

STRICTLY PRIVATE AND CONFIDENTIAL

TRANSNET SOC LTD

ACTING THROUGH ITS OPERATING DIVISION

TRANSNET NATIONAL PORTS AUTHORITY

("TNPA")

REQUEST FOR PROPOSALS FOR THE APPOINTMENT OF A LIQUID BULK TERMINAL OPERATOR TO DESIGN, FINANCE, DEVELOP, CONSTRUCT, OPERATE, MAINTAIN AND TRANSFER A LIQUID BULK TERMINAL FOR A CONCESSION PERIOD OF TWENTY-FIVE (25) YEARS AT THE PORT OF NGQURA

REFERENCE NUMBER	: [TNPA/2024/10/0013/79500/RFP]
ISSUE OF RFP	: 20 JUNE 2025
NON-COMPULSORY BRIEFING	: 09 JULY 2025 AT 10:00 CAT
CLOSE FOR QUESTIONS	: 06 OCTOBER 2025
BID SUBMISSION DATE	: 20 OCTOBER 2025
CLOSING TIME	: 16:00 PM CAT
BID VALIDITY PERIOD	: 365 CALENDAR DAYS FROM THE BID CLOSING DATE

***Note to the bidders:***

***Bidders are advised to ensure that electronic bid submissions are done at least a day before the closing date to prevent issues that 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 30 MB per upload and multiple uploads are permitted.***

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## 1. DISCLAIMER

- 1.1. The Request for Proposals ("**RFP**") (which request shall include all other information, written or oral, made available during the RFP process) is being made available by the Transnet National Ports Authority, an operating division of Transnet SOC Ltd with registration number 1990/000900/30 ("**TNPA**") to select a Preferred Bidder with whom TNPA may conclude a Terminal Operator Agreement.
- 1.2. This RFP documentation is provided for the purposes set out in this disclaimer section and is not intended to form any part or basis of any investment decision by the Bidders. The recipient should not consider this documentation as an investment recommendation by TNPA or any of its Transaction Advisors. Each person to whom this documentation (and other later or related documents) is made available or who accesses it, must make his/her/its own independent assessment of the Project after making such investigation and taking such professional advice as deemed necessary. Neither the receipt of this document or any related document by any person, nor any information contained in the documents or distributed with them nor previously or subsequently communicated to any Bidder or its advisor, is to be taken as constituting the giving of investment advice by TNPA or its Transaction Advisors.
- 1.3. While all reasonable care has been taken in preparing this RFP document and other related documents, the information contained herein does not purport to be comprehensive or to have been verified by TNPA, any of its officers, employees, servants, agents, Transaction Advisors, or any other person. Should Bidders choose to verify the information contained in this RFP by conducting their own due diligence the onus in this regard shall be with the Bidder to do so. Accordingly, neither TNPA nor any of its Transaction Advisors will accept any liability or responsibility for the adequacy, accuracy, or completeness of any of the information or opinions stated herein.
- 1.4. Save where expressly stipulated otherwise, no representation or warranty (whether expressed or implied) is or will be given by TNPA or any of its officers, employees, servants, agents, Transaction Advisors, or any other person with respect to the information or opinions contained in this RFP document. Furthermore, no representations or warranties are provided in relation to any Briefing Notes issued in relation to this RFP or with respect to the information or opinions contained in any document or on which any document is based.

- 1.5. TNPA has developed a fair, equitable, transparent, competitive, and cost-effective RFP process for this Project. Bid Responses from Bidders will be evaluated against the qualification and evaluation criteria contained in this RFP document including any Briefing Notes issued during the RFP process.
- 1.6. TNPA reserves the right to amend, modify, withdraw, terminate, amend and/or cancel this RFP or any of the procedures, procurement processes or requirements detailed in this RFP document or any part of it at any time after the issue thereof. TNPA shall be entitled to exercise this right without prior notice and without liability to compensate or reimburse any person pursuant to such amendment, modification, withdrawal, or termination.
- 1.7. The terms and conditions set out in this RFP regarding the content of prospective Bid Responses are stipulated to give effect to TNPA's prescribed legal obligation as contained in section 56(5) of "the Act" of 2005, to follow a procedure that is fair, equitable, transparent, competitive, and cost effective.
- 1.8. Bidders are hereby advised that TNPA has the right in its sole and unfettered discretion not to accept any offer. Please note that TNPA reserves the right to:
  - 1.8.1. modify the Project and request Bidders to re-bid on any such changes.
  - 1.8.2. reject any Bid Response which does not conform to instructions and specifications which are detailed herein;
  - 1.8.3. disqualify Bid Responses submitted after the Bid Submission Date;
  - 1.8.4. not necessarily award the Project to the highest scoring Bid Response or an Alternative Bid Response subject to the PPPFA;
  - 1.8.5. withdraw the RFP on good cause shown;
  - 1.8.6. award the Terminal Operator Agreement in connection with this RFP at any time after the RFP's closing date;
  - 1.8.7. award the Project and/or conclude the Terminal Operator Agreement for only a portion of the proposed services which are reflected in the scope of this RFP;
  - 1.8.8. split the award of the Project between more than one Bidder, should it at TNPA's discretion be more advantageous in terms of, amongst others, developmental considerations;

- 1.8.9. make no award of the Project and/or Tender; and
  - 1.8.10. should a contract be awarded on the strength of the information furnished by the Bidder, which after the Award, is proved to have been incorrect or misrepresented, TNPA reserves the right to cancel or withdraw the Award; and TNPA shall not be liable to the Bidders or the Preferred Bidder for any consequences, claims or costs arising from any of these actions.
- 1.9. If any Bidder or its constituent members, employees, advisors or agents makes or offers to make any gratuity to any public official or employee of TNPA or consultant to TNPA on the Project either directly or through an intermediary as an inducement or reward for appointing any Bidder as the Preferred Bidder or for showing or omitting to show favour or disfavour to any Bidder, its Members, the Contractors or their Lenders in relation to the Project, then such Bidder or its constituent member may be disqualified forthwith from participating in the Project and over and above the criminal consequences to be preferred against the bidder, be restricted from conducting business with TNPA and or Transnet in Future.
  - 1.10. Any difference in information between documents made available by TNPA to the Bidders during the RFP process with any earlier document shall, unless expressed to the contrary be deemed to be a variation or modification of the earlier documents.



## 2. DEFINITIONS AND INTERPRETATION

2.1 In this RFP, except as otherwise defined herein, and except where the context requires otherwise, the following terms shall bear the following meanings:

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| 2.1.1. | <b>"Administrative Responsiveness"</b> | - | means compliance with the administrative requirements set out in ( <i>Qualification Criteria 1: Administrative Responsiveness</i> ) of Part II of this RFP;   |
| 2.1.2. | <b>"Advisors"</b>                      | - | any advisors to any Bidder, Member, Contractor, or any other participants in any Bid Responses;   |
| 2.1.3. | <b>"Alternative Bid Response"</b>      | - | has the meaning ascribed to it in Clause 19 of Part I ( <i>General Requirements, Rules, and Provisions</i> ) this RFP;  |
| 2.1.4. | <b>"Annexure" or "Annexures"</b>       | - | any annexure or annexures attached to this RFP;   |
| 2.1.5. | <b>"Applicable Laws"</b>               | - | means all local, provincial, or national statutes, ordinances, regulations, by-laws, and all rules, directives, decrees, decisions, determinations, rulings, rules, judgments orders of any competent court or the Government and other instruments which have the force of law in the Republic of South Africa, from time to time, as well as the South African common law and any amendments thereof; |
| 2.1.6. | <b>"BAFO"</b>                          | - | best and final offer;   |
| 2.1.7. | <b>"Berth"</b>                         | - | Means the berth or berths to which will be used for the loading and or discharge of Liquid Bulk Cargo at the Terminal as reflected in Annexure B (Site Map).  |

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| 2.1.8.  | <b>"Bidder"</b>                   | - any Company or a Consortium or Joint Venture that submits a Bid Response;  |
| 2.1.9.  | <b>"Bid Notice"</b>               | - the notice published by TNPA inviting potential Bidders to acquire the RFP and submit Bid Responses thereto, which Notice is included in this RFP as a Bid Notice (Annex A);   |
| 2.1.10. | <b>"Bid Response"</b>             | - any bid submitted by a Bidder in response to the invitation contained in this RFP;   |
| 2.1.11. | <b>"Bid Submission Date"</b>      | - the date for the submission of the Bid Responses to TNPA, which date is set out in this RFP or such later date as may be determined by TNPA in its discretion and communicated to Bidders by way of a Briefing Note;                               |
| 2.1.12. | <b>"Bid Submission Phase"</b>     | - the period commencing on the Bid Submission Date and continuing until the Terminal Operator Agreement comes into force and effect;   |
| 2.1.13. | <b>"Bid Submission Schedules"</b> | - the Schedules contained in Annexure I to Annexure KK ( <i>Bid Submission Schedules</i> ) of this RFP, that are to be completed by the Bidder and or its members and submitted with the Bid Response;   |
| 2.1.14. | <b>"Black People" or "Blacks"</b> | <ul style="list-style-type: none"> <li>- is a generic term defined in the B-BBEE Act to mean natural persons who are Africans, Coloureds, and Indians:</li> <li>- who are citizens of the Republic of South Africa by birth or decent; or</li> </ul> |

- who became citizens of the Republic of South Africa by naturalisation -
  - before 27 April 1994; or
  - on or after and who would have been entitled to acquire citizenship by naturalisation prior to that date;
- 2.1.15. **"Black Ownership"** - the effective ownership of shares in a Bidder by Black People, which shall be determined with reference to the B-BBEE Codes or Amended B-BBEE Codes and evidenced by way of a B-BBEE verification certificate;
- 2.1.16. **"Briefing Note"** - any document issued in writing by TNPA, prior to the Bid Submission Date, that amends or supplements this RFP in any way. These notes shall be consecutively numbered in the order in which they are issued;
- 2.1.17. **"Business Case"** - the business case to be developed in accordance with the Business Case Guidelines and submitted with each Bid Response as outlined in the Business Case Guidelines (Annexure C);
- 2.1.18. **"Business Case Guidelines"** - the guidelines in accordance with which each Bidder must develop its Business Case (Annexure C);
- 2.1.19. **"Business Day"** - any day other than a Saturday, Sunday or gazetted National public holiday in the Republic of South Africa;
- 2.1.20. **"B-BBEE"** - Broad-Based Black Economic Empowerment: a South African legal requirement that requires all entities operating in the South African

economy to contribute to empowerment and transformation;

- 2.1.21. **"B-BBEE Act"** - Broad-Based Black Economic Empowerment Act, 53 of 2003, as amended;
- 2.1.22. **"B-BBEE Codes"** - the amended B-BBEE Codes of Good Practice, published under Government Gazette No. 36928, on 10 October 2013, in terms of section 9(1) of the B-BBEE Act;
- 2.1.23. **Cargo** - For the purpose of this RFP Cargo shall mean, but not limited to, any liquid bulk commodities proposed to be handled by the Bidder at the site as per Annexure B (Site Map) which may include hydrocarbon and chemical products, such as petrol, diesel, jet fuel, fuel oil, carbon black feedstock, paraffin, Liquefied Petroleum Gas (LPG), Biofuel & Petrol & Diesel additives, green fuels (ammonia/hydrogen and/or any other green fuels) but excluding liquefied natural gas (LNG);
- 2.1.24. **"Change in Control"** - means any change whatsoever in Control (as defined in the Draft Terminal Operator Agreement), whether effected directly or indirectly;
- 2.1.25. **"Companies Act"** - the Companies Act, 71 of 2008, as amended;
- 2.1.26. **"Company"** - a Company incorporated in the Republic of South Africa in terms of the Companies Act;
- 2.1.27. **"Competition Act"** - the Competition Act, 89 of 1998, as amended;
- 2.1.28. **"Completion Certificate"** - has the meaning as ascribed to this term in the Draft Terminal Operator Agreement;

- 2.1.29. **“Concession”** - the concession granted by TNPA to undertake the Project in terms of section 56 of the National Ports Act No. 12 of 2005 as amended;
- 2.1.30. **“Concession Fee”** - fees payable by the Terminal Operator to TNPA, in respect of the rights to undertake the Project as set out in clause 13;
- 2.1.31. **“Concession Fee Offer”** - Offer made by a Bidder as part of its Bid Response;
- 2.1.32. **“Concession Period”** - The twenty-five (25) year period (excluding the development period) comprising the funding design, Construction, Operation and Maintenance, and Transfer of the Terminal to TNPA. During this period, the Terminal Operator is granted the right to undertake the Project in terms of the Terminal Operator Agreement;
- 2.1.33. **“Consents”** - all consents, permits, clearances, authorisations, approvals, rulings, exemptions, registrations, filings, decisions, licenses, are required to be issued by or made with any Responsible Authority in terms of the Applicable Laws in connection with the Terminal Operator undertaking the Project including Environmental Consents and Safety Consents;
- 2.1.34. **“Consortium”** - a joint venture and or a special purpose vehicle comprising of a number of Members constituted in accordance with a consortium or a joint venture agreement for the purpose of submitting a Bid Response who will if

successful, incorporate a Project Company to undertake the Project.

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| 2.1.35. | <b>"Constitution"</b>                | - | the Constitution of the Republic of South Africa Act, 108 1996; as amended from time to time  |
| 2.1.36. | <b>"Constitutional Documents"</b>    | - | the founding documents of a Company and all additional documents which set out the authority of such Company to act including the certificate of incorporation and the articles/memorandum of incorporation;  |
| 2.1.37. | <b>"Construction" or "Construct"</b> | - | all work to be performed by the Terminal Operator under the Terminal Operator Agreement which entails the detailed design, construction, installation, testing and completion of the works and the obtaining of the Completion Certificate issued by the Independent Certifier in terms of the Terminal Operator Agreement; |
| 2.1.38. | <b>"Contractors"</b>                 | - | all contractors appointed or to be appointed by the Terminal Operator, for purposes of undertaking a portion of the Project, for or on behalf of the Terminal Operator;   |
| 2.1.39. | <b>"Contributor Status Level"</b>    | - | the B-BBEE contributor status level of the Bidder as determined by their compliance with the generic B-BBEE scorecard in terms of the Amended B-BBEE Codes.;  |
| 2.1.40. | <b>"Corporate Finance"</b>           | - | Debt/ equity funding sourced from and with recourse to either the Bidder, its Members or Guarantor, as appropriate, which may be raised against the Bidder's balance sheet or the balance sheet of its Members or Guarantor and made available to the Bidder for the financing of the Project including under the           |

- form of a shareholder loan, intercompany loan or other form of advance to the Bidder and as set out in the Corporate Financing Support Letter;
- 2.1.41. **“Corporate Financing Support Letter”** - the letter that must be provided by the Bidder, its Members or Shareholders should the bidder intend to utilise equity funding as part of its funding model;
- 2.1.42. **"Debt"** - at any date, all amounts due and payable by the Terminal Operator that are outstanding under the Financing Agreements at that date (whether Corporate Finance or External Debt), excluding all cancellation or prepayment penalties or fees thereon, Shareholder Loans or interest thereon and all default interest;
- 2.1.43. **DFFE** - the Department of Forestry, Fisheries and the Environment of the Government of the Republic of South Africa or any successor Department designated by the Government of the Republic of South Africa from time to time;
- 2.1.44. **"DOT"** - the Department of Transport of the Government of the Republic of South Africa or any successor Department designated by the Government of the Republic of South Africa from time to time;
- 2.1.45. **“Draft Terminal Operator Agreement”** - the Draft Terminal Operator Agreement that is issued with this RFP, and Annexed hereto as Annexure M (*Draft Terminal Operator Agreement*);

- 2.1.46. **"DTIC"** - the Department of Trade, Industry and Competition of the Government of the Republic of South Africa or any successor Department designated by the Government of the Republic of South Africa from time to time;
- 2.1.47. **"Effective Date"** - has the meaning ascribed to this term in the Draft Terminal Operator Agreement;
- 2.1.48. **"EME"** - exempted micro-enterprise, being an entity with an annual turnover of R10 (ten) million or less, in terms of the Amended B-BBEE Codes;
- 2.1.49. **"Environmental Consents"** - any consents, licences, authorisations, permissions, or approvals required from a Responsible Authority required in terms of any environmental law, heritage law or any applicable law, dealing with environmental matters, for the purposes of this Project;
- 2.1.50. **"Equity"** - the entire issued share capital of, and Shareholder Loans to, the Terminal Operator;
- 2.1.51. **"Equity Funding"** - funding to be provided to the Project Company by its Shareholders either by way of share capital or Shareholder loans;
- 2.1.52. **"Essential Returnable Documents"** - the bid returnable documents set out in the Bid Response Form (Annexure Z) of this RFP;
- 2.1.53. **"Evaluation Criteria"** - the evaluation criteria set out in Part III (*Evaluation Criteria*) of this RFP;
- 2.1.54. **"External Debt"** - any Debt, other than Corporate Finance, raised by the Terminal Operators from external sources;



- 2.1.55. **"Financier Direct Agreement" or "FDA"** - the direct agreement which may be entered into (or to be entered into) between TNPA, the Lenders, and the Terminal Operator in terms of the Terminal Operator Agreement;
- 2.1.56. **"Financial Advisors"** - the firm or firms advising a Bidder on the raising of Debt and Equity Funding in respect of its Bid Response and the Project;
- 2.1.57. **"Financial Close"** - has the same meaning as defined in the Terminal Operator Agreement;
- 2.1.58. **"Financing Agreements"** has the same meaning as defined in the Terminal Operator Agreement;
- 2.1.59. **"Green Fuels"** - any means any of the following types of green fuels:
- Biofuels: derived from organic materials such as crops (corn, sugarcane), algae, or organic waste. Common biofuels include ethanol (made from corn or sugarcane) and biodiesel (made from vegetable oils or animal fats); or
- Green Hydrogen: is produced from renewable energy sources such as wind, and solar through water electrolysis (additional information on Hydrogen is contained in Annexure or
- Synthetic Fuels: produced through processes like Power-to-Gas (PtG) or Power-to-Liquid (PtL), where electricity is used to convert carbon dioxide (CO<sub>2</sub>) and water into fuels like synthetic methane or synthetic gasoline; or
- Biogas: produced from the anaerobic digestion of organic materials such as

agricultural waste, sewage, and food scraps. It consists primarily of methane and carbon dioxide; or

Hydrogenated Vegetable Oil (HVO): a type of biodiesel made from hydrogenating vegetable oils or animal fats, resulting in a fuel with properties similar to diesel fuel; and

Ammonia: can be produced from renewable energy sources and used as a carbon-free fuel or as a carrier of hydrogen for various applications;

2.1.60. **"Government"**

the Government of the Republic of South Africa and any of its departments, agencies or any other state-owned companies or entities that it manages, owns, or controls;

2.1.61. **"Guarantor"**

- an entity that unconditionally guarantees the obligations of the Terminal Operator with regard to External Debt or Corporate Financing;

2.1.62. **"Harbour Master"**

- an employee of TNPA contemplated in terms of section 74(3) of the National Ports Act No. 12 of 2005 and who is, in respect of the port for which he or she is appointed, the final authority in respect of all matters relating to pilotage, navigation, navigational aids, dredging and all other matters relating to the movement of vessels within port limits

2.1.63. **"Highest Ranking Bidder"**

- the Bidder who is awarded the most points after the completion of the Part III (Evaluation Criteria) evaluation;

- |   |   |  |
|---|---|--|
| 2.1.64. <b>"Independent Certifier"</b>          | - | has the meaning ascribed to it in the Draft Terminal Operator Agreement;   |
| 2.1.65. <b>"Legal Advisors"</b>                 | - | the firm or firms advising a Bidder in respect of its Bid Response, and if that Bidder becomes a Preferred Bidder in respect of the negotiation of the Bidder's contractual arrangements and Project Documents with, <i>inter alia</i> , its Members, Contractors, equipment suppliers and Lenders (if any); |
| 2.1.66. <b>"Lead Member"</b>                    | - | the Member of a Consortium that (i) is authorised to represent the Consortium and submits a Bid Response on behalf of the Consortium, (ii) will become the majority Shareholder in the Project Company once the Project Company is established and (iii) will be a key contractor;                           |
| 2.1.67. <b>"Lenders"</b>                        | - | the financiers to a Bidder in respect of the Project;  |
| 2.1.68. <b>"Lenders Support Letter"</b>         | - | a letter that must be provided by Financial Institutions confirming intent to provide financial support to the as part of its funding model;   |
| 2.1.69. <b>"Liquid Bulk"</b>                    | - | All Liquid Bulk commodities, including, green fuels, Ammonia, excluding Liquified Natural Gas (LNG);   |
| 2.1.70. <b>"Mandatory Returnable Documents"</b> | - | the bid returnable documents set out in the Bid Response Form (Annexure Z) of this RFP;  |

- |         |   |   |   |
|---------|---|---|---|
| 2.1.71. | <b>“Member”</b>                             | - | any juristic person that is a member of a Consortium that will become a Shareholder of the Project Company once it is incorporated;   |
| 2.1.72. | <b>“National Treasury”</b>                  | - | has the same meaning ascribed to it in the Public Finance Management Act, 1 of 1999, as amended;  |
| 2.1.73. | <b>“National Ports Act”</b>                 | - | The National Ports Act, No. 12 of 2005, as amended;   |
| 2.1.74. | <b>"NEMA"</b>                               | - | the National Environmental Management Act, 107 of 1998, as amended;   |
| 2.1.75. | <b>"NDP"</b>                                | - | National Development Plan 2030 issued by the Government in 2013, aimed at, <i>inter alia</i> , addressing unemployment, reducing inequality and poverty in a strategy that is principally reliant on creating a significant increase in the number of new jobs in the economy by the year 2030, mainly in the private sector; |
| 2.1.76. | <b>“Objective Criteria”</b>                 |   | the due diligence exercise undertaken by TNPA in verifying the information evaluated;   |
| 2.1.77. | <b>"Occupational Health and Safety Act"</b> | - | The Occupational Health and Safety Act, 85 of 1993, as amended;   |
| 2.1.78. | <b>“Operating Rights”</b>                   | - | operating Rights as defined in Annex M (Draft <i>Terminal Operator Agreement</i> );   |
| 2.1.79. | <b>"Operation and Maintenance"</b>          |   | the activities and obligations of the Terminal Operator to operate and maintain the Terminal as set out in the Draft Terminal Operator Agreement in Annex M ( <i>Draft Terminal Operator Agreement</i> ) of this RFP;   |

- 2.1.80. **"Port Infrastructure"**
  - the basic common-use structures of the Port of Ngqura, including the Berth, breakwaters, seawalls, channels, basins, quay walls, jetties, roads, railways, and infrastructure used for the provision of water, lights, power, sewage, firefighting equipment, and similar services;
- 2.1.81. **"Port"**
  - the Port of Ngqura, which has been determined as such in terms of the National Ports Act, No. 12 of 2005 and which is situated in Gqeberha, in the Eastern Cape province of South Africa;
- 2.1.82. **"Ports Regulator"**
  - the Ports Regulator of South Africa, the independent ports regulatory body established in terms of section 29 of the National Ports Act; No. 12 of 2005, as amended;
- 2.1.83. **"Port Rules"**
  - the rules made in terms of section 80(2) of the National Ports Act; No. 12 of 2005, as amended;
- 2.1.84. **"Port Users"**
  - any Person, other than the Terminal Operator, organisation and/or agency utilising the Terminal and/or conducting business within the Port limits, including shipping lines, vessel agents, licensed operators, operators of other terminals in the Port, contractors, and any contractor and/or any third parties authorised to conduct business on behalf of any Port User;
- 2.1.85. **"Preferred Bidder"**
  - a Bidder which shall comprise, a successful bidder that meets the requirements of the RFP.

- 2.1.86.    **"Preferred Bidder Guarantee"**

- the guarantee to be provided by the Preferred Bidder to TNPA in terms of Clause 34.1 (*Preferred Bid Guarantee*) of Part I (*General Requirements, Rules and Provisions*) of this RFP, in the form and content attached as Annex W to this RFP;
- 2.1.87.    **"Preliminary Design"**

- Preliminary design of the Terminal plan layout of the full site arrangement as outlined in part II of this RFP;
- 2.1.88.    **"Project"**

- the Funding, Design, Construction, Operation, Maintenance and Transfer of the Liquid Bulk Terminal at the Port to provide the services, as detailed in this RFP;
- 2.1.89.    **"Project Company"**

- a special purpose company that Members of a Consortium and or Special Purpose Vehicle appointed as the Preferred Bidder must incorporate and use as the vehicle to undertake the Project and with whom the TNPA will conclude the Terminal Operator Agreement;
- 2.1.90.    **"Project Officer"**

- the person appointed by TNPA as the project officer in respect of the Project;
- 2.1.91.    **"Project Site"**

- the portion of land space referred to on which the Terminal Operator will undertake the Project as set out in the Site Map (Annexure B) located within the proclaimed limits of the Port;
- 2.1.92.    **"Project Term"**

- has the meaning given to it in the Draft Terminal Operator Agreement (Annexure M);

- |         |                                 |  |
|---------|---------------------------------|--|
| 2.1.93. | <b>" PFMA "</b>                 | - the Public Finance Management Act, 1 of 1999, as amended;  |
| 2.1.94. | <b>"QSE"</b>                    | - means a qualifying small enterprise, being an entity with a turnover of more than R10 (ten) million but less than R50 (fifty) million, in terms of the Amended B-BBEE Codes;   |
| 2.1.95. | <b>"Qualification Criteria"</b> | - the qualification criteria set out in Part II ( <i>Qualification Criteria</i> ) of this RFP;   |
| 2.1.96. | <b>"Rand" or "ZAR"</b>          | - South African Rand, the lawful currency of the Republic of South Africa;   |
| 2.1.97. | <b>"Related" or "Relation"</b>  | <div style="display: flex; align-items: flex-start;"> <div style="margin-right: 10px;">-</div> <div> <p>a relationship formed based on any one or more of:</p> <p>family (including spouses and in-laws);</p> <p>friendship;</p> <p>business acquaintance;</p> <p>professional engagement; or</p> <p>employment;</p> </div> </div> |
| 2.1.98. | <b>"Reserve Bidder"</b>         | - any Bidder that has not been designated as the Preferred Bidder but has been selected by TNPA as an entity with which TNPA may conclude the Terminal Operator Agreement, provided any of the circumstances in respect of the Preferred Bidder specified in Clause 57 of the RFP occur;   |
| 2.1.99. | <b>"Responsible Authority"</b>  | - any ministry, any minister, any organ of state, any official in the public administration, or any other governmental or regulatory department, commission, entity, service provider of a utility, board, agency, instrumentality, or authority (in   |

- each case, whether national, provincial, or municipal) or any court, each having jurisdiction over the matter in question;
- 2.1.100. **"RFP"** - this Request for Proposals document and all Annexes, schedules, and other appendices to it and any Briefing Notes issued in respect of it, from time to time, by TNPA to solicit Bid Responses from the Bidders;
- 2.1.101. **"RFP Process"** - the process that is being conducted by TNPA in respect of the Project, as set out in this RFP;
- 2.1.102. **"Safety Consents"** - any consents, licenses, authorizations, permissions, or approvals required to be obtained by the Terminal Operator from the Responsible Authority as required in terms of any health and safety law for the Project;
- 2.1.103. **"Sector Code"** - a sector code for the maritime transport and service sector published in terms of section 9 of the B-BBEE Act;
- 2.1.104. **"Shareholders"** - the Shareholders of a Company or the Members of the Consortium that will become the holders of Equity in the Project Company once selected as the Preferred Bidder;
- 2.1.105. **"Shareholder Loans"** Loans advanced by Shareholders to the Terminal Operator;
- 2.1.106. **Signature Date** the date on which the Terminal Operator Agreement is signed by the last party to it, being either TNPA or the Terminal Operator and if signed on different dates, the last of such dates;



- 2.1.107. **“Special Purpose Vehicle” or “SPV”** - Members constituted in accordance with an SPV agreement for the purpose of submitting a Bid Response and if successful, undertaking this Project who will if successful, incorporate a Project Company to undertake the Project
  
- 2.1.108. **"Standard Bid Response"** - has the meaning ascribed to it in Clause 19.1 of Part I (*General Requirements, Rules, and Provisions*) of this RFP;
  
- 2.1.109. **"Substantive Responsiveness Test"** - has the meaning ascribed to it in (*Qualification Criteria 2: Substantive Responsiveness Test*) of Part II of this RFP;
  
- 2.1.110. **“Terminal”** - the liquid bulk terminal facility, either within the port boundary or inland terminal/facility used for the purpose of storing or distributing cargo;
  
- 2.1.111. **“Terminal Equipment”** - the movable assets, including equipment and machinery as well as above surface pipelines and cargo storage tanks (whether affixed to the Project Site or not), which shall be, for the purposes of this project, be deemed to be movable, that are required in order to operate the terminal;
  
- 2.1.112. **“Terminal Infrastructure”** - Terminal buildings, workshops, substations, surfacing, rail sidings, and terminal operations and infrastructure for the provision of water, lights, power, sewerage, and similar services within Terminal boundaries;
  
- 2.1.113. **“Terminal Operator”** - the Preferred Bidder granted the right to conduct the Project in terms of the Terminal Operator Agreement concluded between the Terminal Operator and the TNPA, pursuant to being selected as the Preferred Bidder under this RFP;

- 2.1.114. **“Terminal Operator Agreement (TOA)”** - the agreement to be entered into between TNPA and the Terminal Operator, pursuant to the Project, in the form of the Draft Terminal Operator Agreement attached in this RFP in Annex M;
- 2.1.115. **“TNPA”** - Transnet National Ports Authority, an operating division of Transnet;
- 2.1.116. **“Terminal Operations”** - services provided at the Terminal, consisting of the conveying, storing, transshipment, and delivering of Liquid Bulk Cargo from and to vessels and such other services ancillary and related thereto;
- 2.1.117. **"Transaction Advisors"** - the firms advising TNPA and/or the Bidders, in respect of this RFP;
- 2.1.118. **"Transnet"** - Transnet SOC Ltd, with registration number 1990/000900/30, a state-owned company, duly incorporated in accordance with the company laws of the Republic of South Africa;
- 2.1.119. **"Valuer"** - a property valuer registered with the South African Council for Property Valuers; and
- 2.1.120. **"VAT"** - the value-added tax levied in terms of the Value-added Tax Act, 89 of 1991.

2.2. In this RFP:

- 2.2.1. references to a statutory provision include any subordinate legislation and any amendments thereof made from time to time under that provision and include that provision as modified or re-enacted from time to time;
- 2.2.2. words importing the masculine gender include the feminine and neutral genders and vice versa;
- 2.2.3. the singular includes the plural and vice versa;
- 2.2.4. references to a "person" include a natural person, company or any other juristic person or other corporate entity, a charity, trust, partnership, joint venture, syndicate, or any other association of persons;
- 2.2.5. references to a "subsidiary" or a "holding company" shall be references to a subsidiary or holding company as defined in the Companies Act;
- 2.2.6. if a definition imposes substantive rights and obligations on a person, such rights and obligations shall be given effect to and shall be enforceable, notwithstanding that they are contained in a definition;
- 2.2.7. any definition, wherever it appears in this RFP, shall bear the same meaning, and apply throughout this RFP document unless otherwise stated;
- 2.2.8. if there is any conflict between any definitions in this RFP then, for purposes of interpreting any clause of the RFP or paragraph of any part or schedule, the definition appearing in that clause or paragraph shall prevail over any other conflicting definition appearing elsewhere in this RFP document;
- 2.2.9. the use of any expression covering a process available under South African law (such as but not limited to judicial management, business rescue or winding-up) shall, if any of the Parties is subject to the law of any other jurisdiction, be interpreted in relation to that Party as including any equivalent or analogous proceeding under the law of such other jurisdiction;

- 2.2.10. references to any amount shall mean that amount exclusive of VAT unless the amount expressly includes VAT;
- 2.2.11. the rule of construction that if general words or terms are used in association with specific words or terms which are a species of a particular genus or class, the meaning of the general words or terms shall be restricted to that same class (i.e. the *eiusdem generis* rule) shall not apply and whenever the word "including" is used followed by specific examples, such examples shall not be interpreted so as to limit the meaning of any word or term to the same genus or class as the examples given;
- 2.2.12. the rule of construction that the RFP shall be interpreted against or to the disadvantage of the party responsible for the drafting or preparation of the RFP (namely the *contra proferentem* rule) shall not apply;
- 2.2.13. unless otherwise specified, all references to any time shall be to the time of day in Johannesburg, South Africa; and
- 2.3. the expiration or termination of this RFP shall not affect such of the provisions of this RFP which are expressly provided to operate after any such expiration or termination, or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the relevant provisions themselves do not provide for this.

## **PART I - GENERAL REQUIREMENTS, RULES, AND PROVISIONS**

### **3. INTRODUCTION**

- 3.1. TNPA is established through the Act to be a ports authority and landlord, responsible for the safe, efficient, and economic functioning of the national ports system, which it manages, controls, and administers on behalf of the State.
- 3.2. Section 11 of the Act prescribes the core functions of TNPA, to include the following:
  - 3.2.1. to plan, provide, maintain, and improve port infrastructure;
  - 3.2.2. prepare and periodically update a port development framework plan for each port;
  - 3.2.3. to promote the use, improvement, and development of ports and control land use within the ports, having the power to lease port land under conditions that it determines;

- 3.2.4. to promote greater representation to increase participation in port operations of historically disadvantaged people;
  - 3.2.5. to provide or arrange marine-related services, i.e., pilotage services, tug assistance, berthing services, dredging, and hydrographic services;
  - 3.2.6. to promote greater representation to increase participation in port operations of historically disadvantaged people;
  - 3.2.7. to provide or arrange marine-related services, i.e., pilotage services, tug assistance, berthing services, dredging, and hydrographic services;
  - 3.2.8. to ensure that adequate, affordable, and efficient port services and facilities are provided, including regulatory oversight of all port activities; and
  - 3.2.9. to provide aids to assist the navigation of vessels within port limits and along the coast.
- 3.3. At an operational level, TNPA occupies a strategic position in the country's transport and logistics chain, managing South Africa's eight commercial seaports, namely Cape Town, Durban, East London, Mossel Bay, Ngqura, Port Elizabeth, Richards Bay and Saldanha Bay.
- 3.4. The ports under the control of the TNPA span approximately 2 800 km of the South African coastline. TNPA's asset base consists of port land, basic port infrastructure, and marine fleet at all the eight commercial ports. TNPA manages port land of approximately 43,4 million m<sup>2</sup> and about 750 leases across the port system.
- 3.5. TNPA provides its services to port users, namely terminal operators, shipping lines, shipping agents, cargo owners and the clearing and forwarding industry.

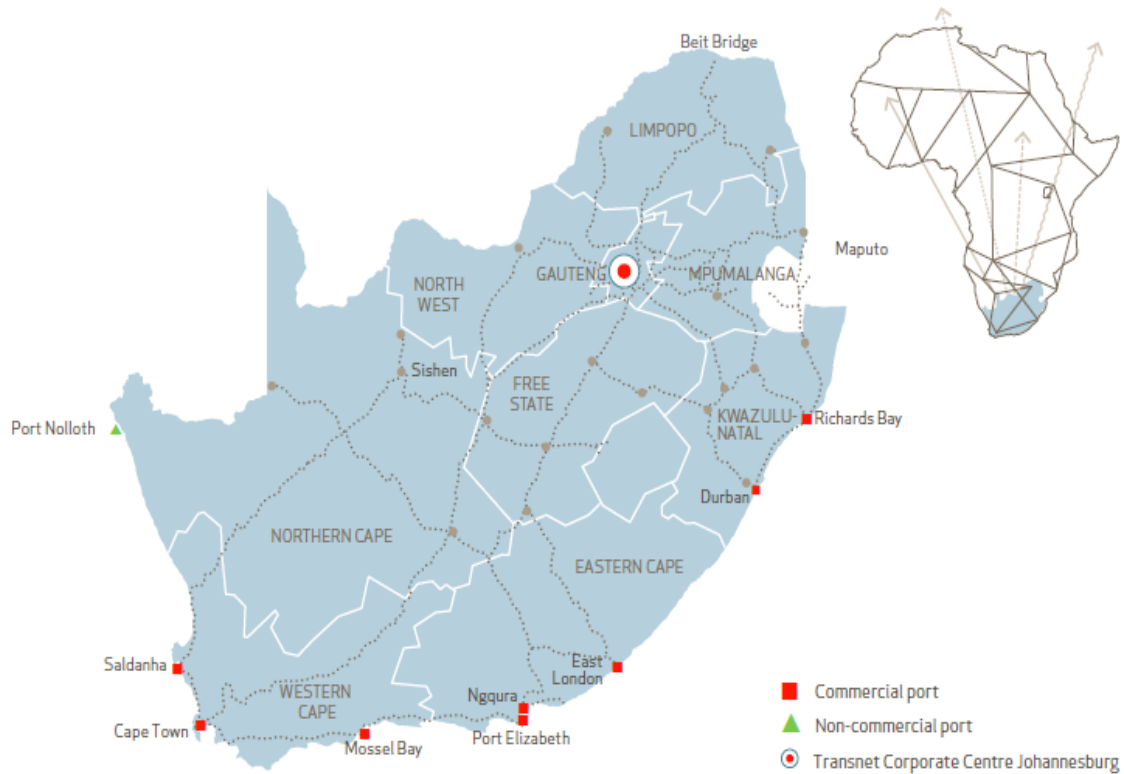


Figure 1: National Port System

## 4. BACKGROUND

4.1. TNPA is issuing this RFP, for the appointment of terminal operator to fund, design, develop, construct, operate, maintain and transfer the liquid bulk terminal for a concession period of twenty-five (25) years at the Port of Ngqura, in accordance with section 56 of National Ports Act;

4.1.1. Section 56 of the Ports Act permits TNPA to enter into an agreement with any person in terms of which that person, for a specific period and in accordance with the terms and conditions of the agreement, is authorised to:

- 4.1.1.1. design, construct, rehabilitate, develop, finance, maintain or operate a port terminal, or provide services relating thereto;
- 4.1.1.2. provide any other service within a port designated by TNPA for this purpose;

- 4.1.1.3. perform any function necessary or ancillary to the matters referred to in Clauses 4.1.1.1 (Background) and 4.1.1.2; (Background) or
- 4.1.1.4. perform any combination of the functions referred to in Clause 4.1.1.1, (Background) 4.1.1.2 (Background) and 4.1.1.3 (Background).
- 4.1.2. A Terminal Operator Agreement will be negotiated and concluded with the Preferred Bidder appointed as such following the completion of the evaluation of all Bid Responses.
- 4.1.3. A draft Terminal Operator Agreement, which will record the respective rights and obligations of the TNPA and the Terminal Operator, is annexed hereto and marked Annexure M.
- 4.1.4. In undertaking the Concession, the Terminal Operator will be responsible for the development/construction of whatever Terminal infrastructure, as fixed improvements to the Project Site. The Terminal Operator will be required to undertake the Concession, which shall include but not be limited to, sheds, offices, ablutions, canteens, fencing, security systems, Terminal paving, bulk services, communication systems, lighting, substations, and general machinery, plant and equipment, as may be required to operate the Liquid Bulk Terminal.

## 4.2. **Port of Ngqura Overview**

- 4.2.1. The Port of Ngqura was established in 2009 and is the newest of the 8 (eight) South African ports as a world class deep-water container transshipment hub. The port is specifically geared to service West and East Africa, European and Asian trade routes. The port is situated within the Coega Special Economic Zone (SEZ) in the Algoa Bay, 20km North-East of Port Elizabeth, midway between Durban and Cape Town.
- 4.2.2. The Port is moving towards becoming the primary central region port, while the Port of Port Elizabeth is transitioning to providing complimentary services to the Port of Ngqura.
- 4.2.3. The port is expanding its services to accommodate dry bulk, break bulk, liquid bulk, and project cargo. Plans include becoming the global leader in Manganese ore exports and importation of Liquefied Natural Gas (LNG), supporting gas to power initiatives.

- 4.2.4. The port is located adjacent to the N2 freeway and is directly accessible to the port via a high-capacity systems interchange. It is one of the two significant South African ports not surrounded by a significant urban area, the other port being Saldanha.
- 4.2.5. The Port of Ngqura was developed as a means of transporting heavy equipment and manufactured products in and out of the country. Currently, the port mainly comprises a container terminal. The container terminal is situated on the western edge of the port. The Terminals for the handling of breakbulk, dry bulk and liquid bulk have not yet been developed. Plans are in place to relocate the dry bulk and liquid bulk terminals of the Port of Port Elizabeth to the Port of Ngqura.
- 4.2.6. This RFP is intended to solicit proposals from interested parties for the development and operation of a liquid bulk facility at the Port of Ngqura.



#### 4.2.7. Port Precincts



Figure 2: Port of Ngqura Precincts

4.2.7.1. The Port consists of three precincts that primarily focus on separate cargo handling operations:

4.2.7.1.1. The **Western Precinct** incorporates the container terminal. There are currently 4 (four) operational berths in this precinct. The terminal also has access through the main entrance plaza of the Port;

4.2.7.1.2. The Central Precinct is located east of the container terminal and consists of 3 (three) berths currently utilized for handling break-bulk/general cargo. These berths have not yet been equipped for planned handling of dry bulk and liquid bulk. This precinct is situated within the central parts of the port and will therefore not affect any neighbouring urban areas in terms of noise, odour, or

visual pollution. However, it will increase manganese and clinker dust pollution in the Port.

4.2.7.1.3. The Eastern Precinct is in the Eastern side of the port including the Eastern breakwater. It incorporates the following:

4.2.7.1.3.1. Admin Craft Basin (ACB) building which houses the Marine, Fire departments and the Jetty to dock the marine craft;

4.2.7.1.3.2. Berth A100- dedicated Liquid Bulk berth to be constructed in the future;

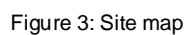
4.2.7.1.3.3. Tank farm services which are in construction phase;

4.2.7.1.3.4. Liquefied Natural Gas (LNG) berth to be constructed in the future next to the breakwater;

4.2.7.1.3.5. The Tank Farm Terminal for Liquid Bulk and

4.2.7.1.3.6. 20 (twenty) hectares is designated for petroleum commodities.

4.2.7.1.4. Annexure B below displays the site identified for the construction of the Liquid Bulk storage and handling facility.



5.1. TNPA will design, develop, finance, and construct the Port Infrastructure including firefighting equipment and associated dredging to enable the optimal and efficient use of the Terminal;

5.2.1. Construction and operation of the Bulk Liquid Terminal (**ECm1/LN2/M/11-57**) for clean fuels storage tanks;

5.2.3. Provision of Marine Infrastructure including Cargo Berth and Liquid Bulk Berths at the Port within the Coega Special Economic Zone (14/12/16/3/3/2/475).

5.3. The Preferred Bidder will be responsible for the EIA to allow for the handling of Green Fuels (Ammonia and/or Hydrogen and/or any other green fuels) should there be any interest. The Preferred Bidder will also be responsible for:

5.2.4. The funding, design, development, construction, operation, maintenance and transfer the liquid bulk terminal.

5.2.5. Bidders are to consider the information provided in Annexure D (Technical Information Pack) which is provided with this RFP in the preparation of its Bid Response;

All infrastructure required for the project must be designed to enable the realisation of a minimum annual throughput of 1 (one) million kilolitres per annum and scaling up to achieve the new Berth capacity is limited to a maximum of throughput of 3 (three) million kilolitres per annum in the medium terms.

5.3. The successful Bidder will be required to secure all the required approvals and licenses to enable the Project, including but not limited to:

5.3.1. Water use licenses (if applicable);

5.3.2. Construction permits; and

5.3.3. Other applicable approvals and licenses.

5.4. Bidders are required to submit Bid Responses for the project which entails the funding, design, construction, operation, and maintenance of the Terminal for the handling of Liquid Bulk and the transfer thereof to TNPA at the end of the concession period.

5.5. The Bid Response must deal with Terminal Operations only, with open access as envisaged in the Petroleum Pipelines Act, to all qualifying requests that are commercially viable for Cargo handling.

5.6. The Bidder that is appointed as the Preferred Bidder will be required to comply with all the NERSA Regulations and/or approvals and be fully conversant with NERSA Regulations in respect of the handling of the chosen Cargo, taking particular note of the tariff methodology applied by NERSA in regulating the prices of a liquid bulk. The successful Bidder will be required to, on its own, obtain all the necessary Consents from NERSA prior to the Terminal Operator Agreement becoming fully effective.

5.7. The appointed Terminal Operator will be responsible for negotiating and concluding any associated services/connectivity outside port boundaries with relevant stakeholders.

5.8. **Operate and Maintain:**

5.8.1. The Terminal Operator shall, for the avoidance of doubt, be granted the right to Operate and Maintain the Terminal, the envisaged berth A100 and carry all risks relating thereto as provided for in the Terminal Operator Agreement;-

5.8.2. The Terminal Operator shall, in addition to the above be obliged to:

5.8.3. Conclude the necessary offtake agreements to make the Terminal commercially available;

5.8.4. Conclude agreements for any rights of way and or use of any land or other services and facilities it may require for the Project which is situated outside the promulgated Port Limits with landowners and other stakeholders;

5.9. The Terminal Operator shall be required to raise the required funding and make the necessary capital investments required to undertake the Project.

## 6. **COMPILATION OF CONCEPT DESIGNS**

6.1. Bidders are required to submit a Preliminary Concept Design in responding to this RFP for scoring. Upon signing of the Terminal Operator Agreement, the Preferred Bidder will be required to provide design and construction specifications for the Terminal for TNPA's approval. In an event that bidders plan a phased development of the back of ports storage area, bidders are to submit clear plans and timelines on the phased approach. In Addition, the total available land for the project is 10 Ha (hectares).

6.2. The Preliminary Concept Designs for the Terminal(s) must consider the construction and installation of equipment from the envisaged new berth A100.

6.3. At a high-level, the concept design for the Terminal must consider the following:

6.3.1. liquid bulk storage tanks;

6.3.2. administration building and parking;

6.3.3. bulk services such as water, sewer, roads, stormwater, and electricity;



- 6.3.4. access to the site road including truck staging area;
- 6.3.5. operational movement of Cargo between the berth and the Terminal;
- 6.3.6. movement of Cargo within the Terminal;
- 6.3.7. road Tanker loading gantry;
- 6.3.8. fire protection measures;
- 6.3.9. stormwater Management Systems;
- 6.3.10. bunding;
- 6.3.11. Berth connectivity and loading equipment/carousels/manifolds;
- 6.3.12. fencing around the perimeter of the site; and
- 6.3.13. traffic management plan; etc.
- 6.3.14. In addition to the above components that will be situated on the 10 Ha site the following associated infrastructure must also be provided:
  - 6.3.14.1. build liquid pipelines and loading equipment extending between the proposed Liquid Bulk Terminal and the berth at the Port of Ngqura; and
  - 6.3.14.2. berth infrastructure in the Port of Ngqura;
- 6.3.15. Safety, Health, and Environmental Specifications
- 6.3.16. These preliminary designs must be consistent with the relevant South African National Standards (SANS) and International Best Practice Standards, and such further standards as may be relevant and agreed to with the appointed Terminal Operator.
- 6.3.17. Storage facilities to allow for landside storage to buffer supply and demand.

## **7. CONSTRUCTION PROGRAM, CONSTRUCTION AND INSTALLATION, TESTING, AND COMMISSIONING OF TERMINAL EQUIPMENT AND ASSOCIATED INFRASTRUCTURE**

- 7.1. As appointed out in clause 5.1. TNPA will undertake the design and construction as well commissioning of the Berth, while the Terminal Operator will undertake the construction and commissioning of the Liquid Bulk Terminal on the Project Site.
- 7.2. TNPA will not prescribe to the appointed Terminal Operator, the extent of the work to be undertaken at the Terminal. The appointed Terminal Operator will be required to determine the extent of the Construction, the Terminal Infrastructure, and the Terminal Equipment required for the Terminal Operations. The expectation of TNPA is that the port capacity must be optimally and fully utilized within a specified timeframe.
- 7.3. The appointed Terminal Operator is required to provide a proposed concept design for the Terminal Infrastructure and Terminal Equipment in the Business Case as detailed further in the Business Case Guidelines (Annexure C).

## **8. OPERATION AND MAINTENANCE**

- 8.1. Bidders must note that it is the responsibility of the Terminal Operator to complete the detailed design, construction, delivery, installation, testing and commissioning of all plant and equipment required for the Operation and Maintenance of the Terminal should they be awarded the Preferred Bidder status and sign the Terminal Operator Agreement with TNPA.
- 8.2. The Terminal Operator will acquire the right to operate and assume an obligation to maintain the Terminal in the course of Operations and Maintenance. The Terminal Operator will be required to maintain the Terminal in accordance with the terms of the Terminal Operator Agreement to ensure the continuous optimal Operation of the Terminal.
- 8.3. The Terminal Operator will be required to maintain the surface of the quay in good working order and condition, in accordance with International Best Practice (as defined in the Draft Terminal Operator Agreement) and international standards, including undertaking any cleaning of the surface of the quay.

- 8.4. The Terminal Operator and the TNPA shall agree on the minimum performance norms and standards for the Operation and Maintenance of the Terminal. The Terminal Operator Standards will be determined post the operations of the Terminal
- 8.5. The Terminal Operator will be required to provide access, inspection and data appraisal rights to its storage monitoring system, in the case of a liquid bulk handling, as part of TNPA's statutory Terminal oversight and performance functions.
- 8.6. Bidders are to conform to international best practices for the maintenance and operations of the Terminal as the case may be.

## 9. DURATION OF TERMINAL OPERATOR AGREEMENT

- 9.1. The Concession to be granted to the Terminal Operator shall be for an initial operating period of 25 (twenty-five) years with a non-automatic option to renew up to a maximum period of 25 years as may be negotiated and agreed to between the Preferred Bidder and the TNPA. The Terminal Operator shall be obliged to give written notice by no later than the 20<sup>th</sup> of the initial operating period of the Terminal Operator Agreement, of its intent to seek a renewal of the Terminal Operator Agreement. For the avoidance of doubt the Terminal Operator will be required to submit a comprehensive revised business case and financial model to the TNPA demonstrating the commercial necessity for the renewal noting that TNPA shall be under no obligation to grant such renewal nor is any legitimate expectation thereto created hereby.
- 9.2. Bidders will be required to ensure its Business Case and Financial Model is premised on an initial operating period of 25 (Twenty – Five Years) and any proposals in respect of a longer tenure for the renewal of the concession must be comprehensively motivated, but will not be evaluated and or scored in the evaluation of Bids.
- 9.3. For the avoidance of doubt, a Bidders Business Case and Financial Model must be premised on a maximum operating tenure of 25 (Twenty – Five Years) and any proposals for longer tenure will not be evaluated and or scored in the evaluation of Bids.



## 10. HANDOVER AND TRANSFER OF THE TERMINAL

### 10.1. Terminal Infrastructure

- 10.1.1. On expiry of the Concession Period the Terminal Operator shall transfer all rights title and interest in and to the Terminal Infrastructure developed to undertake the Project, to the TNPA at no cost, alternatively.
- 10.1.2. The TNPA shall on written notice to the Terminal Operator, instruct the Terminal Operator to demolish and remove all or some of the Terminal Infrastructure.
- 10.1.3. Should TNPA notify the Terminal Operator to demolish and remove all or some of the Terminal Infrastructure, the Terminal Operator shall decommission, demolish, and remove all or the selected Terminal Infrastructure at its costs as we rehabilitate the land as notified by TNPA.

### 10.2. Terminal Equipment.

- 10.2.1. Prior to the expiry of the Concession Period and on written notice to the Terminal Operator, TNPA may purchase the Terminal Equipment.
- 10.2.2. Should TNPA elect to purchase the Terminal Equipment, the Terminal Operator shall hand over, free from encumbrances, the Terminal Equipment together with, inter alia, all associated certificates, manuals, and documents.

- 10.3. At the end of the Concession Period, the Terminal Operator will be required to leave the Project Site in a safe, clean, and orderly condition in accordance with the terms and conditions contained in the Draft Terminal Operator Agreement, and where applicable, be required to comply with its rehabilitation obligations.

## 11. ACTIVITIES AT THE TERMINAL

- 11.1. The Terminal Operator shall manage and operate the Terminal for the purpose of:

- 11.1.1. receiving and dispatching of Cargo at the Terminal(s) from and to vessels, via pipelines, and road;
- 11.1.2. the pumping and/or conveyance of Cargo to, in, and from the Terminal via pipelines, and road;

- 11.1.3. distribution of cargo to inland customers through road, and;
- 11.1.4. performing maintenance-related activities that the Terminal Operator may deem necessary.

## **12. COMMON-USER PRINCIPLE, NON-DISCRIMINATION, AND NON-DISCRIMINATION AND OPEN ACCESS (THIRD-PARTY ACCESS)**

- 12.1. The Terminal, including, Terminal Infrastructure and Terminal Equipment such as the loading facilities shall be used, managed, and operated on a common-user open access basis in accordance with the NERSA Regulations, meaning that:
  - 12.1.1. the Terminal Operator shall have the exclusive right to operate and maintain the Terminal and shall provide reasonable equality of access to the Terminal and the loading facilities to Terminal users and potential Terminal users wishing to utilise the services of the Terminal and the Terminal Operator; and
  - 12.1.2. the Terminal Operator shall not unreasonably discriminate, in its tariff structure or in its trading conditions (including but not limited to all commercial terms and conditions) between various users or potential users of the Terminal and the loading facilities; and
  - 12.1.3. TNPA will require the incorporation of the principles outlined in 12.1.1 to 12.1.2 in the Terminal Operator Agreement and non-compliance by the Terminal Operator to these terms and the engagement in any anti-competitive behaviour will be regarded as a breach of the Terminal Operator Agreement.
- 12.2. Subject to the provisions of this RFP, the Terminal Operator shall otherwise be granted the exclusive right to undertake the Project, subject to the provisions of the National Ports Act No. 12 of 2005, Port Rules, and any directives as may be issued in terms thereof.

## **13. CONCESSION FEE OFFER**

- 13.1. As consideration for the grant of the Concession, the Terminal Operator shall be required to pay Concession Fees to TNPA consisting of the fixed monthly Concession Fee, as described in Clause 13 (Concession Fee Offer) of Part III (Evaluation Criteria) of this RFP. Bidders will be required to propose the Concession Fee payable to TNPA in response to Clause 13 (Concession Fee Offer) of Part III (Evaluation Criteria) of this RFP.

## 14. OTHER KEY ROLE PLAYERS IN THE SOUTH AFRICAN PORTS SYSTEM (FOR INFORMATION PURPOSES)

### 14.1. The Department of Transport ("DOT")

The DOT is responsible for the regulation of transportation in South Africa including, *inter alia*, the development of maritime transport policies and for legislation in respect of ports, port regulations and policy. Transnet is a state-owned transport company that is an integral part of South Africa's logistics network. The DOT, as the custodian of the regulation of transport will have oversight in respect of the RFP but will not be involved in any of the processes comprising or included in the RFP.

### 14.2. The Department of Trade, Industry and Competition ("DTIC")

The DTIC is responsible for the facilitation of transformation of the economy and for the promotion of industrial development, employment creation, and building of mutually beneficial global relations to advance South Africa's trade. It is also responsible for industrial policy, and it facilitates broad-based economic participation. The DTIC has established a fair regulatory environment that enables investment, trade and industry and enterprise development in an equitable and socially responsible manner. As the custodian of regulation of trade, the DTIC has oversight in respect of B-BBEE and plays a significant role in the social development aspects of all economic activity in South Africa.

### 14.3. The Ports Regulator of South Africa

The Ports Regulator is primarily responsible for the economic regulation of the ports system and for promoting equity of access to ports, facilities, and services provided in the ports. The Ports Regulator monitors the activities of TNPA to ensure that it performs its functions in accordance with the National Ports Act No. 12 of 2005. The Ports Regulator, as the independent ports regulatory body has oversight in respect of the RFP to ensure that the regulation of the Port's system is compliant with the National Ports Act No. 12 of 2005.

## 15. PURPOSE OF THE RFP

### 15.1. The purpose of this RFP is to:

- 15.1.1. appoint a Terminal Operator to fund, design, develop, construct, operate, maintain and transfer the liquid bulk terminal for a concession period of twenty-five (25) years at the port of Ngqura.

- 15.1.2. invite Bidders to submit competitive Bid Responses to this RFP.
- 15.1.3. provide information to Bidders in relation to the RFP and TNPA's broader vision in respect of the framework of the Project;
- 15.1.4. set out the rules of participation in the RFP process referred to in this RFP. Particular attention is drawn to the provisions of the RFP relating to contact with TNPA, confidentiality, canvassing, non-collusion, and Bidder changes. Failure to comply with any one or more of these provisions may result in exclusion from participation in this RFP based on the discretion of TNPA;
- 15.1.5. set out the key assumptions and constraints that need to be independently verified, considered, and understood by the Bidders in preparing competitive and comparable Bid Responses for the Project;
- 15.1.6. set out the framework and information requirements within which Bid Responses to this RFP should be made;
- 15.1.7. request detailed, comprehensively priced, competitive, binding, underwritten Bid Responses to undertake the Project, which Bid Responses comply with the requirements set out in this RFP; and
- 15.1.8. set out the Qualification Criteria and the Evaluation Criteria which TNPA will apply to the Bid Responses received to enable TNPA to select the Preferred Bidder and a Reserve Bidder, as the case may be.

## 16. STRUCTURE OF THIS RFP

### 16.1. The Structure of this RFP is as follows:

- 16.1.1. Part I (General Requirements, Rules and Provisions) of this RFP provides the general information to the Bidders and includes, inter alia, the glossary of terms detailing the defined terms used within this RFP, explanation of and background to the RFP and the Project, the scope of the Project, the structure and purpose of this RFP and the terms and conditions in terms of which each Bidder submits its Bid Response, including details regarding the format of each Bid Response.
- 16.1.2. Part II (Qualification Criteria) of this RFP sets out the Qualification Criteria that must be satisfied by the Bidders. Bid Responses submitted in respect of this




RFP will first be assessed based on compliance with the Qualification Criteria, and only if a Bid Response complies with the Qualification Criteria will it be evaluated in terms of Part III (Evaluation Criteria) of this RFP.

- 16.1.3. Part III (Evaluation Criteria) of this RFP sets out the evaluation procedure and the Evaluation Criteria to be used by TNPA in evaluating those Bid Responses that have fulfilled the Qualification Criteria and have progressed to the Evaluation Criteria. The purpose of the Evaluation Criteria is to determine the relative rankings of those pre-qualified Bid Responses and select the Preferred Bidder.
- 16.1.4. Part IV (Objective Criteria) of this RFP sets out the evaluation procedure and the Objective Criteria for evaluating those Bid Responses that have fulfilled the Evaluation Criteria and have progressed to the Objective Criteria. The purpose of the Objective Criteria as prescribed in Section 2(1) (f) of the Preferential Procurement Policy Framework Act (PPPFA) is to determine if there are objective grounds on which the TNPA may not proceed with awarding the Project to the Highest-Ranked Bidder in Part III (Evaluation Criteria).

## 17. STRUCTURE OF THE EVALUATION OF BID RESPONSES

- 17.1. Bid Responses submitted in respect of this RFP will first be assessed based on compliance with the Qualification Criteria, and only if a Bid Response complies with the Part II (Qualification Criteria) will it be evaluated in Part III (Evaluation Criteria) and thereafter, be subject to Part IV (Objective) Criteria evaluation.
- 17.2. **Qualification Criteria 1:** Administrative Responsiveness Test detailed in Clause 60 of Part II (Qualification Criteria) of this RFP, will be the first part of evaluation conducted by TNPA. The requirements for this criterion are set out under Clause 60 (Qualification Criteria 1: Administrative Responsiveness Test) of Part II (Qualification Criteria) of this RFP.
- 17.3. **Qualification Criteria 2:** Substantive Responsiveness Test detailed in Clause 60 (Qualification Criteria 2: Substantive Responsiveness Test) of Part II (Qualification Criteria) of this RFP, will be evaluated by TNPA before the evaluation of Part III (Evaluation Criteria) The requirements for this criterion are set out under Clause 60 (Qualification Criteria 2: Substantive Responsiveness Test) of Part II (Qualification Criteria) of this RFP.

- 17.4. If a Bidder's Bid Response complies with the requirements and conditions set out in Clause 60 of Part II (Qualification Criteria) of this RFP, it will proceed to be evaluated under Part III (Evaluation Criteria) of this RFP.
- 17.5. The Evaluation Criteria as set out in Part (III) comprises of 2 (two) stages. Stage 1 entails the evaluation of the functionality of a Bidders Bid Response. In terms hereof 200 points are allocated for the assessment of this Stage 1. A Bidder will be required to score a minimum of 140 points out of the 200 points allocated (70%), to be eligible for further evaluation under Stage 2 of the Evaluation Criteria. Stage 2 of the Evaluation Criteria entails the evaluation of the Bidders Bid Response in respect of Preference Point System that includes Concession Fee Offer (Price), and Specific Goals. The evaluation will be undertaken in accordance with a 90/10 preference points system. For more information, please see Part III (Evaluation Criteria) of this RFP.
- 17.6. The points for Concession Fee Criteria (Price) are scored out of ninety (90) points and Specific Goals (Preference) will be added and scored out of ten (10) points, together to determine the total points scored out of one hundred (100) earned in respect of the Stage 2 Evaluation Criteria.
- 17.7. A Bidder who scores the highest points under Stage 2 of Part III shall become eligible for appointment as the Preferred Bidder unless the Objective Criteria to be undertaken in Part IV (See Clause 66) establishes objective considerations which would justify and award to another Bidder.
- 17.8. A diagrammatic overview of the Qualification and Evaluation methodology is out set out below

PART I - QUALIFICATION CRITERIA	PART II - EVALUATION CRITERIA - STAGE 1 FUNCTIONALITY	PART III - EVALUATION CRITERIA - STAGE 2 PRICE & PREFERENCE	PART IV - OBJECTIVE CRITERIA
<b>Qualification Criteria 1: Administrative Responsiveness Test</b> <ul style="list-style-type: none"> <li>Timely Submission of Bid Response</li> <li>Bid Response Duly Signed on all relevant documents.</li> </ul>	<ul style="list-style-type: none"> <li>Previous Exp. &amp; Track Record (35)</li> <li>SHE &amp; Risk (15)</li> <li>Financial Capacity (50)</li> <li>Business Case (100) <ul style="list-style-type: none"> <li>Market Analysis (25)</li> <li>Financial Management Plan (25)</li> <li>Operating Model (20)</li> <li>Project Schedule (15)</li> <li>Concept Design (15)</li> </ul> </li> </ul> <b>Total (200)</b>	<ul style="list-style-type: none"> <li>Price</li> </ul> <b>Concession Fee Offer (90)</b> <p>Points Scored = Points out of 100 x 90% = 90 points</p> <ul style="list-style-type: none"> <li>Preference:</li> </ul> <b>Specific Goals (10)</b> <p>Points Scored = Points out of 100 x 10% = 10 points</p>	<ul style="list-style-type: none"> <li>Detailed Due Diligence will be conducted on all bidders who meet the requirement of Part III stage 1 &amp; 2</li> </ul>
<b>Qualification Criteria 2: Substantive Responsiveness Test (Mandatory Returnable)</b> <ul style="list-style-type: none"> <li>Concession fee offer</li> </ul> 	 <p>Minimum Score of 140 points (70%) of the Total 200 Points required to be eligible for evaluation under Stage 2 of this Evaluation Criteria. A Bidder who does not meet the minimum 140 points (70%), will not be evaluated further.</p>	<p>On completion of the evaluation under Stage 2, Bidders will be ranked and be eligible for appointment as the Preferred Bidder provided there is no objective criteria which justifies the appointment of another Bidder other than the Highest Ranked Bidder.</p>	 <p>If no Criteria under Due Diligence\Probity Check which justifies the appoint of another Bidder other than the Highest Ranked Bidder who scores the highest points will be appointed as the preferred Bidder and the Bidder with the Second Highest will be appointed as the Reserve Bidder.</p>
<p>Bidders who comply with all the requirements of administrative and Substantive Responsiveness will be eligible for evaluation under Part III Evaluation Criteria.</p>			

## 18. BEST AND FINAL OFFER ("BAFO")

18.1. TNPA reserves the right, but is not obliged to, invite any number of Bidders to make their best and final offers, if required, provided that the Objective Criteria in Part IV of this RFP has been concluded as provided for in clause 66 of this RFP.

- 18.2. Notwithstanding the possibility that TNPA may give Bidders the opportunity to submit a BAFO, Bidders should be aware that TNPA will, in conducting its evaluation of Bid Responses, rely on all information (including all representations) contained in such Bid Responses. Bidders are, therefore, encouraged to submit their best proposals in their Bid Responses in response to this RFP.

## 19. ALTERNATIVE BID RESPONSE

- 19.1. Each Bidder is required to submit a Bid Response which responds to and complies in all respects with the Qualification and Evaluation Criteria ("**Standard Bid Response**").
- 19.2. To allow sufficient opportunity for innovation, Bidders may submit alternative Bid Responses ("**Alternative Bid Response**") that:
- 19.2.1. improve and do not compromise the timeframes for the Project;
  - 19.2.2. improve and do not compromise the design criteria of the Terminal;
  - 19.2.3. does not require TNPA to provide any additional bulk services above the ports' capacity.
  - 19.2.4. a business cases that warrant considerations for any deviations from the standard bid requirements except for the site allocated for this project; and
  - 19.2.5. offer value for money to TNPA.
- 19.3. However, Bidders should note that the submission of an Alternative Bid Response is not a requirement and TNPA is under no obligation to consider an Alternative Bid Response. Further, the TNPA will only consider an Alternative Bid Response of the Preferred Bidder, following the completion of the evaluation of all Bid Responses in accordance with this RFP.
- 19.4. No Alternative Bid Response will be considered unless a Standard Bid Response is also submitted. The benefits of deviation from the RFP requirements shall be motivated by a Bidder who submits an Alternative Bid Response, particularly against the Standard Bid Response and the Project objectives and such Alternative Bid Response must demonstrate value for money for TNPA.
- 19.5. All Alternative Bid Responses will be evaluated in a similar manner to the Standard Bid Response (refer to Clause 19.1).



- 19.6. Bidders should note that all differences to the Standard Bid Response contained in the Alternative Bid Response that is not fully motivated and which does not result in the benefits quantified on 19.2.1 to 19.2.5 for TNPA will be disregarded and will adversely affect the assessment by TNPA of the Bidder's Alternative Bid Response.
- 19.7. TNPA reserves the right to reject or accept any of the proposed changes to the Standard Bid Response contained in the Alternative Bid Response in its discretion.

## **20. PROJECT STRUCTURE AND CONTRACTS**

- 20.1. The Preferred Bidder will be invited to enter into the Terminal Operator Agreement and, if required, a Finance Direct Agreement with the relevant counterparties. The Draft Terminal Operator Agreement is attached to this RFP as Annexure M (Draft Terminal Operator Agreement). The rights and obligations of the Terminal Operator for the term of the Project are set out in the Draft Terminal Operator Agreement. The Terminal Operator Agreement will be required to be finalised and entered with TNPA within 4 (four) months (or such extended period as may be determined by TNPA in its sole discretion) of a Bidder being appointed as Preferred Bidder.
- 20.2. TNPA shall not be bound by the terms and conditions contained in the Draft TOA and shall not be limited on its rights to negotiate different terms and conditions for the final TOA. The Draft TOA is shared to expedite the negotiation process.
- 20.3. If the Preferred Bidder fails to undertake activities or take steps reasonably required for the conclusion of the Terminal Operator Agreement within this 4 (four) month period (or such extended period as may be determined by TNPA in its sole discretion), then TNPA may, in its discretion, disqualify the Preferred Bidder or revoke its status as Preferred Bidder. If the Preferred Bidder is disqualified or has its status as Preferred Bidder revoked by TNPA, TNPA may appoint a Reserve Bidder as the Preferred Bidder in accordance with the provisions of Clause 57 of this RFP. TNPA shall subsequently enter into negotiations with such Reserve Bidder for the conclusion of the Terminal Operator Agreement.
- 20.4. Bidders should note that the Draft Terminal Operator Agreement has been prepared on the assumption that the Terminal Operator will:
  - 20.4.1. be a joint venture or, a Consortium. In this instance, a Bidder who is a joint venture and or Consortium will be required to establish and incorporate a Project Company with the sole purpose of undertaking the Project and

entering into the Terminal Operator Agreement. All Shareholders of that Project Company are required to be Members of the Bidder that is appointed as the Preferred Bidder (i.e., from the moment the Bid Response is submitted).

- 20.4.2. raise finance for purposes of undertaking the Project;
- 20.4.3. complete the Construction and commence with Operation of the Terminal within 24 (Twenty- four) months of the receipt of a positive record of decision in relation to the Environmental Impact Assessment (EIA) from the DFFE in respect of the Project and upon the submission of the detailed designs by the Terminal Operator to TNPA;
- 20.4.4. TNPA expects the Preferred Bidder to deliver this project based on the following timelines:
  - 20.4.4.1. Four (4) months - Confirmation of funding and Terminal Operator Agreement negotiations;
  - 20.4.4.2. Eighteen (18) months – Detailed Engineering designs / Authorisations / licences / approvals / etc.
  - 20.4.4.3. Twenty-four (24) months - Construction and commissioning on a phased-out approach
  - 20.4.4.4. to the extent that the Preferred Bidder's bid is not consistent with the assumption made above, the provisions of the final Terminal Operator Agreement shall be revised to be consistent with such bid.
- 20.5. The Terminal Operator Agreement is negotiable, save for those Clauses referred to in Clause 20.7. Bidders are required to supply a mark-up of commercial Clauses in the Draft Terminal Operator Agreement and once a Preferred Bidder has been appointed, the mark-ups made by the Preferred Bidder, as at Bid Submission Date, will be negotiated between TNPA and the Preferred Bidder. Notwithstanding the restrictions imposed by the non-negotiable provisions as set out above, TNPA reserves the right to amend the final terminal operator agreement such that it is consistent with or aligned to the final accepted bid response.
- 20.6. Bidders are required to supply a mark-up of the Draft Terminal Operator Agreement to indicate any amendments which the Bidder and its Lenders wish TNPA to consider if appointed as Preferred Bidder. TNPA will not evaluate the extent of the mark-up of the

Draft Terminal Operator Agreement at the time of the submission of the Bid Response, but submission of a marked-up Draft Terminal Operator Agreement is a Mandatory Returnable Document and the failure to submit a comprehensive and fully considered Draft Terminal Operator Agreement could result in disqualification. TNPA will not consider mark-up to the Clauses specified in the table in Clause 20.6. A mark-up of these Clauses of the Terminal Operator Agreement will not be acceptable to TNPA and could result in adverse evaluation in the evaluation process of this RFP.

- 20.7. TNPA regards the Clauses listed in the Draft Terminal Operator Agreement as being non-negotiable and these are:

No.	Description
1	Definitions and Interpretation
2	Introduction
3	Appointment of Terminal Operator and grant of rights
4	Ownership and return of the Project Site and the Terminal
5	Indemnity
6	Terminal Operator's warranties and undertakings
7	Compliance with D&C Specifications and Operating Specifications
8	Environmental
9	Port Users and Port Rules
10	Shareholding in the Terminal Operator
11	TNPA's Assistance and Rights and Limitations on Liability
12	Provision of the Port
13	Project Site
14	Key Personnel and Removal of Personnel

No.	Description
15	Health and Safety
16	Security
17	Rights of Access
18	Foreign exchange risk
19	Default Interest
20	Consequences of a Relief Event
21	Consequences of a Compensation Event
22	Force Majeure
23	Invalidation in terms of section 67 of the National Ports Act, No. 12 of 2005, as amended;
24	No Termination Amount for termination for Force Majeure
25	Corrupt gifts and fraud
26	Dispute Resolution
27	Information and audit access
28	Miscellaneous matters

## 20.8. The Preferred Bidder:

- 20.8.1. will be required to enter into the Terminal Operator Agreement with TNPA, pursuant to which TNPA will grant the Preferred Bidder the right to undertake the Project on the terms and conditions of the Terminal Operator Agreement;
- and

- 20.8.2. in addition to the Terminal Operator Agreement, may be required to enter into a Finance Direct Agreement with its Lenders and TNPA in respect of the Terminal Operator Agreement.

## 21. TNPA'S RIGHTS

### 21.1. TNPA reserves the right to:

- 21.1.1. reject any Bid Response which does not conform to instructions and specifications which are detailed herein;
- 21.1.2. reject Bid documents that are submitted after the closing date, unless in case where it can be proven that the e-tenders system was not functional at the closing time. Bidders are encouraged to submit their bid documents on time to avoid any system issues that may impact their submission;
- 21.1.3. select one or more than one Bidder as the Reserved Bidder in terms of this RFP to undertake the Project;
- 21.1.4. not necessarily award the Project to the highest-scoring Bid Response or an Alternative Bid Response.
- 21.1.5. cancel or suspend the process for the appointment of the Terminal Operator in respect of the RFP;
- 21.1.6. cancel, suspend, or change the terms and conditions contained in this RFP at any stage;
- 21.1.7. request a BAFO or not;
- 21.1.8. amend the RFP, Terminal Operator Agreement, and the Finance Direct Agreement at any time prior to the signature of these agreements;
- 21.1.9. supplement the information provided as part of the RFP, as and when additional information becomes available;
- 21.1.10. reject all Bid Responses if it so decides;
- 21.1.11. award the Project and/or conclude the Terminal Operator Agreement for only a portion of the proposed services as reflected in the scope of this RFP;

- 21.1.12. split the award of the Project and undertake such Parts of the Project, should it at TNPA's discretion be more advantageous to do so in terms of, amongst others, costs, or developmental considerations.;
  - 21.1.13. make no award of the Terminal Operator Agreement;
  - 21.1.14. cancel the Terminal Operator Agreement should a contract be awarded on the strength of the information furnished by the Bidder, which after the conclusion of the Terminal Operator Agreement, is proved to have been incorrect, and TNPA shall not be liable to the Bidders or the Preferred Bidder or any other person for any consequences, claims or costs arising from any of these actions; and
- 21.2. TNPA reserves the right to award the Project to the highest-scoring Bidder unless the Objective Criteria justifies the award to another Bidder.

## 22. TIMETABLE FOR THE RFP

Activity	Deadlines
Issue of the RFP	20 June 2025
Non-Compulsory Briefing Session in Ngqura	09 July 2025
Final Date for Questions and Clarifications from Bidders	06 October 2025
Bid Submission Closing Date	20 October 2025

## 23. EXTENSION OF RFP BID SUBMISSION DATE

TNPA may, in its discretion, extend the Bid Submission Date by issuing a Briefing Note in accordance with Clause 50 (*Briefing Notes and Changes to Bid Process*), in which case, all rights and obligations of TNPA and the Bidder that were previously subject to the original Bid Submission Date shall be subject to the extended Bid Submission Date.

Bidders are to note that as per Clause 50 (*Briefing Notes and Changes to the Bid Process*), TNPA may not modify any part of this RFP within fourteen (14) days of bid closure. Therefore, no requests for bid extension will be considered during this period.

## **24. GOVERNING LAW, COMPETITION AND OTHER STATUTORY REQUIREMENTS**

### **24.1. GOVERNING LAW**

- 24.1.1. The primary enabling legislation for the Project is the National Ports Act, No. 12 of 2005. This enabling legislation regulates and creates the competency of TNPA to procure and implement the Project and the way it may conduct the Project.
- 24.1.2. The procurement of the Project, Bid Responses, subsequent documents, the Terminal Operator Agreement, and the Finance Direct Agreement are and will be governed by and construed according to the laws of the Republic of South Africa.
- 24.1.3. Procurement of the Project will be carried out in accordance with the relevant legislation, which includes (but is not limited to), the Constitution; the National Ports Act 12 of 2005; the Preferential Procurement Policy Framework Act, 5 of 2000; the Public Finance Management Act; the B-BBEE Act; and the NEMA as amended, each to the extent applicable and subject to any lawful exemptions from any provision thereof.

### **24.2. COMPETITION ACT**

Each Bidder must satisfy itself that any aspect of its Bid Response in respect of the Project is not a notifiable transaction as contemplated under the Competition Act and to the extent that it is a notifiable transaction that all necessary requirements to comply with the provisions of the Competition Act have been complied with or will be complied with by it prior to the signature of the Terminal Operator Agreement and the Finance Direct Agreement.

Bidders will be required to submit Annex F (Breach of Law Form) in terms of which they certify whether they have been 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 by a court of law, tribunal, or other administrative body.

### **24.3. OTHER STATUTORY REQUIREMENTS**

The Bidder (including its Contractors (if any) and its Members), its Lenders (if any), its Legal Advisors, and its Financial Advisors are required to satisfy themselves as

to the compliance with all other statutory and legal requirements in relation to the Project or any aspect thereof.

## 25. THE RFP SOCIO-ECONOMIC OBJECTIVES AND REQUIREMENTS

### 25.1. B-BBEE

- 25.1.1. TNPA fully endorses and supports the Government's B-BBEE requirements, and it is strongly of the opinion that all South African business enterprises have an equal obligation to redress the imbalances of the past.
- 25.1.2. Since there has also been a lack of investment in infrastructure, skills development and inequality in income distribution, there have been several Government initiatives developed to address these challenges.
- 25.1.3. In terms of the proposed B-BBEE evaluation framework for the Project, prospective Bidders, will be expected to have a minimum BEE certificate B-BBEE in accordance with the Amended B-BBEE codes as per October 2013 rating. This Clause 25 (B-BBEE) provides an overview to Bidders of what will be required of them in terms of the B-BBEE Criteria and what steps can be taken to meet those requirements.
- 25.1.4. Black Economic Empowerment ("BEE") is a process driven by the Government through legislation and policy which aims at remedying the historical imbalances and achieving economic transformation by increasing the number of Black People who participate in the mainstream South African economy.
- 25.1.5. BEE is fundamental to economic activities in South Africa and aims, through a mix of economic persuasion and incentive, to encourage the opening of the economy to those disadvantaged by the past system.
- 25.1.6. The B-BBEE Act is intended as an enabling legislative framework which allows the Government to develop and issue the B-BBEE Codes. The B-BBEE Codes are intended to provide a standard framework for the measurement of B-BBEE across all sectors of the economy. The intention of the B-BBEE Codes is therefore to level the playing field for all entities operating within the South African economy by providing clear and comprehensive criteria for the measurement of B-BBEE.



- 25.1.7. Companies which are governed by Sector-specific Codes will be measured in terms of those Sector Codes.
- 25.1.8. TNPA would, therefore, prefer to do business with local and /or international business enterprises which share the same values, and which are prepared to contribute to meaningful B-BBEE initiatives (this includes, but is not limited to, operations subcontracting and joint ventures) as part of their Bid Responses.
- 25.1.9. Entities wishing to obtain B-BBEE recognition must be accredited by a recognised verification agency and or/ submit sworn affidavit. The role of the B-BBEE verification agencies is to assess, verify and validate disclosed and undisclosed related-BBEE-related information on measured entities.
- 25.1.10. The DTIC appointed the South African National Accreditation System ("SANAS") to conduct the accreditation of verification agencies. Accreditation as a verification agency enables an enterprise to issue a B-BBEE verification certificate. This method is aimed at instilling confidence in B-BBEE verification. A list of accredited B-BBEE verification agencies can be obtained on this website: [www.sanas.co.za](http://www.sanas.co.za)
- 25.1.11. Once a full verification of the documentation presented by an entity has been conducted, an entity will be awarded levels of B-BBEE recognition, which are dependent on the contributions an entity has made toward Black People in its business.
- 25.1.12. A typical B-BBEE verification certificate would contain the following information:
  - 25.1.12.1. company name and number;
  - 25.1.12.2. type of certificate (group, entity, or division);
  - 25.1.12.3. B-BBEE category (Qualifying Small Enterprises or generic);
  - 25.1.12.4. B-BBEE level (1 (one) to 8 (eight));
  - 25.1.12.5. procurement recognition percentage (%);
  - 25.1.12.6. black ownership percentage (%);

- 25.1.12.7. black women ownership percentage (%);
  - 25.1.12.8. value adding supplier (yes or no);
  - 25.1.12.9. certificate issue date; and
  - 25.1.12.10. certificate expiry date.
- 25.1.13. A consortium or joint venture will only qualify for points for its B-BBEE Contributor Status Level as a legal entity, provided that the entity submits its consolidated copy of B-BBEE verification certificate for the consortium/ special purpose vehicle or unincorporated joint venture.
- 25.1.14. A consortium or joint venture will qualify for points for their B-BBEE Contributor Status Level as an unincorporated entity, provided that the entity submits their consolidated/ joint copy of B-BBEE verification certificate as if they were a group structure and that such a consolidated B-BBEE verification certificate or copy thereof is prepared for every separate bid.
- 25.1.15. Bidders who would wish to respond to this RFP as a Joint Venture or Consortium with B-BBEE entities, must state their intention to do so in their Bid Response. Such Bidders must also submit a signed Joint Venture or Consortium agreement between the Members clearly stating the percentage split of the Joint Venture or Consortium and the associated responsibilities of each Member. If such a Joint Venture or Consortium agreement is unavailable, the Members must submit confirmation in writing of their intention to enter into a Joint Venture or Consortium agreement should they be appointed as Preferred Bidder by TNPA through this RFP Process. This written confirmation must clearly indicate the percentage split of the business and the responsibilities of each Member. In such instances, Preferred Bidder status will only be awarded once a signed copy of a Joint Venture or Consortium agreement is submitted to TNPA.
- 25.1.16. Bidders are to note the requirements for B-BBEE compliance as required by Clause 25 of Part I (General Requirements, Rules, and Provisions) of this RFP and submit proof of their B-BBEE Contributor Status Level in the form of a B-BBEE verification certificate to obtain preference points for their B-BBEE status.

## 25.2. SUPPLIER DEVELOPMENT THROUGH SUBCONTRACTING

25.2.1. Transnet has identified specific goals as part of contribution to socio-economic objectives that are targeted advancement areas or categories of persons or groups either previously advantaged or falling within the scope of Reconstruction and Development Programme (RDP) identified by Transnet to be given preference in allocation of procurement contracts in line with Section 2(1) of the PPPFA.

25.2.2. Transnet shall utilise the specific goals adopted in its Preferential Procurement Policy in addition to the B-BBEE contributor levels, where it is appropriate and practical to do so considering the provisions of Section 2(2) of the PPPFA which provides that “any goals contemplated in section 1(e) must be measurable, quantifiable and monitored for compliance”

25.2.3. Transnet has taken a strategic position to adopt various specific goals for which preference points may be awarded. Transnet has determined and will further apply subcontracting as part of RDP specific goals to award preferential points in the preference point system of its procurement transactions: the promotion of supplier development through subcontracting of a minimum of 30% of the value of a contract to/with EMEs and/or QSEs 51% owned by black people, youth, women (30% owned) or disabled people owned entities.

25.2.4. The RDP specific goal of subcontracting will be enforced on this transaction in addition to B-BBEE contributor level and be monitored post award of the transaction.

## 26. ENVIRONMENTAL, SAFETY, HEALTH, AND SECURITY COMPLIANCE

26.1. The Project must be undertaken in accordance with the safety, health, environmental, quality and security policies of TNPA, included in this RFP as Annexure R (TNPA Security Policy) and Annexure P (Safety, Health, Environment and Quality Policy), and in accordance with the Terminal Operator Agreement.

## 27. BIDDERS' EXPERIENCE AND CAPACITY

27.1. The prospective Bidders should have a proven track record of successfully executing projects of similar complexity and magnitude as the Project.

27.2. The prospective Bidders would therefore be required to demonstrate:

- 27.2.1. Industry-specific experience, particularly, their professional and technical qualifications and experience in the operation and/or maintenance of the Terminal Operations; as envisaged in Clause 63.1
- 27.2.2. financial strength, as envisaged in Clause 63.3 of Part III Stage 1 (Evaluation Criteria) of the RFP;
- 27.2.3. access to or use of the equipment and infrastructure necessary for the operation and/or maintenance of the Terminal Operations;
- 27.2.4. adequate personnel to perform their obligations under the Terminal Operator Agreement and related contracts, as envisaged in Part II (Qualification Criteria) of the RFP;
- 27.2.5. Contractors need to be accredited in terms of CIDB rating and the bidders need to indicate the CIDB level of all contractors.

## 28. GENERAL BID RULES

- 28.1. The RFP is open to the worldwide public and is not restricted to Bidders who are South African nationals and South African entities. All Bidders are subject to the Specific Goals requirements set out in Clause 25. International business enterprises will need to partner with local entities to achieve a minimum B-BBEE certificate Contributor Status Level to have their Bid Responses considered in terms of this RFP. The Bidders are invited to submit Bid Responses to be appointed as the Preferred Bidder for consideration by TNPA.
- 28.2. Bidders are required to submit one Standard Bid Response. An additional Alternative Bid Response will only be considered if a Standard Bid has been submitted.
- 28.3. Only Bid Responses that comply with the minimum requirements and criteria specified in the Qualification Criteria of this RFP to TNPA's satisfaction, in its discretion, may be considered by TNPA for participation in the other stages of the RFP. Each Bidder, in submitting its Bid Response, is deemed to do so, on the basis that it accepts and acknowledges the terms of this RFP.
- 28.4. The Bidder appointed as the Preferred Bidder shall be afforded a period of time, specified under Clause 22 (Timetable for the RFP) of this General Requirements, Rules and Provisions section of the RFP, to negotiate and finalise their contractual arrangements and Project Documents with, inter alia, their Members, Contractors, equipment suppliers and Lenders, and apply for the Consents required to be held by them, by the date specified

in the table under Clause 22 (Timetable for the RFP) of this General Requirements, Rules and Provisions section of the RFP.

- 28.5. TNPA reserves the right to appoint a Reserve Bidder simultaneously with, or at any time after, the announcement of the Preferred Bidder in accordance with Clause 57 (Selection of Preferred and Reserve Bidder) of Part I (General Requirements, Rules, and Provisions) of this RFP.
- 28.6. A Reserve Bidder, who has been selected to continue to participate in the Bid Submission Phase, may only be invited to become a Preferred Bidder by TNPA if:
  - 28.6.1. the Terminal Operator Agreement is not and is unlikely to, for whatsoever reason, be concluded with the Preferred Bidder in respect of the Terminal;
  - 28.6.2. the Preferred Bidder is disqualified for any reason; and/or
  - 28.6.3. the status of the Preferred Bidder is revoked for any reason whatsoever; and
  - 28.6.4. accordingly, the relevant Reserve Bidder will, if requested by the TNPA, be afforded a reasonable period to negotiate and finalise its contractual arrangements and the Project Documents with, inter alia, its Members, Contractors, equipment suppliers and Lenders to conclude the Terminal Operator Agreement and the Finance Direct Agreement with the relevant counterparties.

## **29. ELIGIBILITY CONSIDERATIONS**

- 29.1. Bid Responses will only be considered by TNPA, in accordance with the Qualification Criteria, Evaluation Criteria and Objective Criteria set out in this RFP which generally set out the TNPA's requirements in respect of experience, track record, financial strength, and strategy to undertake the Project, noting the provision of Clause 59 (Information Verification).
- 29.2. Any firm, group, organisation, or any Member of a Bidder which is not domiciled within the Republic of South Africa, or does not have an existing, formal association with a South African firm or organisation, shall indicate this fact clearly in its Bid Response.
- 29.3. Bidders are required to declare if any of their Members or any individual who is a director, officer, employee or Shareholder of any Member is related to any employee of TNPA or Transnet by completing and submitting Annexure U (Declaration of Interest) of this RFP.

- 29.4. TNPA may, at its discretion, reject a Bid Response if it includes the involvement of any person that is:
- 29.4.1. blacklisted by the office of the National Treasury; or
  - 29.4.2. blacklisted by such person's professional body (if applicable); or
  - 29.4.3. related to any other Government official or person directly involved in the Project, who may be involved with the evaluation of the Bid Responses and any person with the ability to influence the decision of TNPA with respect to the appointment of the Preferred Bidder, which Relation was not disclosed; or
  - 29.4.4. who has been found guilty in any court of law of fraud or corruption related crimes; or
  - 29.4.5. upon whom an administrative penalty or fine has been imposed for a serious breach of law, including but not limited to breaches of the Competition Act.
- 29.5. The participation of Not-for-Profit entities in a Bid Response is at the discretion of a Bidder and shall be at its sole risk.
- 29.6. A person, Member, other participants in a Bid Response, or advisor may not participate in, advise, or be involved (either directly or indirectly) with more than one Bidder at any stage during the Project. The Bidders shall ensure that no anti-competitive or collusive behaviour is displayed or engaged in by any person, Member, or advisor participating or involved with more than one Bidder. TNPA shall, at its discretion, be entitled to disqualify any Bidders whose Bid Response displays any anti-competitive or collusive behaviour. In this regard Bidders will be required to complete and submit Annexure H (Supplier Integrity Pact) of this RFP.

### **30. ACKNOWLEDGEMENT OF THE LAW**

- 30.1. The Bidder and each of its Members registered in South Africa are required to submit with their Bid Response a declaration stating, inter alia, that TNPA has supplied, and Bidders have received appropriate responses to any or all questions, as applicable, which were submitted by any Bidders for the RFP clarification purposes. Furthermore, such declaration shall state that the processes and procedures adopted by TNPA in issuing this RFP and the requirements requested from Bidders in responding to this RFP have been conducted in a fair and transparent manner. The declaration required in respect of the Bidder is included in Annexure J (TNPA Declaration of Bidder).

- 30.2. The Bidder is required to provide a declaration stating, inter alia, that it is aware that Bid Responses 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 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 12 of 2004 or any other applicable legislation. The declaration required in respect of the Bidder is included in Annexure DD (Certificate of Acquaintance with RFP Documents).
- 30.3. Each Project Company and each Bidder will be solely responsible for satisfying itself with respect to all the legal requirements for the Project and as to the legal requirements applicable to the Project and the Project Company as specified in this RFP and shall have no claim against TNPA or its Transaction Advisors for any loss or damage it may suffer or incur by reason of any flaw, or oversight or omission in relation thereto. This includes applying for, obtaining, maintaining, renewing, and adhering to all relevant Consents, permits, licenses, authorisations, and exemptions required to implement the Project. Failure to do so will be at the entire risk of the Project Company and each Bidder and no relief will be given for errors, oversights, or omissions of the Project Company, a Bidder, or its Members or of TNPA.
- 30.4. After being selected as Preferred Bidder, a Preferred Bidder will be required to obtain any relevant licenses and/or permits in the name of its Project Company under the relevant legislation. Each Bidder will be solely responsible for satisfying itself with respect to all the legal requirements for the issue of any relevant license and/or permits by the Responsible Authority in terms of the relevant legislation.

### **31. LEGAL PERSONALITY OF BIDDER AND CHANGES**

- 31.1. If a Preferred Bidder is a Joint Venture or Consortium, it will be required to establish a special purpose Company with the sole purpose of undertaking the Project and entering into the Terminal Operator Agreement. All Shareholders of that Project Company are required to be Members of the Bidder (as from the Bid Submission Date) that is appointed as Preferred Bidder.
- 31.2. No change is permitted to the membership or organisational structure of any Bidder (including its Members) after submission of its Bid Response and during the evaluation process without the prior written consent of TNPA.

- 31.3. Bidders are required to immediately notify TNPA in writing if a change in any Bidder's membership or structure will include a change to the percentage of membership in the Bidder by each Member or the intended percentage of shareholding in the Project Company by each Shareholder (including but not limited to a Change in Control) or a change in the identity of the Bidder's Members or Contractors.
- 31.4. Any Bidder and its Members wishing to change its membership and/or structure (including but not limited to a Change in Control), other than in respect of a listed public company, must immediately notify TNPA of this fact, in writing and request TNPA's written consent and provide:
  - 31.4.1. full details of the reason for the change;
  - 31.4.2. full details of the parties involved;
  - 31.4.3. full details of the overall impact on the Bidder, the Project Company, the Bid Response, and the Project;
  - 31.4.4. in respect of a change in Members, detailed information, and all returnable schedules and/or documents in respect of such new Member as was required to be submitted in respect of the Bidder and/or its Members at the time of submission of the Bid Response;
  - 31.4.5. in respect of any change related to a sale of Equity in the Project Company, full details in respect of the transaction, including full disclosure of any premium that will be paid in relation to the sale of Equity; and
  - 31.4.6. full details on how the Bidder proposes to share any improvement or benefit resulting from the change to a Bidder's Bid Response or Project with TNPA.
- 31.5. If a Bidder or any of its Members notifies TNPA that it intends to undergo a change in its membership and or structure (including but not limited to a Change in Control), TNPA reserves the right to require the Bidder to supply such further information as TNPA may, in its discretion, request with regard to such change so as to enable TNPA to consider fully the impact of such change.
- 31.6. If a Bidder or any of its Members notifies TNPA that it intends undergoing a change in its membership and/or structure (including but not limited to a Change in Control), the Bidder shall be reassessed for qualification in accordance with the terms of this RFP, which reassessment shall be in TNPA's discretion but in respect of which TNPA shall apply the



same Qualification and Evaluation Criteria. If satisfactory, TNPA will advise the Bidder in writing.

- 31.7. If an event contemplated in Clauses 31.5 or 31.6 of this Part I (General Requirements, Rules and Provisions), occurs and TNPA, in its discretion, has not approved the relevant change, TNPA shall be entitled to advise the Bidder or any of its Members, as the case may be, in writing that its request was not approved and may, in its discretion, provide a reasonable amount of time for the Bidder or any of its Members, as the case may be, to propose a restructuring of the Bidder or any of its Members, as the case may be, that is to TNPA's satisfaction, in its discretion. Failing this or if the proposed restructuring is not to TNPA's satisfaction, TNPA may, in its discretion, disqualify the Bidder from participating any further in the Bid Submission Phase, or to allow the Bidder to continue in the RFP, subject to such conditions as TNPA (in its discretion) determines appropriate.
- 31.8. TNPA shall not be obliged to consider any extension of time in relation to any stage of the RFP on account of any change to a Bid Response and or Project including a change in any Bidder or any of its Members as contemplated above.

## **32. AUTHORISATION OF TNPA AND THE TERMINAL OPERATOR**

- 32.1. The Bidder, its Members, and its advisors are required to satisfy themselves as to the legal authority of TNPA to issue this RFP, to undertake the procurement processes set out in this RFP and to undertake all other actions envisaged by this RFP including entering into the Terminal Operator Agreement and the Finance Direct Agreement.
- 32.2. TNPA shall not procure a legal opinion from any of its Transaction Advisors in favour of any Bidder, the Preferred Bidder, Members, Project Company, or Lenders in relation to such authority or any other aspect of this RFP or the Project envisaged by it. In this regard, copies of the relevant documents authorising TNPA to enter into the agreements to which it is a party, will be made available to the Preferred Bidder upon written request by the Preferred Bidder.

## **33. CONFIDENTIALITY**

### **33.1. Confidentiality by the Bidders**

- 33.1.1 This RFP contains confidential information regarding the Project and/or the TNPA. By collecting this RFP, the Bidders agree that:

- 33.1.1.1 they will ensure that their Members, directors, officers, employees, agents, advisors, and representatives use this RFP only to assess the attractiveness of the Project and prepare a Bid Response and for no other purpose; and
- 33.1.1.2 subject to the above Clause, they will not divulge or distribute any information in respect of this RFP or pass on any copies of this RFP without the prior written approval of TNPA and will return this RFP together with all copies thereof to TNPA promptly upon being requested to do so.
- 33.1.1.3 Each Bidder agrees to maintain the confidentiality of all information supplied to it in connection with the Project (whether in text, chart, picture, electronic or other form), and agrees to keep its own Bid Response confidential in accordance with this Clause and section 86 of the Act.
- 33.1.1.4 Bidders are required to provide TNPA, together with their Bid Response, a copy of the Non-Disclosure Agreement Annexure AA (Non-Disclosure Agreement) of this RFP, signed by a duly authorised representative on behalf of the Bidder.

## 33.2. Confidentiality by TNPA

- 33.2.1 TNPA shall use its reasonable endeavours to keep all data and details submitted by Bidders strictly confidential, save to the extent that TNPA is required to disclose such data and or details by applicable law (including section 86 of “the Act”), order of a court of competent jurisdiction, a recognised stock exchange or a Government department or agency. Should it be deemed necessary to discuss any matter relating to any submission of any Bidder with third parties (other than TNPA's Transaction Advisors), the necessary permission will be obtained from the Bidder concerned.
- 33.2.2 TNPA shall be entitled to disclose all data and details submitted by Bidders to the Transaction Advisors and the National Treasury and their officers, employees, agents, advisors, and representatives who are involved in the Project and/or the evaluation of the Bid Response.
- 33.2.3 TNPA shall be entitled to disclose all data and details submitted by Bidders to the National Treasury, the DTIC, the DOT, Transnet, and Parliament to the extent necessary.

- 33.2.4 TNPA shall not be liable for any loss incurred or damage suffered because of any disclosure of any information (confidential or otherwise) of the Bidder. Accordingly, the Bidder, its Members and or its advisors and/or its Lenders (if any) shall not have, and hereby waive, any claim against TNPA, its officers, employees, servants, agents, or Transaction Advisors arising out of the disclosure of any information, confidential or otherwise.

## 34. BID DOCUMENTATION FEE AND PREFERRED BIDDER GUARANTEE

### 34.1 Preferred Bidder Guarantee

- 34.1.1 Subsequent to the receipt of Bid Responses to the RFP and evaluation thereof, the Preferred Bidder will be required to lodge a guarantee (the "**Preferred Bidder Guarantee**") with TNPA in an amount equal to R5 000 000.00 (Five million Rands). A Bidder which has been provisionally informed of its Preferred Bidder status will be considered to have been appointed by TNPA as the Preferred Bidder once the Preferred Bidder Guarantee has been submitted to TNPA in accordance with this Clause.
- 34.1.2 The Preferred Bidder Guarantee must be:
- 34.1.2.1 an unconditional and irrevocable bank guarantee in the form set out in Annexure W (*Form of Preferred Bidder Guarantee*);
  - 34.1.2.2 lodged with TNPA within 15 (fifteen) Business Days of a Bidder being notified of its provisional Preferred Bidder status;
  - 34.1.2.3 issued by a bank which is licensed to conduct banking business in South Africa under the Banks Act, 94 of 1990, as amended from time to time and which has a South African rating of BBB or better by Standard & Poor's or equivalent; and
  - 34.1.2.4 be valid and effective for the period from the date of issue of the Preferred Bidder Guarantee until the earlier of the expiry of the Bid Submission Validity Period, as defined in Clause 47 of Part I (General Requirements, Rules, and Provisions) of this RFP, (as extended from time to time) and the Effective Date as defined in Annexure M of the Draft Terminal Operator Agreement.

34.1.3 If a provisionally appointed Preferred Bidder fails to deliver the Preferred Bidder Guarantee within the time allowed, TNPA shall be entitled to revoke the status of that Bidder as Preferred Bidder. TNPA may substitute the Preferred Bidder with a Reserve Bidder nominated by it and to lodge a Preferred Bidder Guarantee with TNPA within 15 (fifteen) Business Days of being notified of its Preferred Bidder status. The provisions of this Clause 34.1 (Preferred Bidder Guarantee) shall apply mutatis mutandis to such new Preferred Bidder Guarantee in each such case.

## 34.2 RELEASE OF GUARANTEE

The Preferred Bidder Guarantee of the Preferred Bidder in respect of a Project will be returned within 15 (fifteen) Business Days of the Effective Date of the Terminal Operator Agreement or expiry of the Bid Submission Validity Period, as the case may be.

## 34.3 FORFEITURE OF GUARANTEE

34.3.1 TNPA may call on the Preferred Bidder Guarantee more than once (provided that the aggregate amount payable thereunder shall not exceed the maximum amount of the Preferred Bidder Guarantee) without notice or legal process, if the Preferred Bidder:

34.3.1.1 is in breach of any law relating to the RFP or is disqualified from the RFP as a result of its actions or omissions;

34.3.1.2 fails to extend the term of guarantee after agreeing to TNPA's request to extend the expiry date of the Preferred Bidder Guarantee (in which case TNPA will hold it as security in lieu of such extended or renewed Preferred Bidder Guarantee): and/or

34.3.1.3 fails to sign the Terminal Operator Agreement within the agreed period of this Part I (General Requirements, Rules, and Provisions) of this RFP;

34.3.1.4 revokes, repudiates, or withdraws its Bid Response.

## 35 CORRUPT GIFTS AND PAYMENTS

35.1 The attention of Bidders is drawn to the Prevention and Combating of Corrupt Activities Act, 12 of 2004.

- 35.2 None of the Bidders, its Members, the Lenders, any other participants in a Bid Response or any of their agents or advisors shall commit an offence in terms of the Prevention and Combating of Corrupt Activities Act, including directly or indirectly offering or giving any person in the employment of TNPA or any other Government official, who is directly involved in the Project, or any of the Transaction Advisors, any gratuity or consideration of any kind as an inducement or reward for appointing any Bidder as the Preferred Bidder, or for showing or omitting to show favour or disfavour to any Bidder, its Members, the Contractors, or their Lenders in relation to the Project.
- 35.3 If any offence in terms of the Prevention and Combating of Corrupt Activities Act is committed, TNPA shall be entitled to terminate the relevant Bidder's status and/or to prohibit such Bidder, its Members, its Contractors, Lenders or any other participant in the relevant Bid Response and their agents and advisors from participating in any further stage or part of the Project.

## 36 NO CONTRACT

This RFP does not constitute an offer to enter into a contractual relationship with any Bidder but is merely a solicitation of Bid Responses to enable TNPA to select the Preferred Bidder, to conclude the Terminal Operator Agreement and the Finance Direct Agreement with the Terminal Operator and other relevant counterparties.

## 37 NO COLLUSION

- 37.1 The attention of each of the Bidders, its Members, the Contractors as well as their advisors and agents are drawn to section 4(1) (b) (iii) of the Competition Act, which prohibits collusive bidding.
- 37.2 In submitting a Bid Response, each of the Bidders, its Members, the Contractors, Lenders, and all other participants in any Bid Response certifies that:
- 37.2.1 its Bid Response has been prepared without consultation, communication, or agreement for restricting competition with any other Bidder, Member of another Bidder or participant in another Bid Response, or any other competitor or potential competitor;
- 37.2.2 its Bid Response has not been disclosed, nor will it be disclosed to any other Bidder, Member of another Bidder or participant in another Bid Response, or any competitor or potential competitor;

37.2.3 no attempt has been made or will be made by it to induce any other person not to submit or participate in a Bid Response for the purpose of restricting competition; and

37.2.4 no attempt has been made or will be made by it to induce any other person to alter the form or contents of its participation in any Bid Response for the purpose of restricting competition.

37.3 If TNPA becomes aware of or is of the opinion that any of the activities detailed in Clause 37.1 have been undertaken by any Bidder or any of its Members, Contractors or participant in another Bid Response or any of their advisors, TNPA shall be entitled to disqualify such Bidder, its Members, Contractors or participant in such Bid Response and their advisors and to bar any or all of them from participating further in the RFP in respect of the Project.

### **38 NON-COMPLIANCE OF BID RESPONSE RESULTING IN DISQUALIFICATION**

38.1 Any material failure on the part of a Bidder to comply with any of the terms of this RFP, read together with all Briefing Notes, may result in its Bid Response being treated as a non-compliant Bid Response.

38.2 TNPA reserves the right to reject any non-compliant Bid Response without further evaluation.

38.3 Non-submission of the Mandatory Returnable Documents required for the achievement of Administrative Responsiveness will result in the Bidder not being a compliant Bidder and the Bidder's Bid Response will not be evaluated further against the remaining Qualification Criteria. Bidders will also have to ensure that the Bid Response has been lodged on time and at the correct drop point and that all the RFP documents in the Bid Response have been duly signed by the Bidder. Any Bid Response received without all Essential Returnable Documents requested in terms of this RFP or with insufficient information to enable a substantive evaluation thereof, as contemplated in (Qualification Criteria 2: Substantive Responsiveness) of Part II of this RFP, will be marked as incomplete and may, in TNPA's discretion, be rejected from the RFP.

### **39 CONTACT POLICY**

39.1 All correspondence from a Bidder to TNPA shall be, addressed to the Project Officer, be signed by the authorised representative of a Bidder, and be legally

binding on the relevant Bidder. All such correspondence must clearly indicate the name of the signatory, his or her position and the name of the Bidder. The Bidders may not contact or correspond with any person at TNPA, Transnet or a Transaction Advisor, other than the Project Officer, in relation to the Project and or the RFP. The Bidder shall not be entitled to rely on any statements, information, or correspondence in respect of this RFP or the Project that is not made, given, or issued by the Project Officer and that is not contained in a Briefing Note.

- 39.2 Each Bidder shall give the Project Officer the name and contact details, in writing, of the person whom it appoints to undertake all contact with the Project Officer. It is each Bidder's sole responsibility to ensure that all contact details provided to the Project Officer are correct in every respect, including details of email addresses and telephone numbers etc. TNPA will not be held liable for the incorrectness of any contact details provided by Bidders. Any change to any details of that contact person shall be notified to the Project Officer as soon as the change is made in writing. The Bidder may only communicate with TNPA through such person and TNPA shall be entitled, at its discretion, to disregard any communication from the Bidder that does not come from such contact person.
- 39.3 All queries and requests for clarification in respect of this RFP shall be requested by way of Annexure I (Request for Clarification) of this RFP, addressed, in writing, to the Project Office. The contact details of the Project Officer are the following:

Area of responsibility	Contact
TNPA Project Office: Port of Ngqura	Email: <a href="mailto:NgguraLiquidBulkRFP@transnet.net">NgguraLiquidBulkRFP@transnet.net</a>

- 39.4 No information or clarification in relation to the Project and/or the RFP may be requested by the Bidder, its Members, the Contractors nor any of its agents or advisors or any person participating in the relevant Bid Response from any member of the Transaction Advisors (save for requests to the Project Office), Transnet, the employees of TNPA or any other Government official who may be associated with the Project (other than the Project Office or National Treasury), without the prior written consent of the Project Office.

39.5 If a Bidder, its Members, the Contractors or any of its agents, Lenders, other person participating in the relevant Bid Response or advisors make any such prohibited contact, TNPA reserves the right, in its discretion, to disqualify the Bidder, its Members, Contractors, other person or advisors from participating in that Bid Response on the grounds of being in breach of this Clause 39, from any further participation in the Project.

39.6 The Bidders, their members, contractors, advisors, Lenders, or agents may not rely on any information provided to any of them outside of the scope of Clause 39.

#### **40 TIME FOR REQUESTS AND CLARIFICATIONS**

The Bidder may request clarification on any item contained within this RFP by no later than **16:00 CAT, 06 October 2025**, after which date TNPA will not be obliged to enter further correspondence with the Bidder on questions related to that Bid Submission Phase of the Project.

#### **41 REQUESTS AND RESPONSES TO REQUESTS**

41.1 After the briefing session, oral requests and queries will not be entertained. Requests from Bidders must be in writing and sent to the Project Officer by way of email to the following email address: [NgguraLiquidBulkRFP@transnet.net](mailto:NgguraLiquidBulkRFP@transnet.net).

41.2 TNPA will respond to written requests and queries by way of written Briefing Notes published on e-tender portal.

41.3 Bidders must take note that all requests, queries, and answers during the clarification process will be dealt with in an open and transparent manner so as not to give any Bidder an unfair advantage over others. Bidders must take care not to include confidential information in their queries or requests for clarification. The queries or requests for clarification should be limited to any item contained in this RFP.

#### **42 NON-COMPULSORY RFP BRIEFING SESSION AND SITE VISIT**

42.1 A briefing session will be held physically and on teams in respect of the Project, during which time the approach to the Project will be outlined and where key issues of concern or matters requiring clarification are to be raised. Details of this briefing session are as indicated below:



- 42.1.1** Port of Ngqura – Date: **[09 July 2025]**, at eMendi Building (eLwandle Boardroom), Gqeberha. Time: **10h00**, alternatively you can [click here to join the session](#).
- 42.1.2** This RFP may be downloaded directly from National Treasury’s e-Tender Publication Portal at [www.etenders.gov.za](http://www.etenders.gov.za) free of charge. The RFP may also be downloaded from the Transnet Portal at <https://transnetetenders.azurewebsites.net> (please use Google Chrome to access Transnet link/site) free of charge.
- 42.1.3** Respondents are encouraged to bring a copy of the RFP to the site meeting and/or RFP briefing.
- 42.1.4** Potential bidders attending the briefing session are required to RSVP to the following email address [NgguraLiquidBulkRFP@transnet.net](mailto:NgguraLiquidBulkRFP@transnet.net) by **04 July 2025**.
- 42.1.5** TNPA will produce a written register of the Bidders who attended the RFP Briefing Session and a written record of the proceedings at the RFP Briefing Session and will circulate this to all Bidders who attended the RFP Briefing Session, following the RFP Briefing Session. This written record shall be the definitive record of the proceedings and discussions at the RFP Briefing Session. There will be a question, and answer session and all bidders will be required to submit all the questions in writing and TNPA will set a date to respond in writing.
- 42.1.6** Due to the access and operational safety conditions at the Terminal, Bidders will be required to bring their identity documents, appropriate safety shoes for walking in the Terminal and other personal protective equipment such as safety jackets, hard hats, and reflective vests.
- 42.2** TNPA will restrict the number of attendees for each Bidder to a maximum number of 3 (three) representatives.

## **43 STATUS OF RESPONSE**

TNPA and its Transaction Advisors (if applicable) will endeavour in good faith to respond to all reasonable written queries and requests for clarification raised by the Bidders. No response given to a question or request for clarification will have any status or impact on

the RFP, save to the extent that such response is subsequently reflected in Briefing Notes to the RFP.

## 44 SUBMISSION OF BID RESPONSE

Bid Responses in relation to the Bid Submission Date are to be submitted by no later than **16h00** Central African Time on **20 OCTOBER 2025**.

44.1 All Bid Responses and documents contained therein must be:

44.1.1 in a PDF format.

44.1.2 Properly indexed, readable, and capable of being electronically accessed.

44.2 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.

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

- Log on to the Transnet e-Tenders management platform website/ Portal ([transnetetenders.azurewebsites.net](https://transnetetenders.azurewebsites.net));
- Please use Google Chrome to access Transnet link/site);
- 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; and
- No late submissions will be accepted. The bidder guide can be found on the Transnet Portal [transnetetenders.azurewebsites.net](https://transnetetenders.azurewebsites.net).

## 45 FORMAT OF THE BID RESPONSE

TNPA prefers that any Bidder that submits a Bid Response must do so in any way to fulfil the requirements of this Clause 45 (*Format of the Bid Response*).

### 45.1 Contents of the Bid Response

45.1.1 The Bid Response must be complete, contain all the information required by this RFP and deal with each issue raised in this RFP in consequential order numbered in accordance with the numbering set out in this RFP. The Bid Response must contain each document, fully completed with the specific details of the Bidder and/or its members, as provided for in all the Annexures to this RFP.

45.1.2 All pages of each part of the Bid Response must be numbered consecutively from beginning to end and a detailed index to the entire Bid Response, including all pages of each section or part, must be included in the Bid Response.

45.1.3 The Bid Response must adhere to the order set out below, to aid the evaluation process:

45.1.3.1 the Mandatory Returnable Documents;

45.1.3.2 the Essential Returnable Documents;

45.1.3.3 the response to the Qualification Criteria; and

45.1.3.4 the response to the Evaluation Criteria.

45.1.4 The sections of the Bid Response that correspond to each of the Qualification Criteria and the Evaluation Criteria must be separate documents and separately bound. For example, all documents that comprise the response to the Technical Qualification Criteria must be bound together or compiled in a separate file and the cover of the file or bound document must clearly set out the heading of the Part and Clause of the RFP to which the document relates.

#### **45.2 Language of the Bid**

The Bid Response and all documents forming part of the Bid Response shall be in English. Any document submitted by a foreign Bidder or Member which may be in another language provided it is accompanied by an English translation of the entire document. For interpretation of the Bid Response, the English translation provided shall govern. All correspondence and any other documentation and oral communication exchanged between the parties shall be in English.

#### **45.3 Currency of the Bid**

All monetary amounts referred to in a Bid Response shall be in Rand (ZAR), save to the extent specifically permitted for in this RFP.

#### **45.4 Identification and sealing of the RFP Bid Response**

45.4.1 The Bidder shall write on the top right-hand corner of each document forming part of the Bid Response submitted by the Bidder, the following information:

- 45.4.1.1 Tender Reference Number;
- 45.4.1.2 Name and Address of Bidder;
- 45.4.1.3 Master or Copy Number;
- 45.4.1.4 whether it is a Standard Bid Response or Alternate Bid Response; and
- 45.4.1.5 Category of Document (namely, the heading of the Part and Clause of the RFP to which the document relates).

45.4.2 The Bidder shall mark the cover of the Bid Response with the following details:

- 45.4.2.1 the title of the RFP as detailed on the cover page of the RFP;
- 45.4.2.2 Tender reference Number;
- 45.4.2.3 Name and Address of Bidder.

#### 45.5 **Correction of errors**

The complete Bid Response shall be without alterations, deletions, or omissions, except those to accord with instructions issued by TNPA, or as necessary to correct errors made by the Bidder. If corrections are made to the Bid Response such corrections shall be made in clearly legible handwriting and initialled in black ink by the person or persons signing the Bid Response. No corrections to the Bid Response shall be made with any kind of correction fluid.

#### 45.6 **Signing of Bid**

45.6.1 The Bid Response is to be signed by the duly authorised representative of a Bidder authorised in terms of the resolutions of the Bidder and the Members attached to this RFP as Annexure K (Resolution of Board of Directors) and Annexure L (Resolution of each Member) issued for the purpose of responding to this RFP.

45.6.2 The duly authorised representative of a Bidder shall be the only person authorised to make statements on behalf of and receive instructions for and on behalf of the Bidder.

45.6.3 Included in each Bid Response shall be a statement by the duly authorised representative of a Bidder set out in Annexure J (TNPA Declaration of Bidder) of this RFP.

#### 45.7 **Further information**

TNPA may seek clarification from any Bidder on any aspect of a Bidder's Bid Response. TNPA may require the Bidder to make oral and/or written presentations for clarification purposes, in respect of its Bid Response if so, required by TNPA. If such a request, for additional information, is made by TNPA to any Bidder, such a request should not be misconstrued by a Bidder as being an opportunity to supplement, amend, vary, or modify any part of its Bid Response. TNPA reserves the right to hold one or more briefing or information sessions in respect of any or all the Bid Response. The Bidder may be required to do a presentation of the salient features of its Bid Response to TNPA. If required by TNPA, the Project Officer will arrange a suitable date and venue with each Bidder.

## 46 LATE BID RESPONSES

Bid Responses reaching TNPA later than the original or extended Bid Submission Date (as the case may be) will be rejected without further consideration as contemplated in the Administrative Responsiveness Criteria. Late Bids will not be opened.

## 47 BID SUBMISSION VALIDITY

All Bid Responses constitute an irrevocable binding offer by the Bidder to TNPA. Bid Responses must remain valid and binding for 365 (three hundred and sixty-five) calendar days from the Bid Submission Date ("**Bid Submission Validity Period**").

## 48 EXTENSION OF BID SUBMISSION VALIDITY PERIOD

If TNPA requests the Bidder to extend the Bid Submission Validity Period of its Bid Response for any reason, the Bidder must issue its response to TNPA in writing within 20 (twenty) Business Days of the date on which TNPA made the relevant request. Should the extension be agreed to by the Bidder, the Bid Response may not be varied but an extension of the Preferred Bidder Guarantee contemplated in Clause 34 (*Bid Documentation Fee and Preferred Bidder Guarantee*), to match any such extension, may be required.

## 49 DECLARATION OF BIDDER

The authorised representative of the Bidder is required to sign the declaration in the form provided in Annexure J (*TNPA Declaration of Bidder*).

## 50 BRIEFING NOTES AND CHANGES TO BID PROCESS

Up to 15 (fifteen) Business Days prior to the Bid Submission Date, the TNPA may, for any reason, whether at its own initiative, or in response to a clarification requested by a Bidder, modify any part or aspect of this RFP by the issuing of Briefing Notes.

### 50.1 Issue OF BRIEFING NOTES

50.1.1 TNPA may issue additional information regarding the RFP on an *ad hoc* basis, which information shall be provided in the form of Briefing Notes.

50.1.2 Briefing Notes will be sequentially numbered and will indicate whether they supplement, vary, or amend any portion of the RFP. All Briefing Notes shall be provided to the Bidders by way of e-mail to the address

provided by each Bidder and be published on the e-tender portal and Transnet website.

50.1.3 All Briefing Notes will be issued in writing and delivered electronically to the Bidders. The Bidders shall be obliged to accept any amendments specified in Briefing Notes and shall promptly acknowledge receipt thereof by email to the email address of the Project Officer stated in Clause 39 (Contact Policy). All Briefing Notes shall be deemed to be part of the RFP.

## **50.2 INFLUENCE OF BRIEFING NOTES**

50.2.1 To afford Bidders reasonable time in which to take a Briefing Note into account in preparing their Bid Responses, TNPA may, at its own discretion, extend the Bid Submission Date in accordance with Clause 23 (Extension of RFP Bid Submission Date).

50.2.2 The Bidder shall ensure that its Bid Response is prepared, considering all Briefing Notes issued by TNPA.

## **51 COST OF BIDDING**

51.1 The bidder shall bear all its costs (of whatsoever nature) associated with the preparation of its Bid Response.

51.2 No bidder (including the Preferred Bidder or any Reserve Bidder) shall have any claim against TNPA (including any claim for the costs of bidding) as a result of:

51.2.1 not being selected as the Preferred Bidder and/or a Reserve Bidder; and/or

51.2.2 TNPA altering or abandoning any part or the entire Project, including limiting the Project to the Bid Submission Date only.

## **52 INCONSISTENCIES**

52.1 If a Bidder identifies any errors or inconsistencies between the various portions of this RFP, the Bidder shall notify the Project Officer in writing prior to the date referred to in Clause 40 (Time for requests and clarifications) and TNPA will provide clarification as to the intended position to all Bidders by way of a Briefing Note.

- 52.2 To the extent that any inconsistency exists or shall exist between the terms of the Terminal Operator Agreement, the Finance Direct Agreement and the provisions of the RFP, the terms of the Terminal Operator Agreement and the Finance Direct Agreement shall prevail.

### **53 INCORRECT OR MISLEADING INFORMATION**

TNPA may disqualify any Bidder and or revoke any decision in respect of the selection of the Preferred Bidder or a Reserve Bidder if such decision was based on any incorrect information which the Bidder or its Members, Contractors or advisors or any other participant in the relevant Bid Response and/or agents provided in response to this RFP.

### **54 ELECTRONIC ACCESS TO BID RESPONSES**

TNPA will electronically access all Bid Responses after the Bid Submission Date following receipt of the Bid Responses after electronic Bid Submission. However, Bidders must note that TNPA will not disclose any information that the Bidders have in their Bid Responses to anyone without the Bidders consent. Bidders are strongly advised 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 30 MB per upload and multiple uploads are permitted.

### **55 RFP BID RESPONSE REJECTION**

TNPA shall be entitled to accept or reject any Bid Response or to annul the RFP at any time.

### **56 DISPUTES RELATING TO BID PROCESS**

Each Bidder and each Member and Contractors or other person participating in a Bid Response or otherwise in the RFP, waives the right to bring proceedings in any forum outside of the Republic of South Africa in relation to this Project. The Project and the RFP in respect of the Project shall be governed by the laws of South Africa and the Bidder and each of its Members, Lender and Contractors and such other participants' consents and submits to the High Court of Gqeberha, Eastern Cape having exclusive jurisdiction in relation to it.



## 57 SELECTION OF PREFERRED AND RESERVE BIDDER

- 57.1 TNPA will send letters to the Preferred Bidder and the Reserve Bidder on an ad hoc basis, notifying them provisionally of their status and requesting the Preferred Bidder to submit Preferred Bidder Guarantee pursuant to Clause 34.1 (Preferred Bidder Guarantee) and to enter into negotiations with, inter alia, its Members, Contractors, Lenders and equipment suppliers to finalise its contractual arrangements and Project Documents in order to conclude the Terminal Operator Agreement and the Finance Direct Agreement with the relevant counterparties.
- 57.2 If TNPA nominates the Preferred Bidder, the nominated Preferred Bidder will be invited to enter into negotiations with TNPA leading to the signature by the appropriate parties of the Terminal Operator Agreement. Once a Bidder is appointed Preferred Bidder, a period not exceeding 4 (four) months, or such extended period as may be objectively and reasonably necessary, as determined by TNPA in its sole discretion, will be allowed for the negotiation of the Terminal Operator Agreement. If the Preferred Bidder fails to facilitate the conclusion of the Terminal Operator Agreement within this 4 (four) month period, or such extended period as may be objectively and reasonably necessary, as determined by TNPA in its sole discretion, such Preferred Bidder may be disqualified from its status as Preferred Bidder.
- 57.3 If these negotiations are not successful or if the Preferred Bidder is disqualified in accordance with provisions of this RFP, the Bidder nominated as the Reserved Bidder may be invited to enter negotiations with TNPA in substitution of the Preferred Bidder who will be eliminated from the RFP.
- 57.4 A reserve bidder will still be vetted when the preferred bidder is not awarded, it does not mean an automatic award for the reserve bidder.
- 57.5 Following the signature of the Terminal Operator Agreement, the Terminal Operator will proceed to Financial Close and subsequently implement the Project.

## 58 PARTICIPATION IN A SINGLE BIDDER

No Contractor, Shareholder or Transaction Advisor, or Bidder's legal advisor may be a member of, or in any way participate or be involved, whether directly or indirectly, with more than one Bidder during any stage of the RFP process. Failure to comply with this requirement may result in the disqualification of all the entities of the Bidder, or any other organisation involved. After the selection of the Preferred Bidder and the release of the

Reserve Bidder, members of the unsuccessful Bidders (including their contractors and relevant organisations) may, with the prior approval of TNPA, participate in the Preferred Bidder.

## **59 INFORMATION VERIFICATION**

59.1 Each Bidder (including its Members, Contractors, advisors, and other participants), in submitting a Bid Response, is deemed to consent to and agree that TNPA is entitled to:

59.1.1 perform a credit check in respect of such a Bidder, its Members, Contractors, and participants by accessing any credit bureau's database and use any information and data obtained from a credit bureau in respect of the evaluation of the Bidder's Bid Response;

59.1.2 seek references from any relevant third parties; and

59.1.3 verify any information provided by a Bidder (including technical and financial information) with third parties (including banks).

## **PART II - QUALIFICATION CRITERIA**

### **60 THE STRUCTURE OF THIS QUALIFICATION CRITERIA**

60.1 The Qualification Criteria that a Bidder's Bid Response is required to satisfy is detailed below in this Part II (Qualification Criteria). The Qualification Criteria are divided into the following categories under the appropriate headings:

60.1.1 Qualification Criteria 1: Administrative Responsiveness Test; and

60.1.2 Qualification Criteria 2: Substantive Responsiveness Test.

60.2 The Qualification Criteria is indicated in the diagram below:

<b>PART II - QUALIFICATION CRITERIA</b>	
<b>Qualification Criteria 1: Administrative Responsiveness Test</b>	
✓	Timely Submission of Bid Response
✓	Bid Response Duly Signed on all relevant documents.
<b>Qualification Criteria 2: Substantive Responsiveness Test (Mandatory Returnable)</b>	
✓	Whether the bid contains a Concession Fee Offer
<b>Bidders who do not comply with all the requirements of Substantive Responsiveness will NOT be eligible for evaluation under Part III Evaluation Criteria.</b>	

- 60.3 The requirements and parameters in respect of each of these criteria are set out in this Part II. The Bidder must respond to each heading in this Part II (Qualification Criteria) and provide comprehensive responses and information in respect of each such criteria.
- 60.4 **Qualification Criteria 1: Administrative Responsiveness Test** in Clause 60 of this Part II (Qualification Criteria) will be evaluated by TNPA before Part III commences. Failure to submit and upload the Bid on the e- tender portal on time, failure to submit all required valid returnable and a failure to submit a fully completed, duly initialled and signed documents by the Bidder, which is required for the achievement of Administrative Responsiveness Test will result in the Bidder not being compliant and the Bidder's Bid Response will not be evaluated further against Qualification Criteria 2: Substantive Responsiveness Test.
- 60.5 Only Bidders who comply with the requirements of Qualification Criteria 1: Administrative Responsiveness Test will have their Bid Responses evaluated against Qualification Criteria 2: Substantive Responsiveness Test. To comply with the requirements of Qualification Criteria 1: Administrative Responsiveness Test the following must be met.

QUALIFICATION CRITERIA 1	RFP REFERENCE
Whether the Bid Response has been uploaded on time.	Clause 60.1.1 of Part II of this RFP
Whether all Returnable Documents and/or schedules [where applicable] were completed and returned by the closing date and time	Clause 60.1.1 of Part II of this RFP
Verify the validity of all returnable documents	Clause 60.1.1 of Part II of this RFP
Whether the Bidder has submitted a duly signed Bid.	Clause 60.1.2 of Part II of this RFP

- 60.6 **Qualification Criteria 2: Substantive Responsiveness Test** under the RFP Clause 60.2 of this Part II (Qualification Criteria) will be evaluated by TNPA before the evaluation of Part III commences. Failure to submit the valid Mandatory Returnable Documents required for the achievement of Substantive Responsiveness Test will result in the Bidder not being compliant and the Bidder's Bid Response will not be evaluated further against Evaluation Criteria III.

QUALIFICATION CRITERIA 2	RFP REFERENCE
Concession Fee Offer	Clause 60.2 of Part II of this RFP



- 60.7 Upon qualification on the Substantive responsiveness Test, the bidder will be evaluated on the Evaluation Criteria, which form Part of the Evaluation and Objective Criteria Assessment in Part III of this RFP as outlined in clause 61 below.

## PART III –EVALUATION CRITERIA

### 61 OVERVIEW OF THE EVALUATION CRITERIA

- 61.1 In compliance with the provisions of section 56 of “the Act”, TNPA shall establish an Evaluation Committee (EC) to assist it with the evaluation of the Bid Responses. The primary responsibility of this EC shall be to evaluate all Bid Responses against the criteria set out in this Part III Stage 1 (Evaluation Criteria: Functionality) and Stage 2 (Evaluation Criteria: Preference Point System) of this RFP and to make appropriate recommendations to the TNPA Executive Committee (Exco) in respect of which Bidders meet the Evaluation Criteria in this Part III (Evaluation Criteria).

- 61.2 The EC shall comprise of TNPA employees and representatives of the Transaction Advisors if applicable (technical, financial, and legal) to evaluate each aspect of the Functionality and Evaluation Criteria independently of each other against an agreed evaluation criteria which will be prepared for each discipline and utilised by each evaluator to ensure consistency in the process.
- 61.3 Upon completion of the evaluation by the various committees, the chairperson of the EC shall convene such further meetings to complete the evaluation for the purposes of formulating recommendations to the TNPA Exco.
- 61.4 In this regard, it should be noted that TNPA has not and will not delegate any decision-making authority to the EC. Furthermore, the EC has no authority to make any decisions on behalf of TNPA but to make recommendations in respect of the appointment of the Preferred Bidder.

Evaluation Criteria - Stage 1 Functionality	Evaluation Criteria - Stage 2 Preference Point System
<ul style="list-style-type: none"> <li>• Previous Exp. &amp; Track Record (35)</li> <li>• SHE &amp; Risk (15)</li> <li>• Financial Capacity (50)</li> <li>• Business Case (100) <ul style="list-style-type: none"> <li>- Market Analysis (25)</li> <li>- Financial Management Plan (25)</li> <li>- Operating Model (20)</li> <li>- Project Schedule (15)</li> <li>- Concept Design (15)</li> </ul> </li> </ul> <p><b>Total Points = 200</b></p>	<ul style="list-style-type: none"> <li>• Price: <p>Concession Fee Offer (90) Points Scored = Points out of 100 x 90% = 90 points</p> </li> <li>• Specific Goals: <ul style="list-style-type: none"> <li>- B-BBEE Status Level Contributor 1 or 2 (2 points)</li> <li>- The promotion of supplier development through subcontracting a minimum of 30% of the value of the contract to /with EME's and/or QSEs 51% owned by black people, 51% owned by black youth, 51% owned by black people with disabilities or 30% owned by black women (8 points).</li> </ul> </li> </ul>
 	
<p>Minimum Weighted Score of <b>140</b> points (<b>70%</b>) of the Total Points required to be eligible for evaluation under Stage 2 of this Evaluation Criteria. A Bidder who does not meet the minimum <b>140</b> points (<b>70%</b>), will not receive any further consideration.</p>	

## 62 STRUCTURE OF THE EVALUATION CRITERIA

- 62.1 This Part III stage 1 (Evaluation Criteria) of this RFP contains the functionality requirements for the detailed Bid Response and the evaluation methods, criteria, and weighting in respect of those parts of the Bid Response that are subject to evaluation in terms of this Evaluation Criteria. The intent is to assess the technical, financial, safety and commercial ability to execute the Project. Those parts are:
- 62.1.1 Evaluation Criteria 1: Experience & Track Record;
  - 62.1.2 Evaluation Criteria 2: Safety Health Environment & Risk;
  - 62.1.3 Evaluation Criteria 3: Financial Capability Criteria; and
  - 62.1.4 Evaluation Criteria 4: Business Case.
- 62.2 TNPA will only consider a Bidder's Bid Response in terms of this Evaluation Criteria if that Bidder fulfils all the Qualification Criteria of Part II of this RFP.
- 62.3 The Bidder must respond to each heading in this Part III RFP (Evaluation Criteria) and referred to in this clause 62 of this RFP and provide comprehensive responses and information in respect of each heading. Failure by a Bidder to respond adequately or at all to any of the headings of this Clause 62 (Evaluation Criteria) shall have an adverse impact on the evaluation of its Bid Response and may result in 0 (zero) points being awarded for a particular Evaluation Criteria.
- 62.4 The evaluation of this Stage 1 of the Evaluation Criteria will be undertaken out of a total of two hundred and thirty (200) points as follows:
- 62.4.1 Criteria 1: Experience & Track Record Criteria being scored out of 35 (thirty-five),
  - 62.4.2 Criteria 2: Safety, Health, Environment & Risk being scored out of 15 (fifteen),
  - 62.4.3 Criteria 3: Financial Capacity being scored out of 50 (fifty) and
  - 62.4.4 Criteria 4: Business Case being scored out of 100 (one hundred) points, as more fully explained below.

- 62.5 A Bidder will be required to meet a minimum threshold weighted score of 140 points (70%) to be eligible for evaluation under Stage 2 of the Evaluation Criteria.

## 63 STAGE 1 OF THE EVALUATION CRITERIA

### 63.1 EVALUATION CRITERIA 1: EXPERIENCE & TRACK RECORD

The Bidding Entity's experience and track record in Liquid Bulk cargo handling, as well as Liquid Bulk cargo operations, must be reflected in the corporate profile of the Bidder, which must be supplemented with appropriate letters of reference as portfolio of evidence as mentioned below.

#### 63.1.1 Experience

- 63.1.1.1 This section will be assessed and scored out of twenty (20) points.

- 63.1.1.2 Bidders will be required to submit:

- 63.1.1.2.1 At least 1 (one) letter of reference from a local or an international Liquid Bulk customer and/or supplier of the Bidder; as proof in respect of the number of years of experience that they or their members, as the case may be, have in operating in any area within which Bidders have handled Liquid Bulk and will be evaluated on this experience to ensure that TNPA secures the services of competent Terminal Operator, substantively in form as set out in **Annexure FF1** annexed to this RFP.
- 63.1.1.2.2 At least 1 (one) letter of reference from a local and/or international Liquid Bulk customer and or supplier of the Bidder; as proof in respect of the number of years of experience that they or their members, as the case may be in handling Liquid Bulk Cargo in a Commercial Sea Port area within which Bidders have handled Liquid Bulk and will be evaluated on this experience to ensure that TNPA secures the services of competent Terminal Operator, substantively in form as set out in **Annexure FF2** annexed FF2 annexed to this RFP
- 63.1.1.2.3 Proof of Liquid Bulk Terminal projects executed (design, build and commission) within the last five years.

63.1.1.2.4 The Number of Liquid Bulk Terminal Projects executed will be assessed and scored out of 10 (ten) points as follows:

THE NUMBER OF LIQUID BULK TERMINALS PROJECTS SUCCESSFULLY EXECUTED	POINTS
0 Liquid Bulk Terminal	0
1 Liquid Bulk Terminal	2
2 Liquid Bulk Terminals	4
3 Liquid Bulk Terminals	6
> 4 Liquid Bulk Terminals	10

63.1.1.2.5 The reference letter must be on the letterhead of the company or supplier whom the services was conducted for; references should include the following:

63.1.1.2.5.1 The description of the project;

63.1.1.2.5.2 Client Company name;

63.1.1.2.5.3 Client contact details (email and telephone);

63.1.1.2.5.4 number of years of experience that they or their members, as the case may be, have in operating in any area within which Bidders have handled Liquid Bulk Cargo.

63.1.1.3 The Portfolio of evidence must be verifiable through relevant contact details and must form part of the Bidder's Bid Response as this is a critical requirement of the Objective Criteria as per Part IV of the RFP.

63.1.1.4 The Number of Years of experience in handling Liquid Bulk Cargo and/or operating a Terminal handling Liquid Bulk Cargo, either operated and/or are currently operating, will be assessed and scored out of 10 (ten) points as follows:



<b>PORTFOLIO OF EVIDENCE INDICATING RELEVANT EXPERIENCE IN HANDLING LIQUID BULK COMMODITIES</b>	<b>POINTS (10)</b>
No Portfolio of evidence submitted reflecting relevant experience	0
Portfolio of evidence reflecting < 2 years relevant experience	2
Portfolio of evidence reflecting $\geq 2$ years and < 5 years relevant experience	4
Portfolio of evidence reflecting $\geq 5$ years and < 10 years relevant experience	7
Portfolio of evidence reflecting $\geq 10$ years	10

- 63.1.1.5 Portfolio of evidence showing the Number of Liquid Bulk Terminals operated in operating a Terminal handling Liquid Bulk within a Commercial Sea Port will be assessed and scored out of 10 (ten) points as follows:

<b>YEARS OF EXPERIENCE TERMINALS OPERATED AND/OR CURRENTLY OPERATING IN HANDLING LIQUID BULK</b>	<b>POINTS (10)</b>
No Portfolio of evidence submitted reflecting relevant experience	0
Portfolio of evidence reflecting < 2 years relevant experience	2
Portfolio of evidence reflecting $\geq 2$ years and < 5 years relevant experience	4
Portfolio of evidence reflecting $\geq 5$ years and < 10 years relevant experience	7
Portfolio of evidence reflecting $\geq 10$ years	10

### 63.1.2 Track Record

- 63.1.2.1 This section will be assessed and scored out of fifteen (15) points.
- 63.1.2.2 In cases where a score has been assigned to a criterion or requirement within the scoring table, a Bidder's failure to submit all necessary documentation or to fully meet the specified requirement, as indicated in

both the scoring table and the corresponding clause in the RFP, shall result in a score of zero.

63.1.2.3 The Bidders will be required to submit at least 1 letter of reference as proof in respect of each liquid bulk terminal/facility that they or their Members have operated , from either a customer, landlord and or any relevant authority who can confirm the number of terminals operated by the Bidder which lists the location of such terminal/ facility and the nature of the operation being undertaken at the terminal / facility as the case may be in the form as set out in Annexure FF3 and must state the following;

63.1.2.3.1 The number of Terminals/handling facilities where bidders have handled or stored and/or are currently handling or storing Liquid Bulk Cargo. Bidders will be required to submit proof of their throughput volumes and or that of their Members, in respect of the Liquid Bulk Terminal in which they previously operated or are currently operated, substantively in form as set out in Annexure FF3 annexed to this RFP.

63.1.2.3.2 The Bidder will be evaluated on the track record to ensure that the TNPA secures the services of a competent and credible Terminal Operator. Bidders should accordingly provide, a letter of reference, certification, or similar document confirming the number of Terminals/handling facilities operated by the Bidder.

63.1.2.3.3 The number of Terminals/handling that a Bidder or their Members have previously operated or are currently operating relevant to the Bidder's proposed business case for a Liquid Bulk Terminal will be assessed and scored out of ten (10) facilities operated or currently operated will be assessed and scored out of ten (10) points as follows:

THE NUMBER OF TERMINAL FACILITIES OPERATED OR CURRENTLY OPERATING IN RESPECT OF LIQUID BULK	POINTS (10)
No portfolio of evidence indicating the number of Terminals operated and/or are currently operated	0
One (1) Terminals operated and/or are currently operated supported by portfolio of evidence	4
≥2 and <5 Terminals operated and/or currently operated supported by portfolio of evidence	6

≥5 and <7 Terminals operated and/or currently operated supported by portfolio of evidence	8
≥7 Terminal facilities operated or currently operating	10

63.1.2.3.4 The average Liquid Bulk throughput volumes (per terminal) over the past 3 years where applicable (kilolitres) will be assessed and scored out of 5 (five) points as follows:

AVERAGE LIQUID BULK THROUGHPUT VOLUMES OVER THE PAST 3 YEARS WHERE APPLICABLE (KILOLITRES)	POINTS (5)
≤ 600 000	1
≥ 600 001 and ≤ 700 000	2
≥ 700 001 and ≤ 800 000	3
≥ 800 001 and ≤ 999 999	4
≥ 1000 000	5

### 63.1.3 Summary of Experience & Track Record Requirements

Experience & Track Record Requirements	MAXIMUM NO OF POINTS	RFP REFERENCE
Experience	20	Clause 63.1.1 of Part III this RFP
Track Record	15	Clause 63.1.2 of Part III of this RFP
TOTAL	35	

## 63.2 EVALUATION CRITERIA 2: SAFETY HEALTH ENVIRONMENT & RISK

### 63.2.1 Environmental Management

63.2.1.1 This section has a point allocation of five (5) points, and Bidders are required to provide evidence of in the form of an Operational Environmental Management Plan (OEMP) for previously completed projects of similar nature. The content for the OEMP is defined below:

63.2.1.2 Bidders must also provide a proof of accreditation for an appropriate management system (ISO 14001:2015) as amended from time to time, that are currently utilised in respect of environmental management. The OEMP must contain the following content for scoring:

63.2.1.2.1 The OEMP must contain the following content for scoring);

63.2.1.2.2 Environmental Policy (company's commitment to environmental protection);

63.2.1.2.3 Roles and responsibilities for the implementation of the plan:

63.2.1.2.4 Legislative compliance requirements

63.2.1.2.5 Impact and mitigations

63.2.1.2.6 Incidents and non-conformance reports

63.2.1.2.7 Monitoring and continuous improvements.

ENVIRONMENTAL MANAGEMENT	POINTS	RFP REFERENCE
OEMP for Projects of Similar nature	2.5	63.2.1.1
Proof of accreditation on ISO14001	2.5	63.2.1.2

### 63.2.2 Occupational Health and Safety Management

63.2.2.1 This section has a point allocation out of 5 (five) points. Bidders are required to provide verifiable Portfolio of evidence of experience in

existing businesses showing an overview of their approach to Occupational Health and Safety Management. The Bidder should demonstrate that its Occupational Health and Safety Management system adheres to the Occupational Health and Safety Act, applicable Regulations, especially the newly promulgated Construction Regulations, 2014, and any other applicable legislations, by laws, etc such as, but not limited to MHI Regulations, ISGOTT, GHS, SDS Schedule Activity Permits, NFPA etc. The Bidder must have a strategy for achieving compliance within a reasonable timeframe for the proposed terminal operations:

#### 63.2.2.2 Bidders must provide:

- 63.2.2.2.1 An Occupational Health and Safety policy that deals with the Bidder's commitment in their current business signed by a director of the Bidder or another properly delegated person.
- 63.2.2.2.2 The bidder shall have an active and comprehensive Safety Programme designed to deliver a high level of safety performance. The Safety Programme shall be designed to achieve the aims of the company's Safety Policy.
- 63.2.2.2.3 The bidder must submit their Occupational Health and Safety policy document together with the elements covered in their safety program. The Safety Programme's content should ensure that the following minimum requirements are in place, but not limited to:
  - 63.2.2.2.3.1 Emergency management plan;
  - 63.2.2.2.3.2 Periodic fire and drills. These drills to address all aspects and locations of potential incidents and should include vessels at a berth;
  - 63.2.2.2.3.3 Hazard identification and risk assessment;
  - 63.2.2.2.3.4 Permit to Work system;
  - 63.2.2.2.3.5 Incident reporting procedure and tools;
  - 63.2.2.2.3.6 Site safety inspections register;

63.2.2.2.3.7 Safe work practices and standards of housekeeping;

63.2.2.2.3.8 Personal Protective Equipment: the equipment provided, the expectation of its use, including for Third Party Contractors (e.g., cargo samplers and surveyors);

63.2.2.2.3.9 Safety management of visitors, contractors, and vessel crew;

63.2.2.2.3.10 Pre-task safety discussions; and

63.2.2.2.3.11 On-site training, induction, and familiarization.

63.2.2.3 The budgeted provision assigned to Health and Safety for the duration of the Project;

63.2.3.1 It is important to note that scoring will be allocated in accordance with the quantitative and qualitative scoring methodologies. With regard to the quantitative methodology in particular, the information provided by the bidder must be relevant to the Liquid Bulk Sector. In respect of the qualitative scoring methodology, the following table will be used:

	Qualitative (QL) scoring methodology		
Poor	Fair	Good	Excellent
Minimum Score of between 0% - 29% of the total points allocated per measure	Minimum Score of between 30%- 69% of the total points allocated per measure	Minimum Score of between 70%- 79% of the total points allocated per measure	Score between 80% - 100% of the total points allocated per measure
The Bidder provided the Occupational Health and Safety Programme of their existing business/businesses which does not cover all the requirements indicated above	The Bidder provided the Occupational Health and Safety Programme of their existing business/businesses which covers requirements indicated above but does not provide details with respect to	The Bidder provided the Occupational Health and Safety Programme of their existing business/businesses which covers requirements indicated above in detail including budget	The Bidder provided excellent Occupational Health and Safety Programme of their existing business/businesses which covers all the requirements indicated above. The bidder shall also have an active and comprehensive Safety

	budget provision to implement a Safety Programme	provision to implement a Safety Programme but not clear how it is designed to achieve the aims of the company's Safety Policy	Programme designed to deliver a high level of safety performance. The Safety Programme shall be designed to achieve the aims of the company's Safety Policy
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OCCUPATIONAL HEALTH AND SAFETY MANAGEMENT	POINTS	SCORING METHODOLOGY
Occupational Health and Safety Programme	5	QUALITATIVE

### 63.2.3 Risk Management

63.2.3.1 This section has a point allocation of 5 (five) points. A Bidder must provide:

63.2.3.1.1 A business continuity management plan from the Bidder's existing business aligned to a recognized Business Continuity Management (BCM) system that will ensure that resilience is considered as part of the Bidder's operations to mitigate potential business continuity risks to the Project.

63.2.3.1.2 A separate risk management plan aligned to a recognized written SHE management system which stipulates how the risks pertaining to construction, development, and operational phases will be identified, assessed, and managed by the Bidder.

63.2.3.1.3 Bidders will be scored, for their Risk Management response as outlined in the table below:

RISK MANAGEMENT	SCORE	RFP REFERENCE
Business Continuity Management Plan/Contingency plan	2.5	63.1.3.1.1
Risk Management Plan	2.5	63.1.3.1.2

#### 63.2.4 Summary of SHE Requirements

63.2.4.1 Bidders will be scored for the SHE Requirements, as indicated in the table below:

SHE REQUIREMENTS	MAXIMUM NO OF POINTS	RFP REFERENCE
Environmental Management	5	Clause 63.1.1 of Part III of this RFP
Occupational Health & Safety	5	Clause 63.1.2 of Part III of this RFP
Risk Management Plan	5	Clause 63.1.3 of Part III of this RFP
TOTAL	15	

#### 63.3 EVALUATION CRITERIA 3: FINANCIAL CAPABILITY

63.3.1 In order to determine a Bidder's financial strength, Bidders, or each of their Members in respect of newly incorporated or unincorporated joint ventures/ Consortia and or a newly incorporated Project Companies must submit the following:

63.3.1.1 Latest Audited Annual Financial Statements or independently reviewed financial statements for the past three (3) financial years that it has been in operation. The latest financial year should not be older than 6 (six) months;

63.3.1.2 In the event of the Bidder being an unincorporated Joint Venture, Consortium or SPV, TNPA requires financial statements of at least one of the Members of such Joint Venture or Consortium.

63.3.2 Where the Joint Venture, Consortium or SPV elects to submit more than one Member's audited annual financial statements, each Member's audited annual financial statements will be assessed and scored against the criteria below and then averaged to determine the score of the Bidder.



63.3.3 In the event that a Bidder is not an SPV, a Joint Venture or a Consortium, then TNPA will only accept audited annual financial statements of the Bidder or audited annual financial statements of its group or holding company.

63.3.4 In the event that a Bidder has been in operation for less than three years, then the number of years that the Bidder has been in operation shall be averaged to determine the score of the Bidder.

### 63.3.5 Profitability EBITDA

**63.3.5.1** Profitability of the Bidder, averaged over the past three (3) year period, will be evaluated using audited annual financial statements or independently reviewed financial statements as set out in clause **63.3.1.1**. Bidders are to note that should they fail to provide Audited Annual Financial Statements or independently reviewed financial statements for three (3) year period, a score of zero will be allocated.

63.3.5.2 In this section the EBITDA margins are categorized into three ranges as shown in the table below:

<b>Earnings Before Interest, Taxes, Depreciation, and Amortization (EBITDA)</b>	<b>15</b>
Bidder EBITDA Margin < 10%	0
Bidder EBITDA Margin = 10%	5
Bidder EBITDA Margin > 10% ≤ 12%	10
Bidder EBITDA > 12%	15

63.3.5.3 Bidders will be awarded points on a pro-rata basis, which means a Bidder with an EBITDA margin that falls within a certain range would receive a pro-rata score out of the total available points in that range on the table above:

63.3.5.3.1 In the event that a Bidder's EBITDA margin is 3%, which falls within the EBITDA margin <10% range, the Bidder will receive a pro-rated score out of the total 0 point;

63.3.5.3.2 In the event that a Bidder's EBITDA margin is 11%, which falls within the EBITDA margin  $> 10\% \leq 12\%$  range the Bidder will receive a pro-rated score out of the total 15 points.

### 63.3.6 Key Financial Ratios

63.3.6.1 The key financial ratios will be used to assess the bidder's liquidity and solvency of the company using Audited Annual Financial Statements or independently reviewed financial statements as set in clause 63.3.1. Ratios that fall within a certain range would receive a pro-rata score out of the total available points in that range and will be assessed as follows:

#### 63.3.6.2 Current Ratio

<b>Current Ratio (Norm is 2:1 – current assets divided by current liabilities)</b>	<b>5</b>
Ratio $< 1$	0
Ratio $\geq 1 < 2$	1
Ratio $\geq 2 < 3$	3
Ratio $\geq 3$	5

#### 63.3.6.3 Solvency Ratio

<b>Solvency Ratio (Norm is 1:1 -Total assets divided by Total Liabilities)</b>	<b>5</b>
Ratio $< 1$	0
Ratio $\geq 1 < 1.5$	1
Ratio $\geq 1.5 < 2$	3
Ratio $\geq 2$	5

63.3.6.4 Bidders must note that TNPA will perform its own calculations of the ratios.

### 63.3.7 The Proposed Funding Model

63.3.7.1 The Bidder is required to confirm sufficient funding to undertake the Project and submit verifiable sources of funding to support such confirmation.

63.3.7.2 The Bidder must provide the proposed funding model that supports the business case and capital investment required and supported with Projected Financial Statements for the duration of the concession.

63.3.7.3 The source of the capital investment required must be explained in terms of the debt/equity structure. The proposed funding model will be scored out of 10 (fifteen) points as follows:

THE PROPOSED FUNDING MODEL	POINTS	QUANTITATIVE
Proposed funding model in support of project investment reflecting the split between debt and equity	5	QN
<p>If a debt is a component in raising funding, the bidder must provide a letter of support from each lender, i.e.,</p> <ul style="list-style-type: none"> <li>The letter of support from a financial institution in a preliminary credit approved term sheet format;</li> <li>The letter of commitment from partners or investors where external debt is to be provided by a fund; and</li> <li>The letter from the Group or Holding company in support of the funding.</li> </ul> <p>If equity is a component in raising funding, bidders must provide evidence of such funding from each member, i.e.,</p> <ul style="list-style-type: none"> <li>Letters from shareholders confirming equity funding.</li> <li>Letter from the Financial Advisor/ Auditors confirming sufficient funds in the form cash reserves.</li> <li>Where an individual is providing equity finance, letter to support such funding must be submitted as evidence.</li> </ul>	5	QN

### 63.3.8 Experience in Raising Capital

- 63.3.8.1 The Bidder's experience in arranging funds will be assessed and scored in accordance with their ability to finance capital projects.
- 63.3.8.2 The details for each Member relating to its experience in project finance, and or corporate finance must be submitted.
- 63.3.8.3 A split between debt and equity should be specified and the value of each project funded;
- 63.3.8.3.1 Where debt funding was used for past projects a letter from the lenders or funders that provided the finance setting out their role and confirming the Member's experience in financing capital.
- 63.3.8.3.2 Where equity funding was used for past projects, annual financial statements reflecting investment outflows must be submitted as evidence or any verifiable evidence to support such equity funding, i.e., a letter from the shareholders confirming equity funding, and notes in the financial statements reflecting the total value invested as outlined in Annexure G.
- 63.3.8.4 TNPA within its discretion conducts credit searches, requests references from third parties, and seeks further information from financial members in respect of Bidders, its members, and or Contractors. The evidence must be verifiable through relevant contact details and must form part of the Bidder's Bid Response as this is a critical requirement for the Objective Criteria process as per Part IV of the RFP.
- 63.3.8.5 The Bidders will be assessed and scored out of 15 (fifteen) points as follows:

PAST EXPERIENCE IN RAISING CAPITAL	POINTS	QUANTITATIVE
No previous funding	0	QN
Funding with a value of up to R 1 billion	3	QN
Funding with a value > R 1 billion ≤ R1.5 billion	5	QN

PAST EXPERIENCE IN RAISING CAPITAL	POINTS	QUANTITATIVE
Funding with a value > R 1.5 billion ≤ R 2 billion	8	QN
Funding with a value > R 2 billion ≤ R 2.5 billion	10	QN
Funding with a value >R 2.5 billion	15	QN

#### 63.4 EVALUATION CRITERIA 4: BUSINESS CASE

63.4.8 The TNPA wishes to obtain a holistic view of a Bidder's proposal to undertake the Project. To do so, a Bidder is required to prepare and submit a Business Case, which will be implemented by the Bidder should the Bidder be appointed as the Terminal Operator to undertake the Project. It is imperative that the Business Case reflects credible, realistic, and achievable targets as the Bidder will be bound thereby with these proposals being incorporated as binding obligations for the Terminal Operator in the Terminal Operator Agreement.

63.4.9 A Business Case will be assessed and scored out of 100 (one hundred points). The Business Case will comprise the following:

##### 63.4.9.1 Market and Sustainability Analysis

63.4.2.1.1 It is important to note that scoring will be allocated in accordance with the quantitative and qualitative scoring methodologies. With regard to the quantitative methodology in particular, the information provided by the bidder must be relevant to the Liquid Bulk Sector. In respect of the qualitative scoring methodology, the following table will be used:

Qualitative (QL) scoring methodology		
Poor response	Fair response	Good response
Score between minimum of 0% - 19% of the total points allocated per measure	Score between minimum of 20% - 69% of the total points allocated measure	Score between minimum of 70% - 100% of the total points allocated per measure
Industry analysis is not provided, is inadequate, or is incomplete in significant respects; evaluation of important industry characteristics is lacking detail and does not present a comprehensive assessment of	Business Case describes major characteristics of the industry, but the analysis is limited or missing a few elements; market attributes are described and their impacts on the business	Provides a thorough analysis of industry size, segments, maturity, opportunities and threats in the industry, overall trends and outlook for the industry, and major competitors; specifically identifies target market and

Qualitative (QL) scoring methodology		
the industry in which the company will be competing; limited competitor and market analyses are provided; few if any competitive advantages are identified, and no analysis of their effects is provided.	are adequately assessed; Business Case identifies competitive advantages of the company, but a discussion of their contribution to the company's market success is missing or less than fully developed; industry analysis is appropriately developed.	consumer demographics, demand, supply, customers, and offtakes and fully describes niche in which the company will operate; clearly presents significant competitive advantages and effectively analyses their impacts on organizational success.

63.4.2.1.2 This criterion has a point allocation of 25 (twenty-five) points and will be evaluated on the extent to which it credibly demonstrates the viability of the Terminal.

63.4.2.1.3 Bidders are required to provide the following in respect of the Market Analysis of the Facility:

63.4.2.1.3.1 Vision and mission clearly articulating major goals and ambitions for the Terminal;

63.4.2.1.3.2 Relevant and achievable strategic objectives for the Terminal;

63.4.2.1.3.3 A comprehensive value proposition for the Terminal;

63.4.2.1.3.4 A clear understanding of the Liquid Bulk supply chain business operating environment as well as global economic conditions;

63.4.2.1.3.5 Comprehensive potential market, suppliers, and segment analysis and Supplier Model (for example single or multiple aggregator or open market);

63.4.2.1.3.6 In-depth Global Competitor Analysis specifically for the Liquid Bulk sector;

63.4.2.1.3.7 Gap analysis which comprises an identification of any discrepancy between an actual and a potential market including a plan to mitigate any discrepancy identified;

63.4.2.1.3.8 In-depth SWOT analysis specifically for the Liquid Bulk sector;

63.4.2.1.3.9 Measurable Economic spin-offs;

63.4.2.1.3.10 Short-, Medium-, and Long-term projection forecast for Liquid Bulk volumes over the concession period;

63.4.2.1.3.11 Sustainability and growth assumptions over the concession period;

63.4.2.1.3.12 Climate Change Adaptability Plan.

63.4.2.1.4 Bidders will be scored for Market Analysis, as indicated in the table below:

MARKET ANALYSIS	POINTS	QUANTITATIVE (QN) OR QUALITATIVE (QL)
Vision and mission clearly articulating major goals and ambitions for the Terminal	2	QL
Relevant and achievable strategic objectives for the Terminal	2	QL
Comprehensive Value proposition for the Terminal	2	QL
Clear understanding of business operating environment as well as global economic conditions	2	QL
Comprehensive Potential market, suppliers, and segment analysis	2	QL
Gap analysis which comprises an identification of any discrepancy between an actual and a potential market including a plan to mitigate any discrepancy identified	2	QL
In-depth Competitor analysis specifically for the Liquid Bulk sector	2	QL

MARKET ANALYSIS	POINTS	QUANTITATIVE (QN) OR QUALITATIVE (QL)
In-depth SWOT analysis specifically for the Liquid Bulk Sector	2	QL
Measurable Economic spin-offs	2	QN & QL
Short-, Medium-, and long-term projection forecast of volumes over the concession period	2	QN
Sustainability and growth assumptions over the concession period	2	QN & QL
Climate Change Adaptability Plan	3	QL & QN
Total	25	

#### 63.4.9.2 Financial Management Plan

This section will be assessed and scored out of 25 (twenty-five) points as follows:

##### 63.4.9.2.1 Operational Costs (25 Year Projection).

63.4.2.2.1.1 This section will be assessed and scored out of 6 (six) points.

63.4.2.2.1.2 The operational costs will be used to assess the Bidder's sustainability for operating the Terminal based on evidence showing the costs outlined in the table below:

OPERATIONAL COSTS (25 YEAR PROJECTION),	POINTS	QUANTITATIVE OR QUALITATIVE
Repairs & Maintenance Costs	2	QN
Labour Costs	2	QN
Other Operating Costs	2	QN
Total	6	



#### 63.4.9.2.2 Operational Revenue (25 Year Projection).

63.4.2.2.2.1 This section will be assessed and scored out of 7 (seven)points.

63.4.2.2.2.2 Bidders will be required to submit projected income generation information.

63.4.2.2.2.3 The operational revenue will be used to assess the Bidder's capability of earning the revenue from operating the Terminal and the evidence will be assessed and scored as follows:

OPERATIONAL REVENUE (25 YEAR PROJECTION),	POINTS	QUANTITATIVE OR QUALITATIVE
Revenue generated from operating the Terminal	7	QN

#### 63.4.9.2.3 Capital Expenditure

63.4.9.2.3.1 This section will be assessed and scored out of 6 (six) points.

63.4.9.2.3.2 The Bidders must provide the proposed capital expenditure being the costs/funds used to acquire and build the Terminal and execute the project which includes the following:

CAPITAL EXPENDITURE FOR THE TERMINAL	POINTS	QUANTITATIVE OR QUALITATIVE
Detailed design	1	QN
Site investigations	1	QN
Procurement	1	QN
Direct and indirect		

construction costs	1	QN
Commissioning & Start-up	1	QN
Contractor's overhead and fees	1	QN

#### 63.4.9.2.4 Financial Model Assumptions

63.4.9.2.4.1 This section will be assessed and scored out of 6 (six) points.

63.4.9.2.4.2 The Bidder must provide assumptions for their financial projections of the project including but not limited to the following:

FINANCIAL ASSUMPTIONS	MODEL	POINTS	QUANTITATIVE OR QUALITATIVE
Income tax rate		1	QN
Monthly utilities e.g., water, electricity		1	QN
Operating manpower costs and benefits		1	QN
Other		1	QN

#### 63.4.9.2.5 Summary of Financial Management Plan

63.4.9.2.5.1 Bidders will be scored for the Financial Management Plan out of 25 (twenty-five) points, as indicated in the table below:

SUMMARY OF FINANCIAL MANAGEMENT PLAN	MAXIMUM NO OF POINTS	RFP REFERENCE
Operational Costs	6	Clause 63.4.2.2.1 of Part II of this RFP
Operational Revenue	7	Clause 63.4.2.2.2 of Part II of this RFP

Capital Expenditure	6	Clause 63.4.2.2.3 of Part II of this RFP
Financial Model assumptions	6	Clause 63.4.2.2.4 of Part II of this RFP
Total	25	

### 63.4.9.3 Operational Model

- 63.4.9.3.1 Bidders are required to provide a clear operational model outlining the approach to the execution of the Project, the operations methodology, performance targets, the optimal use of Terminal Infrastructure, the Terminal handling equipment to be deployed, the logistics plan, operations human resource plans, SHEQ, Risk and Quality management systems that will be applied to mitigate any operational risks including insurable risks.
- 63.4.9.3.2 The model must include a description of Bidder's Organisational Structure, roles, responsibilities, and skills profiles of the Board of Directors Executive Leadership, all the Members of the Project Company key operational personnel, Terminal Equipment plant, and machinery acquisition and maintenance strategies.
- 63.4.9.3.3 This criteria has a point allocation of 20 (twenty) points. It is important to note that scoring will be allocated in accordance with the quantitative and qualitative scoring methodologies. With regard to the quantitative methodology in particular, the information provided by the bidder must be relevant to the Liquid Bulk Sector. In respect of the qualitative scoring methodology, the following table will be used:

Qualitative (QL) scoring methodology			
Poor response	Fair response	Good response	Excellent
Score between Minimum of 0% - 29% of the total points allocated per measure.	Score between Minimum of 30% - 69% of the total points allocated per measure.	Score between Minimum of 70% - 79% of the total points allocated per measure.	Score between Minimum of 80% - 100% of the total points allocated per measure.
The Operating	The Operating	The Operating	The Operating

Qualitative (QL) scoring methodology			
Model does not cover or lacks the required detail in respect of what is outlined above.	Model covers sufficient detail and had credible supporting motivation in respect of what is outlined above.	Model covers in comprehensive detail and demonstrates how the Targeted Performance will be achieved and comprehensively described and indicates how this will be achieved. .	Model covers in exceptional detail and demonstrates how the Targeted Performance will be achieved and comprehensively described and indicates how this will be achieved.

63.4.9.3.4 Bidders will be scored for the Operating Model, as indicated in the table below:

OPERATIONAL MODEL	POINTS	QUANTITATIVE OR QUALITATIVE
Bidders to demonstrate the use of the land-based facilities to receive Liquid Bulk Cargo directly from conventional carrier, storing it in warehouses.	8	QL
Traffic and Security management plan including but not limited to:  Access to the site via road including: Truck staging area, Cargo split on road, Logistics Plan,  Technologies to be used to enhance operational efficiencies for vessel turnaround time, safety, and truck turnaround time for road trucks.	6	QL
SHEQ, Risk and Quality management systems that will be applied to mitigate any operational risks including a description of Bidders Organisational Structure, roles and responsibilities and skills profiles of Board of Directors Executive Leadership, key operational personnel, Terminal Equipment plant, and machinery acquisition, and maintenance strategies.	6	QL
Total	20	

#### 63.4.9.4 Project Schedule

63.4.9.4.1 Bidders are required to articulate a clear and concise Terminal development plan, which outlines how and within what timeframes it will implement the desired Terminal and associated infrastructure, and a clearly outlined project schedule.

63.4.9.4.2 This section has a point allocation of 15 (fifteen) points. It is important to note that scoring will be allocated in accordance with the quantitative and qualitative scoring methodologies. With regard to the quantitative methodology in particular, the information provided by the bidder must be relevant to the Liquid Bulk sector. In respect of the qualitative scoring methodology, the following table will be used:

Qualitative (QL) scoring methodology			
Poor response	Fair response	Good response	Excellent
Score between Minimum of 0% - 29% of the total points allocated per measure	Score between Minimum of 30% - 69% of the total points allocated per measure	Score between Minimum 70% - 79% of the total points allocated per measure	Score between Minimum of 80% - 100% of the total points allocated per measure
Level 1 Project Schedule No Project Schedule or a poor Project Schedule and does not set out clear timeframes, clear milestones, major activities, or key deliverables. No or Poor Project Schedule	Level 2 Project Schedule Moderate Project Schedule, however major milestones and key deliverables are missing.	Level 2 Project Schedule Good Project Schedule, with all major milestones and key deliverables included.	Level 3 Project Schedule. Excellent Project Schedule, with all major milestones and key deliverables included.

63.4.9.4.3 Bidders will be scored on the Project Schedule as follows:

PROJECT SCHEDULE LEVEL	POINTS	QUANTITATIVE OR QUALITATIVE
No schedule or submitted schedule has no logical sequencing and	0	QL

PROJECT SCHEDULE LEVEL	POINTS	QUANTITATIVE OR QUALITATIVE
scheduling of key milestones		
<b>Level 1 Schedule</b> (Level 1 Schedule is the highest level, called overall project summary level. It includes major milestones or achievements and highlights major activities and key deliverables.)	2	QL
<b>Level 2 Schedule</b> (Level 2 Schedule is the area or system summary (roll-up summary of level 3 schedule). It is also called major summary schedule. It is used to integrate into level 3 and schedules which involved detail tasks. It can be used to report the project area or trade progress status.)	4	QL
<b>Level 3 Schedule</b> (Level 3 Schedule is the most used in planning). Spans the whole of the project and is used to support the monthly report. It includes all major milestones, major elements of design, engineering, procurement, construction, testing, commissioning, and/or Operation. It is used to integrate to level 4.	6	QL

63.4.9.4.4 Bidders are required to submit a Project Schedule, highlighting key sequential milestones and relevant timelines.

63.4.9.4.5 Bidders will be scored for the Project schedule and logical sequencing of activities, as indicated in the tables below:

PROJECT DELIVERY TIMEFRAMES (CONSTRUCTION AND COMMISSIONING PHASE)	POINTS	QUANTITATIVE OR QUALITATIVE
> 36 months	1	QN

$=31 \leq 36$ months	2.5	QN
$=25 \leq 30$ months	5	QN
$0 \leq 24$ months	9	QN

#### 63.4.9.5 Concept Design

63.4.9.5.1 This section has a point allocation of 15 (fifteen) points. It is important to note that scoring will be allocated in accordance with the qualitative scoring methodologies as outlined in the table below.

Qualitative (QL) scoring methodology			
Poor response	Fair response	Good response	Excellent
Score between Minimum of 0% - 29% of the total points allocated per measure.	Score between Minimum of 30% - 69% of the total points allocated per measure.	Score between Minimum of 70% - 79% of the total points allocated per measure.	Score between Minimum of 80% - 100% of the total points allocated per measure
Poor preliminary concept design proposal (Examples include: Design not optimizing potential throughput capacity and tank turns per annum, basic technical brief reports, basic concepts drawings of elevations and layout plans, basic safety and environmental standards considerations including tanks safety distances, basic pipeline rail, and road accessibility design.	Adequate preliminary concept design proposal (Examples include: Design optimizing potential throughput capacity and tank turns per annum, acceptable technical brief reports, acceptable concepts drawings of elevations and layout plans, acceptable safety and environmental standards considerations including tanks safety distances, acceptable pipeline, rail, and road accessibility design.	Good preliminary concept design proposal (Examples include: Design optimizing potential throughput capacity and tank turns per annum, Good technical brief reports, Good concepts drawings of elevations and layout plans, Good safety and environmental standards considerations including tanks safety distances, pipeline, rail, and road accessibility design.	Excellent preliminary concept design proposal (Examples include: Design optimizing potential throughput capacity and tank turns per annum, Excellent technical brief reports, Excellent concepts drawings of elevations and layout plans, Excellent safety and environmental standards considerations including tanks safety distances, pipeline, rail, and road accessibility design.

63.4.9.5.2 The Concept Design of the Terminal must include detailed concept technical design reports and detailed concepts layout drawings indicating the following:

63.4.9.5.2.1 Concept design of the Terminal, including Third Party interconnectivity, firefighting equipment, pipelines within servitude from berth to the tanks etc to accommodate the Terminal for the concession period;

63.4.9.5.2.2 Discharge, conveyance, and storage of Liquid Bulk Cargo including the number of storage tanks;

63.4.9.5.2.3 Indication of exclusion zones;

63.4.9.5.2.4 Road connectivity and accessibility for evacuation of Liquid Bulk Cargo and

63.4.9.5.2.5 Safety and environmental best available technology and sustainability considerations on infrastructure and equipment (including safety distances, access platform, escape routes, bunded areas, etc);

63.4.9.5.2.6 Bidders will be scored for Concept Design, as indicated in the table below:

CONCEPT DESIGN	POINTS	RFP REFERENCE
Concept design of the Terminal including berth connectivity, firefighting equipment, pipelines, racking, loading arms etc	5	63.3.2.5.2.1
Discharge, conveyance, and storage of Liquid Bulk Cargo including the number of storage tanks	3	63.3.2.5.2.2
Indication of exclusion zones	1	63.3.2.5.2.3
Road connectivity and accessibility for evacuation of Liquid Bulk Cargo	3	63.3.2.5.2.4
Safety and environmental best available technology and sustainability considerations on infrastructure and equipment	3	63.3.2.5.2.5



#### 63.4.9.6 Summary of Business Case

SUMMARY OF BUSINESS CASE	POINTS	RFP REFERENCE
Market and Sustainability Analysis	25	Clause 63.3.2.1 of Part II of this RFP
Financial Management Plan	25	Clause 63.3.2.2 of Part II of this RFP
Operational model	20	Clause 63.3.2.3 of Part II of this RFP
Project Schedule	15	Clause 63.3.2.4 of Part II of this RFP
Concept Design	15	Clause 63.3.2.5 of Part II of this RFP
<b>Total</b>	<b>100</b>	

#### 63.5 SUMMARY OF TECHNICAL AND FUNCTIONAL CRITERIA ASSESSMENT<sup>1</sup>

TECHNICAL CRITERIA ASSESSMENT	MAXIMUM NO OF POINTS	RFP REFERENCE
Previous experience	20	Clause 63.1.1 of Part II of this RFP
Track record	15	Clause 63.1.2 of Part II of this RFP

<sup>1</sup> NOTE: Only Bidders that score a minimum of 140 points and above will move to Part III Stage 2 of the evaluation process.

SHE requirements	15	Clause 63.2 of Part III of this RFP
Financial Capability	50	Clause 63.3 of Part III of this RFP
Business Case	100	Clause 63.4 of Part II of this RFP
<b>TOTAL</b>	<b>200</b>	

## 64 THE STRUCTURE OF STAGE 2: EVALUATION CRITERIA

64.1 This Part III Stage 2 (Evaluation Criteria) of this RFP contains the requirements for the detailed Bid Response and the evaluation methods, criteria, and weighting in respect of those parts of the Bid Response that are subject to evaluation in terms of this Evaluation Criteria. Those parts are:

64.1.1 Evaluation Criteria 1: Price: Concession Fee Offer; and

64.1.2 Evaluation Criteria 2: Specific Goals.

64.2 TNPA will only consider a Bidder's Bid Response in terms of this Evaluation Criteria if that Bidder fulfils all the Qualification Criteria of Part II of this RFP.

64.3 The Bidder must respond to each heading in this clause 64 of this RFP (Evaluation Criteria) and in the Annexures referred to in this clause 64 of this RFP (Evaluation Criteria) and provide comprehensive responses and information in respect of each heading. Failure by a Bidder to respond adequately or at all to any of the headings of this Clause 64 (Evaluation Criteria) and the Annexures referred to in this Evaluation Criteria shall have an adverse impact on the evaluation of its Bid Response and may result in disqualification and/ or (0) zero points being awarded.

64.4 The evaluation will be undertaken in accordance with a 90/10 preference points system. The Concession Fee Offer (Price) will be scored out of 90 (ninety) points and Specific goals (Preference) will be scored out of 10 (ten) points.

64.5 The points for Concession Fee Offer (Price) (scored out of 90 (ninety) points) and Specific goals (Preference) (scored out of 10 (ten) points) will be added together

to determine the total points (scored out of 100 (one hundred) earned in respect of the Evaluation Criteria. The total points will be rounded off to the nearest two decimal places if required.

- 64.6 The decision to appoint a particular Bidder as First Ranked Bidder will have regard to all objective considerations relating to the response to Part II (Qualification Criteria) and Part III (Evaluation Criteria) submitted by that Bidder and the requirements of TNPA as contained in this RFP, together with the overall scoring achieved by that Bidder.

## **65 STAGE 2 OF THE EVALUATION CRITERIA**

### **65.1 EVALUATION CRITERIA 1: PRICE (CONCESSION FEE OFFER)**

- 65.1.1 This section has a point allocation of 90 (ninety) points.
- 65.1.2 The Bidder must offer a Concession Fee Offer amount in Rand (land), based on annual rental escalation.
- 65.1.3 The Concession Fee Offer will be used to calculate the return and will be assessed and scored competitively between the Bidders with a maximum score available out of 90 (ninety) points.
- 65.1.4 The Concession Fee offered will be benchmarked to market-related and comparable opportunities which may comprise property valuations and Terminal valuations to ascertain whether the concession fee offer made is economically viable. Therefore, TNPA reserves the right to further embark and request Best and Final Offer (BAFO) with top 3 highest ranked Bidders to ensure the payment of a market-related Concession Fee.
- 65.1.5 The total available footprint as per the Site Map (Annexure B) is 20.552 Ha (Hectares). However, the land offer for development of Liquid Bulk handling terminal is 10 hectares to ensure project viability. The Bidder making the highest Concession Fee Offer will be awarded maximum points while the other Bidders with a lower rental will proportionately obtain lower points based on the following formula:

$$P_s = 90 (1 + (P_t - P_{max}) / P_{max})$$

Where:

**P<sub>s</sub>** = points scored for the offer under consideration

**P<sub>t</sub>** = the price of bid/offer under consideration

**P<sub>max</sub>** = the price of the highest acceptable bid/offer received

65.1.6 Ramp up percentages for each payment period which will be applied to the monthly Concession Fee structured as follows:

65.1.6.1 0% (zero percent) of rental fee during the application of Environmental Impact Assessment to a maximum of twenty-four (24) months,

65.1.6.2 25% (twenty-five percent) during the construction phase (to a maximum of eighteen months (18), after that 100% rental fee will apply until such time that the terminal is commissioned.

## 65.2 Summary of Concession Fee Offer:

Price (Concession Fee Offer)	Points
Concession Fee Offer (Land)	90
Total	90

## 65.3 EVALUATION CRITERIA 2: SPECIFIC GOALS

65.3.1 This section has a point allocation of 10 (ten) points.

65.3.2 The following preference points were allocated to selected specific goals in accordance with provision 5.7.14 of the Transnet Preferential Procurement Policy.

65.3.3 Points awarded for achieving specific goals listed below:

Specific Goals	Number of points (10 )
B-BBEE Status Level of Contributor 1 or 2	2
The promotion of supplier development through subcontracting a minimum of 30% of the value of the contract to /with EME's and/or QSEs 51% owned by black people, 51% owned by black youth, 51% owned by black people with disabilities or 30% owned by black women.	8
Non-compliant and/or B-BBEE Level 3 - 8 contributors	0

Specific Goal	Acceptable Evidence to score points
B-BBEE Status Level of Contributor 1 or 2	<ol style="list-style-type: none"> <li>1. B-BBEE Certificate / Sworn-Affidavit / B-BBEE CIPC Certificate</li> <li>2. (in case of JV, a consolidated scorecard will be accepted) as per DTIC guideline</li> </ol>
The promotion of supplier development through subcontracting for a minimum of 30% of the value of a contract to/with EMEs and /or QSEs 51% owned by black people, youth, women (30% owned) or disabled people owned.	<ol style="list-style-type: none"> <li>1. Signed sub-contracting agreement/s and Declaration</li> <li>2. B-BBEE Certificate / Sworn-Affidavit / B-BBEE CIPC Certificate as per DTIC guideline</li> </ol>

#### 65.4 Summary of Evaluation Criteria 1 and 2: Price (Concession Fee Offer) and Specific Goals

Summary of Evaluation Criteria	Points	RFP Reference
Price	90	Clause 65.1 of Part III of this RFP
Specific Goals	10	Clause 65.2 of Part III of this RFP
Total	100	

### 66 PART IV: OBJECTIVE CRITERIA

66.1 The TNPA will undertake a due diligence exercise on all the Bidders that have passed Part III, Stage I & 2 Evaluation Criteria (Functionality, Preference Point System) of the evaluation, prior to making the final appointment of the Preferred Bidder. The objective criteria accordingly entail a consideration of, inter alia, the following:

66.1.1 The verification of the authenticity of the Bidders trade references provided as part of Stage 1 of Part III of the Evaluation Criteria, industry associations and or regulatory bodies;

66.1.2 The verification of the Bidders Financial capacity by engaging and obtaining credit references from accredited credit reference agencies and any financial institutions and or funders whom bidders have referenced in their Bid Response;

66.1.3 The conducting of an analysis of Bidders' Business Case to confirm that all risks have been identified and appropriately mitigated, which shall include but not limited to the following:

66.1.3.1 financial risks;

66.1.3.2 technical risks;

66.1.3.3 operational risks;

66.1.3.4 legislative (Compliance) risks;

- 66.1.3.5 quality Management risks;
  - 66.1.3.6 reputational risks;
  - 66.1.3.7 risks associated with dependency on the strategic partners; and holding the partners to accountability; and
- 
- 66.2 Transnet reserves the right to conduct Probity Check on the Preferred Bidder and its shareholders.
  - 66.3 In the event that the objective criteria and/or probity check exercise establish that the highest scoring Bidder's Bid Response cannot be credibly verified and/or that the risk analysis establishes that the Bidder has not taken into account key business risks, such Bidder will not be eligible for appointment as the Preferred Bidder.
  - 66.4 Bidders are to note that the purpose of the TNPA's objective criteria and/or Probity Check process is not intended to re-evaluate Bidders under the Criteria set out in Part III of the RFP, but to confirm that there are no objective considerations which will justify the award of the Project to another Bidder (other than the Bidder who has scored the highest points).