;
- disqualify Quotations submitted after the stated submission deadline;

- not necessarily accept the lowest priced Quotation or an alternative bid;
- place an order in connection with this Quotation at any time after the RFQ's closing date;
- award only a portion of the proposed goods / services which are reflected in the scope of this RFQ;
- split the award of the order/s between more than one Supplier/Service Provider should it at Transnet's discretion be more advantageous in terms of, amongst others, cost or developmental considerations;
- cancel the quotation process;
- 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;
- request audited financial statements or other documentation for the purposes of a due diligence exercise;
- 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 provides for it;
- 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;
- award the business to the next ranked bidder, provided that he/she is still prepared to provide the required Goods/Services at the quoted price, should the preferred bidder fail to sign or commence with the contract within a reasonable period after being requested to do so. Under such circumstances, the validity of the bids of the next ranked bidder(s) will be deemed to remain valid, irrespective of whether the next ranked bidder(s) were notified of their bid being unsuccessful. Bidders may therefore be requested to advise whether they would still be prepared to provide the required Goods/Services at their quoted price.
- 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.

9 Specification/Scope of Work

The services will be provided quarterly on as and when required basis for the duration of the Contract as provided on the pricing schedule for a period of thirty-six (36) Months (**Refer to Annexure A**)

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.

11 Security clearance

Acceptance of this bid could be subject to the condition that the Successful Respondent, its personnel providing the goods 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. Transnet is required to ensure that price quotations are invited and accepted from prospective bidders listed on the CSD. 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. The CSD can be accessed at <https://secure.csd.gov.za/>.

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

13 Tax Compliance

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


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

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










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

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

TIP-OFFS ANONYMOUS:








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

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

SECTION 3
EVALUATION METHODOLOGY, CRITERIA AND RETURNABLE DOCUMENTS

1 Evaluation Criteria

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

Stage 1 Test for Responsiveness		Stage 2 Test for Capability	Stage 3 Adjudication and Award	
Step 1	Step 2	Step 3	Step 4	Step 5
Administrative responsiveness	Substantive responsiveness	Technical capability/ Functionality	Selection of the preferred bidder	Award of business and conclusion of contract
Returnable documents/ schedules 	Mandatory Requirements  COIDA; Professional Registration, Etc.	Minimum Threshold 70 Points 	Post tender negotiation with preferred bidder [2nd and 3rd ranked bidders (if required) in a sequential and not simultaneous manner] if pricing is not market-related	 

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).

1.1 STEP ONE: Test for Administrative Responsiveness

The test for administrative responsiveness will include the following:

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

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

1.2 STEP TWO: Test for Substantive Responsiveness to RFQ

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

Check for substantive responsiveness	RFQ Reference
<ul style="list-style-type: none"> Whether any general and legislation qualification criteria set by Transnet, have been met 	<i>All sections</i>
<ul style="list-style-type: none"> Whether the Bid contains a priced offer 	<i>Section 4 - Quotation Form</i>
<ul style="list-style-type: none"> Whether the Bid materially complies with the scope and/or specification given 	<i>All Sections</i>
<ul style="list-style-type: none"> Whether any Technical Pre-qualification Criteria/minimum requirements/legal requirements have been met as follows: 70% minimum threshold 	<i>Annexure C</i>

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

1.3 STEP THREE: Minimum Threshold 70 points for Technical Criteria

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

Technical Evaluation Criteria	Points Weightings	Scoring guideline (0; 5; 10; 15; 20; 25)
Organogram and CV's of key persons	25	
Risk Assessment	25	
Company Previous Experience	25	
Method Statement for pest control services	25	
Total Weighting:	100	
Minimum qualifying score required:	70	

Respondents must complete and submit **Annexure C which include a Technical Questionnaire**. A Respondent's compliance with the minimum functionality/technical threshold will be measured by their responses to Annexure C. Respondents are to note that Transnet will round off final technical scores to the nearest 2 (two) decimal places for the purposes of determining whether the technical threshold has been met.

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

1.4 STEP FOUR: Evaluation and Final Weighted Scoring

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

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

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

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

Where:

Ps = Score for the Bid under consideration

Pt = Price of Bid under consideration

Pmin = Price of lowest acceptable Bid

Pmax = Price of highest acceptable Bid

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

- Specific goals preference points claim form
- Preference points will be awarded to a bidder for attaining the specific goals requirements in accordance with the table indicated in Section 4.1 of the specific goals Claim Form.

1.5 STEP FIVE: Post Tender Negotiations (if applicable)

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

- first negotiate with the highest ranked bidder or cancel the bid, should such negotiations fail,
- negotiate with the 2nd and 3rd ranked bidders (if required) in a sequential manner.
- In the event of any Respondent being notified of such short-listed/preferred bidder status, his/her bid, as well as any subsequent negotiated best and final offers (BAFO), will automatically be deemed to remain valid during the negotiation period and until the ultimate award of business.
- Should Transnet conduct post tender negotiations, Respondents will be requested to provide their best and final offers to Transnet based on such negotiations. Where a market related price has been achieved through negotiation, the contract will be awarded to the successful Respondent(s).

1.6 STEP SIX: Objective Criteria (if applicable)

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

- Skills Transfer and Capacity Building for Transnet;
- Impact on Transnet's Return On Investment;
- Rotation of Suppliers to promote opportunities for other suppliers, by overlooking a supplier that has been awarded business repeatedly overtime in order to benefit other suppliers in the market;
- the tenderer:
 - is not under restrictions, or has principals who are under restrictions, preventing participating in the employer's procurement,
 - is not undergoing a process of being restricted by Transnet or other state institution that Transnet may be aware of,
 - 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,
 - has the legal capacity to enter into the contract
 - 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,
 - complies with the legal requirements, if any, stated in the tender data and
 - is able, in the option of the employer to perform the contract free of conflicts of interest.
- all Risks identified during a risk assessment exercise/probity check (which may be conducted by an authorised third party) that would be done to assess all risks, including but not limited to:
 - the financial stability of the bidder based on key ratio analysis, which would include, but not be limited to Efficiency, Profitability, Financial Risk, Liquidity, Acid Test, and Solvency;
 - a due diligence to assess functional capability and capacity. This could include a site visit;
 - A commercial relationship with a Domestic Prominent Influential Person (DPIP) or Foreign Prominent Public Official (FPPO) or an entity of which such person or official is the beneficial owner; and
 - Reputational and Brand risks

1.7 STEP SEVEN: Award of business and conclusion of contract

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

2 Validity Period

Transnet requires a validity period of 180 [one hundred and eighty] Business Days from the closing date of this RFQ, excluding the first day and including the last day.

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

3 Disclosure of contract information**Prices Quoted**

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), as required per National Treasury Instruction Note 01 of 2015/2016. **[This is not applicable if RFQ was not advertised on National Treasury e-Tender Publication Portal]**

Johannesburg Stock Exchange Debt Listing Requirements

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

Domestic Prominent Influential Persons (DPIP) OR Foreign Prominent Public Officials (FPPO)

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

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

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

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

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

4 Returnable Documents

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

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

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

a) Mandatory Returnable Documents

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

Mandatory Returnable Documents	Submitted [Yes or No]
Certified proof of Certificate of Registration of a Pest Control Operator in accordance with (Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947) for at least one employee/supervisor.	
Valid Letter of Good Standing for the Compensation for Occupational Injuries and Diseases Act, No 130 of 1993 (COIDA) from Department of Labour or its agencies	

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:

RETURNABLE DOCUMENTS USED FOR SCORING	SUBMITTED [Yes or No]
Valid proof of Respondent's compliance to B-BBEE requirements stipulated in Section 9 of this RFP (Valid B-BBEE certificate or Sworn- Affidavit as per DTIC guidelines)	
Organogram and CV's of key persons	
Risk assessment	
Company Previous Experience	
Method of Statement for Pest Control	
Section 4: Pricing and Delivery Schedule with all items on the schedule fully priced per bidder's region of interest (Annexure B)	
Section 7: Specific Goals Point Claim Form	

c) Essential Returnable Documents:

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

ESSENTIAL RETURNABLE DOCUMENTS & SCHEDULES	SUBMITTED [Yes or No]
SECTION 5: Certificate of Acquaintance with RFQ Documents	
SECTION 6: RFQ Declaration and Breach of Law Form	
SECTION 8: Protection of Personal Information	
SECTION 1: SBD1 Form	
Tax PIN and Central Supplier Database (CSD) Registration Number	

5 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 RFQ. 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.

SECTION 4 QUOTATION FORM

I/We _____

hereby offer to supply the services at the prices quoted in the Price Schedule below, in accordance with the conditions related thereto.

I/We agree to be bound by those terms and conditions in:

- the Standard RFQ Terms and Conditions for the Services to Transnet; and
- any other standard or special conditions embodied in this Request for Quotation.

I/We accept that unless Transnet should otherwise decide and so inform me/us, this Quotation [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. I/We further agree that if, after I/we have been notified of the acceptance of my/our Quotation, I/we fail to deliver the said goods/service/s within the delivery lead-time quoted, Transnet may, without prejudice to any other legal remedy which it may have, cancel the order and recover from me/us any expenses incurred by Transnet in calling for Quotations afresh and/or having to accept any less favourable offer.

Price Schedule

Area / Region	Amount (in Rand incl. VAT)
Carlton Centre	R

Respondents are to note that Transnet:

- will round off final pricing scores to the nearest 2 (two) decimal places.

Bidders are to refer to **Annexure B** for Pricing Schedules of the above stated areas

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 RFQ;
 - (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 RFQ;
 - (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 RFQ.

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

- b) All 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 price schedule and not utilise a different format. Deviation from this pricing schedule could result in a bid being disqualified.
- e) 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.

Respondent's Signature

Date & Company Stamp

SECTION 5
CERTIFICATE OF ACQUAINTANCE WITH RFQ 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 RFQ. 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 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 in calculating tendered prices or any other purpose:

1.	Transnet’s General Bid Conditions
2.	Standard RFQ Terms and Conditions for the supply of Goods or Services to Transnet
3.	Transnet’s Supplier Integrity Pact
4.	Non-disclosure Agreement

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

Should the Bidder find any terms or conditions stipulated in any of the relevant documents quoted in the RFQ 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 the Standard terms or conditions could result in disqualification.

Bidders accept that an obligation rests on them to clarify any uncertainties regarding any bid to which they intend to respond, 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 RFQ was unclear but in respect of which he/she failed to obtain clarity.

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

SIGNED at _____ on this ____ day of _____ 20__

SIGNATURE OF WITNESSES

ADDRESS OF WITNESSES

1 _____

Name _____

2 _____

Name _____

SIGNATURE OF RESPONDENT’S AUTHORISED REPRESENTATIVE: _____

NAME: _____

DESIGNATION: _____

SECTION 6
RFQ 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 RFQ Clarification purposes;
2. We have received all information we deemed necessary for the completion of this Request for Quotation [**RFQ**];
3. We have been provided with sufficient access to the existing Transnet facilities/sites and all relevant information relevant to the Supply of the Goods 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 RFQ from Transnet sources, other than information formally received from the designated Transnet contact(s) as nominated in the RFQ documents;
5. We have complied with all obligations of the Bidder/Supplier as indicated in the Transnet Supplier Integrity Pact 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;
6. We are satisfied, insofar as our entity is concerned, that the processes and procedures adopted by Transnet in issuing this RFQ and the requirements requested from Bidders in responding to this RFQ have been conducted in a fair and transparent manner;
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 Transnet 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 the 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 RFQ; and
10. If such a relationship as indicated in paragraph 7, 8 and/or 9 exists, the Respondent is to complete the following section:

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

ADDRESS:

Indicate nature of relationship with Transnet:

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

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

BIDDER’S DISCLOSURE (SBD4)

12 PURPOSE OF THE FORM

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

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

13 Bidder’s declaration

13.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest¹ in the enterprise, employed by the state?

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

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

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

YES/NO

13.2.1. If so, furnish particulars:

.....

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

YES/NO

13.3.1. If so, furnish particulars:

.....

14 DECLARATION

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

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

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

14.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium² will not be construed as collusive bidding.

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

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

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

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

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

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

NATURE OF BREACH:

DATE OF BREACH: _____

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

SIGNED at _____ on this ____ day of _____ 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 7: SPECIFIC GOALS POINTS CLAIM FORM

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

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

1. GENERAL CONDITIONS

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

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

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

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

1.4 Preference points for this bid shall be awarded for:

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

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

	POINTS
PRICE	80
B-BBEE STATUS LEVEL OF CONTRIBUTOR BBBEE Level of Contribution (Level 1 or 2 – 10 points) EME or QSE 51% Black Youth – 10 points	20
Total points for Price and Specific Goals must not exceed	100

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

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

2. DEFINITIONS

- (a) **"all applicable taxes"** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- (b) **"B-BBEE"** means broad-based black economic empowerment as defined in section 1 of the Broad-Based

Black Economic Empowerment Act;

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

3. POINTS AWARDED FOR PRICE

3.1 THE 80/20 PREFERENCE POINT SYSTEMS

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

80/20

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

Where

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

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

Delete what is not applicable]

Selected Specific Goal	Number of points allocated (80/20)
B-BBEE Level of contributor – Level 1	10
+50% Black Youth Owned Entities	10
Non-Compliant and/or B-BBEE Level 3-8 contributors	0

4. EVIDENCE REQUIRED FOR CLAIMING SPECIFIC GOALS

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

Specific Goals	Acceptable Evidence
B-BBEE	B-BBEE Certificate / Sworn- Affidavit / B-BBEE CIPC Certificate (in case of JV, a consolidated scorecard will be accepted) as per DTIC guideline
30% Black Women Owned Entities	B-BBEE Certificate / Sworn- Affidavit / B-BBEE CIPC Certificate (in case of JV, a consolidated scorecard will be accepted) as per DTIC guideline
+50% Black Youth Owned Entities	Certified copy of ID Documents of the Owners and B-BBEE Certificate / Sworn- Affidavit / B-BBEE CIPC Certificate (in case of JV, a consolidated scorecard will be accepted) as per DTIC guideline
Entities Owned by People with Disability (PWD)	Certified copy of ID Documents of the Owners / Doctor’s note and /or EEA1 form confirming the disability
Entities/Black People living in rural areas	Entity ‘s Municipal/ESKOM bill or letter from Induna/chief confirming residential address not older than 3 months.
South African Enterprises	CIPC Certificate
EME or QSE 51% Black Owned	B-BBEE Certificate / Sworn-Affidavit / CIPC Certificate
Entities that are 51 % Black Owned	CI B-BBEE Certificate / Sworn- Affidavit / B-BBEE CIPC Certificate (in case of JV, a consolidated scorecard will be accepted) as per DTIC guideline
Promoting exports Orientated for Job creation	Section.....Job Creation Schedule Returnable documents
Local Content and Local Production	Returnable Local Content and production Annexures
NIPP	NIPP Returnable documents
Creation of new jobs and labour intensification	Section.....Job Creation Schedule Returnable documents
The promotion of supplier development through sub-contracting or JV for a minimum of 30% of the value of a contract to South African Companies which are: I. 30% Black Women owned, 51% Black Youth and 51% Black people with	Sub-contracting agreements and Declaration / Joint Venture Agreement and CIPC – B-BBEE Certificate / Sworn- Affidavit / B-BBEE CIPC Certificate as per DTIC guideline

disabilities II. Entities with a specified minimum B-BBEE level (1 and 2) III. EMEs and/or QSEs who are 51% black-owned	
The promotion of enterprises located in a specific province/region/municipal area for work to be done or services to be rendered in that province/region/municipal area	CIPC – B-BBEE Certificate / Sworn- Affidavit / B-BBEE CIPC Certificate (in case of JV, a consolidated scorecard will be accepted) as per DTIC guidelines and Proof Registered address of entity

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

Enterprise	B-BBEE Certificate & Sworn Affidavit
Large	Certificate issued by SANAS accredited verification agency
QSE	Certificate issued by SANAS accredited verification agency Sworn-Affidavit signed by the authorised QSE representative and attested by a Commissioner of Oaths confirming annual turnover and black ownership (only black-owned QSEs - 51% to 100% Black owned) [Sworn- affidavits must substantially comply with the format that can be obtained on the DTI's website at www.dti.gov.za/economic_empowerment/bee_codes.jsp .]
EME³	Sworn-Affidavit signed by the authorised EME representative and attested by a Commissioner of Oaths confirming annual turnover and black ownership Certificate issued by CIPC (formerly CIPRO) confirming annual turnover and black ownership Certificate issued by SANAS accredited verification agency only if the EME is being measured on the QSE scorecard

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

4.4 Tertiary Institutions and Public Entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.

4.5 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.

4.6 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.

4.7 Bidders are to note that the rules pertaining to B-BBEE verification and other B-BBEE requirements may be changed from time to time by regulatory bodies such as National Treasury or the DTI. It is the Bidder's responsibility to ensure that his/her bid complies fully with all B-BBEE requirements at the time of the submission of the bid.

5. BID DECLARATION

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

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

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

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

7. SUB-CONTRACTING

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

(Tick applicable box)

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

7.1.1 If yes, indicate:

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

(Tick applicable box)

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

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

Designated Group: An EME or QSE which is at last 51% owned by:	EME ✓	QSE ✓
Black people		
Black people who are youth		
Black people who are women		
Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		
Black people who are military veterans		
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-BBEE status level of contribution indicated in paragraphs 4.1 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 4.1 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 the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have-
 - (a) disqualify the person from the bidding process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person’s conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) if the successful bidder subcontracted a portion of the bid to another person without disclosing it, Transnet reserves the right to penalise the bidder up to 10 percent of the value of the contract;
 - (e) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
 - (f) forward the matter for criminal prosecution.

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

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

SECTION 8

PROTECTION OF PERSONAL INFORMATION

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

consent; data subject; electronic communication; information officer; operator; person; personal information; processing; record; Regulator; responsible party; special information; as well as any terms derived from these terms.
- 2. Transnet will process all information by the Respondent in terms of the requirements contemplated in Section 4(1) of the POPIA:

Accountability; Processing limitation; Purpose specification; Further processing limitation; Information quality; Openness; Security safeguards and Data subject participation.
- 3. The Parties acknowledge and agree that, in relation to personal information that will be processed pursuant to this RFQ, 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 RFQ 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 RFQ, 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 RFQ (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 RFQ, the Respondent is hereby consenting to the processing of their personal information for the purpose of this RFQ and further confirming that they are aware of their rights in terms of Section 5 of POPIA

Respondents are required to provide consent below:

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

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

SCOPE OF WORK



Scope of Work: *Service* Information

Definitions:

In this Scope of Work:-

- 1) **“acts”** means – all legislation which governs any aspect of this Agreement including without limitation the Agricultural Remedies and Stock Remedies Act 36 of 1947 (as amended), the Environmental Conservation Act 73 of 1989 (as amended), the Hazardous Substance Act 15 of 1973 (as amended).
- 2) **“access-delayed time”** means the time taken from arrival on the *Site / Affected Property* by the *Contractor*, his sub-*Contractor* or specialist-*Contractor* and requesting access to the *Site / Affected Property* from the *Contractor* or his Tenant until the time access is given.
- 3) **“ad hoc works”** also known as **“minor new works”** means any repair (s), replacement (s) of component (s) or additions/alterations of the installations other than inspection, repairs, servicing or replacement listed in this contract.
- 4) **“affected property”** this shall refer to Carlton Centre Precinct
- 5) **“call-out”** means an installation or related failure, requiring the *Contractor* to visit the *Site / Affected Property* outside of the scheduled maintenance period.
- 6) **“chargeable items”** mean the cost of replacement components or repairs required to maintain a reliable and safe Installation (excluding consumable items) and which are not covered under this Contract.
- 7) **“documentation”** means and includes any drawings, diagrams, calculations, designs and documents which are to be supplied to the *Employer* by the *Contractor* in terms of this Contract, together with any modifications to such documents as may from time to time be approved in writing by the *Employer*.
- 8) **“down-time”** the time that an item of equipment is out of *Service*, as a result of equipment failure. The time that an item of equipment is available, but not utilized is generally not included in the calculation of downtime.
- 9) **“existing equipment”** means all existing equipment supplied to or made available by *Transnet Property* to the Supplier within or on the *Premises*;
- 10) **“high risk areas”** refers to toilets and ablution facilities, all kitchens and mess facilities, all electricity distribution boxes and ducts, all cable ducts and trays, all air-conditioning ducts, all *Service* ducts, garbage areas and garbage storage areas; waste facility areas, reception lobby, passages, basement storage areas, cafeteria / canteen area, pause areas, bulk filling areas.
- 11) **“licences”** means the licences used / issued or deemed to be issued to the *Service Provider* from time to time in terms of applicable Act(s).
- 12) **“non-inclusive contract”** will mean that Plant and Equipment (material) is excluded except that refer to in equipment of this scope of work below, The cost and quantity of spares and material is uncertain and therefore excluded.
- 13) **“normal working-hours”** means office hours, from 07h30 to 16h00 Monday to Friday excluding Public Holidays in South Africa.

- 14) “**person**” includes, a natural person, a partnership, a business trust, a foundation, any company or close corporation incorporated or registered in terms of any law, and other body of persons corporate or unincorporated.
- 15) “**property**” means any movable, immovable or intellectual property or any right to such property.
- 16) “**repair**” means put into good condition after damage or wear, any component that forms part of the Installation or Equipment.
- 17) “**Premises**” means the inside and immediate edges of the building, excluding ground and garden area.
- 18) “**scope of work**” will bear the same meaning as *Service Information*.
- 19) “**sensitive security area**” refers to computer centres, personnel records, cashiers, archives, top management office areas and all other areas indicated to the *Contractor*.
- 20) “**services**” means the work, functions, tasks, *Services*, and / or goods to be performed, rendered and or supplied by the *Contractor*, including any subsequent variations or changes to such work, functions, tasks, *Services*, or goods as may be agreed in terms of this Scope of Work.
- 21) “**service equipment**” means all tools, appliances, machinery and equipment or any other protective equipment required, which the *Service* provider is obliged to procure at his own cost and which he is required to utilise or deploy in performing, rendering or supplying the *Services*;
- 22) “**service manager**” – means a person appointed by the *Employer* in accordance to NEC TSC standard, responsible for issuing instructions to the *Contractor*, management of the *Contractor* and *Service* provided by the *Contractor* in terms of this scope of works.
- 23) “**site**” means any site, place regardless of whether it is or form part of any temporary or permanent structure, building which is the property of, or is occupied or used by, or is under the control and / or management of the *Employer*.
- 24) “**specifications**” the document to which is referred in this Scope of Work, in which the method and standards applicable to the rendering of the *Service*, as well as the materials to be provided and used, are described.
- 25) “**supervisor**” means a competent person appointed by the *Contractor* to be on-site and responsible for the management of the *Contractor’s* staff and *Service* provided in terms of this Scope of Work.
- 26) “**supplier**” means the successful tenderer that has been awarded the *Service* for the period stipulated.
- 27) “**tenant**” means any Person (including BU’s of Transnet other than *Transnet Property*) with his staff, client’s and *Service* providers with whom the *Employer* has entered into a lease agreement for the whole or a portion of the Site / Affected Property.
- 28) “**third party**” means any person other than the Supplier or *Transnet Property*.
- 29) “**Transnet Property**” means – a specialist unit of Transnet (Soc) Ltd, a public company duly incorporated in accordance with the laws of South Africa with registration number 1990/000900/30, duly represented herein by the Group Executive Officer and or his duly appointed delegate, who warrants that he is duly authorised hereto.
- 30) “**visitor**” a person who visits a tenant, staff member on the *Premises* or who attends a meeting on the *Premises*.
- 31) Expressions defined in this Scope of Work shall bear the same meanings in the specifications, schedule or annexure to this Scope of Work which do not themselves contain their own definitions.

32) Schedules and/or annexures to this Scope of Work shall be deemed to be incorporated into and form part of this Scope of Work and as such each reference herein to “the Scope of Work” shall be deemed to include a reference to all such schedules and/or annexures.

33) clause headings are inserted for convenience and shall not be used in its interpretation.

34) where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.

1. Contractor’s objectives

1.1. The *Contractor’s* objective is to enter a term *Service* contract with the *Contractor* to provide pest control *Services* at Carlton Centre for the period of 12 months to ensure compliance with legislative requirements relating to the Occupational Health and Safety Act, 1993, (Act No 85 of 1993).

2. Executive overview

2.1. The *Employer* requires the *Services* to ensure that the *Site / Affected Property* remains a pest free, Environment sound clean and presentable building through the conclusion of this contract with the *Contractor*.

2.2. Areas excluded from pest control as per this contract are:

- 2.2.1. Inside tenants space (shops)
- 2.2.2. Landscaped areas of any kind (lawns, etc)
- 2.2.3. Open air car parks

3. Description of the Services

3.1. The *Service* covers complete pest control *Services* around the *Premises*. The final acceptance of the *Service* lies with *Transnet Property*.

3.2. Within two (2) weeks of notification of acceptance of the tender, the *Contractor* shall submit to the *Employer* for his approval and acceptance a *Contractors Plan/Maintenance Plan*. No deviation from programmed dates will be allowed once agreed between the *Employer* and the *Contractor*. The first payment certificate will not be passed for payment until this program has been lodged and approved by the *Employer*.

3.2.1. Acceptance of the *Contractors Plan* by the *Employer* shall not limit in any way the *Contractor’s* responsibility to undertake whatever *Service* that is required during the Contract period to ensure a clean and neat working environment for the tenants or Employees. The Plan shall be structured and implemented so as to ensure a best *service* in and around the Affected Property.

3.2.2. The *Employer* may order alterations, extras, additions to or omissions from the *Services* however it will not be of any force or effect unless reduced to writing. The *Contractor* shall carry out or give effect to such orders from the *Employer*. The rates for such work shall be agreed between the *Contractor* and the *Employer*, where rates are not quoted for in the Price List / Rates.

3.3. All areas will be treated on a scheduled basis and high risk areas will be treated more frequently after the initial treatment.

3.4. It remains the *Contractor’s* responsibility to ensure that all quantities, areas and dimensions given are correct.

3.5. The *Contractor* shall be obliged to supply all labour, transport, material/products and *Service* equipment plus any other equipment required at his own cost for the proper provision of the *Service* at the *Premises*. *Transnet Property* reserves the right to approve or disapprove these material/products and equipment.

3.6. The *Contractor’s* procedures for procurement, storage, handling, transportation, application and general use of chemicals shall comply with applicable legislation codes of Practice and Local, Regional or Provincial Authorities including but not restricted to:

- 3.6.1. Agricultural Remedies and Stock Remedies Act (Act 36 of 1947) as amended.
 - 3.6.2. The Hazardous substance Act (Act 15 of 1973).
 - 3.6.3. The Environmental Conservation Act (Act 73 of 1989).
 - 3.6.4. Any other relevant legislation.
- 3.7. The *Contractor* must supply with his tender a list of registered material/ products, which they intend using supported by specimen labels indicating:
- 3.7.1. Trade Name,
 - 3.7.2. Generic Name,
 - 3.7.3. Registration Number,
 - 3.7.4. Ingredients (type and content) as shown on the label,
 - 3.7.5. Application rates.
- 3.8. The *Contractor* will provide *Transnet Property* with the Material Safety Data Sheets for all remedy utilized in or the *Premises*.
- 3.9. The *Contractor* shall adequately suppress the following:
- 3.9.1. Indoor population of rodents, insects, arachnids and other arthropods.
 - 3.9.2. Outdoor populations of potentially indoor-infesting species that are within the *Premises* boundaries,
 - 3.9.3. Nests of stinging insects within the *Premises* boundaries,
 - 3.9.4. Individuals of all excluded pest populations that are incidental invaders inside the building including winged termite swarms emerging indoors.
- 3.10. The *Contractor* shall adhere to the following:
- 3.10.1. Indoor Trapping: As a general rule, rodent control inside the building shall be accomplished with trapping devices only. All such devices shall be concealed out of the general view and in protected areas so as not to be affected by routine cleaning and other operations.
 - 3.10.2. Use of Rodenticides: In exceptional circumstances when rodenticides are deemed essential for adequate rodent control inside the building. All rodenticides, regardless of packaging shall be placed either in locations not accessible to children, pets, wildlife and domestic animals or in SANS approved tamper-resistant bait boxes. As a general rule, rodenticide application outside the building shall emphasise the direct treatment of rodent burrows wherever feasible.
- 3.11. The *Contractor* shall be responsible for disposing of all trapped rodents and all rodent carcasses in an appropriate manner.
- 3.12. Bait boxes on the outside of the building shall be installed around the exterior perimeter at maximum 30m intervals including either side of entrances to the building or where there is a potential for rodent entry the building. All bait boxes shall be inspected and *Service* on a monthly base.
- 3.13. All bait boxes shall be maintained in accordance with prescribed regulations with an emphasis on the safety of non-target organisms.
- 3.13.1. All bait boxes shall be placed out of general view in locations where they will not be disturbed by routine operations.
 - 3.13.2. The lids of all bait boxes shall be securely locked or fastened shut,
 - 3.13.3. All bait boxes shall be securely attached or anchored to floor, ground, wall or other immovable surface so that the box cannot be picked up or moved.

- 3.13.4. Bait shall always be secured in the feeding chamber of the box and never placed in the runway or entryways of the box.
 - 3.13.5. All bait boxes shall always be secured in the feeding chamber of the box and never placed in the runaway or entryways on the box.
 - 3.13.6. All bait boxes shall be labelled on the inside with the Supplier business name and address, and dated by the *Contractor's* technician at the time of installation and each servicing.
- 3.14. The *Contractor* shall provide *Transnet Property* with a plan/drawing outlining the positioning of all Bait stations and or Electronic Fly Catchers in or on the *Premises*.
- 3.15. Internal control measures for food storage and preparation areas:
- 3.15.1. Shall consist of the use of glue boards inside tamperproof bait boxes which are secured in place and locked. All glue boards will be replaced monthly.
 - 3.15.2. Non-toxic gels shall be used for controlling cockroaches and ants. The gel application shall be a focused treatment of breeding and harbourage areas, i.e. sinks, geysers, fridge motors, DB boards, drains, appliances, etc.
 - 3.15.3. Residual pesticide treatment shall not be used.
- 3.16. Electric flying insect monitors will be used as needed to identify flying insect entry into the building:
- 3.16.1. These units will be installed so that insects are not attracted from outside the building.
 - 3.16.2. These units will not be placed within three (3) metres of exposed food products.
 - 3.16.3. All units shall be cleaned monthly.
 - 3.16.4. Light tubes shall be changed annually.
- 3.17. When request by *Transnet Property* to execute an unscheduled *Service* (Task Order), the *Contractor* shall commence the *Service* within twenty four (24) hours of notification.
- 3.18. Should additional *Services* be required excluding those *Services* referred to in this scope of work, the Parties shall negotiate and agree mutually with regard to such *Services*.
- 3.19. Any re-infection by the mention set pest noticed will be attended to without further charges and at the cost of the *Contractor*.
- 3.20. The *Contractor* shall be held responsible for damage to Transnet's and adjoining properties caused by his/her actions.
- 3.21. The *Contractor* shall not use or keep any poisonous or highly flammable materials in the *Premises* without the approval of *Transnet Property*.
- 3.22. *Transnet Property* reserves the right to inspect store rooms and to make recommendations according to its discretion regarding the correct handling/storage of consumables and agents in view of any statutory requirements. These recommendations shall be immediately implemented by the *Contractor*.
- 3.23. Should the *Premises* where the *Services* is provided during the period of validity of this Contract increase as a result of the building of additional areas, changes to or erection of the other buildings on the *Premises*, the tender amount shall increase or degrees pro rata with the applicable amount that is calculated according to the area against the already applicable unit price (s) as per the pricing data.

4. Management structures

4.1. Performances Measures

- 4.1.1. Should Contractor fail to meet the key performance areas set out in this Scope of work and further fail to remedy the Non Performance in accordance with the remedy period indicated in a target key performance, it shall be liable to the Client for a Deduction only in respect of the Critical Items detailed in performance indicator in Table 1 hereto, and determined in accordance with the table below. Such Deduction shall be assessed on a daily basis and set off against any payments due by the Client to Contractor.
- 4.1.2. The Deduction shall be as indicated in the penalties set out in the performance indicators table 1 below.



Table 1: Performance Index

Key Performance Area	Key Performance Indicator	Key Performance Target	Penalties
Pest Control Schedule Compliance	% Compliance to escalation timeframes/scheduling timeframes/completion dates	100%	<ul style="list-style-type: none"> 5 % of the monthly invoice, amount payable the following month 3 consecutive non-conformances will result in termination of contract
Statutory Compliance Inspection	Maintaining statutory (OHS Act and other Regulations) compliance of the Premises and meeting the requirements	100%	<ul style="list-style-type: none"> No non-compliances will be tolerated. Immediate termination of contract for any non-compliance
Safety	Life Threatening Incidents	<0: Hours without LTI	<ul style="list-style-type: none"> No non-compliances will be tolerated. Immediate termination of contract for any non-compliance
Time to Quote	Average number of business days to get a quote to be approved by Contractor.	2 days (Dependant on nature and extent of works).	<ul style="list-style-type: none"> 5 % of the monthly invoice, amount payable the following month 2 days (Dependant on nature and extent of works).
Skills base and Staff compliment	As per skills list in the pricing data/SOW requirements.	Full compliance on any inspection day (non-compliance will result in termination of contract)	<ul style="list-style-type: none"> Deduction of the rate for the skill not found plus 20 % of the monthly invoice, amount payable the following month 2 consecutive non-conformances will result in termination of contract
Environmental Contraventions	Environmental standards are regularly monitored, reviewed and maintained in accordance with all legal and regulatory requirements Number of notices issued.	0	<ul style="list-style-type: none"> No non-compliances will be tolerated. Immediate termination of contract for any non-compliance

4.2. Management meetings

- 4.2.1. The *Contractor* or its duly authorised representative on the Site/Affected Property shall be required to attend monthly (as needed) Co-ordination/Risk Reduction meetings with the *Employer* or his delegate at the Site/Affected Property to discuss the provision of *Services*, and the *Contractor* warrants that any representative who attends such Co-ordination/Risk Reduction meetings on its behalf shall be duly authorised to do and to bind the *Contractor* vis-a-vis all decisions taken and agreements reached. Minutes and records of such Co-ordination/Risk Reduction meetings shall be the responsibility of the *Employer*. Minutes will be made available to the *Contractor* within seven (7) working days.
- 4.2.2. The *Contractor* must present a monthly written report on the *Services* rendered by it, in respect of the Site/Affected Property. Unless the *Employer* prescribes otherwise, this report shall include the following:
 - 4.2.2.1. Name, address and telephone number of the *Contractor*.
 - 4.2.2.2. Date of report and reporting period.
 - 4.2.2.3. Incidents/events.
 - 4.2.2.4. Problems, including administrative problems with the *Employer* experienced during reporting period.
 - 4.2.2.5. Any factors that affect, or may affect, the safety of the Site / Affected Property or people and equipment.
- 4.2.3. The *Employer* may request supplementary and interim written reports from the *Contractor*.

4.3. Contractor's Management, Supervision and Key People

- 4.3.1. The *Contractor* shall appoint on the Site / Affected Property a "competent" person in charge. Any instruction to him / her by the *Employer* shall be deemed to have been issued to the *Contractor*. Whenever the representative (supervisor) is absent from the Site / Affected Property a suitable person shall be appointed to act as his / her deputy.
- 4.3.2. The *Contractor* shall ensure that at all times there is sufficient suitably qualified and experienced personal to provide the *Service*. The *Service* covered in this Contract must be executed under direct of a qualified supervision.
- 4.3.3. All employees provided by the *Contractor* in terms of this Contract shall at all times be neat and properly clothed to the satisfaction of the *Employer*, the *Employer* reserves the right to request such employees to wear a uniform or overall of a type, cut and design approved by the *Employer* and purchased by the *Contractor*. Employees must be identifiable as employees of the *Contractor* by means of their uniforms:
- 4.3.4. The *Contractor*, or any agent or employee of his, must wear protective clothing where necessary. The *Contractor* must supply the relevant protective clothing at his own cost and included in the pricing of the *Service*.
- 4.3.5. Personal hygiene must be maintained by the *Contractor's* employees and agents at all times.
- 4.3.6. The *Contractor* and its employees will maintain silence within reasonable bounds on the Site / Affected Property.
- 4.3.7. The salaries or wages paid by the *Contractor* to his employees must at all times comply with the applicable statutory requirements in respect of minimum wages.
- 4.3.8. All training and evaluation costs as provided for in terms of this Contract shall be borne by the *Contractor*.
- 4.3.9. It is the intention of both Parties that employees provided in terms hereof shall, as far as practically possible, not fail to carry out their duties as a result of any form of intimidation. Should intimidation

of employees be suspected, the *Contractor* shall take prompt action in conjunction with the South African Police *Service* to remedy the situation.

4.3.9.1. Such action shall, if deemed necessary by the *Employer*, include immediate replacement of the employees involved.

4.3.9.2. The *Contractor* shall forthwith notify the *Service Manager* of any form of intimidation its employees may be subjected to.

4.3.10. Should the *Employer* at any time during the term of this Contract make any facility available to the *Contractor*, the *Contractor* shall, at its own cost maintain and keep such facility during the term of this Contract in a clean, tidy and sanitary condition and shall at the termination of this Contract for whatsoever reason, reinstate any such facility to the same condition in which it was when handed to the *Contractor*, fair wear and tear excepted. The *Contractor* will be liable for all electricity cost.

4.3.11. The *Contractor* shall make his own arrangements in respect of the installation and provision of telephones at the Site / Affected Property at his own cost, should the *Contractor* deem it necessary.

4.3.12. The employees of the *Contractor* may only use toilet facilities that have been pointed out to them.

4.3.13. The employees of the *Contractor* may use rest-room facilities that have been pointed out to the *Contractor* (if available). However, it is not the duty of the *Employer* to make such rest-room facilities available.

4.3.14. The *Contractor* shall further ensure that all workmen are fully aware of the conditions and requirements of this Contract and shall furnish all workmen with copies of all relevant Standard Specifications and Regulations.

4.3.15. If the *Employer* requires any information regarding any of the employees of the *Contractor* who are involved in the rendering of the *Service* in terms of this Contract, the *Contractor* will furnish such available information immediately.

4.4. Deliverables

4.4.1. The *Service Contractors* shall submit the following reports, attached to all invoices:

4.4.1.1. Report on *Services* delivered/performed;

4.4.1.2. Chemicals used;

4.4.1.3. Completed checklist where applicable;

4.4.1.4. Ad hoc *Services* requested where applicable;

4.4.1.5. Any and all staff and labour issues that can affect *Service* delivery to Transnet;

4.4.1.6. Incident report summary as compiled. All incidents shall be reported as soon as they occur and a flash/notice report generated within the same shift. A detailed investigative report with corrective and preventative detail shall be submitted within 48 hours from the occurrence of the incident.

4.4.1.7. The weekly and monthly reports shall have a summary of key issues affecting the affected building. The *Employer* reserves the right to alter the format and information required on this report.

4.5. Documentation Control

4.5.1. The *Employer* will provide the *Contractor* at the appropriate times with the Technical Information necessary to enable the *Contractor* to complete the *Services* in accordance with the Accepted Plan and schedules. All Technical Information shall be and remains the property of the *Employer* and on demand and on termination of the Contract shall be returned to the *Employer*.

4.5.2. During the progress of the *Services/Task* and prior to their completion, the *Contractor* will submit to the *Employer* any Documentation as requiring submission to the *Employer* prior to completion of the Contract/Task.

- 4.5.3. If it is agreed between the *Employer* and the *Contractor* that modifications to any such Documentation are necessary, then such modifications shall be incorporated in the relevant Documentation by the *Contractor* and the Documentation, thus modified will be re-submitted to the *Employer* prior to the completion of the Contract/Task.
- 4.5.4. Where applicable, the Documentation to be supplied to the *Employer* in terms of this Contract will include updated copies of the Documentation, duly modified where necessary to cover the *Contractor's Services*.
- 4.5.5. The *Employer* may from time to time during the progress of the Contract instruct the *Contractor* to submit for approval, perusal or prior to the completion of the Contract/Task such additional Documentation as the *Employer* may require.
- 4.5.6. The times for submission of the Documentation shall be as stipulated in the Scope of Works or where not so stipulated, then on dates to be mutually agreed between the *Employer* and the *Contractor*, but generally as soon as possible after such Documentation is completed by the *Contractor*.
- 4.5.7. The *Contractor* will maintain an up-to-date schedule of all Documentation showing the date of all such Documentation, which schedule shall be supplied to the *Employer* by the *Contractor* at agreed intervals.
- 4.5.8. The *Employer* will have the right at all reasonable times to inspect the Documentation of the *Contractor* or any *Sub-Contractor*.
- 4.5.9. All Documentation shall become and remain the property of the *Employer*. Title to all information, know how, inventions and improvements disclosed to the *Employer* by the *Contractor* under the Contract will become the property of the *Employer*.
- 4.5.10. Approval given by the *Employer* shall not relieve the *Contractor* from responsibility for due performance of this Contract and adherence to Technical Information provided by the *Employer*. The *Contractor* shall protect and save harmless the *Employer* and *Employer's* employees against all losses, expenses, demands, errors or omissions detailing of the *Contractor*, its *sub-Contractors*, agents or employees in the provision of any Documentation under the terms of the Contract. To this end, it shall be the *Contractor's* responsibility to arrange professional indemnity cover through an insurance company acceptable to the *Employer*, the limits of such cover to be determined by the *Employer* in relation to the *Service*.
- 4.5.11. The *Contractor* shall on a monthly basis provide the *Employer* with all records related to this Contract/*Service*.
- 4.6. Invoicing and Payment
- 4.6.1. When making a claim for payment, the *Contractor* shall submit to the *Service Manager* or appointed *Employer* representative a complete and correct pro-forma invoice with all relevant *Service* reports / sheets, log sheets, invoices, time sheets for any authorised additional work, schedules and reports properly complete setting out details of *Services* / *Tasks* carried out and recommendations for any additional work required for scrutiny and verification of the correctness.
- 4.6.2. Thereafter, inspections will be carried out by the *Service Manager* or appointed *Employer* representative, to affect quality assurance. If the *Service* has been completed to his satisfaction, only upon agreement being reached on the amount to be included in the payment certificate shall the *Contractor* provide the *Employer* with a VAT invoice.
- 4.6.3. The following information shall be reflected on the pro-forma invoices and or VAT invoices:
- 4.6.3.1. Full description of *Service* / *Task* performed. (In respect of emergency call-outs, the time and date and name of the person who called the *Contractor* must be indicated).

- 4.6.3.2. Fixed monthly contracted *Services* performed.
 - 4.6.3.3. Detailed list of materials / spare parts used showing unit prices, *Contractor's* mark-up, and sub-total.
 - 4.6.3.4. Copies of all applicable invoices with the applicable inventory number (invoices without order numbers will not be processed for payment).
 - 4.6.3.5. V.A.T.
 - 4.6.3.6. Grand Total.
 - 4.6.4. Supporting documentation must be furnished in respect of all materials / Consumables and sub-contract *Service* bought out in the form of copies of supplier/s invoices or copies of priced delivery notes.
 - 4.6.5. Notwithstanding the foregoing, the *Service Manager* or appointed *Employer* representative shall have the right to call for invoices rendered by suppliers to the *Contractor* in respect of materials purchased and shall be entitled to withhold the issuing of the payment certificate to the *Contractor* until such information / documentation have been furnished to the *Employer*, provided that, in respect of additional documentation required by the *Employer*, the *Employer's* instruction shall have been given to the *Contractor* in sufficient time before any such payments certificate became due.
 - 4.6.6. No payment for the labour portion of this contract will be considered without supporting documentation verifying the activity schedule execution against the approved pest control schedule plan for the applicable period.
 - 4.6.7. Payment will be made thirty (30) days from the date of receipt of the *Contractor's* signed invoice and credit notes.
 - 4.6.8. In the event that any emergency *Service* / work / task order or overtime is provided at the *Employers* request and subsequent inspection does not reveal any defect for which the *Contractor* is responsible, the *Contractor* reserves the right to charge the *Employer*, in accordance with the agreed day work rates plus all travelling.
- 4.7. Training Workshops and Technology Transfer
- 4.7.1. All training and evaluation costs as provided for in terms of this Contract shall be borne by the *Contractor*.
- 4.8. Things Provided at the End of the *Service* Period for the *Employer's* Use
- 4.8.1. Equipment
 - 4.8.1.1. The inventory materials and spares that were purchased by the *Employer* during the tenure of the contract should be returned provided the *Contractor* still holds some in stock.
 - 4.8.2. Information
 - 4.8.2.1. The *Employer* will provide the *Contractor* at the appropriate times with the Technical Information necessary to enable the *Contractor* to complete the *Services* in accordance with the Accepted Plan and schedules. All Technical Information shall be and remains the property of the *Employer* and on demand and on termination of the Contract shall be returned to the *Employer*.
- 4.9. Management of Work Done by Task Order
- 4.9.1. The *Contractor* shall in the event of the *Employer* requesting *Services* other than those described in this Scope of Work, submit a detailed estimate for such work to the *Service Manager* and obtain approval from the *Employer* before attending to the work.

- 4.9.2. No work other than that described in the Scope of Work will be done by the *Contractor* without a Task Order (official order number) issued to the *Contractor* by the *Service Manager*. This Task Order (order number) will refer to a complaint number and details regarding the work that must be attended to by the *Contractor* in writing.
- 4.9.3. Should the *Contractor* in the course of performance of the *Service* become aware of the necessity for any emergency work, such emergency will forthwith be reported to the *Service Manager* for further instructions, provided that nothing herein contained will preclude the *Contractor* or relieve the *Contractor* from the obligation of taking all such immediate and reasonable steps as may in the circumstances be necessary for the proper maintenance and upkeep of the Installations and the safety of the user(s). The *Contractor* shall at all times, follow and implement the specified and mandatory safety procedures.
- 4.9.4. The *Contractor* will not be entitled to preferential consideration in respect of new work in the site/ Affected Property. The *Employer* reserves the right to employ other *Contractors* on an open tender basis where works are done on a project basis and not be a Term *Service Contract*.
- 4.9.5. The *Employer* reserves the right to execute any work covered under this Contract with his own employees.
- 4.9.6. Should it be required from the *Contractor* to affect additional work not priced in this Contract such additional work will be identified and cost in terms of the Price List / Labour Rates as per this Contract.
- 4.9.7. Any additional work required beyond the scope of this Contract is to be noted as a quotation. Quotations for the additional work are to be received by the *Employer* within 7 days.
- 4.9.8. Where the Price (material or labour, or material and labour) is not stipulated in the Price List/Rates or is not of a similar nature the cost will be based on a fixed labour price as per Price List / Rates (during normal working hours) plus material content (excluding that in the Equipment clause) based on proven cost (Supplier/s quotations with deductions for all discounts, rebates and taxes which can be recovered) plus a agreed percentage Fee. Refer to Price List / Rates.
- 4.9.9. The *Contractor* must provide his job cards specifying detail of works, this Task Order (official order number(s)) and breakdown of cost into labour and material (for non Activity Schedule work) and signed off by the *Service Manager*. In addition to the original completed job card submitted with his account / invoice, the *Contractor* must submit a copy of the job card to the *Service Manager* for audit purposes and retain a third copy for his official records.

5. Health and Safety, Environment and Quality Assurance

5.1. Health and safety, Risk, Environmental Constraints and Management

- 5.1.1. The *Contractor* must, for the duration of this Contract, comply with the terms of any Act of Parliament and with the regulations and rules of any local or other authority with regard to the *Service*, and he must at all times notify such an authority when notice is required and pay all fees to the authority that are payable with regard to the *Service*. The *Contractor* undertakes to indemnify the *Employer* against all losses, costs, damage or expenses caused by the *Contractor's* failure to comply with the requirements of any such local legislation or Act of Parliament, regulations and rules. Should such fees not be paid by the *Contractor*, the *Employer* may, although it is not obliged to do so, directly make the payment. Such payment and any expenses incurred by directly making the payment and arrangements with regard thereto shall be deducted from the payment due to the *Contractor*, or it shall be recovered from him.
- 5.1.2. The *Contractor* shall comply with the Occupational Injuries and Diseases Act. (Act 130 of 1993) and any amendments thereof: The *Contractor* shall produce proof of his registration and good standing with the Compensation Commissioner in terms of the Act.

- 5.1.3. The *Contractor* shall comply with the Occupational Health and Safety Act (Act No. 85 of 1993). The *Contractor* is, in terms of section 37(2) of the Act deemed to be an *Employer* in his own right with duties as prescribed in the Act and agrees to ensure that all work will be performed or machinery or plant will be used in accordance with the provisions of the Act, that all persons in his employ, other persons at the place of any work performed by him and under his control and other persons who may be directly affected by his activities are not exposed to hazards to their health and safety, with particular reference to both the performance of the *Service* and the safety of the Installation maintained in terms of this Contract. This Contract and all documents attached or referred to, form an integral part of this Contract and procedures mentioned in the aforementioned section of the Act.
- 5.1.4. The *Contractor* shall at his own costs at all time comply with the provisions of all such Laws, Provincial Ordinances, Local Authority Bylaws and all relevant Regulations framed there under which are applicable to the *Service* to be undertaken.

5.2. Quality assurance requirements

- 5.2.1. All work must be executed in accordance with prevailing industry norms and standards relating to quality. In this regard, the *Contractor* will be expected to draft quality plans for the *Service Manager* from time to time. Emphasis must be on improving system reliability and on ensuring that rostered maintenance work is indeed performed as and when required.

6. Procurement

6.1. Service Equipment

- 6.1.1. The *Contractor* shall procure, acquire, install and maintain in good and safe working order all *Service Equipment* entirely at its own cost and shall have no claim based on enrichment of for compensation, or reimbursement or any other nature whatsoever against *Transnet Property*.
- 6.1.2. The *Contractor* shall at times bear the risk of loss, damage, destruction or theft of any or all *Service Equipment* and shall have no claim based on enrichment or for compensation or reimbursement or any of any other nature whatsoever against *Transnet Property*.
- 6.1.3. *Transnet Property* provides no storage spaces to the *Contractor*. *Transnet Property* may if possible make storage space available to the *Contractor*. If storage space is not available, the *Contractor* is responsible for obtaining it.
- 6.1.4. The *Contractor* shall insure his *Service Equipment* against all risks in terms of an insurance policy.
- 6.1.5. *Transnet Property* shall supply water and Electricity that will be needed for the rendering of the *Service* to the *Contractor* free of charge.
- 6.1.5.1. A continuous supply of water and electricity can however be not guaranteed.
- 6.1.5.2. The supplier must however supply and maintain the necessary extension cords and equipment at own cost.
- 6.1.5.3. The *Contractor* undertakes to switch off lights and turn off taps when the *Service* in a specific area is completed.
- 6.1.5.4. When wastage is brought to his/her attention, he/she shall switch off lights turn off taps and where needed report the situation to the *Service Manager*.
- 6.1.6. The *Contractor* acknowledges that it is vital for the *Contractor* to be able to provide, render perform and supply the *Services* to acquire and use the *Service Equipment* that is appropriate and suited for the provisions of the *Services* and that such equipment is maintained in good order and repair.

- 6.1.6.1. No equipment, tools or instruments that might cause damage to the building, appliances, persons or the contents thereof may be used.
- 6.1.6.2. The *Contractor* shall not use defective electrical equipment that could trip the earth leakage unit. Any damages of whatever nature that are caused as a result of this shall be collected from the *Contractor*.
- 6.1.6.3. The *Contractor* may only use electrical equipment that is used under normal circumstances for the purposes referred to in this Contract and the *Contractor* may not tamper with the electrical installation or make any changes thereto without the permission of *Transnet Property*.
- 6.1.6.4. The *Contractor* may not affix any connections equipment to the electrical system excluding connections at existing power points provided by *Transnet Property*. As far as connections at power points are concerned, equipment and appliances that are used may not exceed 2000 watt per power point without prior approval by *Transnet Property*.
- 6.1.6.5. Equipment used by the *Contractor* must where applicable, in all respects conform to The Occupational Health and Safety Act 85 of 1993.
- 6.1.6.6. Equipment that is used during a process must in all respects conform to the necessary requirements.
- 6.1.7. The *Contractor* is only allowed to refill, empty or clean his/her equipment or machinery at places pointed out by *Transnet Property* or statutory requirements.

6.2. Correction of defects

- 6.2.1. If the *Employer* decide that any work done by the *Contractor* or any sub*Contractor* is defective or not in accordance with the Contract or does not fulfil the requirements of the Contract and as soon as reasonably practicable give to the *Contractor* notice in writing of such decision giving particulars of the alleged defect, the *Contractor* shall with all speed make good the defects so specified.
- 6.2.2. Should the *Contractor* fail to fulfil any of its obligations in terms of this Contract or should such *Service* not be completed with due diligence and in a proper and workmanlike manner to the satisfaction of the *Employer* and should the *Contractor* fail to remedy such breach within the timeframe from the date of written notice from the *Employer* calling upon to do so, the *Employer* shall have the right without prejudice in terms of this Contract or at law, without further notice to the *Contractor*:
 - 6.2.2.1. Appoint another person other than the *Contractor* to complete the *Service* in question and to recover from the *Contractor* all cost to complete the work in question plus an administration costs of twenty five (25) percent (%) of the price the other *Contractor* charge the *Employer* to complete the *Service*, or
 - 6.2.2.2. Cancel this Contract and recover from the *Contractor* any damages that it may suffer as a result of such cancellation and / or breach.

7. Working on Affected Property

7.1. *Employer's* site entry and security control, permits, and site regulations

- 7.1.1. The *Contractor* shall at all times ensure that its employees, agents, representatives, specialist-, sub*Contractors* and suppliers:
 - 7.1.1.1. Comply with all security measures and directives imposed by the *Employer*, or his delegate, tasked with managing the *Services* in or on the Site / Affected Property.
 - 7.1.1.2. Keep the access gates / doors locked at all times. If any security problems are noticed, the *Contractor* shall immediately notify the *Service Manager*.

- 7.1.1.3. Shall in terms of this Scope of Work when on duty (unless the *Employer* should decide otherwise), wear an identity disc, tag or other device as agreed upon between the Parties. For the purposes of this Scope of Work, an identity disc, tag or other device prescribed by the *Employer* shall at least contain the following information in respect of the *Contractor's* personnel:
 - 7.1.1.3.1. a colour photograph of the relevant member
 - 7.1.1.3.2. full names and surname
 - 7.1.1.3.3. identity number
- 7.1.1.4. The identity disc shall at all times be visibly displayed on the employee's person while he/she is on the Site / Affected Property. The necessary control must be exercised over such identity discs to prevent them from falling into unauthorised hands. The *Contractor* will be liable for the replacement cost of lost identity disc.
- 7.1.1.5. All employees of the *Contractor* will be subject to the requirements set out in section 2(2) of the Control of Access to Public *Premises* and Vehicles Act, 53 of 1985.
- 7.1.1.6. A list of names of employees that will be working on the Site / Affected Property during a given time must be made available to the *Service Manager*. Should any exchange of personnel take place, the *Service Manager* must be informed accordingly in writing. Unidentified employees, and employees whose names do not appear on the list, will not be allowed to enter the Site / Affected Property.
- 7.1.1.7. Employees of the *Contractor* may not walk about without any purpose on the Site / Affected Property and may not use chairs and seats in public areas for purposes of relaxation.
- 7.1.1.8. Employees of the *Contractor* have, subject to the terms of this Scope of Work, admission to all areas to perform their duties subject to approval by the *Employer* / Tenant. If a *Service* does not have to be performed at a specific stage in a specific area, no admission is permitted. The *Contractor* must make provision in his costing for access delays in security areas.
- 7.1.1.9. Any disruptions which are deemed to be beyond the *Contractor's* control and which result in the *Contractor's* workmen having to leave the Site / Affected Property shall be logged in the applicable report book.
- 7.1.1.10. Within seven (7) days of the Contract Date and before such employee enters the Site / Affected Property to perform the *Service*, the *Contractor* shall furnish the *Service Manager* with the full names, identity numbers, residential addresses, two recent passport photographs and such other items of information as may be required by *Service Manager*, in respect of all persons who will be employed by the *Contractor* to undertake work at the Site / Affected Property in terms of this Contract.

7.2. People restrictions, hours of work, conduct and records

- 7.2.1. *Service* operations will be performed during Transnet "Office hours only". The times are Monday to Friday from 07h30 to 16h00 excluding public holidays. *Service* operating hours outside of these must be explicitly arranged by the Transnet authorised representative.
- 7.2.2. The *Contractor* shall at all-time render *Service* that enhance and maintain at minimum the corporate image of *Transnet Property*.
- 7.2.3. The *Contractor* shall at all-time render *Service* that is in line with *Transnet Property's* values and ethics.
- 7.2.4. The *Contractor* must exercise the highest possible standards of conduct in performing their duties in accordance with this Agreement.
- 7.2.5. The *Contractor* shall, upon receipt of written request from *Transnet Property*, provide *Transnet Property* with copies of all the *Service Provider's* operating procedures and processes relating to the *Services*.
- 7.2.6. The *Contractor* is responsible for overall management and supervision of the contracted staff performing duties at the *Premises* in accordance with the provisions of this Agreement.

- 7.2.7. The *Contractor* must ensure that a competent site manager is appointed as required ensuring deliverables and quality of *Service* delivery.
- 7.2.8. The *Contractor* shall immediately inform *Transnet Property* in writing if any contracted staff is found guilty of improper conduct.
- 7.2.9. It is expected from the *Contractor* to ensure that all duties and tasks to be performed on site are adhered to.
- 7.2.10. The *Contractor* must exercise reasonable skill, care and diligence in the rendering of the *Services* and the performance of its obligations to *Transnet Property*.
- 7.2.11. The *Contractor* shall provide written reports on progress made in the rendering of the *Services* to *Transnet Property* at such intervals and in such format as may be determined at the sole discretion of *Transnet Property*.
- 7.2.12. *Transnet Property* shall be entitled to request additional information pertaining to any matters or issues raised in or relevant matters or issues omitted from a progress report.
- 7.2.13. In the event of an unusual occurrence, the *Contractor* shall submit an Incident Report to Transnet authorise representative within twenty four (24) hours.
- 7.2.14. Any and all reports prepared during the term of this contract shall become the property of *Transnet Property*.
- 7.2.15. Where *Services* are deteriorating a *Service* improvement plan can be requested on how *Services* will be improved.
- 7.2.16. The *Contractor* shall ensure that all necessary equipment, *Services* or material as required are kept in the condition as required by law, regulations and procedures and readily available for *Transnet Property* to inspect and test without prior notice.
- 7.2.17. The *Contractor* shall, in the provision of the *Services*, have due regard to the operational requirements of *Transnet Property* and the *Premises* and other parties occupying or operating from the *Premises* and shall not do, or permit to be done, anything which may negatively impact on such parties' operational requirements.
- 7.2.18. The *Contractor* shall ensure that it and its contracted staff and site manager shall at all times comply fully with any safety, fire, emergency and security procedures and policies applicable at the *Premises*
- 7.2.19. Should *Transnet Property* at any time believe that any of the *Service* Provider's personnel is failing to comply with any such procedures or policies, *Transnet Property* shall be entitled to deny such person access to the relevant *Premises* and require the *Contractor* to replace such person without delay.

7.3. Personnel Standards

7.3.1. *Contractor* staff must be:

- 7.3.1.1. able to communicate the official language of Transnet which is English;
- 7.3.1.2. physically fit to perform the tasked duties as required;
- 7.3.1.3. presentable, clean, neat and portray a professional image at all times whilst conducting their duties in a professional manner;

7.3.2. Contracted staff must at all times be alert, vigilant and professional in their approach, bearing and actions and the following deviations will be regarded as extremely serious and may be regarded as sufficient reason to ask the *Contractor* to remove a particular contracted staff(s) from the *Premises* permanently:

- 7.3.2.1. Absence without proper notification;
- 7.3.2.2. Accepting any gifts or bribes in the line of duty;
- 7.3.2.3. Conduct unbecoming of a contracted staff or prejudicial to discipline, either on or off duty;
- 7.3.2.4. Drinking intoxicating liquor or using intoxicating substances while on duty or reporting for duty in an intoxicated condition;
- 7.3.2.5. Enabling any person to secure stolen property from the *Premises*;
- 7.3.2.6. False reporting;
- 7.3.2.7. Negligence in the application of Transnet instructions, after being duly informed thereof;
- 7.3.2.8. Sleeping on duty or neglecting his/her duty;
- 7.3.2.9. Using or carrying a weapon;
- 7.3.2.10. Unnecessarily harsh or violent conduct or using profane language while performing his / her duties in accordance with this Agreement;

- 7.3.2.11. Wilful disobedience of instructions, orders of a superior or a reasonable request by *Transnet Property*;
- 7.3.2.12. Failing to report any security incident or safety hazard either observed by the contracted staff or brought to his/her attention by another person;
- 7.3.2.13. Failing to wear the prescribed clothing or identification when on duty.
- 7.3.2.14. Failing to present an acceptable image or an upright position, or to deal with any person in a respectful manner. This implies that a contracted staff shall not sit when he/she should be standing and shall not lounge about, smoke, eat, drink, read or occupy him/herself with any distracting activity while attending to any person in the performance of his / her duties.

7.3.3. *Contractor* staff may be subject to breathalyser testing by Transnet or Representative *Contractors* prior to the granting of permission onto its Site.

7.4. Health and safety facilities on the Affected Property

- 7.4.1. The *Contractor* undertakes to comply with the *Employer's* safety and emergency measures and procedures the Site / Affected Property.
- 7.4.2. The *Contractor's* procedures for the procurement, storage, handling, transporting, application and general use of chemicals shall comply with all applicable legislation, Codes of Practice and Local, Regional or Provincial Authorities.
- 7.4.3. The *Contractor* shall not use or keep any poisonous or highly flammable materials on the Site / Affected Property without the approval of the *Service Manager*, for the rendering of the *Service* or for whatever purpose.
- 7.4.4. The obligation to take care of and protect the *Service* and everything connected therewith shall rest solely with the *Contractor* who shall take all necessary precautions to protect Others, the property of the Others, the property and personnel of the *Employer* from damage or injury, and to protect adjoining properties from trespass or damage during the *Service*.
- 7.4.5. The *Contractor* shall inform the *Employer* verbally and in writing and act immediately on any potentially hazard or undesirable situation which may cause harm to persons or which may damage or reduce the life expectancy of the Installation, even if the hazardous or undesirable situation does not form part of the *Contractor's* responsibilities.
- 7.4.6. The *Contractor* may not do or leave or permit anything on the Site / Affected Property that, in the opinion of *Service Manager*, might cause any damage to the property or that might be a nuisance or burden or danger or possible nuisance or burden or danger to any person on / in the Site / Affected Property.
- 7.4.7. The *Contractor* shall be obliged to display neat warning signs of which the size and design are of such a nature they are easily visible, at all places where the *Services* are undertaken by the *Contractor*, and where the rendering of the *Services* might cause injuries to any person, in order to focus the attention of such person on the *Services* that are undertaken in that area.
- 7.4.8. Special condition: It is hereby specially stipulated that, during the period of this Contract, the *Contractor* will be obliged to do everything that might be necessary and practically feasible in order to ensure that all signs, printing, notices or documents that are displayed on / in the Site / Affected Property, will appear in English plus at least one other official language.

7.5. Records of *Contractor's* Equipment

- 7.5.1. The *Contractor* shall have all their Tools and Special Equipment, necessary for the execution of the works, either on site or readily available at their *Premises* and shall be recorded and certified.
- 7.5.2. The *Contractor* shall complete or generate an inventory list of their equipment and update inventory lists systems on a continuing basis (equipment type and location).

7.6. Site *Services* and facilities

7.6.1. Provided by the *Employer*

- 7.6.1.1. Rest room facilities
- 7.6.1.2. Storage facilities
- 7.6.1.3. Site office

7.6.2. (Shall at the termination of this Contract for whatsoever reason, reinstate any such facility to the same condition in which it was when handed to the *Contractor*)

7.6.3. Provided by the *Contractor*

7.6.3.1. The *Contractor* shall make his own arrangements in respect of the installation and provision of telephones at the Site/Affected Property at his own cost, should the *Contractor* deem it necessary.

7.7. Tests and inspections

7.7.1. The *Employer* or its duly appointed representative shall retain the right to witness and/or verify the performance of any *Service* by the *Contractor* at any time.

7.7.2. Independent inspections: the *Employer* shall have the right to authorize the inspection of individual equipment inspections shall be promptly communicated in writing to the *Contractor*. Should any defects or remedial work be required in terms of this Contract, the *Contractor* shall expeditiously undertake it within a mutually agreed time period the corrective work. When the *Contractor's* work has been completed satisfactorily, the *Employer* or its duly appointed inspector shall be notified in writing. A further follow-up inspection by the *Employer* or its inspector may be conducted.

7.7.2.1. Should the follow-up inspection show that the work as agreed and undertaken by the *Contractor* has not been satisfactorily carried out; the procedure shall be repeated until the established standard of cleaning has been attained. The cost for the follow-up inspection shall be borne by the *Contractor*

7.7.2.2. Notwithstanding the *Employer's* rights in terms of this Contract, the *Contractor* shall refund the *Employer* its costs associated with the reapplication where the *Contractor* has not completed work satisfactorily as agreed.

7.7.2.3. The independent inspections shall in no way limit the *Contractor's* responsibility with respect to any obligation or liabilities in terms of this Contract.

8. List of Properties

Depot	Description	Building	Department	Square Meter	Frequency
	Retail	Carlton Centre	Retail	11 224,03m ²	Quarterly and when required
	Office Tower	Carlton Centre	Transnet Properties & others	10 000m ²	Quarterly and when required
	Sky Rink	Sky Rink	Commercial	5270m ²	Quarterly and when required

ANNEXURE - B

PRICING SCHEDULE



Price List

1. Carlton Centre Precinct *(Quarterly fumigation, Pest control ad hoc works and any consumables/materials/equipment required to successful provide the services as per the scope of works)*

Department	Asset Number	Description	Square Meters	Frequency	Price per Quarter
Operations	MSX3236J	Carlton Retail	11 224,03m ²	Quarterly and when required"	R
	MSX3236J	Carlton Tower	10 000m ²	Quarterly and when required	R
	MSX3236J	Skyrink	5270m ²	Quarterly and when required	R
Sub-Total A					R

2. Monthly Inspection and Servicing of pest control equipment

(Cost includes rental, delivery, installation, and servicing of equipment)

Item no	Description	Quantity	Unit	Rate	Monthly Price
	Bait Station	200	each	R	R
Sub- Total B					R

3. Bees Snake and Other Pest Removal on as and when required

(Cost includes rental, delivery, installation, and servicing of equipment)

Item no	Description	Quantity	Unit	Rate	Monthly Price
	Snake Removal	As and when required	each	R	R
	Bee Removal	As and when required	each	R	R
	Other pest removal	As and when required	each	R	R
Sub- Total C					R

4. PRICE LIST SUMMARY TABLE	
Description	Service Cost for 12 Months
Quarterly and When required Pest Control and Fumigation services. <i>(Multiply total by 4)</i>	R
Monthly Inspections and Servicing of Equipment Cost (Bait stations) <i>(Multiply total by 12)</i>	R
Bees, Snake and Other pest removal on As and when required	R
Grand total for 12 months	R
Transfer this total to Form of Offer and Acceptance	

5. Escalation Rates				
Item No	Description	Year 1	Year 2	Year 3
4.1	Annual Escalation used in the price list for the 3 years	0%	%	%

6. Complete Service Cost Including Escalation				
<i>(Formula: Annual Price Incl. Escalation = (Grand Total Year # x Escalation Rate Year #) + Grand Total #</i>				
Item No	Description	Year 1	Year 2	Year 3
5.1	Complete Fumigation, Pest Control, Snake, Bees, and pest removal	R	R	R
TOTAL (= Year 1 + Year 2+ Year 3)				R
VAT @ 15 %				R
GRAND TOTAL FOR 3 YEARS				R

Labour Rates

All Rates must be excluding VAT.

1. **Normal office hours:** (07h30 to 16h30)

Site Supervisor R...../ hour.

Pest Controller R...../ hour.

2. **Overtime weekdays and Saturday:**

Site Supervisor R...../ hour.

Pest Controller R...../ hour.

3. **Sundays and Public Holidays:**

Site Supervisor R...../ hour.

Pest Controller R...../ hour.

4. Mark up (third party procured items/services) on materials and spares:

MARK-UP ON MATERIALS	
VALUE of MATERIAL	% MARK-UP
R0 up to R9 999.99	
R10 000.00 up to R49 999.99	
R50 000.00 up to R99 999.99	
R100 000.00 up to R199 999.99	
R200 000.00 and above.	

5. **Contractor** will provide Transnet Property with a minimum of 2 (Two) quotations to ensure the most feasible pricing is achieved.

ANNEXURE - C

EVALUATION CRITERIA

Bidders who fail to submit all documents shall be immediately disqualified. All certified copies must not be older than 3 months from the closing date of this tender. The test for the Technical and Functional threshold will include the following:			
Technical criteria	Sub-Criteria	Sub-Criteria Points Allocation	Maximum number of points
Organogram and CV's of key persons: <i>Experience of staff allocated to the project/availability of skills to manage the contract</i>	Pest Control Supervisor		25
	No CV attached/no experience	0	
	Provision of pest control services experience = 0 \geq , \leq 1 year	5	
	Provision of pest control services experience > 1 \leq 3 years	10	
	Provision of pest control services experience > 3, \leq 4 years.	15	
	Provision of pest control services experience > 4, \leq 5 years.	20	
Risk Assessment (<i>Specific to the works</i>) (<i>Key elements of a Risk Assessment (RA)</i>) <ol style="list-style-type: none"> 1. Tasks Identification 2. Hazards 3. Risks Identification 4. Risk Rating 5. Risk Control 6. Measures/Treatment , residual risk and treatment) 	The tenderer failed to provide information or only provide one of the key elements	0	25
	The tenderer has submitted risk assessment, encompassing Two (2) elements with adequate detail and is relevant to the scope.	5	
	The tenderer has submitted risk assessment, encompassing Three (3) elements with adequate detail and is relevant to the scope.	10	
	The tenderer has submitted risk assessment, encompassing Four (4) elements with adequate detail and is relevant to the scope.	15	
	The tenderer has submitted risk assessment, encompassing Five (5) elements with adequate detail and is relevant to the scope.	20	
	The tenderer has submitted risk assessment, encompassing Six (6) elements with adequate detail and is relevant to the scope.	25	
Company Previous Experience: Proof of experience attached in client letter head in the form of award letter or reference letter, or purchase order accompanied by completion certificates or contract with the client	No evidence provided	0	25
	Bidder has successfully provided (one) 1 pest control services.	5	
	Bidder has successfully provided 2 to 3 pest control services.	10	
	Bidder has successfully provided 4 pest control services.	15	
	Bidder has successfully provided 5 pest control services.	20	

contact details, project title and description of works.	Bidder has successfully provided ≥ 6 pest control Services.	25	
<i>Method Statement for pest control services:</i> <i>Key elements</i> 1. <i>Health and Safety management plan</i> 2. <i>Pest control statement</i> 3. <i>Company's compliance to Health and Safety regulations that covers the scope of works.</i> 4. <i>Task descriptions and how such tasks will be performed on monthly basis or as and when required.</i> 5. <i>Proposed work schedule / work plan</i> 6. <i>Equipment and products to be utilized.</i> 7. <i>Resources to be utilized including organogram</i>	No submission or method statement does not refer to the provision of pest control services	0	25
	Method statement only covers 1 of the key elements on how the contractor will execute the provision of pest control services	5	
	Method statement covers $>1 \leq 3$ of the key elements on how the contractor will execute the provision of pest control services	10	
	Method statement covers $>3 \leq 4$ of the key elements on how the contractor will execute the provision of pest control services	15	
	Method statement covers $>4 \leq 6$ of the key elements on how the contractor will execute the provision of pest control services	20	
	Method statement covers 7 of the key elements on how the contractor will execute the provision of pest control services	25	
	Maximum possible score		

Maximum score for technical evaluation is 70/100

ANNEXURE - D

STANDARD TERMS AND CONDITIONS OF CONTRACT



STANDARD TERMS AND CONDITIONS OF CONTRACT

between

TRANSNET SOC LTD

Registration Number 1990/000900/30

And

Registration Number

**FOR PROVISION OF PROVISION OF PEST CONTROL SERVICES AT CARLTON CENTRE FOR
A PERIOD OF THIRTY-SIX (36) MONTHS**

CONTRACT NUMBER: TP/2024/06/0006/68141/RFQ

DURATION: THIRTY-SIX (36) MONTHS

COMMENCEMENT DATE: TBC

EXPIRY DATE: TBC

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Schedule 1 – SCHEDULE OF REQUIREMENTS**1 SOLE AGREEMENT**

Unless otherwise agreed in writing, these terms [**Terms** and each **Term**] and Transnet’s purchase order(s) [**Order** or **Orders**] represent the only conditions upon which Transnet SOC Ltd [**Transnet**] procures Goods [**the Goods**] specified in the Order from the person to whom the Order is addressed [**the Supplier**]. Transnet does not accept any other conditions which the Supplier may specify, unless otherwise agreed to by Transnet in writing. In the event of any inconsistency between these Terms and any Order, these Terms shall take precedence.

2 CONFORMITY WITH ORDER

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

3 DELIVERY AND TITLE

- 3.1 The delivery dates and addresses are those in the Order. Time shall be of the essence in respect of the Supplier's obligations under the Order.
- 3.2 The Supplier will not be excused for delay in delivery or performance except due to circumstances outside its control and then only subject to the Supplier having notified Transnet in writing on becoming aware of such circumstances. Transnet may terminate an Order, in whole or in part, without incurring any liability to the Supplier if such a delay becomes, in Transnet's absolute opinion, significant.
- 3.3 If on delivery, the services do not conform to the Order, Transnet may reject the Goods and the Supplier shall promptly rectify any defects or in Transnet's opinion, supply appropriate replacement Goods at the Supplier's expense within the specified delivery times, without any liability due by Transnet.

4 PRICE AND PAYMENT

- 4.1 Prices specified in an Order cannot be increased. Payment for the Goods shall be made by Transnet against an original undisputed invoice(s) [a Tax Invoice], supporting documentation and month-end statement from the Supplier. Tax Invoices plus supporting documentation shall be posted to the address shown in the Order.
- 4.2 Payment of the Supplier's valid Tax Invoice(s) will be made by Transnet in the South African currency and on the terms stated in the Order, the standard payment terms being 30 [thirty] days from date of receipt by Transnet of a month-end statement, unless otherwise agreed to in writing. Transnet shall arrange for payment of such Tax Invoices and any pre-authorised additional expenses incurred, provided that the authorised expenses are supported by acceptable documentary proof of expenditure incurred [where this is available]. Any amounts due in terms of these Terms shall be paid to the Supplier, taking into account any deduction or set-off and bank charges.

5 PROPRIETARY RIGHTS LIABILITY

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

- a) procure for Transnet the right to continue using the infringing Goods; or

b) modify or replace the services so that they become non-infringing,

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

6 PROPRIETARY INFORMATION

All information which Transnet has divulged or may divulge to the Supplier and any information relating to Transnet's business which may have come into the Supplier's possession whilst carrying out an Order, and the existence of the Order, shall be treated by the Supplier as confidential information and shall not, without Transnet's prior written consent, be disclosed to any third party, or be used or copied for any purposes other than to perform the Order. This clause does not apply to information which is public knowledge or available from other sources other than by breach of this Term. Upon request by Transnet, the Supplier shall return all materials issued pursuant to the Order and, pending this, shall protect Transnet's rights in any such materials. Such confidential information shall at all material times be the property of Transnet.

7 PUBLICITY

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

8 TERMINATION OF ORDER

8.1 Notwithstanding the date of signature hereof, the commencement date of this Order is **TBC** and will expire on **TBC**, unless:

- this Order is terminated by either Party in accordance with the provisions incorporated herein or in any schedules or annexures appended hereto, or otherwise in accordance with law or equity; or
- this Order is extended at Transnet's option for a further period to be agreed by the Parties; or
- the allocated maximum contract value is depleted before the contract expiry date.

8.2 Transnet may cancel this Order in whole or in part at any time upon at least 30 [thirty] days' written notice to the Supplier, or when there is a change in control of the Supplier or the Supplier commits any serious breach or any repeated or continued material breach of its obligations under these Terms and/or Order or shall have been guilty of conduct tending to bring itself into disrepute, on written notice to the Supplier when such work on the Order shall stop.

- 8.3 Transnet shall pay the Supplier a fair and reasonable price for justified work in progress, where such price reflects only those costs not otherwise recoverable by the Supplier, at the time of termination, and the Supplier shall give Transnet full assistance to check the extent of such work in progress. Payment of such price shall be in full and final satisfaction of any claims arising out of such termination and upon such payment the Supplier shall deliver to Transnet all work, including any materials, completed or in progress. The sum payable to the Supplier under this clause will not in any event exceed the total amount that would have been payable to the Supplier had the Order not been terminated.
- 8.4 In the event of termination the Supplier must submit all claims within 2 [two] months of termination after which time claims will only be met in what Transnet considers exceptional circumstances.
- 8.5 If the services are not provided in accordance with an Order, the Order shall be deemed terminated and the Supplier shall compensate Transnet for any costs incurred in obtaining substitute services or any damage caused due to the failure or delay in the delivery.
- 8.6 Both parties to this agreement reserve the right to terminate this agreement:
- 8.6.1. If the other commits a material breach of this contracts and fails to remedy such breach within a stipulated time frame or within a reasonable time;
 - 8.6.2. There is non-performance from either of the parties; or
 - 8.6.3. If the other party is unable to perform its obligations under this agreement.

9 ACCESS

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

10 WARRANTY

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

11 INSOLVENCY

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

12 SUBCONTRACTING

- 12.1 The Supplier may only enter into a subcontracting arrangement with the approval of Transnet. If the Supplier subcontracts a portion of the contract to another person without declaring it to Transnet, Transnet must penalise the Supplier up to 10% of the value of the contract.
- 12.2 Should Transnet approve the Supplier's subcontracting arrangement, the Supplier and not the sub-contractor will at all times be held liable for performance in terms of its contractual obligations.
- 12.3 The Supplier may not subcontract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- 12.4 The Supplier may not subcontract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level of contributor than the Supplier, unless the contract is subcontracted to an Exempted Micro Enterprise (EME) that has the capability and ability to execute the subcontract.

13 PAYMENT TO SUB-CONTRACTORS

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

13.4 This clause does not establish any contractual relationship between Transnet and any sub-contractor of the Supplier, whatsoever.

14 ASSIGNMENT

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

15 SUPPLIER INTEGRITY PACT

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

16 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.

17 NOTICES

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

18 LAW

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

19 GENERAL

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

20 COUNTERPARTS

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

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

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

ANNEXURE - E

SUPPLIER INTEGRITY PACT

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

INTEGRITY PACT

Between

TRANSNET SOC LTD

Registration Number: 1990/000900/30

("Transnet")

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

PREAMBLE

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

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

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

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

1 OBJECTIVES

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

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 / Suppliers with equity, transparency and fairness. Transnet will in particular, before and during the registration process, provide to all Bidders / Suppliers the same information and will not provide to any Bidders / Suppliers confidential / additional information through which the Bidders / Suppliers could obtain an advantage in relation to any bidding process.
- 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 / Supplier 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 / Suppliers participating in the bidding process.

3 OBLIGATIONS OF THE BIDDER / SUPPLIER

- 3.1 The Bidder / Supplier commits itself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of its bid or during any ensuing contract stage in order to secure the contract or in furtherance to secure it and in particular the Bidder / Supplier commits to the following:
- a) The Bidder / Supplier will not, directly or through any other person or firm, offer, promise or give to Transnet or to any of Transnet's employees involved in the bidding process or to any third person any material or other benefit or payment, in order to obtain in exchange an advantage during the bidding process; and
 - b) The Bidder / Supplier will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any employee of Transnet, connected directly or indirectly with the bidding process, or to any person, organisation or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the contract.
- 3.2 The acceptance and giving of gifts may be permitted provided that:
- a) the gift does not exceed R1 000 (one thousand Rand) in retail value;
 - b) many low retail value gifts do not exceed R 1 000 within a 12 month period;
 - c) hospitality packages do not exceed R5 000 in value or many low value hospitality packages do not cumulatively exceed R5 000;
 - d) a Bidder / Supplier does not give a Transnet employee more than 2 (two) gifts within a 12 (twelve) month period, irrespective of value;
 - e) a Bidder / Supplier does not accept more than 1 (one) gift in excess of R750 (seven hundred and fifty Rand) from a Transnet employee within a 12 (twelve) month period, irrespective of value;
 - f) a Bidder / Supplier may under no circumstances, accept from or give to, a Transnet employee any gift, business courtesy, including an invitation to a business meal and /or drinks, or hospitality package, irrespective of value, during any bid evaluation process, including a period of 12 (twelve) months after such tender has been awarded, as it may be perceived as undue and improper influence on the evaluation process or reward for the contract that has been awarded; and
 - g) a Bidder / Supplier may not offer gifts, goods or services to a Transnet employee at artificially low prices, which are not available to the public at those prices.
- 3.3 The Bidder / Supplier will not collude with other parties interested in the contract to preclude a competitive bid price, impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract. The Bidder / Supplier further commits itself to delivering against all agreed upon conditions as stipulated within the contract.
- 3.4 The Bidder / Supplier will not enter into any illegal or dishonest agreement or understanding, whether formal or informal with other Bidders / Suppliers. This applies in particular to certifications, submissions or non-submission of documents or actions that are restrictive or to introduce cartels into the bidding process.
- 3.5 The Bidder / Supplier will not commit any criminal offence under the relevant anti-corruption laws of South Africa or any other country. Furthermore, the Bidder /Supplier will not use for illegitimate purposes or for restrictive purposes or personal gain, or pass on to others, any information provided by Transnet as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.

- 3.6 A Bidder / Supplier of foreign origin shall disclose the name and address of its agents or representatives in South Africa, if any, involved directly or indirectly in the registration or bidding process. Similarly, the Bidder / Supplier of South African nationality shall furnish the name and address of the foreign principals, if any, involved directly or indirectly in the registration or bidding process.
- 3.7 The Bidder / Supplier will not misrepresent facts or furnish false or forged documents or information in order to influence the bidding process to the advantage of the Bidder / Supplier or detriment of Transnet or other competitors.
- 3.8 Transnet may require the Bidder / Supplier 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 / Supplier will not instigate third persons to commit offences outlined above or be an accessory to such offences.
- 3.10 The Bidder/Supplier 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 / Supplier 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 / Supplier into question, Transnet may reject the Bidder's / Supplier's application from the registration or bidding process and remove the Bidder / Supplier from its database, if already registered.
- 5.2 If the Bidder / Supplier 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 / Supplier from future bidding processes. The imposition and duration of the exclusion will be determined by the severity of the transgression. The severity will be determined by the circumstances of the case, which will include amongst others the number of transgressions, the position of the transgressors within the company hierarchy of the Bidder / Supplier and the amount of the damage. The exclusion will be imposed for up to a maximum of 10 (ten) years. However, Transnet reserves the right to impose a longer period of exclusion, depending on the gravity of the misconduct.
- 5.3 If the Bidder / Supplier can prove that it has restored the damage caused by it and has installed a suitable corruption prevention system, or taken other remedial measures as the circumstances of the case may require, Transnet may at its own discretion revoke the exclusion or suspend the imposed penalty.

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 supplier or contractor to Transnet may not subcontract any portion of the contract to a restricted company.
- 6.7 Grounds for restriction include: If any person/Enterprise which has submitted a Bid, concluded a contract, or, in the capacity of agent or subcontractor, has been associated with such Bid or contract:
- a) Has, in bad faith, withdrawn such Bid after the advertised closing date and time for the receipt of Bids;
 - b) has, after being notified of the acceptance of his Bid, failed or refused to sign a contract when called upon to do so in terms of any condition forming part of the bid documents;
 - c) has carried out any contract resulting from such bid in an unsatisfactory manner or has breached any condition of the contract;
 - d) has offered, promised or given a bribe in relation to the obtaining or execution of the contract;
 - e) has acted in a fraudulent or improper manner or in bad faith towards Transnet or any Government Department or towards any public body, Enterprise or person;
 - f) has made any incorrect statement in a certificate or other communication with regard to the Local Content of his Goods or his B-BBEE status and is unable to prove to the satisfaction of Transnet that:
 - (i) he made the statement in good faith honestly believing it to be correct; and
 - (ii) before making such statement he took all reasonable steps to satisfy himself of its correctness;
 - g) has submitted false information regarding any other matter required in terms of the Preferential Procurement Regulations, 2017 issued in terms of the Preferential Procurement Policy Framework Act which will affect the evaluation of a Bid or where a Bidder has failed to declare any subcontracting arrangements;

- h) caused Transnet damage, or to incur costs in order to meet the contractor's requirements and which could not be recovered from the contractor;
- i) has litigated against Transnet in bad faith.

7 PREVIOUS TRANSGRESSIONS

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

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 / Supplier from the bidding process or call off the pre-contract negotiations without giving any compensation to the Bidder / Supplier. However, the proceedings with the other Bidders / Suppliers may continue;
 - b) Immediately cancel the contract, if already awarded or signed, without giving any compensation to the Bidder / Supplier;
 - c) Recover all sums already paid by Transnet;
 - d) Encash the advance bank guarantee and performance bond or warranty bond, if furnished by the Bidder / Supplier, in order to recover the payments, already made by Transnet, along with interest;
 - e) Cancel all or any other contracts with the Bidder / Supplier;
 - f) Exclude the Bidder / Supplier from entering into any bid with Transnet and other organs of state in future for a specified period; and
 - g) If the Supplier subcontracted a portion of the bid to another person without declaring it to Transnet, Transnet must penalise the Supplier up to 10% of the value of the contract.

9 CONFLICTS OF INTEREST

- 9.1 A conflict of interest includes, inter alia, a situation in which:
- a) A Transnet employee has a personal financial interest in a bidding / 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 / Supplier has or becomes aware of a conflict of interest i.e. a family, business and / or social relationship between its owner(s) / member(s) / director(s) / partner(s) / shareholder(s) and

a Transnet employee / member of Transnet's Board of Directors in respect of a bid which will be considered for the bid process, the Bidder / Supplier:

- a) must disclose the interest and its general nature, in the Request for Proposal ("RFX") declaration form; or
- b) must notify Transnet immediately in writing once the circumstances has arisen.

9.4 The Bidder / Supplier shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any committee member or any person involved in the sourcing process, where this is done, Transnet shall be entitled forthwith to rescind the contract and all other contracts with the Bidder / Supplier.

10 DISPUTE RESOLUTION

10.1 Transnet recognises that trust and good faith are pivotal to its relationship with its Bidders / Suppliers. When a dispute arises between Transnet and its Bidder / Supplier, the parties should use their best endeavours to resolve the dispute in an amicable manner, whenever possible. Litigation in bad faith negates the principles of trust and good faith on which commercial relationships are based. Accordingly, following a restriction process as mentioned in paragraph 6 above, Transnet will not do business with a company that litigates against it in bad faith or is involved in any action that reflects bad faith on its part. Litigation in bad faith includes, but is not limited to the following instances:

- a) **Vexatious proceedings:** these are frivolous proceedings which have been instituted without proper grounds;
- b) **Perjury:** where a supplier make a false statement either in giving evidence or on an affidavit;
- c) **Scurrilous allegations:** where a supplier makes allegations regarding a senior Transnet employee which are without proper foundation, scandalous, abusive or defamatory; and
- d) **Abuse of court process:** when a supplier abuses the court process in order to gain a competitive advantage during a bid process.

11 GENERAL

11.1 This Integrity Pact is governed by and interpreted in accordance with the laws of the Republic of South Africa.

11.2 The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the law relating to any civil or criminal proceedings.

11.3 The validity of this Integrity Pact shall cover all the bidding processes and will be valid for an indefinite period unless cancelled by either Party.

11.4 Should one or several provisions of this Integrity Pact turn out to be invalid the remainder of this Integrity Pact remains valid.

11.5 Should a Bidder / Supplier be confronted with dishonest, fraudulent or corruptive behaviour of one or more Transnet employees, Transnet expects its Bidders / Suppliers to report this behaviour directly to a senior Transnet official / employee or alternatively by using Transnet's "Tip-Off Anonymous" hotline number 0800 003 056, whereby your confidentiality is guaranteed.

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

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ANNEXURE - F

TRANSNET GENERAL BID CONDITIONS

GENERAL BID CONDITIONS

[April 2020]

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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 their Bid submissions legibly in non-erasable ink.
- 3.3 Bids shall be delivered in a sealed envelope in accordance with the instructions indicated in the Bid Documents with the Bid number and subject marked on the front of the envelope.
- 3.4 The Respondent's return address must be stated on the reverse side of the sealed envelope.

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 and not a reprocessed copy or other format thereof.

- 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

- 5.1 A non-refundable fee may be charged for Bid Documents, depending on the administrative cost of preparing and issuing the Bid Document provided the Bid Documents are also made available free of charge on the National Treasury eTender Publication Portal.

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 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 Chairperson or the Secretary of the relevant Acquisition Council.

10 UNAUTHORISED COMMUNICATION ABOUT BIDS

Where Bids are submitted to the Secretary of an Acquisition Council, Respondents may at any time communicate with the Secretary on any matter relating to its Bid but, in the absence of written authority from the Secretary, 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 Acquisition Council 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

- 14.1 Prices which are quoted subject to confirmation will not be considered.
- 14.2 Firm prices quoted for the duration of any resulting order and/or contract will receive precedence over prices which are subject to fluctuation if this is in Transnet's best interests.

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, the acknowledgement of receipt transmitted shall be regarded as proof of delivery to the Respondent.

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.

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 / intent, 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/Intent, 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 24 will be for the account of the Supplier/Service Provider.

25 PRICE AND DELIVERY BASIS FOR GOODS

- 25.1 Unless otherwise specified in the Bid Documents, the prices quoted for Goods must be on a Delivered Duty Paid [ICC Incoterms 2010] 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 [ICC Incoterms 2010] 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 exclusive 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 Secretary of the Acquisition Council or to a 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 PROTECTION OF PERSONAL DATA

35.1 Both Parties agree that they may obtain and have access to personal data as a result of the Bid process. The Parties shall at all times ensure that:

- a) they process data only for the express purpose for which it was obtained;
- b) once processed for the purposes for which it was obtained, all data will be destroyed to an extent that it cannot be reconstructed to its original form;
- c) data is provided only to authorised personnel who strictly require the personal data to carry out the Parties' respective obligations in terms of the Bid process;
- d) they do not disclose personal data of the other Party, other than as agreed in paragraph 37.3 below;
- e) they have all reasonable technical and organisational measures in place to protect all personal data from unauthorised access and/or use;

- f) they have appropriate technical and organisational measures in place to safeguard the security, integrity and authenticity of all data in its possession or under its control as a result of the Bid process;
 - g) such personal data is protected against unauthorised or unlawful processing, accidental loss, destruction or damage, alteration, disclosure or access.
- 35.2 The Parties agree that if personal data will be processed for additional purposes beyond the original purpose for which it was obtained, explicit consent must be obtained beforehand from those persons whose information will be subject to further processing.
- 35.3 Should it be necessary for either Party to disclose or otherwise make available the personal data to any third party (including sub-contractors and employees), it may do so only with the prior written permission of the other Party. The Party requiring such permission shall require of all such third parties, appropriate written undertakings to be provided, containing similar terms to that set forth in this paragraph 37, and dealing with that third party's obligations in respect of its processing of the personal data. Following approval by the other Party, the Party requiring permission agrees that the provisions of this clause 37 shall *mutatis mutandis* apply to all authorised third parties who process personal data.
- 35.4 The Parties shall ensure that any persons authorized to process data on their behalf (including employees and third parties) will safeguard the security, integrity and authenticity of all data. Where necessary to meet this requirement, the Parties shall keep all personal data and any analyses, profiles, or documents derived therefrom logically separated from all other data and documentation held by it.
- 35.5 The Parties shall carry out regular assessments to identify all reasonably foreseeable internal and external risks to the personal data in its possession or under its control. The Parties shall implement and maintain appropriate safeguards against the risks which it identifies and shall also regularly verify that the safeguards which it has in place has been effectively implemented.
- 35.6 The Parties agree that they will promptly return or destroy any personal data in their possession or control which belongs to the other Party once it no longer serves the purpose for which it was collected in relation to the Bid process, subject to any legal retention requirements. This may be at the request of the other Party and includes circumstances where a person has requested the Parties to delete all instances of their personal data. The information will be destroyed in such a manner that it cannot be reconstructed to its original form, linking it to any particular individual or organisation.
- 35.7 Personal Information security breach: Respondent's Obligations
- a) The Respondent is required to notify the Information Officer of Transnet, in writing as soon as possible after it becomes aware of or suspects any loss, unauthorised access or unlawful use of any personal data and shall, at its own cost, take all necessary remedial steps to mitigate the extent of the loss or compromise of personal data as quickly as is possible. The Respondent shall also be required to provide Transnet with details of the persons affected by the compromise and the nature and extent of the compromise, including details of the identity of the unauthorised person who may have accessed or acquired the personal data.
 - b) The Respondent shall provide on-going updates on its progress in resolving the compromise at reasonable intervals until such time as the compromise is resolved.
 - c) Where required, the Respondent may be required to notify the South African Police Service; and/or the State Security Agency and where applicable, the relevant regulator and/or the affected

persons of the security breach. Any such notification shall always include sufficient information to allow the persons to take protective measures against the potential consequences of the compromise.

- d) The Respondent undertakes to co-operate in any investigation relating to security which is carried out by or on behalf of Transnet including providing any information or material in its possession or control and implementing new security measures.

36 CONFLICT WITH ISSUED RFX DOCUMENT

- 36.1 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 - G

**NON-DISCLOSURE
AGREEMENT**



NON DISCLOSURE AGREEMENT

[April 2020]

THIS AGREEMENT is made between

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

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

and

the Company as indicated in the RFP bid response hereto

WHEREAS

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

IT IS HEREBY AGREED

1. INTERPRETATION

In this Agreement:

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