

## **Transnet Port Terminals**

an Operating Division of **TRANSNET SOC LTD**

[hereinafter referred to as **Transnet**]

Registration Number 1990/000900/30

### **REQUEST FOR QUOTATION [RFQ] No: TPT/2024/10/0034/80890/RFQ**

**FOR THE PROVISION OF ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP) FOR NATIONAL FUEL TANK FACILITY AT TRANSNET PORT TERMINAL FOR A PERIOD OF TWELVE (12) MONTHS.**

<b>ISSUE DATE:</b>	<b>08 November 2024</b>
<b>CLOSING DATE:</b>	<b>22 November 2024</b>
<b>CLOSING TIME:</b>	<b>12:00 PM</b>
<b>BID VALIDITY PERIOD:</b>	<b>90 Business Days from Closing Date</b>

#### **Note to the bidders:**

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

#### **RFQ ANNEXURES:**

**ANNEXURE A- BASELINE INSPECTION REPORT- EAST LONDON PORT TERMINAL**  
**ANNEXURE B- BASELINE INSPECTION REPORT- DURBAN CONTAINER TERMINAL**  
**ANNEXURE C - SPECIFICATIONS /SCOPE OF WORK**  
**ANNEXURE D- TECHNICAL QUALIFICATION CRITERIA**  
**ANNEXURE E - PRICING SCHEDULE**  
**ANNEXURE F - STANDARD TERMS AND CONDITIONS OF CONTRACT**  
**ANNEXURE G - SCHEDULE 1 – SCHEDULE OF REQUIREMENTS**  
**ANNEXURE H - TRANSNET’S GENERAL BID CONDITIONS**  
**ANNEXURE I - TRANSNET’S SUPPLIER INTEGRITY PACT**  
**ANNEXURE J - NON-DISCLOSURE AGREEMENT**

FOR THE PROVISION OF ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP) FOR NATIONAL FUEL TANK FACILITY AT TRANSNET PORT TERMINAL FOR A PERIOD OF TWELVE (12) MONTHS.

**SECTION 1: SBD1 FORM**

**PART A  
INVITATION TO BID**

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF TRANSNET PORT TERMINAL, A DIVISION TRANSNET SOC LTD</b>							
BID NUMBER:	TPT/2024/10/0034/80890/RFQ	ISSUE DATE:	08 November 2024	CLOSING DATE:	22 November 2024	CLOSING TIME:	12:00 PM
DESCRIPTION	FOR THE PROVISION OF ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP) FOR NATIONAL FUEL TANK FACILITY AT TRANSNET PORT TERMINAL FOR A PERIOD OF TWELVE (12) MONTHS.						
<b>BID RESPONSE DOCUMENTS SUBMISSION</b>							
<p>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.</p> <p><b>RESPONDENTS ARE TO UPLOAD THEIR BID RESPONSE PROPOSALS ONTO THE TRANSNET SYSTEM AGAINST EACH TENDER/RFQ SELECTED.</b></p> <p>The Transnet e-Tender Submission Portal can be accessed as follows:</p> <ul style="list-style-type: none"> <li>Log on to the Transnet eTenders management platform website/Portal (<a href="https://transnetetenders.azurewebsites.net">transnetetenders.azurewebsites.net</a>) (please use <b>Google Chrome</b> to access Transnet link/site free of charge);</li> <li>Click on "ADVERTISED TENDERS" to view advertised tenders;</li> <li>Click on "SIGN IN/REGISTER – for bidder to register their information (must fill in all mandatory information);</li> <li>Click on "SIGN IN/REGISTER" - to sign in if already registered;</li> <li>Toggle (click to switch) the "Log an Intent" button to submit a bid;</li> <li>Submit bid documents by uploading them into the system against each tender selected.</li> <li>No late submissions will be accepted. The bidder guide can be found on the Transnet Portal <a href="https://transnetetenders.azurewebsites.net">transnetetenders.azurewebsites.net</a></li> </ul>							
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</b>				<b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b>			
CONTACT PERSON	THANDEKA KHUZWAYO			CONTACT PERSON	THANDEKA KHUZWAYO		
TELEPHONE NUMBER	031 816 9687			TELEPHONE NUMBER	031 816 9687		
FACSIMILE NUMBER	Not Applicable			FACSIMILE NUMBER	Not Applicable		
E-MAIL ADDRESS	<a href="mailto:Thandeka.khuzwayo@transnet.net">Thandeka.khuzwayo@transnet.net</a>			E-MAIL ADDRESS	<a href="mailto:Thandeka.khuzwayo@transnet.net">Thandeka.khuzwayo@transnet.net</a>		
<b>SUPPLIER INFORMATION</b>							
NAME OF BIDDER							
POSTAL ADDRESS							
STREET ADDRESS							
TELEPHONE NUMBER	CODE			NUMBER			
CELLPHONE NUMBER							
FACSIMILE NUMBER	CODE			NUMBER			
E-MAIL ADDRESS							
VAT REGISTRATION NUMBER							

FOR THE PROVISION OF ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP) FOR NATIONAL FUEL TANK FACILITY AT TRANSNET PORT TERMINAL FOR A PERIOD OF TWELVE (12) MONTHS.

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

## PART B TERMS AND CONDITIONS FOR BIDDING

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

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

SIGNATURE OF BIDDER:

.....

FOR THE PROVISION OF ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP) FOR NATIONAL FUEL TANK FACILITY AT TRANSNET PORT TERMINAL FOR A PERIOD OF TWELVE (12) MONTHS.

CAPACITY UNDER WHICH THIS BID IS SIGNED: .....

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

DATE: \_\_\_\_\_

## SECTION 2: NOTICE TO BIDDERS

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### 1 Responses to RFQ

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

### 2 Communication

2.1 Specific queries relating to this RFQ before the closing date of the RFQ should be submitted onto the system and to [Thandeka.khuzwayo@transnet.net](mailto:Thandeka.khuzwayo@transnet.net) before **12:00 pm on 22 November 2024**. In the interest of fairness and transparency Transnet's response to such a query will then be made available to other bidders.

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

2.3 Respondents found to be in collusion with one another will be automatically disqualified and restricted from doing business with organs of state for a specified period.

2.4 Respondents may also, at any time after the closing date of the RFQ, communicate with the **Thandeka Khuzwayo** on any matter relating to its RFQ response:

Telephone: **031 816 9687**

Email: [Thandeka.khuzwayo@transnet.net](mailto:Thandeka.khuzwayo@transnet.net)

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

### 3 Legal Compliance

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

### 4 Employment Equity Act

Respondents must comply with the requirements of the Employment Equity Act 55 of 1998 applicable to it including (but not limited to) Section 53 of the Employment Equity Act.

### 5 Changes to Quotations

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

### 6 Binding Offer

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

### 7 Disclaimers

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

- modify the RFQ's goods / service(s) and request Respondents to re-bid on any changes;

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- reject any Quotation which does not conform to instructions and specifications which are detailed herein;
- disqualify Quotations submitted after the stated submission deadline;
- not necessarily accept the lowest priced Quotation or an alternative bid;
- place an order in connection with this Quotation at any time after the RFQ's closing date;
- award only a portion of the proposed goods / services which are reflected in the scope of this RFQ;
- split the award of the order/s between more than one Supplier/Service Provider should it at Transnet's discretion be more advantageous in terms of, amongst others, cost or developmental considerations;
- cancel the quotation process;
- validate any information submitted by Respondents in response to this bid. This would include, but is not limited to, requesting the Respondents to provide supporting evidence. By submitting a bid, Respondents hereby irrevocably grant the necessary consent to Transnet to do so;
- request audited financial statements or other documentation for the purposes of a due diligence exercise;
- not accept any changes or purported changes by the Respondent to the bid rates after the closing date and/or after the award of the business, unless the contract specifically provides for it;
- to cancel the contract and/request that National Treasury place the Respondent on its Database of Restricted Suppliers for a period not exceeding 10 years, on the basis that a contract was awarded on the strength of incorrect information furnished by the Respondent or on any other basis recognised in law;
- award the business to the next ranked bidder, provided that he/she is still prepared to provide the required Goods/Services at the quoted price, should the preferred bidder fail to sign or commence with the contract within a reasonable period after being requested to do so. Under such circumstances, the validity of the bids of the next ranked bidder(s) will be deemed to remain valid, irrespective of whether the next ranked bidder(s) were notified of their bid being unsuccessful. Bidders may therefore be requested to advise whether they would still be prepared to provide the required Goods/Services at their quoted price.
- Should a bidder fail to respond to a request for extension of the validity period before it expires, that bidder will be excluded from tender process.

## **8 Specification/Scope of Work**

### **BACKGROUND**

Transnet Port Terminals has a total diesel storage of 951 000 litres across all terminals. The diesel storage facilities are old, in a deteriorating condition and most pump stations still operate on the analogue system. The diesel storage facilities are at risk of leakages because of aging which could result in fuel losses. Some of the diesel storage tanks are located underground, which is not in line with the Transnet sustainability policy as well as relevant legislation (national and international).

### **SCOPE OF REQUIREMENTS**

The task is the provision of EAP services to apply for Environmental Authorisation (EA) for the decommissioning of the underground tanks in terms of the Environmental Impact Assessment (EIA) Regulations (following the process as defined in Regulation 32 of the Environmental Impact Assessment Regulations, 2014 as amended).

Where conflict or discrepancy exists between a specific procedure requirement or definition contained in this document, with that of the EIA regulations, the latter will take precedence.

Transnet plans to decommission the following:

- 2 X 23 Kilo litres/m<sup>3</sup> diesel tanks and 2 X 14 Kilo litres/m<sup>3</sup> of petrol tanks at the East London Car Terminal.
- 2 X 23 Kilo litres/m<sup>3</sup> diesel tank at Durban Container Terminal Pier 1.

The locality details for the ports are included in the Baseline Inspection Reports appended to this report as:

- **Annexure A**- Baseline inspection report- East London Port Terminal
- **Annexure B**- Baseline inspection report- Durban Container Terminal

Please Refer to **Annexure C** for the full of Scope of work.

## **9 Legal review**

A Proposal submitted by a Respondent will be subjected to review and acceptance or rejection of its proposed contractual terms and conditions by Transnet's Legal Counsel, prior to consideration for an award of business.

## **10 Security clearance**

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

## **11 National Treasury's Central Supplier Database**

Respondents are required to self-register on National Treasury's Central Supplier Database (CSD) which has been established to centrally administer supplier information for all organs of state and facilitate the verification of certain key supplier information. Transnet is required to ensure that price quotations are invited and accepted from prospective bidders listed on the CSD. Business may not be awarded to a respondent who has failed to

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register on the CSD. Only foreign suppliers with no local registered entity need not register on the CSD. The CSD can be accessed at <https://secure.csd.gov.za/>.

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

## 12 Tax Compliance

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

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

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

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

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

**TIP-OFFS ANONYMOUS:**



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

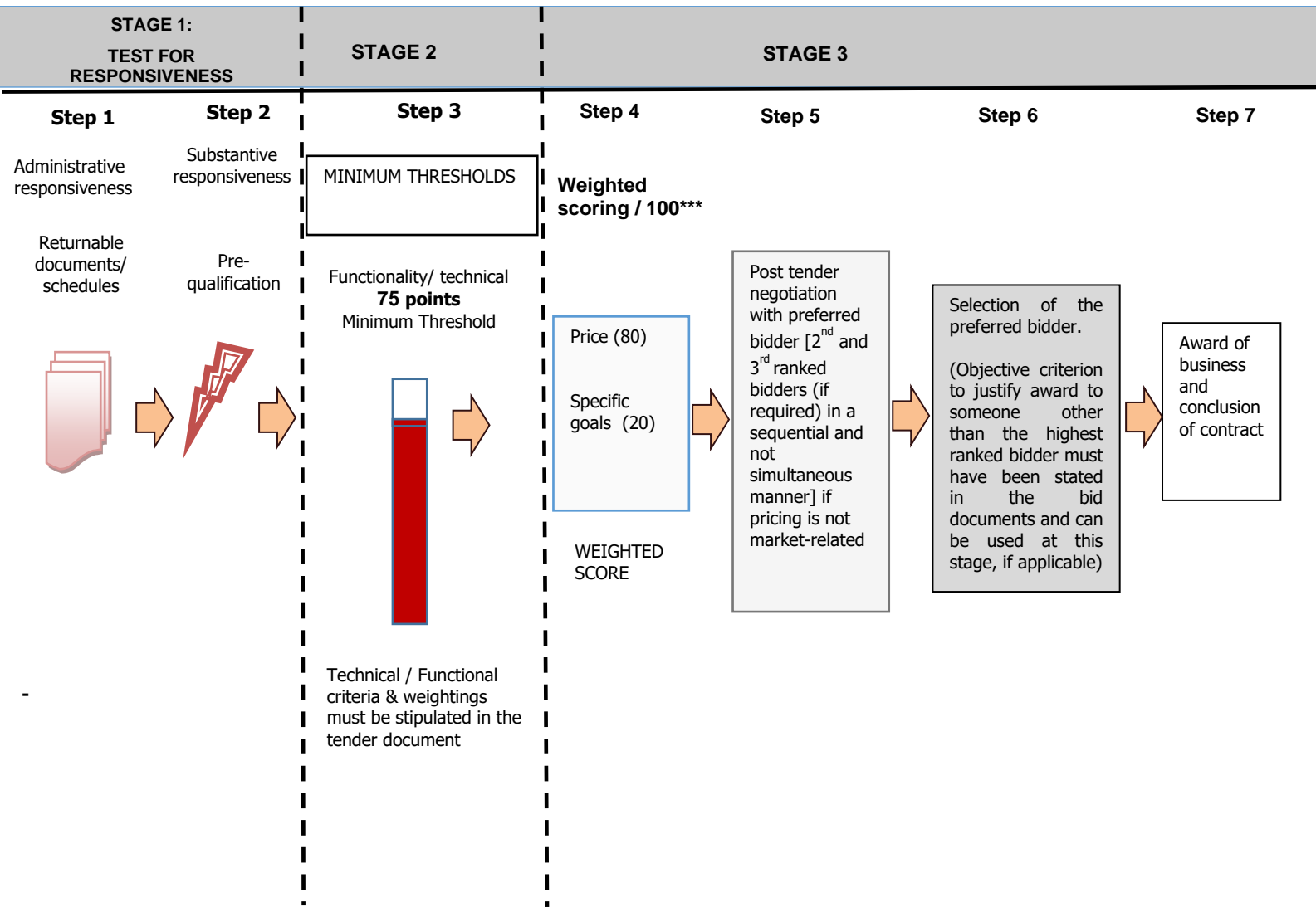
				
	<p><b>AI Voice Bot "Jack"</b> Speak to our AI Voice Chat Bot "JACK", you converse with him like chatting to a human, with the option to record a message and speak to an agent at anytime.</p>	<p><b>What's App</b> Speak to an Agent via What's App.</p>	<p><b>Speak to an Agent</b> Speak to an Agent via the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



**SECTION 3**  
**EVALUATION METHODOLOGY, CRITERIA AND RETURNABLE DOCUMENTS**

**1 Evaluation Criteria**

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



**1.1 STEP ONE: Test for Administrative Responsiveness**

The test for administrative responsiveness will include the following:

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

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

**1.2 STEP TWO: Test for Substantive Responsiveness to RFQ**

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

<b>Check for substantive responsiveness</b>	<b>RFQ Reference</b>
<ul style="list-style-type: none"> <li>Whether any general and legislation qualification criteria set by Transnet, have been met</li> </ul>	<i>All sections</i>
<ul style="list-style-type: none"> <li>Whether the Bid contains a priced offer</li> </ul>	<i>Section 4 - Quotation Form</i>
<ul style="list-style-type: none"> <li>Whether the Bid materially complies with the scope and/or specification given</li> </ul>	<i>All Sections</i>

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

**1.3 STEP THREE: Minimum Threshold 75 points for Technical Criteria**

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

Criteria		Documentation required	Target	Scoring principle
<b>Measurable criteria</b>	1. Previous Experience	<p>The service provider must provide a list of five (5) past/current Basic Assessments or Environmental Impact Assessment projects on a company letterhead,                      list to include:</p> <ul style="list-style-type: none"> <li>• Name of client company</li> <li>• Contact detail for the client company</li> </ul> <p><b><u>Supporting document</u></b>                      A list of five (5) past/current Basic Assessments or Environmental Impact Assessment projects on a company letterhead,                      list to include:</p> <ul style="list-style-type: none"> <li>• Name of client company</li> <li>• Contact detail for the client company</li> </ul>	30%	<ul style="list-style-type: none"> <li>• 30% of points = company letterhead indicating a list of EIA or BA services rendered and contact details. List includes five (5) or more project services.</li> <li>• 20% of points = company letterhead indicating a list of EIA or BA services rendered and contact details. List includes four project services.</li> <li>• 10% of points = company letterhead indicating a list of EIA or BA services rendered and contact details. List includes three project services.</li> <li>• 5% of points = company letterhead indicating a list of EIA or BA services rendered and contact details. List includes one or two project services.</li> <li>• 0% of points = No information provided</li> </ul>
	2. Composition of Key personnel	<p>The service provider should provide proof of qualification and experience for each member of the team conducting the assessment. (<b>NOTE:</b> Should a team member leave the organisation the replacement person will be expected to have the required qualifications listed.)</p> <p><b><u>Supporting document</u></b></p> <ul style="list-style-type: none"> <li>• Diploma/B-tech/Degree in Environmental Management or relevant qualification.</li> </ul>	30%	<ul style="list-style-type: none"> <li>• 30% of points = Diploma/B-tech/Degree in Environmental Management, EAPASA and 3-5 or more years' experience.</li> <li>• 20% of points = Diploma/B-tech/Degree in Environmental Management, EAPASA and 1-2 years' experience.</li> </ul>

**Returnable Document**

		<ul style="list-style-type: none"> <li>• EAPASA registration</li> <li>• CV stipulating five (5) years’ experience in Basic Assessment processes and Stakeholder Engagement</li> </ul>		<ul style="list-style-type: none"> <li>• 10% of points = Diploma/B-tech/Degree in Environmental Management, EAPASA and less than 1 year experience.</li> <li>• 0% of points = No information provided</li> </ul>
	3. Project Plan	<p>The service provider must submit a detailed project plan that complies to the scope of work. Project plan must clearly indicate:</p> <ul style="list-style-type: none"> <li>• Projected Timeframes of the activities to be completed, which will result in the Environmental Authorisation being given by Authorities, inclusive of the regulated times frames for EIA/BA process;</li> <li>• Milestones and deliverables; and</li> <li>• Detailed explanations on how activity durations were estimated</li> </ul> <p><b><u>Supporting document</u></b>                      Service provider should provide a project plan that addresses all 3 points indicated above.</p>	10%	<ul style="list-style-type: none"> <li>• 10% of points = Service provider provided a project plan that addresses all 3 points requested</li> <li>• 5% of points = Service provider provided a project plan that addresses 1 or 2 points requested</li> <li>• 0% of points = No project plan information or project timeframes provided</li> </ul>
	4. Approach Paper	<p>The service provider should provide the Approach Paper that addresses the following Key activities as a minimum as per the Scope of Work:</p> <ul style="list-style-type: none"> <li>• <b>TASK 1:</b> Project Initiation;</li> <li>• <b>TASK 2:</b> Public Participation process;</li> <li>• <b>TASK 3:</b> Basic Assessment;</li> <li>• <b>TASK 4:</b> Project Management;</li> </ul> <p>Each of the key activities above must relate to the scope of work.</p> <p><b><u>Supporting document</u></b>                      Service provider should provide the approach paper that addresses all four Task activities and the sub activities</p>	30%	<ul style="list-style-type: none"> <li>• 30% of points = Approach paper covers all four (4) Task activities.</li> <li>• 15 % of points = Approach paper covers three (3) Task activities.</li> <li>• 5% of points = Approach paper covers two(2) or one (1) Task activities.</li> <li>• 0% of points = Not submitted the required information.</li> </ul>
	TOTAL RATING		100%	
		Technical Qualification Threshold = 75%		

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

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

**1.4 STEP FOUR: Evaluation and Final Weighted Scoring**

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

Evaluation Criteria	RFP Reference
<ul style="list-style-type: none"> <li>• Commercial offer</li> </ul>	<i>Section 4</i>

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

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

Where:

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

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

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

**1.5 STEP FIVE: Post Tender Negotiations (if applicable)**

- Respondents are to note that Transnet may not award a contract if the price offered is not market-related. In this regard, Transnet reserves the right to engage in PTN with the view to achieving a market-related price or to cancel the tender. Negotiations will be done in a sequential manner i.e.:
  - first negotiate with the highest ranked bidder or cancel the bid, should such negotiations fail,
  - negotiate with the 2nd and 3rd ranked bidders (if required) in a sequential manner.
- In the event of any Respondent being notified of such short-listed/preferred bidder status, his/her bid, as well as any subsequent negotiated best and final offers (BAFO), will automatically be deemed to remain valid during the negotiation period and until the ultimate award of business.
- Should Transnet conduct post tender negotiations, Respondents will be requested to provide their best and final offers to Transnet based on such negotiations. Where a market related price has been achieved through negotiation, the contract will be awarded to the successful Respondent(s).

### **1.6 STEP SIX: Objective Criteria (if applicable)**

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

- Skills Transfer and Capacity Building for Transnet;
- Impact on Transnet's Return On Investment;
- Rotation of Suppliers to promote opportunities for other suppliers, by overlooking a supplier that has been awarded business repeatedly overtime in order to benefit other suppliers in the market;
- the tenderer:
  - is not under restrictions, or has principals who are under restrictions, preventing participating in the employer's procurement,
  - is not undergoing a process of being restricted by Transnet or other state institution that Transnet may be aware of,
  - can, as necessary and in relation to the proposed contract, demonstrate that he or she possesses the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and the personnel, to perform the contract,
  - has the legal capacity to enter into the contract
  - is not insolvent, in receivership, under Business Rescue as provided for in chapter 6 of the Companies Act, 2008, bankrupt or being wound up, has his affairs administered by a court or a judicial officer, has suspended his business activities, or is subject to legal proceedings in respect of any of the foregoing,
  - complies with the legal requirements, if any, stated in the tender data and
  - is able, in the option of the employer to perform the contract free of conflicts of interest.
- all Risks identified during a risk assessment exercise/probity check (which may be conducted by an authorised third party) that would be done to assess all risks, including but not limited to:
  - the financial stability of the bidder based on key ratio analysis, which would include, but not be limited to Efficiency, Profitability, Financial Risk, Liquidity, Acid Test, and Solvency;
  - a due diligence to assess functional capability and capacity. This could include a site visit;
  - A commercial relationship with a Domestic Prominent Influential Person (DPIP) or Foreign Prominent Public Official (FPPO) or an entity of which such person or official is the beneficial owner; and
  - Reputational and Brand risks

### **1.7 STEP SEVEN: Award of business and conclusion of contract**

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

## **2 Validity Period**

Transnet requires a validity period of 90 Business Days from the closing date of this RFQ, excluding the first day and including the last day.

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

**3 Disclosure of contract information**

**Johannesburg Stock Exchange Debt Listing Requirements**

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

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

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

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

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

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

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

**4 Returnable Documents**

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

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

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

**a) Mandatory Returnable Documents**

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

<b>Mandatory Returnable Documents</b>	<b>Submitted [Yes or No]</b>
ANNEXURE E - Pricing Schedule	



**b) Returnable Documents Used for Scoring**

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

<b>RETURNABLE DOCUMENTS USED FOR SCORING</b>	<b>SUBMITTED [Yes or No]</b>
Valid proof of Respondent's compliance to B-BBEE requirements stipulated in Section 7 of this RFP (Valid B-BBEE certificate or Sworn- Affidavit as per DTIC guidelines)	
Respondent's valid proof of evidence to claim points for compliance with Specific Goals' requirements as stipulated in Section 7 of this RFP	
Previous Experience	
Composition of Key personnel	
Project Plan	
Approach Paper	

**c) Essential Returnable Documents:**

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

<b>ESSENTIAL RETURNABLE DOCUMENTS &amp; SCHEDULES</b>	<b>SUBMITTED [Yes or No]</b>
Latest Financial Statements signed by your Accounting Officer or latest Audited Financial Statements plus 2 previous years	
SECTION 5: Certificate of Acquaintance with RFQ Documents	
SECTION 6: RFQ Declaration and Breach of Law Form	
ANNEXURE F - Standard Terms and Conditions of Contract	
ANNEXURE G - Schedule 1 – Schedule of Requirements	
ANNEXURE H -Transnet's General Bid Conditions	
ANNEXURE I -Transnet's Supplier Integrity Pact	
ANNEXURE J- Non-disclosure Agreement	
SECTION 8: Protection of Personal Information	
SECTION 1: SBD1 Form	

**5 CONTINUED VALIDITY OF RETURNABLE DOCUMENTS**

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

**SECTION 4  
 QUOTATION FORM**

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

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

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

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

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

**Price Schedule**

I/We quote as follows for the goods/services required, on a “delivered nominated destination” basis, including VAT:

<b>SCOPE OF WORK REFERENCE NUMBER</b>	<b>DESCRIPTION</b>	<b>UNIT</b>	<b>QUANTITY</b>	<b>RATE</b>	<b>AMOUNT</b>
	<b>EXECUTION ACCORDING TO SCOPE OF WORK</b>				
5.1.1	Task 1: Project Initiation	Item	1		
5.1.2	Task 2: Public participation	Item	1		
5.1.3	Task 3 Basic Assessment	Item	1		
5.1.4	Task 4: Project Management	Item	1		
	Travel & Disbursement costs – Attach a detailed table of disbursement costs	Item	1		
	<b>SUBTOTAL 1</b>				
	Add VAT at 15%				
	<b>Total Tender Amount (including VAT)</b>				

\_\_\_\_\_  
 Respondent’s Signature

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

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

**Notes to Pricing:**

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

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

- b) All Prices must be quoted in South African Rand, inclusive of VAT
- c) Any disbursement not specifically priced for will not be considered/accepted by Transnet.
- d) To facilitate like-for-like comparison bidders must submit pricing strictly in accordance with this price schedule and not utilise a different format. Deviation from this pricing schedule will result in a bid being disqualified.
- e) Please note that should you have offered a discounted price(s), Transnet will only consider such price discount(s) in the final evaluation stage if offered on an unconditional basis.

**SECTION 5  
 CERTIFICATE OF ACQUAINTANCE WITH RFQ DOCUMENTS**

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

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

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

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

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

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

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

SIGNATURE OF WITNESSES

ADDRESS OF WITNESSES

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

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

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

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

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

FOR THE PROVISION OF ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP) FOR NATIONAL FUEL TANK FACILITY AT  
TRANSNET PORT TERMINAL FOR A PERIOD OF TWELVE (12) MONTHS

**Returnable Document**

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

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

**SECTION 6**  
**RFQ DECLARATION AND BREACH OF LAW FORM**

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

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

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

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

ADDRESS:

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Indicate nature of relationship with Transnet:

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

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

**BIDDER'S DISCLOSURE (SBD4)**

**12 PURPOSE OF THE FORM**

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

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

**13 Bidder's declaration**

13.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest<sup>1</sup> in the enterprise, employed by the state?

**YES/NO**

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

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



Full Name	Identity Number	Name of State institution

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

**YES/NO**

13.2.1. If so, furnish particulars:

.....  
 .....

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

**YES/NO**

13.3.1. If so, furnish particulars:

.....  
 .....

**14 DECLARATION**

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

- 14.1 I have read and I understand the contents of this disclosure;
- 14.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 14.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium<sup>2</sup> will not be construed as collusive bidding.

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

- 14.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 14.5 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 14.6 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.
- 14.7 I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

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

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

**BREACH OF LAW**

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

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

NATURE OF BREACH:

\_\_\_\_\_  
DATE OF BREACH: \_\_\_\_\_

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

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

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

**SECTION 7: SPECIFIC GOALS POINTS CLAIM FORM**

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

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

**1. GENERAL CONDITIONS**

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

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

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

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

1.4 Preference points for this bid shall be awarded for:

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

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

	<b>POINTS</b>
<b>PRICE</b>	<b>80</b>
<b>B-BBEE Level 1&amp;2 = 10</b> <b>30% Black Women Owned (30% BWO) =10</b>	<b>20</b>
<b>Total points for Price and Specific Goals must not exceed</b>	<b>100</b>

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

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

**2. DEFINITIONS**

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

**3. POINTS AWARDED FOR PRICE**

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

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

**80/20**

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

Where

P<sub>s</sub> = Points scored for comparative price of bid under consideration

- Pt = Comparative price of bid under consideration
- Pmin = Comparative price of lowest acceptable bid

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

Selected Specific Goal	Number of points allocated (80/20)
B-BBEE Level of contributor (1 or 2)	10
30% Black women Owned entities	10

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

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

Specific Goals	Acceptable Evidence
B-BBEE	B-BBEE Certificate / Sworn- Affidavit / B-BBEE CIPC Certificate (in case of JV, a consolidated scorecard will be accepted) as per DTIC guideline
30% Black Women Owned Entities	B-BBEE Certificate / Sworn- Affidavit / B-BBEE CIPC Certificate (in case of JV, a consolidated scorecard will be accepted) as per DTIC guideline
+50% Black Youth Owned Entities	Certified copy of ID Documents of the Owners and B-BBEE Certificate / Sworn- Affidavit / B-BBEE CIPC Certificate (in case of JV, a consolidated scorecard will be accepted) as per DTIC guideline
Entities Owned by People with Disability (PWD)	Certified copy of ID Documents of the Owners / Doctor’s note and /or EEA1 form confirming the disability
Entities/Black People living in rural areas	Entity’s Municipal/ESKOM bill or letter from Induna/chief confirming residential address not older than 3 months.
South African Enterprises	CIPC Certificate
EME or QSE 51% Black Owned	B-BBEE Certificate / Sworn-Affidavit / CIPC Certificate
Entities that are 51 % Black Owned	CI B-BBEE Certificate / Sworn- Affidavit / B-BBEE CIPC Certificate (in case of JV, a consolidated scorecard will be accepted) as per DTIC guideline
Promoting exports Orientated for Job creation	Section.....Job Creation Schedule Returnable documents
Local Content and Local Production	Returnable Local Content and production Annexures
NIPP	NIPP Returnable documents
Creation of new jobs and labour intensification	Section.....Job Creation Schedule Returnable documents
The promotion of supplier development through sub-contracting or JV for a minimum of 30% of the value of a contract to South African Companies which are: I. 30% Black Women owned, 51% Black Youth and 51% Black people with disabilities II. Entities with a specified minimum B-BBEE level (1 and 2) III. EMEs and/or QSEs who are 51% black-owned	Sub-contracting agreements and Declaration / Joint Venture Agreement and CIPC – B-BBEE Certificate / Sworn- Affidavit / B-BBEE CIPC Certificate as per DTIC guideline

<p>The promotion of enterprises located in a specific province/region/municipal area for work to be done or services to be rendered in that province/region/municipal area</p>	<p>CIPC – B-BBEE Certificate / Sworn- Affidavit / B-BBEE CIPC Certificate (in case of JV, a consolidated scorecard will be accepted) as per DTIC guidelines and Proof Registered address of entity</p>
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4.2 The table below indicates the required proof of B-BBEE status depending on the category of enterprises:

<b>Enterprise</b>	<b>B-BBEE Certificate &amp; Sworn Affidavit</b>
<b>Large</b>	Certificate issued by SANAS accredited verification agency
<b>QSE</b>	Certificate issued by SANAS accredited verification agency Sworn-Affidavit signed by the authorised QSE representative and attested by a Commissioner of Oaths confirming annual turnover and black ownership (only black-owned QSEs - 51% to 100% Black owned) [Sworn- affidavits must substantially comply with the format that can be obtained on the DTI’s website at <a href="http://www.dti.gov.za/economic_empowerment/bee_codes.jsp">www.dti.gov.za/economic_empowerment/bee_codes.jsp</a> .]
<b>EME<sup>3</sup></b>	Sworn-Affidavit signed by the authorised EME representative and attested by a Commissioner of Oaths confirming annual turnover and black ownership Certificate issued by CIPC (formerly CIPRO) confirming annual turnover and black ownership Certificate issued by SANAS accredited verification agency only if the EME is being measured on the QSE scorecard

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

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

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

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

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

**5. BID DECLARATION**

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

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

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

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

**7. SUB-CONTRACTING**

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

*(Tick applicable box)*

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

7.1.1 If yes, indicate:

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

*(Tick applicable box)*

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

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

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

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

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

8.2 VAT registration number:.....

8.3 Company registration number:.....

**8.4 TYPE OF COMPANY/ FIRM**

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

[TICK APPLICABLE BOX]

**8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES**

.....  
 .....

**8.6 COMPANY CLASSIFICATION**

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



[ TICK APPLICABLE BOX ]

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

8.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBEE status level of contribution indicated in paragraphs 4.1 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 4.1 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have-
  - (a) disqualify the person from the bidding process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person’s conduct;
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
  - (d) if the successful bidder subcontracted a portion of the bid to another person without disclosing it, Transnet reserves the right to penalise the bidder up to 10 percent of the value of the contract;
  - (e) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
  - (f) forward the matter for criminal prosecution.

<b>WITNESSES</b>	
1.	.....
2.	.....

..... <b>SIGNATURE(S) OF BIDDERS(S)</b> DATE: ..... ADDRESS ..... .....
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## **SECTION 8**

### **PROTECTION OF PERSONAL INFORMATION**

1. The following terms shall bear the same meaning as contemplated in Section 1 of the Protection of Person information act, No.4 of 2013. ("POPIA"):  
  
consent; data subject; electronic communication; information officer; operator; person; personal information; processing; record; Regulator; responsible party; special information; as well as any terms derived from these terms.
2. Transnet will process all information by the Respondent in terms of the requirements contemplated in Section 4(1) of the POPIA:  
  
Accountability; Processing limitation; Purpose specification; Further processing limitation; Information quality; Openness; Security safeguards and Data subject participation.
3. The Parties acknowledge and agree that, in relation to personal information that will be processed pursuant to this RFQ, the Responsible party is "Transnet" and the Data subject is the "Respondent". Transnet will process personal information only with the knowledge and authorisation of the Respondent and will treat personal information which comes to its knowledge as confidential and will not disclose it, unless so required by law or subject to the exceptions contained in the POPIA.
4. Transnet reserves all the rights afforded to it by the POPIA in the processing of any of its information as contained in this RFQ and the Respondent is required to comply with all prescripts as detailed in the POPIA relating to all information concerning Transnet.
5. In responding to this bid, Transnet acknowledges that it will obtain and have access to personal information of the Respondent. Transnet agrees that it shall only process the information disclosed by Respondent in their response to this bid for the purpose of evaluating and subsequent award of business and in accordance with any applicable law.
6. Transnet further agrees that in submitting any information or documentation requested in this RFQ, the Respondent is consenting to the further processing of their personal information for the purpose of, but not limited to, risk assessment, assurances, contract award, contract management, auditing, legal opinions/litigations, investigations (if applicable), document storage for the legislatively required period, destruction, de-identification and publishing of personal information by Transnet and/or its authorised appointed third parties.
7. Furthermore, Transnet will not otherwise modify, amend or alter any personal data submitted by the Respondent or disclose or permit the disclosure of any personal data to any third party without the prior written consent from the Respondent. Similarly, Transnet requires the Respondent to process any personal information disclosed by Transnet in the bidding process in the same manner.
8. Transnet shall, at all times, ensure compliance with any applicable laws put in place and maintain sufficient measures, policies and systems to manage and secure against all forms of risks to any information that may be

shared or accessed pursuant to this RFQ (physically, through a computer or any other form of electronic communication).

9. Transnet shall notify the Respondent in writing of any unauthorised access to information, cybercrimes or suspected cybercrimes, in its knowledge and report such crimes or suspected crimes to the relevant authorities in accordance with applicable laws, after becoming aware of such crimes or suspected crime. The Respondent must take all necessary remedial steps to mitigate the extent of the loss or compromise of personal information and to restore the integrity of the affected personal information as quickly as is possible.
10. The Respondent may, in writing, request Transnet to confirm and/or make available any personal information in its possession in relation to the Respondent and if such personal information has been accessed by third parties and the identity thereof in terms of the POPIA. The Respondent may further request that Transnet correct (excluding critical/mandatory or evaluation information), delete, destroy, withdraw consent or object to the processing of any personal information relating to the Respondent in Transnet's possession in terms of the provision of the POPIA and utilizing Form 2 of the POPIA Regulations.
11. In submitting any information or documentation requested in this RFQ, the Respondent is hereby consenting to the processing of their personal information for the purpose of this RFQ and further confirming that they are aware of their rights in terms of Section 5 of POPIA

**Respondents are required to provide consent below:**

<b>YES</b>		<b>NO</b>	
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12. Further, the Respondent declares that they have obtained all consents pertaining to other data subject's personal information included in its submission and thereby indemnifying Transnet against any civil or criminal action, administrative fines or other penalty or loss that may arise as a result of the processing of any personal information that the Respondent submitted.
13. The Respondent declares that the personal information submitted for the purpose of this RFQ is complete, accurate, not misleading, is up to date and may be updated where applicable.

Signature of Respondent's authorised representative: \_\_\_\_\_

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



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## **ENVIRONMENTAL BASELINE REPORT**

**Project Name: Fuel Tanks and Bowsers (National), East London  
Car Terminal.**

**Transnet Project Number: Z9000113**



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**Environmental Baseline/Status Quo Report**  
**Project Name: Fuel Tanks and Bowsers (National), East London**  
**Car Terminal.**  
**Project Number: Z9000113**

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## **1. Introduction and Background**

The purpose of this report is to identify and characterize the existing status quo of the proposed development site, provide input on the requirements to comply with environmental legislation and make recommendations on initiatives or controls that will ensure environmental protection.

Transnet Port Terminals has a total diesel storage of 951 000 litres across all terminals. The diesel storage facilities are old, in a deteriorating condition and most pump stations still operate on the analogue system. The diesel storage facilities are at risk of leakages because of aging which could result in fuel losses. Some of the diesel storage tanks are located underground, which is not in line with the sustainability policy. Furthermore, the existing national infrastructure has lost its capacity to sufficiently service the current fleet across all TPT terminals and this has resulted in constant refills of terminals diesel storage facilities. The terminals require an increase in diesel storage to mitigate the potential loss of fuel in the future and to rationalise the frequency of refills. This will also include the upgrading of fuel pump station to be compatible with fuel management system. TPT wants to have adequate diesel storage at the depots to ensure they sustain operations; meet variation in supply and demand; safeguard during supply shortage; and manage and reduce ordering cost.

The East London terminal is serviced by 2 X 23 Kilo litres/m<sup>3</sup> diesel tanks and 2 X 14 Kilo litres/m<sup>3</sup> of petrol tanks that are not utilised. The underground diesel tanks service the straddle carriers, fork lifts and five non-revenue equipment. The equipment uses diesel to operate, however it does not have license to operate in the public road.

Due to poor condition of the existing tanks and a drive to comply with the Transnet Sustainability Policy as well as relevant legislation (national and international), the terminal plans to decommission both the current petrol and diesel tanks and acquire self-bunded 2 X 23 m<sup>3</sup> above ground diesel tanks to accommodate the current and future equipment needs. The self-bunded tank will allow for a safe and effective storage of diesel, hence reducing environmental contamination.

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The primary objective of the project is to replace the aging diesel and petrol pump stations and repairing of fuel station facility infrastructure to ensure fuel readings accuracy, including leaks preventions. This will improve operational efficiency and protect revenue in the Port.

Karabo Sefike (TPT Environmental Specialist) conducted the site inspection for the construction of the National Fuel Strategy Project, East London Terminal on 15 February 2023. At this stage the location of the underground tank is unknown and its distance to the sea. The current fuel area is the proposed area however it will be above ground.



Figure 2: Study Area

**Table 1: The advantages and disadvantages of each site location**

SITE OPTIONS	ADVANTAGES	DISADVANTAGE
Proposed site	<ul style="list-style-type: none"> <li>Existing fuel facility.</li> </ul>	<ul style="list-style-type: none"> <li>Approx. 105m from the sea water</li> <li>It is located on a traffic interfering area.</li> <li>Not time convenient for Equipment operators and Stock Controller.</li> </ul>



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## 2. Project Scope

The works to be completed by the Contractor includes but is not limited to the following:

- Decommissioning of 2 X 14 m<sup>3</sup> of petrol tanks
- Decommissioning of 2 X 23 m<sup>3</sup> of diesel tanks
- Installation of 2 x 23 m<sup>3</sup> diesel pencil tanks as per SANS10131:2004 requirements for aboveground installations, where applicable
- Installation of new pipe work
- Reconstruction of fuel station bund walls and floor repairs
- Installation of new pump(s) with digital flow meters which are capable of communicating with a fuel management system
- Installation of electronic tank gauge system for tank level monitoring
- Handover documentation including flammable permit application drawings, quality data books and equipment operating and maintenance manuals; and
- Testing and commissioning

## 3. Baseline Inspection Criteria

The baseline assessment was carried out against the flora, fauna, water, regional climate, heritage resources and social and community aspects in the area. The inspection criteria was derived from South African Environmental legislation such as the National Environmental Management Act, Act no 107 of 1998, three NEMA Listing Notifications, National Environmental Management Integrated Coastal Management Act 24 of 2008, National Environmental Management Waste Act 59 of 2008, National Water Act 36 of 1998 section 21, National Forest Act 84 of 1998, National Environmental Management Biodiversity Act 10 of 2004, National Environmental Management Air Quality Act 39 of 2004, National Heritage Resources Act 25 of 1999, Mineral and Petroleum Resources Development Act 28 of 2002, as well as the Buffalo City Metropolitan Municipality By-laws.

Site condition was assessed, and the following observations and recommendations were made:

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### 3.1 Flora

The site is situated on Transnet property within the existing Port and its marine infrastructure. The site within and around the study area is paved/concrete and some have little vegetation which is not protected, threatened or endangered, except vegetation which is outside the fence around the preferred site.

### 3.2 Fauna

No animal or bird species (threatened or protected species) were identified on the proposed site during the assessment. However, should any animal or bird species be identified during construction, it should not be killed, the TPT Environmental Officer and site supervisor should be informed immediately. If no-one is available, an appropriately skilled person should be contacted to remove the creature off site.

### 3.3 Water

The proposed preferred site for the fuel storage is located at the harbour (Port of East London). Due to the proposed site located on the harbour, there is a potential of encountering water during excavations and this mainly depends on the excavation levels. The Geotechnical survey and report for this project have not been done yet and therefore, the water table is unknown. However, should water seep through the excavations, the GA 665 of 2013 can be utilised. This general authorisation replaces the need for a water user to apply for a licence in terms of the National Water Act, (Act 36 of 1998) if the water use is within the limits and conditions as set out in this general authorisation. Dewatering of 100 m<sup>3</sup> per day is authorised by the GA and a monitoring plan in terms of section 21(j) of the National Water Act (Act 36 of 1998) needs to be submitted with the registration application to the Department of Water and Sanitation (DWS). However, should the water quantity exceed 100m<sup>3</sup> a day, a water use license application (WULA) will be required.

It should be noted that should dewatering takes place, another water use might be triggered such as: Section 21(b) Storing of water) and/or 21(f) Discharging waste or water containing waste into a water resource through a pipe, canal, sewer, sea outfall or other conduit of the

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National Water Act (Act 36 of 1998) would need to be applied for. However, should it be salt water instead of fresh water that seeps through the excavations, the National Water Act will not apply, but the National Environmental Management: Integrated Coastal Management Act (Act 24 of 2008), relevant sections of the Act might apply, e.g. a coastal waters discharge permit might be required.

On the other hand, the preferred site and alternatives (refer to plate 1 above) is located within 70 - 105m from the sea. However, NEMA EIA activities 19 and 19A of Listing Notice 1 will not be applicable as infilling, depositing, dredging, excavation, removal or moving will occur within existing port or harbour that will not increase the development footprint of the port or harbour.

No water shall be abstracted from the sea for construction without a valid permit from the relevant authorities. The appointed contractor shall prevent polluted and/or contaminated water to enter the sea and will also ensure that all the construction personnel and visitors on site are not allowed to do any fishing activities.

The following subsections of Section 19 (1) of the Water Act (Act 36 of 1998) will need to be complied with,

*19. (1) An owner of land, a person in control of land or a person who occupies or uses the land on which —*

*(a) any activity or process is or was performed or undertaken; or*

*(b) any other situation exists,*

*which causes, has caused or is likely to cause pollution of a water resource, must take all reasonable measures to prevent any such pollution from occurring, continuing or recurring.*

*19. (2) The measures referred to in subsection (1) may include measures to —*

*(a) cease, modify or control any act or process" causing the pollution;*

*(b) comply with any prescribed waste standard or management practice;*

*(c) contain or prevent the movement of pollutants;*

The following subsections of Section 21 of the Water Act (Act 36 of 1998) will need to be complied with, i.e., a water use license application (WULA) is required.

*(f) discharging waste or water containing waste into a water resource through a pipe, canal sewer sea outfall or other conduit;*

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- (g) disposing of waste in a manner which may detrimentally impact on a water resource;*
- (h) disposing in any manner of water which contains waste from or which has been heated in any industrial or power generation process;*

Schedule 1(1)(f) of the Water Act also states that:

*A person may, subject to this Act — discharge —*

- (i) waste or water containing waste; or*
- (ii) run-off water, including storm water from any residential, recreational, commercial or industrial site, into a canal, sea outfall or other conduit controlled by another person authorised to undertake the purification, treatment or disposal of waste or water containing waste, subject to the approval of the person controlling the canal, sea outfall or other conduit.*

On the other hand, water management will need to comply with the Buffalo City Metropolitan Municipality: Water Services by law of 22 March 2011.

### 3.4 **Waste management**

One of the project's requirements is to decommission the existing fuel storage tanks and at the same time, there will be some form of waste generated during the construction of the new diesel storage tank/s. All the relevant activities including classification, storage, disposal, etc. will need to comply with the relevant sections of the Waste Act, Act 59 of 2008 as amended as well as the COVID-19 Healthcare Waste Management on Construction sites TGC-IMS-ENV-SOP-009.001.

Decommissioning of the existing fuel storage tank/s might trigger the NEMA EIA Listed Activities Regulations under Listing Notice 1, Activity 31, which states that:

*The decommissioning of existing facilities, structures or infrastructure for—*

- (i) any development and related operation activity or activities listed in this Notice, Listing Notice 2 of 2014 or Listing Notice 3 of 2014;*

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- (ii) *any expansion and related operation activity or activities listed in this Notice, Listing Notice 2 of 2014 or Listing Notice 3 of 2014;*
- (iii) *.....*
- (iv) *any phased activity or activities for development and related operation activity or expansion or related operation activities listed in this Notice or Listing Notice 3 of 2014;*  
*or*
- (v) *any activity regardless the time the activity was commenced with, where such activity:*
  - (a) *is similarly listed to an activity in (i) or (ii) above; and*
  - (b) *is still in operation or development is still in progress;*

*excluding where—*

*(aa) activity 22 of this notice applies; or*

*the decommissioning is covered by part 8 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the National Environmental Management: Waste Act, 2008 applies.*

According to the National Waste Act, (Act 59 of 2008) as amended, Government Notice No. 921 29 Nov 2013 (as amended by GNR 332 of 2 May 2014), Category A, the following listed activity is applicable and will require a basic assessment process to be undertaken: Activity 14, which states that *"The decommissioning of a facility for a waste management activity listed in Category A or B of this Schedule."* Under the same category, activities 9 (*The disposal of inert waste to land in excess of 25 tons but not exceeding 25 000 tons, excluding the disposal of such waste for the purposes of levelling and building which has been authorised by or under other legislation*) and 10 (*The disposal of general waste to land covering an area of more than 50m<sup>2</sup> but less than 200m<sup>2</sup> and with a total capacity not exceeding 25 000 tons*) of the Waste Act listed activities might also be triggered, depending on the activities that will materialise during construction.

Through decommissioning and construction, the project might further trigger Category B listed activities that require full scoping and environmental impact assessment, which are:

*Activity (7) The disposal of any quantity of hazardous waste to land.*

*Activity (8) The disposal of general waste to land covering an area in excess of 200m<sup>2</sup> and with a total capacity exceeding 25 000 tons.*

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Activity (9) *The disposal of inert waste to land in excess of 25 000 tons, excluding the disposal of such waste for the purposes of levelling and building which has been authorised by or under other legislation.*

On the other hand, waste management will need to comply with the relevant Buffalo City Metropolitan Municipality by law when/if it becomes available.

### 3.5 Storage and handling of dangerous (petroleum) goods

The terminal proposes the construction of above ground self-bunded fuel (diesel) tanks. Regardless of tanks being self-bunded, storage of any hazardous materials/substances during construction and operation should be on adequately bunded floors with a sump and the floor and the walls on bund areas must be impervious to prevent infiltration of any spills/leaks into the sub-surface soil and ground water. It should be noted that the fuel capacity (2 x 23kl/m<sup>3</sup> above ground tank), will not trigger activity 14 of the NEMA EIA Regulations Listing Notices, under Listing Notice 1 which states that "*The development of facilities or infrastructure, for the storage or for the storage and handling of a dangerous good, where such storage occurs in containers with a combined capacity of 80m<sup>3</sup> or more but not exceeding 500m<sup>3</sup>.*"

Furthermore, with the given scope (decommission existing fuel tanks and build new ones), the Terminal will not trigger activity 51 of the EIA Regulations Listing Notice 1, which states "*the expansion and related operation of facilities for storage, or storage and handling, of a dangerous good, where the capacity of such storage facility will be expanded by more than 80 cubic metres.*"

From the given information, total fuel capacity will be less than 500 cubic metres and the study area/s is/are not on a protected area and therefore, Activities 4 and 10 of Listing Notices 2 and 3 respectively are not applicable.

On the other hand, the storage and handling/capacity of petroleum products in the terminal will be less than 500m<sup>3</sup> and therefore, (2) *Subcategory 2.2* of the National Environmental Management: Air Quality Act (Act 39 of 2004) as amended, which identifies *Storage and*

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*Handling of Petroleum Products which deals with petroleum product storage tanks and product transfer facilities, except those used for liquefied petroleum gas of all permanent immobile liquid storage tanks larger than 500m<sup>3</sup> cumulative tankage capacity at a site is not applicable.*

Furthermore, the project/terminal will have to comply with the Buffalo City Metropolitan Municipality air quality and fire prevention and flammable liquids and substances by laws if/when they become available.

### **3.6 Excavations and spoil material from excavations**

The construction of the above ground diesel tank/s will involve excavations and mostly within 70 - 105m from the sea. However, NEMA EIA listing notices 19 and 19A of Listing Notice 1 will not be applicable as infilling, depositing, dredging, excavation, removal or moving will occur within the existing port or harbour that will not increase the development footprint of the port or harbour.

The excess spoil material from the excavations that might need to be stored for future use might trigger Category A, Activity 1 of the National Environmental Management: Waste Act (Act 59 of 2008) which states:

*A person who wishes to commence, undertake or conduct a waste management activity listed under this Category, must conduct a basic assessment process set out in the Environmental Impact Assessment Regulations made under section 24(5) of the National Environmental Management Act, 1998 (Act No. 107 of 1998) as part of a waste management licence application contemplated in section 45 read with section 20(b) of this Act.*

*(1) The storage, including the temporary storage of general waste at a facility that has the capacity to store in excess of 100m<sup>3</sup> of general waste at any one time, excluding the storage of waste in lagoons.*

Whereas Category B, Activity 7 states:

*A person who wishes to commence, undertake or conduct a waste management activity listed under this Category, must conduct a scoping and environmental impact reporting process set out in the Environmental Impact Assessment Regulations made under section 24(5) of the*

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*National Environmental Management Act, 1998 (Act No. 107 of 1998) as part of a waste management licence application contemplated in section 45 read with section 20(b) of this Act.*

*7) The treatment of effluent, wastewater or sewage with an annual throughput capacity of 15 000m<sup>3</sup> or more.*

Fortunately, there is no need to apply for a waste storage site as the excess spoil material from the excavations is estimated not to reach 100m<sup>3</sup>.

### **3.7 Heritage Resources**

According to Section 34(1) of the National Heritage Resources Act, 25 of 1999, "no person may alter or demolish any structure or part of a structure which is older than 60 years without a permit issued by the relevant provincial heritage resources authority". During an inspection it was identified that the existing underground tanks are approximately 30 years old. No graves were identified on the project sites. Construction of the diesel storage tank/s might also require a Notice of Intent to Develop (NID) to be submitted to the local Heritage Resources Office for assessment and recommendations. The NID is only required when Section 38(1) of the Act is triggered, which states that "*any development or other activity [which] will change the character of a site - exceeding 5000 m<sup>2</sup> in extent*" or "*the construction of a road, wall, powerline, pipeline, canal or other similar form of linear development or barrier exceeding 300m in length*". However, it is estimated that the construction of the above ground diesel storage tank/s will cover an area of less than 300m in length.

Chances are very slim that artefacts, fossils and middens can be discovered during excavation activities because the project will take place in areas that have already been disturbed. However, should any artefacts, fossils, middens and graves be found on site, work should cease immediately, the site should be barricaded and the TPT Environmental Officer and the Construction Manager should be informed immediately. Work may only resume once clearance is given in writing to the Contractor on site.

### **3.8 Social and Community**

Social attributes constitute part of the environment and may as such are not neglected during environmental investigations. The project is located within the East London Terminal and as



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such, the project site is secured from uncontrolled access. The enclosed location of the project site within the terminal ensures that minimal social impacts will occur. However, the project will need to comply with the Buffalo City Metropolitan Municipality: noise by law of 22 October 2010 and any other relevant by law if/when it becomes available.

### 3.9 Climate Conditions

East London is characterised as having a humid sub-tropical climate. Temperatures range from 3°C to 43°C with an average minimum and maximum of 14°C and 23°C respectively. It is situated in a high rainfall region, with an average precipitation of 921mm/annum, most of which is received during summer months.

## 4. Environmental authorisation and permit requirements

The following pieces of legislation were perused to determine the requirements:

### **National Environmental Management Act (107 of 1998) as amended:**

- Environmental Impact Regulations of 2017 (Listing Notice 1, 2 and 3);

### **National Environmental Management Waste Act (59 of 2008)**

- List of Waste Management Activities: GN 921 of 2013 (as amended by GN 633 of 2015);

### **National Environmental Management: Integrated Coastal Management Act (24 of 2008)**

- Section 63, 69 and 71;

### **National Environmental Management Air Quality Act (39 of 2004)**

- Listed Activities and associated minimum emission standards identified in terms of Section 21 of the National Environmental Management: Air Quality Act, 2004: GN 893 of 2013 (as amended by GN 551 of 2015);
- National Dust Control Regulations: GNR 827 of 2013;

### **National Water Act (36 of 1998)**

- Water uses as defined in section 21;

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- General Authorisation in terms of Section 39 of the National Water Act (36 of 1998) for Water Uses as defined in Section 21 (C) or Section 21 (I), Department of Water and Sanitation GN 509 of 2016;
- Revision of General Authorisations in terms of Section 39 of the National Water Act (36 of 1998) in relation to Section 21 (j), 21 (g), 21 (e), 21 (f) and 21 (h), Department of Water and Sanitation GN 665 of 6 September 2013;

**Mineral and Petroleum Resource Development Act (28 of 2002):**

- Section 27;

**National Forest Act (84 of 1998):**

- Section 15 & Section 23(2);

**National Environmental Management: Biodiversity Act (10 of 2004)**

- Section 87 (a);
- List of critically endangered, endangered, vulnerable and protected species, GNR 1002 of 2011;
- Alien and Invasive species list: GN 599 of 2014;

**National Heritage Resources Act (25 of 1999)**

- Section 34, 36 and 38;

**Buffalo City Metropolitan Municipality By-Laws**

- Noise By-Law, published in the Provincial Gazette Extraordinary on 22 October 2010.
- Water Services By-Law, published in the Provincial Gazette Extraordinary on 22 March 2011

## 5. Conclusion

After thorough investigation of the site and scope of work the project does not appear to trigger any listed activities related to the flora, fauna and heritage. The 23m<sup>3</sup> of fuel will not trigger Activity 14 of Listing Notice 1 of the NEMA EIA Regulations. Activity 31 of the NEMA

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EIA Listed Activities Regulations under Listing Notice 1 and the National Waste Act, (Act 59 of 2008) as amended, Government Notice No. 921 29 Nov 2013 (as amended by GNR 332 of 2 May 2014), Category A, respectively might be triggered. Social and community activities will mostly trigger the relevant Buffalo City Metropolitan Municipality Municipality by-laws. However, there is potential that some activities applicable to the project may necessitate the need for Environmental Authorization (EA), Waste Management Licence (WML), Coastal Waters Discharge Permit (CWDP), Water Use Licence (WUL) and/or General Authorisation (GA). These activities include water use and dewatering which are triggered by the National Water Act (Act 36 of 1998) and the National Environmental Management: Integrated Coastal Management Act (Act 24 of 2008); excavations and spoil material from the excavations which are triggered by the NEMA (Act 107 of 1998) as amended EIA Listed Activities Regulations under Listing Notices 1, 2 and 3 and the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008).

Furthermore, the excess spoil material will need to be determined if it will be stockpiled in an area that has a capacity to store in excess of 100m<sup>3</sup> which will trigger Category 1, activity 1 of the NEM: Waste Act (Act 107 of 1998) listed activities.

On the other hand, the development needs to comply with the Buffalo City Metropolitan Municipality By-Laws as reflected on various sections above.

This report might need to be amended if there is a change in the scope of work and or project scope, prior to the commencement of work on site.

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## Annexure A

Permission Type	Relevant Statutory Document	Document Perused	Applicable	Not Applicable	Required Process
<b>Environmental Authorisation</b>	EIA Regulations of 2014 (Listing Notice 1,2 & 3)	✓	✓		Basic Assessment/EIA
<b>Waste License</b>	National Environmental Waste Act 59 of 2008 – List of Waste Management Activities: GN 921 of 2013 (as amended by GN 633 of 2015);	✓	✓		Application for Waste License as stipulated in Chapter 5 of the Act
<b>Atmospheric Emission license</b>	National Environmental Management Air Quality Act 39 of 2004 – List of Activities: GN 893 of 2013	✓		✓	Application for Air Emission License as stipulated in Chapter 5 of the Act
<b>Water use License</b>	National Water Act 36 of 1998 – Section 21	✓	✓		Application for Water use License
<b>Mining Permit</b>	Mineral and Petroleum Resource Development Act 28 of 2002 – Section 27	✓		✓	Application for mining permit in terms of Section 27 of the Act and Regulations 52
<b>Tree Removal Permit</b>	National Forest Act 84 of 1998 – Section 15	✓		✓	Application for license as stipulated in Section 15 of the Act

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Permission Type	Relevant Statutory Document	Document Perused	Applicable	Not Applicable	Required Process
<b>Heritage Permit</b>	National Heritage Resources Act 25 of 1999	✓		✓	Application for permit as stipulated in section 34-38 of the Act
<b>Permit for removal of protected species</b>	National Environmental Management: Biodiversity Act 10 of 2004	✓		✓	Application in terms of Section 57(1) of the Act
<b>Permit required for restricted activities as defined in Act (Category 2 Invasive species)</b>	National Environmental Management: Biodiversity Act 10 of 2004	✓		✓	Application in terms Chapter 7 of the Act Alien and Invasive species list: GN 599 of 2014;
<b>Coastal Authorisation</b>	National Environmental Management Integrated Coastal Management Act 24 of 2008	✓	✓		Coastal Waters Discharge permit – Section 69 General discharge authorisation – Section 69 A dumping permit - Section 71
<b>Noise By-Law, published in the Provincial Gazette</b>	Buffalo City Metropolitan Noise By-Law	✓	✓		Compliance with the relevant By-Law conditions

Note: If hardcopy, check electronic system for latest revision

Permission Type	Relevant Statutory Document	Document Perused	Applicable	Not Applicable	Required Process
Extraordinary on 22 October 2010.					
Water Services By-Law, published in the Provincial Gazette Extraordinary on 22 March 2011	Buffalo City Metropolitan Water Services By-Law	√	√		Compliance with the relevant By-Law conditions

Note: If hardcopy, check electronic system for latest revision

## Annexure B

Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
National Fuel Strategy Project, East London Terminal	<b>National Environmental Management Act (107 of 1998) as amended:</b>					
	<ul style="list-style-type: none"> <li><b>Listing Notice 1 (GN R327)</b></li> </ul>	14. The development and related operation of facilities or infrastructure, for the storage, or for the storage and handling, of a dangerous good, where such storage occurs in containers with a combined capacity of 80 cubic metres or more but not exceeding 500 cubic metres.		x	This project involves construction of new fuel facility of 2 x 23m <sup>3</sup> of diesel tanks whereby the existing tank will be decommissioned.	N/A
		19. The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles		x	Infilling, depositing, dredging, excavation, removal or moving of material will occur within existing port or harbour that will not increase the development footprint of the port or harbour.	N/A

Note: If hardcopy, check electronic system for latest revision

Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		<p>or rock of more than 10 cubic metres from a watercourse;</p> <p>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</p> <p>(a) will occur behind a development setback;</p> <p>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</p> <p>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</p> <p>(d) occurs within existing ports or harbours that will not increase</p>				



Note: If hardcopy, check electronic system for latest revision

Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		the development footprint of the port or harbour; or (e) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.				
		19A. The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from— (i) the seashore; (ii) the littoral active zone, an estuary or a distance of 100 metres inland of the high-water mark of the		x	Infilling, depositing, dredging, excavation, removal or moving of material will occur within existing port or harbour that will not increase the development footprint of the port or harbour.	N/A

Note: If hardcopy, check electronic system for latest revision

Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		sea or an estuary, whichever distance is the greater; or (iii) the sea; — but excluding where such infilling, depositing, dredging, excavation, removal or moving— (f) will occur behind a development setback; (g) is for maintenance purposes undertaken in accordance with a maintenance management plan; (h) falls within the ambit of activity 21 in this Notice, in which case that activity applies; (i) occurs within existing ports or harbours that will not increase				

Note: If hardcopy, check electronic system for latest revision

Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		the development footprint of the port or harbour; or where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.				
		31. The decommissioning of existing facilities, structures or infrastructure for— (i) any development and related operation activity or activities listed in this Notice, Listing Notice 2 of 2014 or Listing Notice 3 of 2014; (ii) any expansion and related operation activity or activities listed in this Notice, Listing Notice 2 of 2014 or Listing Notice 3 of 2014;	x		The old/existing fuel tank/s will be decommissioned.	EIA

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		(iii) ..... (iv) any phased activity or activities for development and related operation activity or expansion or related operation activities listed in this Notice or Listing Notice 3 of 2014; or (v) any activity regardless the time the activity was commenced with, where such activity: (a) is similarly listed to an activity in (i) or (ii) above; and (b) is still in operation or development is still in progress;  excluding where— (aa) activity 22 of this notice applies; or				

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		(bb) the decommissioning is covered by part 8 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the National Environmental Management: Waste Act, 2008 applies.				
		51. The expansion and related operation of facilities for the storage, or storage and handling, of a dangerous good, where the capacity of such storage facility will be expanded by more than 80 cubic metres.		x	This project involves construction of new fuel facility of 2 x 23m <sup>3</sup> of diesel tanks, whereby the existing tank will be decommissioned and thereby not falling under the expansion category.	N/A
	<ul style="list-style-type: none"> <li>Listing Notice 2 (GN R325)</li> </ul>	4. The development and related operation of facilities or infrastructure, for the storage, or storage and handling of a		x	The combined fuel capacity stored in the tanks will not be more than 500m <sup>3</sup> .	N/A

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		dangerous good, where such storage occurs in containers with a combined capacity of more than 500 cubic metres.				
	<ul style="list-style-type: none"> <li><b>Listing Notice 3 (GN R324)</b></li> </ul>	<p>10. The development and related operation of facilities or infrastructure for the storage, or storage and handling of a dangerous good, where such storage occurs in containers with a combined capacity of 30 but not exceeding 80 cubic metres.</p> <p>d. KwaZulu-Natal</p> <p>i. In an estuarine functional zone;</p> <p>ii. Trans-frontier protected areas managed under international conventions;</p>		x	None of the characteristics under this listed activity is applicable to the study area.	N/A

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		iii. Community Conservation Areas; iv. Biodiversity Stewardship Programme Biodiversity Agreement areas; v. World Heritage Sites; vi. Within 500 metres of an estuarine functional zone; vii. A protected area identified in terms of NEMPAA, excluding conservancies; viii. Sites or areas identified in terms of an international convention; ix. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;				

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		x. Core areas in biosphere reserves; xi. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose; xii. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority; xiii. Outside urban areas: (aa) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any terrestrial protected area identified in terms of NEMPAA or				



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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		<p>from the core areas of a biosphere reserve;</p> <p>(bb) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or</p> <p>(cc) Areas within a watercourse or wetland; or within 100 metres from the edge of a watercourse or wetland; or</p> <p>xiv. Inside urban areas:</p> <p>(aa) Areas zoned for use as public open space; or</p> <p>(bb) Areas seawards of the development setback line or within 100 metres from the high-water</p>				

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		mark of the sea if no such development setback line is determined;				
<b>Buffalo City Metropolitan By-Law</b>						
	<ul style="list-style-type: none"> <li><b>Relevant by-law if/when it becomes available</b></li> </ul>	Relevant sections of the By-Law during construction and operation.	x		Compliance with the relevant By-Law conditions	Induction prior to construction, tool box talks, compliance audits to be undertaken during construction
<b>National Environmental Management Air Quality Act (39 of 2004): List of Activities (GN 893/2013)</b>						
	<ul style="list-style-type: none"> <li><b>List of Activities (GN 893/2013)</b></li> </ul>	(2) Subcategory 2.2 Storage and Handling of Petroleum Products which deals with petroleum product storage tanks and product transfer facilities, except those used for liquefied petroleum gas of all		x	The storage and handling/capacity of petroleum products in the terminal will be less than 500m3	N/A

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		permanent immobile liquid storage tanks larger than 500m3 cumulative tankage capacity at a site is not applicable.				
<b>Buffalo City Metropolitan Municipal By-Law</b>						
	<ul style="list-style-type: none"> <li><b>Relevant by-law if/when it becomes available</b></li> </ul>	Relevant sections of the By-Law during construction and operation.	x		Compliance with the relevant By-Law conditions	Induction prior to construction, tool box talks, compliance audits to be undertaken during construction
<b>National Environmental Management Waste Act (59 of 2008):</b>						

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
	<ul style="list-style-type: none"> <li><b>List of Activities (GN 921/2013)</b></li> <li><b>Category A</b></li> </ul>	1. The storage, including the temporary storage of general waste at a facility that has the capacity to store in excess of 100m <sup>3</sup> of general waste at any one time, excluding the storage of waste in lagoons.		x	It is not clear how much spoil material will come out excavations now.	Spoil management is to be followed up.

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		9. The disposal of inert waste to land in excess of 25 tons but not exceeding 25 000 tons, excluding the disposal of such waste for the purposes of levelling and building which has been authorised by or under other legislation		x	It is not clear how much inert waste will be produced now.	Inert waste management is to be followed up.

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		10. The disposal of general waste to land covering an area of more than 50m <sup>2</sup> but less than 200m <sup>2</sup> and with the total capacity not exceeding 25 000 tons.		x	All general waste that will be generated on site will be disposed of at the registered general waste landfill site.	N/A

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		14. The decommissioning of a facility for a waste management activity listed in Category A or B of this Schedule.”	x		The existing fuel tanks will be decommissioned.	Waste license application
	<b>Category B</b>	7. The disposal of any quantity of hazardous waste to land.	x		Waste generated from the decommissioning of the existing fuel tank/s if contaminated will trigger this listed activity.	Waste license application
		8. The disposal of general waste to land covering an area in excess of 200m <sup>2</sup> and with a total capacity exceeding 25 000 tons.		x	All general waste that will be generated on site will be disposed of at the registered general waste landfill site.	N/A

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		9. The disposal of inert waste to land in excess of 25 000 tons, excluding the disposal of such waste for the purposes of levelling and building which has been authorised by or under other legislation.		x	It is not clear how much inert waste will be produced now.	Inert waste management is to be followed up.
	<b>Category C</b>	1) The storage of general waste at a facility that has the capacity to store excess of 100m <sup>3</sup> of general waste at any time, excluding the storage of waste in lagoons or temporary storage of such waste.		x	The general waste that will be produced on site is expected to be less than 100m <sup>3</sup> . Furthermore, waste will be stored temporarily on site in the waste receptacles and then disposed of at the permitted general waste landfill site.	N/A
<b>Buffalo City Metropolitan Municipal By-Laws</b>						



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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
	<ul style="list-style-type: none"> <li><b>Relevant by-law if/when it becomes available</b></li> </ul>	Relevant sections of the By-Law during construction	x		Compliance with the relevant By-Law conditions	Induction prior to construction, tool box talks, compliance audits to be undertaken during construction
<b>National Water Act (36 of 1998)</b>						
	<b>Section 19 (1) and (2)</b>	19. (I) An owner of land, a person in control of land or a person who occupies or uses the land on which —  (a) any activity or process is or was performed or undertaken; or  (b) any other situation exists,	x		Duty of Care to be applied.	Induction prior to construction, tool box talks, compliance audits to be undertaken during construction

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		<p>which causes, has caused or is likely to cause pollution of a water resource, must take all reasonable measures to prevent any such pollution from occurring, continuing or recurring.</p> <p>19. (2) The measures referred to in subsection (1) may include measures to —</p> <p>(a) cease, modify or control any act or process” causing the pollution;</p> <p>(b) comply with any prescribed waste standard or management practice;</p> <p>(c) contain or prevent the movement of pollutants</p>				

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
	<b>Section 21 (c) &amp; (i)</b>	Water use includes:  c) Impeding or diverting the flow of water in a watercourse.  i) Altering the bed, banks, course or characteristics of a watercourse.		x	The Bay is within 70m from the preferred site and it will not be impacted upon by these water uses.	N/A
	<b>Sections (f), (g) and (h)</b>	(f) discharging waste or water containing waste into a water resource through a pipe, canal sewer sea outfall or other conduit;  (g) disposing of waste in a manner which may detrimentally impact on a water resource;  (h) disposing in any manner of water which contains waste from or which has been heated in any industrial or power generation process		x	It is not anticipated to discharge waste or water into a water resource, or dispose waste in a manner that may detrimentally impact the water course, nor dispose water containing waste which has been heated in any industrial or power generation process in any manner	Follow up on discharge and disposal of waste.

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
	<b>General Authorisation in terms of section 39 of the National Water Act 36 of 1998 (Act no. 36 of 1998) for water uses defined in section 21(c) Or section 21(i) – Gen N 509/2016</b>	<p>2. “Regulated area of a watercourse” for section 21c or (i) of the Act water uses in terms of this Notice means:</p> <p>(a) The outer edge of the 1 in 100-year flood line and/or delineated riparian habitat, whichever is the greatest distance, measured from the middle of the watercourse of a river, spring, natural channel, lake or dame;</p> <p>(b) In the absence of a determined 1 in 100-year flood line or riparian area the area within 100m from the edge of a watercourse where the edge of the watercourse is the first identifiable annual bank fill flood bench (subject to compliance to section 144 of the Act); or</p>		x	The Bay is within 70m from the preferred site.	

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		(c) A 500 m radius from the delineated boundary (extent) of any wetland or pan.				
	<b>Revision of General Authorisations in Terms of Section 39 of the National Water Act, 1998 (Act No. 36 Of 1998) – GN 665/2013</b>	21(j) Removing, discharging or disposing of (100m <sup>3</sup> a day) water found underground if it is necessary for the efficient continuation of an activity or for the safety of people		X	Discharging, removing or disposing groundwater will not take place	Should water seeps through the excavations, an application for a GA/WUL should be applied for with the DWS
<b>Buffalo City Metropolitan By-Law</b>						
	<b>• Water Services by-law, published in the Provincial Gazette Extraordinary on 22 March 2011</b>	Relevant sections of the By-Law during construction	X		Compliance with the relevant By-Law conditions	Induction prior to construction, tool box talks, compliance audits to be undertaken

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
						during construction
<b>National Environmental Management Biodiversity Act (10 of 2004):</b>						
	<b>Section 1 (Restricted Activities)</b>	87. (a) A permit is required in order to carry out a restricted activity involving specimens of listed threatened or protected species.		x	There are no known listed threatened or protected species onsite that will be affected by the project.	N/A
<b>National Heritage Resources Act (25 of 1999):</b>						
		34.(1) No person may alter or demolish any structure or part of a structure which is older than 60 years without a permit issued by the relevant provincial heritage resources authority.		x	No heritage resources with Grade I, Grade II or Grade III status are known within the terminal study area. Buildings or structures older than 60 years within the proposed development area will not be demolished or altered.	N/A

Note: If hardcopy, check electronic system for latest revision

Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		<p>36. (3) No person may, without a permit issued by SAHRA or a provincial heritage resources authority—</p> <p>(a) destroy, damage, alter, exhume or remove from its original position or otherwise disturb the grave of a victim of conflict, or any burial ground or part thereof which contains such graves;</p> <p>(b) destroy, damage, alter, exhume, remove from its original position or otherwise disturb any grave or burial ground older than 60 years which is situated outside a</p>		x	No cemeteries were observed in on site during site inspection	N/A

Note: If hardcopy, check electronic system for latest revision

Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		<p>formal cemetery administered by a local authority; or</p> <p>(c) bring onto or use at a burial ground or grave referred to in paragraph (a) or (b) any excavation equipment, or any equipment which assists in the detection or recovery of metals.</p>				
		<p>38. (1) any person who intends to undertake a development categorised as—</p> <p>(a) the construction of a road, wall, power line, pipeline, canal or other similar form of linear development or barrier exceeding 300m in length;</p>		x	This project will not exceed 5 000 m <sup>2</sup> in extent.	N/A



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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		(c) any development or other activity which will change the character of a site—  (i) exceeding 5 000 m <sup>2</sup> in extent, must at the very earliest stages of initiating such a development, notify the responsible heritage resources authority and furnish it with details regarding the location, nature and extent of the proposed development.				
<b>National Environmental Management: Integrated Coastal Management Act (24 of 2008)</b>						
	<b>Section 69</b>	69 (1) No person may discharge effluent that originates from a source on land into coastal waters except in terms of a general		x	No effluent shall be discharged into the sea as a result of this project, therefore,	N/A

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		authorisation contemplated in subsection (2) or a coastal waters discharge permit issued under this section by the Minister.			no General Authorisation/ Coastal Waters Discharge permit is required.	
	<b>Section 71</b>	71 (1)(a) A person who wishes to dump at sea any waste or other material must apply in writing to the Minister in the form stipulated by the Minister for a dumping permit that authorises the waste or other material to be loaded aboard a vessel, aircraft, platform or other structure and to be dumped at sea.		x	No waste shall be dumped at sea	N/A
<b>Mineral and Petroleum Resources Development Act (28 of 2002)</b>						
		69 (1) Any operation or activity for the purposes of winning any		x	No mining of mineral (e.g. borrow pit, quarry etc. ) shall be undertaken	N/A

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		mineral on, in or under the earth, water or any residue deposit, whether by underground or open working or otherwise and includes any operation or activity in an area less than 5 hectare and within 2 years				
<b>Other relevant Buffalo City Metropolitan Municipality By-Law</b>						
	<ul style="list-style-type: none"> <li><b>Noise By-Law, published in the provincial Gazette Extraordinary on 22 October 2010.</b></li> </ul>	Relevant sections of the By-Law during construction	x		Compliance with the relevant By-Law conditions	Induction prior to construction, tool box talks, compliance audits to be undertaken during construction



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# **Environmental Baseline/Status Quo Report**

**Project Name: Fuel Tanks and Bowsers (National), Durban**

**Container Terminal Pier 1**

**Transnet Project Number: Z9000113**

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**Environmental Baseline/Status Quo Report**  
**Project Name: Fuel Tanks and Bowsers (National), Durban**  
**Container Terminal Pier 1**  
**Project Number: Z9000113**

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## **1. Introduction and Background**

The purpose of this report is to identify and characterize the existing status quo of the proposed development site, provide input on the requirements to comply with environmental legislation and make recommendations on initiatives or controls that will ensure environmental protection.

Transnet Port Terminals has a total diesel storage of 951 000 litres across all terminals. The diesel storage facilities are old, in a deteriorating condition and most pump stations still operate on the analogue system. The diesel storage facilities are at risk of leakages because of aging which could result in fuel losses. Some of the diesel storage tanks are located underground, which is not in line with the sustainability policy. Furthermore, the existing national infrastructure has lost its capacity to sufficiently service the current fleet across all TPT terminals and this has resulted in constant refills of terminals diesel storage facilities. The terminals require an increase in diesel storage to mitigate the potential loss of fuel in the future and to rationalise the frequency of refills. This will also include the upgrading of fuel pump station to be compatible with fuel management system. TPT wants to have adequate diesel storage at the depots to ensure they sustain operations; meet variation in supply and demand; safeguard during supply shortage; and manage and reduce ordering cost.

Durban Container Terminal (DCT) is made up of two terminals, namely Pier 1 and Pier 2, with dedicated container handling facilities and it is the busiest container shipping terminal in Africa as a whole. Pier 1 Terminal has six (6) single lift STS cranes (cargo handling equipment utilised to load and off-load containerised cargo from the ship in the container terminal). The cranes are only bound to work along the quay wall (East Quay). Forklifts, Haulers, Straddle Carriers, RTG's, ECH's and Reach Stackers are required to facilitate the movement of the cargo to and from the quayside and transfer it to sheds, warehouses, railway wagons, trucks, etc. The equipment uses diesel to operate, however it does not have license to operate in the public road.

Pier 1 has a fuel station which contains 2 x 20 000L underground diesel tanks, 2 x diesel pumps and Tanker Trucks (mobile bowsers) to service the cargo handling equipment listed



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above. Pier 1 is embarking on upgrading the current underground fuel station. The station's underground tank storage is to be changed to above-ground tank storage.

The primary objective of the project is to increase capacity of the current diesel tanks whilst the secondary objective is to replace the aging diesel pump stations and repairing of fuel station facility infrastructure to ensure fuel readings accuracy, including leaks preventions. This will improve operational efficiency and protect revenue in the Port.

Tanker trucks referred to as mobile fuel bowsers are used to fill up the port equipment that cannot access the underground fuel station due to the following limitations.

- Straddle Carriers and RTG's cannot be driven in areas with low-overhead clearance.
- Straddles Carriers and RTG's are too big to manoeuvre in areas with limited space.
- Straddles Carriers and RTG's presents serious dangers to other road users.



**Figure 1: Aerial photograph/map (Source: Google Earth) of the site**

The site inspection for the construction of the National Fuel Strategy Project, Durban Container Terminal Pier 1, Durban was conducted on 15 February 2023 by Karabo Sefike (TPT

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Environmental Specialist). Two sites were selected, one being the preferred site and the other being the alternative site (refer to figures 2(a) and (b) below.

**Preferred Site - Current Fuel Station/Diesel Tank Area:**

- It is located along the main terminal road (i.e. Bayhead Road), near the TPT Pier 1 security boom gate entrance to the Bhekulwandle (Staff Facility) Building & Technical EES Area and is opposite the Pier 1 Ops centre building.
- Alternative Site - Area next to the EES Boom-Gate currently used to park Mobile Diesel Tankers.

Below are the advantages and disadvantages of each site location.

Table 1: The advantages and disadvantages of each site location

SITE OPTIONS	ADVANTAGES	DISADVANTAGE
Preferred site	<ul style="list-style-type: none"> <li>• Existing refueling area.</li> <li>• Sufficient mobility for the external diesel delivery truck.</li> <li>• Site not located in the terminal’s operation area.</li> <li>• Close to TPT security – great surveillance and visibility.</li> <li>• Adequate traffic flow.</li> </ul>	<ul style="list-style-type: none"> <li>• Approx. 80m from the sea water.</li> <li>• Underground tanks will require decommissioning.</li> </ul>
Alternative 1	<ul style="list-style-type: none"> <li>• Site not located in the terminal’s operation area.</li> </ul>	<ul style="list-style-type: none"> <li>• Currently parking area for external contractors.</li> <li>• Close to offices.</li> <li>• Limited surface area for equipment to refuel.</li> <li>• Limited surface area for the external diesel delivery truck i.e. limited mobility.</li> <li>• A lot of traffic with NREs, employees’ personal cars and terminal rubber tyre equipment.</li> <li>• Approx. 110m from sea water.</li> </ul>

**2. Project Scope**

The works to be completed by the Contractor includes but is not limited to the following:

- Safe removal of existing infrastructure: underground tanks, pumps and piping
- Installation of 2 x 39 kilolitre pencil tanks as per SANS10131:2004 requirements for aboveground installations, where applicable
- 2 x 20 kilolitres mobile bowser
- Installation of new pipe work

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- Reconstruction of fuel station bund walls and floor repairs.
- Installation of new pump(s) with digital flow meters which are capable of communicating with a fuel management system.
- Installation of electronic tank gauge system for tank level monitoring
- Handover documentation including flammable permit application drawings, quality data books and equipment operating and maintenance manuals; and
- Testing and commissioning

### **3. Baseline Inspection Criteria**

The baseline assessment was carried out against the flora, fauna, water, regional climate, heritage resources and social and community aspects in the area. The inspection criteria was derived from South African Environmental legislation such as the National Environmental Management Act, Act no 107 of 1998, three NEMA Listing Notifications, National Environmental Management Integrated Coastal Management Act 24 of 2008, National Environmental Management Waste Act 59 of 2008, National Water Act 36 of 1998 section 21, National Forest Act 84 of 1998, National Environmental Management Biodiversity Act 10 of 2004, National Environmental Management Air Quality Act 39 of 2004, National Heritage Resources Act 25 of 1999, Mineral and Petroleum Resources Development Act 28 of 2002, as well as the eThekweni Municipality By-laws.

Site condition was assessed and the following observations and recommendations were made:

#### **3.1 Flora**

The site is situated on Transnet property within the existing Port and its marine infrastructure. The site is characterised by a flat surface and is already disturbed (refer to plate 1 below). Most of the areas within and around the study area have no vegetation and some have little vegetation which is not protected, threatened or endangered.

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**Plate 1: Surface of the study area**

## 3.2 Fauna

No animal or bird species (threatened or protected species) were identified on the proposed site during the assessment. However, should any animal or bird species be identified during construction, it should not be killed, the TPT Environmental Officer and site supervisor should be informed immediately. If no-one is available, an appropriately skilled person should be contacted to remove the creature off site.

## 3.3 Water

The proposed preferred site for the fuel storage is located at the harbour (Port of Durban). Due to the proposed site located on the harbour, there is a potential of encountering water during excavations and this mainly depends on the excavation levels. The Geotechnical survey and report for this project have not been done yet and therefore, the water table is unknown. However, should water seep through the excavations, the GA 665 of 2013 can be utilised. This general authorisation replaces the need for a water user to apply for a licence in terms of the National Water Act, (Act 36 of 1998) if the water use is within the limits and conditions as set out in this general authorisation. Dewatering of 100 m<sup>3</sup> per day is authorised by the GA and a monitoring plan in terms of section 21(j) of the National Water Act (Act 36 of 1998) needs to be submitted with the registration application to the Department of Water and

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Sanitation (DWS). However, should the water quantity exceed 100m<sup>3</sup> a day, a water use license application (WULA) will be required.

It should be noted that should dewatering takes place, another water use might be triggered such as: Section 21(b) Storing of water) and/or 21(f) Discharging waste or water containing waste into a water resource through a pipe, canal, sewer, sea outfall or other conduit of the National Water Act (Act 36 of 1998) would need to be applied for. However, should it be salt water instead of fresh water that seeps through the excavations, the National Water Act will not apply, but the National Environmental Management: Integrated Coastal Management Act (Act 24 of 2008), relevant sections of the Act might apply.

On the other hand, the preferred site (refer to plate 1 above) is located within 80m from the sea. However, NEMA EIA activities 19 and 19A of Listing Notice 1 will not be applicable as infilling, depositing, dredging, excavation, removal or moving will occur within existing port or harbour that will not increase the development footprint of the port or harbour.

No water shall be abstracted from the sea for construction without a valid permit from the relevant authorities. The appointed contractor shall prevent polluted and/or contaminated water to enter the sea and will also ensure that all the construction personnel and visitors on site are not allowed to do any fishing activities.

The following subsections of Section 19 (1) of the Water Act (Act 36 of 1998) will need to be complied with,

*19. (1) An owner of land, a person in control of land or a person who occupies or uses the land on which —*

*(a) any activity or process is or was performed or undertaken; or*

*(b) any other situation exists,*

*which causes, has caused or is likely to cause pollution of a water resource, must take all reasonable measures to prevent any such pollution from occurring, continuing or recurring.*

*19. (2) The measures referred to in subsection (1) may include measures to —*

*(a) cease, modify or control any act or process" causing the pollution;*

*(b) comply with any prescribed waste standard or management practice;*

*(c) contain or prevent the movement of pollutants;*

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The following subsections of Section 21 of the Water Act (Act 36 of 1998) will need to be complied with, i.e., a water use license application (WULA) is required.

*(f) discharging waste or water containing waste into a water resource through a pipe, canal sewer sea outfall or other conduit;*

*(g) disposing of waste in a manner which may detrimentally impact on a water resource;*

*(h) disposing in any manner of water which contains waste from or which has been heated in any industrial or power generation process;*

Schedule 1(1)(f) of the Water Act also states that:

*A person may, subject to this Act — discharge —*

*(i) waste or water containing waste; or*

*(ii) run-off water, including storm water from any residential, recreational, commercial or industrial site, into a canal, sea outfall or other conduit controlled by another person authorised to undertake the purification, treatment or disposal of waste or water containing waste, subject to the approval of the person controlling the canal, sea outfall or other conduit.*

### 3.4 Waste management

One of the project's requirements is to decommission the existing fuel storage tanks and at the same time, there will be some form of waste generated during the construction of the new diesel storage tank/s. All the relevant activities including classification, storage, disposal, etc. will need to comply with the relevant sections of the Waste Act, Act 59 of 2008 as amended as well as the COVID-19 Healthcare Waste Management on Construction sites TGC-IMS-ENV-SOP-009.001.

Decommissioning of the existing fuel storage tank/s might trigger the NEMA EIA Listed Activities Regulations under Listing Notice 1, Activity 31, which states that:

*The decommissioning of existing facilities, structures or infrastructure for—*

*(i) any development and related operation activity or activities listed in this Notice, Listing Notice 2 of 2014 or Listing Notice 3 of 2014;*



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- (ii) *any expansion and related operation activity or activities listed in this Notice, Listing Notice 2 of 2014 or Listing Notice 3 of 2014;*
- (iii) *.....*
- (iv) *any phased activity or activities for development and related operation activity or expansion or related operation activities listed in this Notice or Listing Notice 3 of 2014;*  
*or*
- (v) *any activity regardless the time the activity was commenced with, where such activity:*
  - (a) *is similarly listed to an activity in (i) or (ii) above; and*
  - (b) *is still in operation or development is still in progress;*

*excluding where—*

(aa) *activity 22 of this notice applies; or*

*the decommissioning is covered by part 8 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the National Environmental Management: Waste Act, 2008 applies.*

According to the National Waste Act, (Act 59 of 2008) as amended, Government Notice No. 921 29 Nov 2013 (as amended by GNR 332 of 2 May 2014), Category A, the following listed activity is applicable and will require a basic assessment process to be undertaken: Activity 14, which states that "*The decommissioning of a facility for a waste management activity listed in Category A or B of this Schedule.*" Under the same category, activities 9 (*The disposal of inert waste to land in excess of 25 tons but not exceeding 25 000 tons, excluding the disposal of such waste for the purposes of levelling and building which has been authorised by or under other legislation*) and 10 (*The disposal of general waste to land covering an area of more than 50m<sup>2</sup> but less than 200m<sup>2</sup> and with a total capacity not exceeding 25 000 tons*) of the Waste Act listed activities might also be triggered, depending on the activities that will materialise during construction.

Through decommissioning and construction, the project might further trigger Category B listed activities that require full scoping and environmental impact assessment, which are:

Activity (7) *The disposal of any quantity of hazardous waste to land.*

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Activity (8) *The disposal of general waste to land covering an area in excess of 200m<sup>2</sup> and with a total capacity exceeding 25 000 tons.*

Activity (9) *The disposal of inert waste to land in excess of 25 000 tons, excluding the disposal of such waste for the purposes of levelling and building which has been authorised by or under other legislation.*

On the other hand, waste management will need to comply with the eThekweni Municipality: Waste removal by law of 2016.

### **3.5 Storage and handling of dangerous (petroleum) goods**

The terminal proposes the construction of an above ground self-bunded fuel (diesel) tank. Regardless of tanks being self-bunded, storage of any hazardous materials/substances during construction and operation should be on adequately bunded floors with a sump and the floor and the walls on bund areas must be impervious to prevent infiltration of any spills/leaks into the sub-surface soil and ground water. It should be noted that depending on the fuel capacity (2 x 39kl/m<sup>3</sup> above ground tank and 1 x 20kl/m<sup>3</sup> mobile bowser), the terminal might trigger activity 14 of the NEMA EIA Regulations Listing Notices, under Listing Notice 1 which states that *"The development of facilities or infrastructure, for the storage or for the storage and handling of a dangerous good, where such storage occurs in containers with a combined capacity of 80m<sup>3</sup> or more but not exceeding 500m<sup>3</sup>."*

Another activity that might be triggered under the EIA Regulations Listing Notice 1 is activity 51 which is *"the expansion and related operation of facilities for storage, or storage and handling, of a dangerous good, where the capacity of such storage facility will be expanded by more than 80 cubic metres."*

From the given information, total fuel capacity will be less than 500 cubic metres and the study area/s is/are not on a protected area and therefore, Activities 4 and 10 of Listing Notices 2 and 3 respectively are not applicable.

On the other hand, the storage and handling/capacity of petroleum products in the terminal will be less than 500m<sup>3</sup> and therefore, (2) *Subcategory 2.2* of the National Environmental



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Management: Air Quality Act (Act 39 of 2004) as amended, which identifies *Storage and Handling of Petroleum Products which deals with petroleum product storage tanks and product transfer facilities, except those used for liquefied petroleum gas of all permanent immobile liquid storage tanks larger than 500m<sup>3</sup> cumulative tankage capacity at a site* is not applicable.

Furthermore, the project/terminal will have to comply with the Durban Metropolitan Unicity Municipality Interim code relating to fire prevention and flammable liquids and substances (23 March 2000). All chapters of this by-law are applicable, except chapters IX and X which might not be relevant.

The eThekweni Municipality Air Quality Management by-law (27 February 2020) will also need to be complied with. This by-law governs air quality management within the Municipality; reasonable measures to prevent air pollution; local emission standards and air pollution control zones; smoke emissions from premises, vehicles and dwellings; the use and operation of fuel burning equipment; the installation and operation of obscuration measuring equipment; the prohibition of emissions that cause a nuisance; offences and penalties and to provide for matters incidental thereto.

### 3.6 Excavations and spoil material from excavations

The construction of the above ground diesel tank/s will involve excavations and mostly within 80m from the sea. However, NEMA EIA listing notices 19 and 19A of Listing Notice 1 will not be applicable as infilling, depositing, dredging, excavation, removal or moving will occur within the existing port or harbour that will not increase the development footprint of the port or harbour.

The excess spoil material from the excavations that might need to be stored for future use might trigger Category A, Activity 1 of the National Environmental Management: Waste Act (Act 59 of 2008) which states:

*A person who wishes to commence, undertake or conduct a waste management activity*

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*listed under this Category, must conduct a basic assessment process set out in the Environmental Impact Assessment Regulations made under section 24(5) of the National Environmental Management Act, 1998 (Act No. 107 of 1998) as part of a waste management licence application contemplated in section 45 read with section 20(b) of this Act.*

*(1) The storage, including the temporary storage of general waste at a facility that has the capacity to store in excess of 100m<sup>3</sup> of general waste at any one time, excluding the storage of waste in lagoons.*

Whereas Category B, Activity 7 states:

*A person who wishes to commence, undertake or conduct a waste management activity listed under this Category, must conduct a scoping and environmental impact reporting process set out in the Environmental Impact Assessment Regulations made under section 24(5) of the National Environmental Management Act, 1998 (Act No. 107 of 1998) as part of a waste management licence application contemplated in section 45 read with section 20(b) of this Act.*

*7) The treatment of effluent, wastewater or sewage with an annual throughput capacity of 15 000m<sup>3</sup> or more.*

Fortunately, there is no need to apply for a waste storage site as the excess spoil material from the excavations is estimated not to reach 100m<sup>3</sup>.

### **3.7 Heritage Resources**

According to Section 34(1) of the National Heritage Resources Act, 25 of 1999, "no person may alter or demolish any structure or part of a structure which is older than 60 years without a permit issued by the relevant provincial heritage resources authority". During an inspection it was identified that the existing underground tanks are only 14 years old. No graves were identified on the project sites. Construction of the diesel storage tank/s might also require a Notice of Intent to Develop (NID) to be submitted to the local Heritage Resources Office for assessment and recommendations. The NID is only required when Section 38(1) of the Act is triggered, which states that "*any development or other activity [which] will change the character of a site - exceeding 5000 m<sup>2</sup> in extent*" or "*the construction of a road, wall, powerline, pipeline, canal or other similar form of linear development or barrier exceeding*

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300m in length". However, it is estimated that the construction of the above ground diesel storage tank/s will cover an area of less than 300m in length.

Chances are very slim that artefacts, fossils and middens can be discovered during excavation activities because the project will take place in areas that have already been disturbed. However, should any artefacts, fossils, middens and graves be found on site, work should cease immediately, the site should be barricaded and the TPT Environmental Officer and the Construction Manager should be informed immediately. Work may only resume once clearance is given in writing to the Contractor on site.

### 3.8 Social and Community

Social attributes constitute part of the environment and may as such not be neglected during environmental investigations. The project is located within the Durban Container Terminal at Pier 1 and as such, the project site is secured from uncontrolled access. The enclosed location of the project site within the terminal ensures that minimal social impacts will occur. However, the project will need to comply with the eThekweni Municipality: Scheduled Activities by-law of 2019 which provide measures for the prevention, minimisation and management of environmental and human health impacts likely to arise from premises from which certain trades, occupations, businesses, activities or processes are undertaken; to prohibit certain activities or conduct in order to ensure and promote a healthy environment; to provide for the repeal of laws and savings; and to provide for matters incidental thereto.

Furthermore, the project will have to comply with the eThekweni Municipality: Nuisances and behaviour in public places by-law of 2015 which governs measures for preventing, minimising or managing public nuisances; to prohibit certain activities or conduct in public places; to provide for the repeal of laws and savings; and to provide for matters incidental thereto. On the other hand, the project will be provided with a Public Complaints Register on site that provides an opportunity for the public/visitors/employees/service providers should they want to report and record any complaints.

### 3.9 Climate Conditions

Durban has a humid subtropical climate (Köppen climate classification Cfa), with hot and humid summers from November to March and pleasantly warm and dry winters from June to

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September which are snow and frost-free. The average annual temperature is 20.9°C in Durban. The average temperature in summer ranges around 28°C, while in winter the average temperature is 12°C. It has an annual rainfall of 1,009 millimetres (39.7 in). Durban receives lowest rainfall of 20mm in June and the highest rainfall of 130mm in January.

## 4. Environmental authorisation and permit requirements

The following pieces of legislation were perused to determine the requirements:

### **National Environmental Management Act (107 of 1998) as amended:**

- Environmental Impact Regulations of 2017 (Listing Notice 1, 2 and 3);

### **National Environmental Management Waste Act (59 of 2008)**

- List of Waste Management Activities: GN 921 of 2013 (as amended by GN 633 of 2015);

### **National Environmental Management: Integrated Coastal Management Act (24 of 2008)**

- Section 63, 69 and 71;

### **National Environmental Management Air Quality Act (39 of 2004)**

- Listed Activities and associated minimum emission standards identified in terms of Section 21 of the National Environmental Management: Air Quality Act, 2004: GN 893 of 2013 (as amended by GN 551 of 2015);
- National Dust Control Regulations: GNR 827 of 2013;

### **National Water Act (36 of 1998)**

- Water uses as defined in section 21;
- General Authorisation in terms of Section 39 of the National Water Act (36 of 1998) for Water Uses as defined in Section 21 (C) or Section 21 (I), Department of Water and Sanitation GN 509 of 2016;
- Revision of General Authorisations in terms of Section 39 of the National Water Act (36 of 1998) in relation to Section 21 (j), 21 (g), 21 (e), 21 (f) and 21 (h), Department of Water and Sanitation GN 665 of 6 September 2013;

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**Mineral and Petroleum Resource Development Act (28 of 2002):**

- Section 27;

**National Forest Act (84 of 1998):**

- Section 15 & Section 23(2);

**National Environmental Management: Biodiversity Act (10 of 2004)**

- Section 87 (a);
- List of critically endangered, endangered, vulnerable and protected species, GNR 1002 of 2011;
- Alien and Invasive species list: GN 599 of 2014;

**National Heritage Resources Act (25 of 1999)**

- Section 34, 36 and 38;

**eThekwini Municipality By-laws**

- Air Quality Management By-Law, adopted by the Council on 27 February 2020.
- Interim Code Relating to Fire Prevention and Flammable Liquids and Substances, Municipal Notice No. 27 of 2000, published in the Provincial Gazette No. 5417 and dated 23 March 2000.
- Nuisances and Behaviour in Public Places By-Law, adopted by the Council on 24 June 2015.
- Scheduled Activities By-Law, adopted by the Council on 27 February 2020.
- Waste Removal By-Law, published in the Provincial Gazette No. 1722 and dated 25 August 2016

## 5. Conclusion

After thorough investigation of the site and scope of work the project does not appear to trigger any listed activities related to the flora, fauna and heritage. Since the 20m<sup>3</sup> of fuel in the mobile bowser will form part of total capacity of the fuel in the terminal, it will trigger Activity 14 of Listing Notice 1 of the NEMA EIA Regulations. Activities 31 and 14 of the NEMA

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EIA Listed Activities Regulations under Listing Notice 1 and the National Waste Act, (Act 59 of 2008) as amended, Government Notice No. 921 29 Nov 2013 (as amended by GNR 332 of 2 May 2014), Category A, respectively are triggered. Social and community activities will mostly trigger the relevant eThekweni Municipality by-laws. However, there is potential that some activities applicable to the project may necessitate the need for Environmental Authorization (EA), Waste Management Licence (WML), Coastal Waters Discharge Permit (CWDP), Water Use Licence (WUL) and/or General Authorisation (GA). These activities include water use and dewatering which are triggered by the National Water Act (Act 36 of 1998) and the National Environmental Management: Integrated Coastal Management Act (Act 24 of 2008); excavations and spoil material from the excavations which are triggered by the NEMA (Act 107 of 1998) as amended EIA Listed Activities Regulations under Listing Notices 1, 2 and 3 and the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008).

Furthermore, the excess spoil material will need to be determined if it will be stockpiled in an area that has a capacity to store in excess of 100m<sup>3</sup> which will trigger Category 1, activity 1 of the NEM: Waste Act (Act 107 of 1998) listed activities.

On the other hand, the development needs to comply with the eThekweni Municipality By-Laws as reflected on various sections above.

This report might need to be amended if there is a change in the scope of work and or project scope, prior to the commencement of work on site.

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## Annexure A

Permission Type	Relevant Statutory Document	Document Perused	Applicable	Not Applicable	Required Process
<b>Environmental Authorisation</b>	EIA Regulations of 2014 (Listing Notice 1,2 & 3)	✓	✓		Basic Assessment/EIA
<b>Waste License</b>	National Environmental Waste Act 59 of 2008 – List of Waste Management Activities: GN 921 of 2013 (as amended by GN 633 of 2015);	✓	✓		Application for Waste License as stipulated in Chapter 5 of the Act
<b>Atmospheric Emission license</b>	National Environmental Management Air Quality Act 39 of 2004 – List of Activities: GN 893 of 2013	✓		✓	Application for Air Emission License as stipulated in Chapter 5 of the Act
<b>Water use License</b>	National Water Act 36 of 1998 – Section 21	✓	✓		Application for Water use License
<b>Mining Permit</b>	Mineral and Petroleum Resource Development Act 28 of 2002 – Section 27	✓		✓	Application for mining permit in terms of Section 27 of the Act and Regulations 52
<b>Tree Removal Permit</b>	National Forest Act 84 of 1998 – Section 15	✓		✓	Application for license as stipulated in Section 15 of the Act

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Permission Type	Relevant Statutory Document	Document Perused	Applicable	Not Applicable	Required Process
<b>Heritage Permit</b>	National Heritage Resources Act 25 of 1999	✓		✓	Application for permit as stipulated in section 34-38 of the Act
<b>Permit for removal of protected species</b>	National Environmental Management: Biodiversity Act 10 of 2004	✓		✓	Application in terms of Section 57(1) of the Act
<b>Permit required for restricted activities as defined in Act (Category 2 Invasive species)</b>	National Environmental Management: Biodiversity Act 10 of 2004	✓		✓	Application in terms Chapter 7 of the Act Alien and Invasive species list: GN 599 of 2014;
<b>Coastal Authorisation</b>	National Environmental Management Integrated Coastal Management Act 24 of 2008	✓	✓		Coastal Waters Discharge permit – Section 69 General discharge authorisation – Section 69 A dumping permit - Section 71
<b>Air Quality Management By-Law, adopted by the</b>	eThekwin Air Quality Management By-Law	✓	✓		Compliance with the relevant By-Law conditions



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Permission Type	Relevant Statutory Document	Document Perused	Applicable	Not Applicable	Required Process
Council on 27 February 2020.					
Interim Code Relating to Fire Prevention and Flammable Liquids and Substances, Municipal Notice No. 27 of 2000, published in the Provincial Gazette No. 5417 and dated 23 March 2000.	eThekwini Interim Code Relating to Fire Prevention and Flammable Liquids and Substances	✓	✓		Compliance with the relevant By-Law conditions
Nuisances and Behaviour in Public Places By-Law, adopted by the	eThekwini Nuisances and Behaviour in Public Places By-Law	✓	✓		Compliance with the relevant By-Law conditions

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Permission Type	Relevant Statutory Document	Document Perused	Applicable	Not Applicable	Required Process
<b>Council on 24 June 2015.</b>					
<b>Scheduled Activities By-Law, adopted by the Council on 27 February 2020.</b>	eThekwini Scheduled Activities By-Law	✓	✓		Compliance with the relevant By-Law conditions
<b>Waste Removal By-Law, published in the Provincial Gazette No. 1722 and dated 25 August 2016.</b>	eThekwini Municipality Waste Removal By-Law	✓	✓		Compliance with the relevant By-Law conditions

Note: If hardcopy, check electronic system for latest revision

## Annexure B

Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
National Fuel Strategy Project, Durban Container Terminal Pier 1, Durban	<b>National Environmental Management Act (107 of 1998) as amended:</b>					
	<ul style="list-style-type: none"> <li><b>Listing Notice 1 (GN R327)</b></li> </ul>	14. The development and related operation of facilities or infrastructure, for the storage, or for the storage and handling, of a dangerous good, where such storage occurs in containers with a combined capacity of 80 cubic metres or more but not exceeding 500 cubic metres.	x		This project involves construction of new fuel facility of 2 x 39m <sup>3</sup> of diesel tanks and 2 X 20m <sup>3</sup> of mobile bowser whereby the existing tank will be decommissioned.	EIA
		19. The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles		x	Infilling, depositing, dredging, excavation, removal or moving of material will occur within existing port or harbour that will not increase the development footprint of the port or harbour.	N/A

Note: If hardcopy, check electronic system for latest revision

Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		<p>or rock of more than 10 cubic metres from a watercourse;</p> <p>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</p> <p>(a) will occur behind a development setback;</p> <p>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</p> <p>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</p> <p>(d) occurs within existing ports or harbours that will not increase</p>				

Note: If hardcopy, check electronic system for latest revision

Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		the development footprint of the port or harbour; or (e) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.				
		19A. The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from— (i) the seashore; (ii) the littoral active zone, an estuary or a distance of 100 metres inland of the high-water mark of the		x	Infilling, depositing, dredging, excavation, removal or moving of material will occur within existing port or harbour that will not increase the development footprint of the port or harbour.	N/A

Note: If hardcopy, check electronic system for latest revision

Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		sea or an estuary, whichever distance is the greater; or (iii) the sea; — but excluding where such infilling, depositing, dredging, excavation, removal or moving— (f) will occur behind a development setback; (g) is for maintenance purposes undertaken in accordance with a maintenance management plan; (h) falls within the ambit of activity 21 in this Notice, in which case that activity applies; (i) occurs within existing ports or harbours that will not increase				

Note: If hardcopy, check electronic system for latest revision

Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		the development footprint of the port or harbour; or where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.				
		31. The decommissioning of existing facilities, structures or infrastructure for— (i) any development and related operation activity or activities listed in this Notice, Listing Notice 2 of 2014 or Listing Notice 3 of 2014; (ii) any expansion and related operation activity or activities listed in this Notice, Listing Notice 2 of 2014 or Listing Notice 3 of 2014;	x		The old/existing fuel tank/s will be decommissioned.	EIA

Note: If hardcopy, check electronic system for latest revision

Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		(iii) ..... (iv) any phased activity or activities for development and related operation activity or expansion or related operation activities listed in this Notice or Listing Notice 3 of 2014; or (v) any activity regardless the time the activity was commenced with, where such activity: (a) is similarly listed to an activity in (i) or (ii) above; and (b) is still in operation or development is still in progress;  excluding where— (aa) activity 22 of this notice applies; or				



Note: If hardcopy, check electronic system for latest revision

Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		(bb) the decommissioning is covered by part 8 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the National Environmental Management: Waste Act, 2008 applies.				
		51. The expansion and related operation of facilities for the storage, or storage and handling, of a dangerous good, where the capacity of such storage facility will be expanded by more than 80 cubic metres.		x	This project involves construction of new fuel facility of 2 x 39m <sup>3</sup> of diesel tanks and 20m <sup>3</sup> of mobile bowser whereby the existing tank will be decommissioned and thereby not falling under the expansion category.	N/A
	<ul style="list-style-type: none"> <li>Listing Notice 2 (GN R325)</li> </ul>	4. The development and related operation of facilities or infrastructure, for the storage, or storage and handling of a		x	The combined fuel capacity stored in the tanks will not be more than 500m <sup>3</sup> .	N/A

Note: If hardcopy, check electronic system for latest revision

Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		dangerous good, where such storage occurs in containers with a combined capacity of more than 500 cubic metres.				
	<ul style="list-style-type: none"> <li><b>Listing Notice 3 (GN R324)</b></li> </ul>	10. The development and related operation of facilities or infrastructure for the storage, or storage and handling of a dangerous good, where such storage occurs in containers with a combined capacity of 30 but not exceeding 80 cubic metres.  d. KwaZulu-Natal i. In an estuarine functional zone; ii. Trans-frontier protected areas managed under international conventions;		x	None of the characteristics under this listed activity is applicable to the study area.	N/A

Note: If hardcopy, check electronic system for latest revision

Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		iii. Community Conservation Areas; iv. Biodiversity Stewardship Programme Biodiversity Agreement areas; v. World Heritage Sites; vi. Within 500 metres of an estuarine functional zone; vii. A protected area identified in terms of NEMPAA, excluding conservancies; viii. Sites or areas identified in terms of an international convention; ix. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;				

Note: If hardcopy, check electronic system for latest revision

Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		x. Core areas in biosphere reserves; xi. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose; xii. Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority; xiii. Outside urban areas: (aa) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any terrestrial protected area identified in terms of NEMPAA or				

Note: If hardcopy, check electronic system for latest revision

Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		from the core areas of a biosphere reserve; (bb) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; or (cc) Areas within a watercourse or wetland; or within 100 metres from the edge of a watercourse or wetland; or xiv. Inside urban areas: (aa) Areas zoned for use as public open space; or (bb) Areas seawards of the development setback line or within 100 metres from the high-water				

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		mark of the sea if no such development setback line is determined;				
<b><i>eThekweni Municipal By-Laws</i></b>						
	<ul style="list-style-type: none"> <li><b>Durban Metropolitan Uicity Municipality Interim code relating to fire prevention and flammable liquids and substances , Municipal Notice No. 27 of 2000, published in the Provincial Gazette No. 5417 and dated 23 March 2000</b></li> </ul>	Relevant sections of the By-Law during construction and operation.	<b>x</b>		Compliance with the relevant By-Law conditions	Induction prior to construction, tool box talks, compliance audits to be undertaken during construction
<b>National Environmental Management Air Quality Act (39 of 2004): <i>List of Activities (GN 893/2013)</i></b>						

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
	<ul style="list-style-type: none"> <li><b>List of Activities (GN 893/2013)</b></li> </ul>	(2) Subcategory 2.2 Storage and Handling of Petroleum Products which deals with petroleum product storage tanks and product transfer facilities, except those used for liquefied petroleum gas of all permanent immobile liquid storage tanks larger than 500m3 cumulative tankage capacity at a site is not applicable.		x	The storage and handling/capacity of petroleum products in the terminal will be less than 500m3	N/A
<b>eThekweni Municipal By-Laws</b>						
	<ul style="list-style-type: none"> <li><b>Air Quality Management By-Law, adopted by the Council on 27 February 2020</b></li> </ul>	Relevant sections of the By-Law during construction and operation.	x		Compliance with the relevant By-Law conditions	Induction prior to construction, tool box talks, compliance audits to be undertaken during construction
<b>National Environmental Management Waste Act (59 of 2008):</b>						

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
	<ul style="list-style-type: none"> <li><b>List of Activities (GN 921/2013)</b></li> <li><b>Category A</b></li> </ul>	1. The storage, including the temporary storage of general waste at a facility that has the capacity to store in excess of 100m <sup>3</sup> of general waste at any one time, excluding the storage of waste in lagoons.		x	It is not clear how much spoil material will come out excavations now.	Spoil management is to be followed up.



Note: If hardcopy, check electronic system for latest revision

Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		9. The disposal of inert waste to land in excess of 25 tons but not exceeding 25 000 tons, excluding the disposal of such waste for the purposes of levelling and building which has been authorised by or under other legislation		x	It is not clear how much inert waste will be produced now.	Inert waste management is to be followed up.

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		10. The disposal of general waste to land covering an area of more than 50m <sup>2</sup> but less than 200m <sup>2</sup> and with the total capacity not exceeding 25 000 tons.		x	All general waste that will be generated on site will be disposed of at the registered general waste landfill site.	N/A

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		14. The decommissioning of a facility for a waste management activity listed in Category A or B of this Schedule.”	x		The existing fuel tank will be decommissioned.	Waste license application
	<b>Category B</b>	7. The disposal of any quantity of hazardous waste to land.	x		Waste generated from the decommissioning of the existing fuel tank/s if contaminated will trigger this listed activity.	Waste license application
		8. The disposal of general waste to land covering an area in excess of 200m <sup>2</sup> and with a total capacity exceeding 25 000 tons.		x	All general waste that will be generated on site will be disposed of at the registered general waste landfill site.	N/A

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		9. The disposal of inert waste to land in excess of 25 000 tons, excluding the disposal of such waste for the purposes of levelling and building which has been authorised by or under other legislation.		x	It is not clear how much inert waste will be produced now.	Inert waste management is to be followed up.
	<b>Category C</b>	1) The storage of general waste at a facility that has the capacity to store excess of 100m <sup>3</sup> of general waste at any time, excluding the storage of waste in lagoons or temporary storage of such waste.		x	The general waste that will be produced on site is expected to be less than 100m <sup>3</sup> . Furthermore, waste will be stored temporarily on site in the waste receptacles and then disposed of at the permitted general waste landfill site.	N/A
<b>eThekwini Municipal By-Laws</b>						

Note: If hardcopy, check electronic system for latest revision

Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
	<b><i>Waste Removal By-Law, published in the Provincial Gazette No. 1722 and dated 25 August 2016</i></b>	Relevant sections of the By-Law during construction	x		Compliance with the relevant By-Law conditions	Induction prior to construction, tool box talks, compliance audits to be undertaken during construction
<b>National Water Act (36 of 1998)</b>						
	<b><i>Section 19 (1) and (2)</i></b>	19. (I) An owner of land, a person in control of land or a person who occupies or uses  the land on which —  (a) any activity or process is or was performed or undertaken; or  (b) any other situation exists,	x		Duty of Care to be applied.	Induction prior to construction, tool box talks, compliance audits to be undertaken during construction

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		<p>which causes, has caused or is likely to cause pollution of a water resource, must take all reasonable measures to prevent any such pollution from occurring, continuing or recurring.</p> <p>19. (2) The measures referred to in subsection (1) may include measures to —</p> <p>(a) cease, modify or control any act or process” causing the pollution;</p> <p>(b) comply with any prescribed waste standard or management practice;</p> <p>(c) contain or prevent the movement of pollutants</p>				

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
	<b>Section 21 (c) &amp; (i)</b>	Water use includes:  c) Impeding or diverting the flow of water in a watercourse.  i) Altering the bed, banks, course or characteristics of a watercourse.		x	The Bay is within 80m from the preferred site and it will not be impacted upon by these water uses.	N/A
	<b>Sections (f), (g) and (h)</b>	(f) discharging waste or water containing waste into a water resource through a pipe, canal sewer sea outfall or other conduit;  (g) disposing of waste in a manner which may detrimentally impact on a water resource;  (h) disposing in any manner of water which contains waste from or which has been heated in any industrial or power generation process		x	It is not anticipated to discharge waste or water into a water resource, or dispose waste in a manner that may detrimentally impact the water course, nor dispose water containing waste which has been heated in any industrial or power generation process in any manner	Follow up on discharge and disposal of waste.

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
	<b>General Authorisation in terms of section 39 of the National Water Act 36 of 1998 (Act no. 36 of 1998) for water uses defined in section 21(c) Or section 21(i) – Gen N 509/2016</b>	<p>2. “Regulated area of a watercourse” for section 21c or (i) of the Act water uses in terms of this Notice means:</p> <p>(a) The outer edge of the 1 in 100-year flood line and/or delineated riparian habitat, whichever is the greatest distance, measured from the middle of the watercourse of a river, spring, natural channel, lake or dame;</p> <p>(b) In the absence of a determined 1 in 100-year flood line or riparian area the area within 100m from the edge of a watercourse where the edge of the watercourse is the first identifiable annual bank fill flood bench (subject to compliance to section 144 of the Act); or</p>		x	The Bay is within 80m from the preferred site.	



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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		(c) A 500 m radius from the delineated boundary (extent) of any wetland or pan.				
	<b>Revision of General Authorisations in Terms of Section 39 of the National Water Act, 1998 (Act No. 36 Of 1998) – GN 665/2013</b>	21(j) Removing, discharging or disposing of (100m <sup>3</sup> a day) water found underground if it is necessary for the efficient continuation of an activity or for the safety of people		X	Discharging, removing or disposing groundwater will not take place	Should water seeps through the excavations, an application for a GA/WUL should be applied for with the DWS
<b>National Environmental Management Biodiversity Act (10 of 2004):</b>						
	<b>Section 1 (Restricted Activities)</b>	87. (a) A permit is required in order to carry out a restricted activity involving specimens of listed threatened or protected species.		x	There are no known listed threatened or protected species onsite that will be affected by the project.	N/A

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
<b>National Heritage Resources Act (25 of 1999):</b>						
		34.(1) No person may alter or demolish any structure or part of a structure which is older than 60 years without a permit issued by the relevant provincial heritage resources authority.		x	No heritage resources with Grade I, Grade II or Grade III status are known within the terminal study area. Buildings or structures older than 60 years within the proposed development area will not be demolished or altered.	N/A
		36. (3) No person may, without a permit issued by SAHRA or a provincial heritage resources authority—  (a) destroy, damage, alter, exhume or remove from its original position or otherwise disturb the grave of a victim of conflict, or any burial		x	No cemeteries were observed in on site during site inspection	N/A

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		<p>ground or part thereof which contains such graves;</p> <p>(b) destroy, damage, alter, exhume, remove from its original position or otherwise disturb any grave or burial ground older than 60 years which is situated outside a formal cemetery administered by a local authority; or</p> <p>(c) bring onto or use at a burial ground or grave referred to in paragraph (a) or (b) any excavation equipment, or any equipment which assists in the detection or recovery of metals.</p>				

Note: If hardcopy, check electronic system for latest revision

Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		<p>38. (1) any person who intends to undertake a development categorised as—</p> <p>(a) the construction of a road, wall, power line, pipeline, canal or other similar form of linear development or barrier exceeding 300m in length;</p> <p>(c) any development or other activity which will change the character of a site—</p> <p>(i) exceeding 5 000 m<sup>2</sup> in extent, must at the very earliest stages of initiating such a development, notify the responsible heritage resources authority and furnish it</p>		x	This project will not exceed 5 000 m <sup>2</sup> in extent.	N/A

Note: If hardcopy, check electronic system for latest revision

Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		with details regarding the location, nature and extent of the proposed development.				
<b>National Environmental Management: Integrated Coastal Management Act (24 of 2008)</b>						
	<b>Section 69</b>	69 (1) No person may discharge effluent that originates from a source on land into coastal waters except in terms of a general authorisation contemplated in subsection (2) or a coastal waters discharge permit issued under this section by the Minister.		x	No effluent shall be discharged into the sea as a result of this project, therefore, no General Authorisation/ Coastal Waters Discharge permit is required.	N/A
	<b>Section 71</b>	71 (1)(a) A person who wishes to dump at sea any waste or other material must apply in writing to the Minister in the form stipulated by		x	No waste shall be dumped at sea	N/A

Note: If hardcopy, check electronic system for latest revision

Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		the Minister for a dumping permit that authorises the waste or other material to be loaded aboard a vessel, aircraft, platform or other structure and to be dumped at sea.				
<b>Mineral and Petroleum Resources Development Act (28 of 2002)</b>						
		69 (1) Any operation or activity for the purposes of winning any mineral on, in or under the earth, water or any residue deposit, whether by underground or open working or otherwise and includes any operation or activity in an area less than 5 hectare and within 2 years		x	No mining of mineral (e.g. borrow pit, quarry etc. ) shall be undertaken	N/A

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Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
<b>Other relevant eThekweni Municipality By-Laws</b>						
	<ul style="list-style-type: none"> <li><b><i>Nuisances and Behaviour in Public Places By-Law, adopted by the Council on 24 June 2015.</i></b></li> </ul>	It governs measures for preventing, minimising or managing public nuisances; to prohibit certain activities or conduct in public places; to provide for the repeal of laws and savings; and to provide for matters incidental thereto.	x		Construction activities can sometimes cause nuisance to the public.	
	<ul style="list-style-type: none"> <li><b><i>Scheduled Activities By-Law, adopted by the Council on 27 February 2020.</i></b></li> </ul>	It provides measures for the prevention, minimisation and management of environmental and human health impacts likely to arise from premises from which certain trades, occupations, businesses, activities or processes are undertaken; to prohibit certain	x		Construction activities can sometimes contribute to environmental and human health impacts.	

Note: If hardcopy, check electronic system for latest revision

Work Packages/ Activities (Description)	EA Requirements Review - All legislation	Activities that may apply to Project	Applicable to Project		Motivation	Process to be followed
			YES	NO		
		activities or conduct in order to ensure and promote a healthy environment; to provide for the repeal of laws and savings; and to provide for matters incidental thereto.				





**The Provision of Environmental Assessment Practitioner  
(EAP) for National Fuel Tank Facility at Transnet Port  
Terminal For a Period of 12 months.**

**Document Reference Number:**

**N/A**

**Site:**

- East London Port Terminal & Durban Container Terminal

Distribution of this document is restricted to Transnet and  
Transnet approved entities only

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## 1. DEFINITIONS

### Contract

An agreement with specific terms between two or more parties or entities based on mutual consent, which has legal effects and involves transfer of consideration – usually financial or some other type of benefit.

### Employers Agent

Transnet employee who is authorised to represent Transnet in terms of the contract and appointed to supervise and/or liaise with the consultant to ensure that the specifications of the contract met.

### Contract Owner

The person who requires a specific product, goods or services and who is responsible to provide the budget and approval.

## 2. ABBREVIATIONS

BAR	Basic Assessment Report
DFFE	Department of Forestry, Fisheries and Environment
EAP	Environmental Assessment Practitioner
EIA	Environmental Impact Assessment
EMP	Environmental Management Plan
I & APs	Interested & Affected Parties
NEMA	National Environmental Management Act
TPT	Transnet Port Terminals

### **3. BACKGROUND**

Transnet Port Terminals has a total diesel storage of 951 000 litres across all terminals. The diesel storage facilities are old, in a deteriorating condition and most pump stations still operate on the analogue system. The diesel storage facilities are at risk of leakages because of aging which could result in fuel losses. Some of the diesel storage tanks are located underground, which is not in line with the Transnet sustainability policy as well as relevant legislation (national and international).

### **4. SCOPE OF REQUIREMENTS**

The task is the provision of EAP services to apply for Environmental Authorisation (EA) for the decommissioning of the underground tanks in terms of the Environmental Impact Assessment (EIA) Regulations (following the process as defined in Regulation 32 of the Environmental Impact Assessment Regulations, 2014 as amended).

Where conflict or discrepancy exists between a specific procedure requirement or definition contained in this document, with that of the EIA regulations, the latter will take precedence.

Transnet plans to decommission the following:

- 2 X 23 Kilo litres/m<sup>3</sup> diesel tanks and 2 X 14 Kilo litres/m<sup>3</sup> of petrol tanks at the East London Car Terminal.
- 2 X 23 Kilo litres/m<sup>3</sup> diesel tank at Durban Container Terminal Pier 1.

The locality details for the ports are included in the Baseline Inspection Reports appended to this report as Annexure A & B.

### **5. ACTIVITIES**

The tasks that are listed below are generic to the process of basic assessment. The tasks have been categorised according to certain project phases. In all the subsections for each task, only what are considered the main tasks, deliverables, etc have been listed. The Consultant shall carry out all the tasks as listed plus any others which are required, to fulfil all the functions necessary so that Transnet is able to obtain the amendment of the Environmental Authorisation from the Competent Authority for the Project.

#### **5.1.1 Task 1: Project Initiation**

Tasks will include but not necessarily be limited to the following main activities.

- Conduct a comprehensive screening exercise to identify any applicable listed activities in the EIA Regulations.

- Prepare and apply for environmental authorisation amendment under NEMA, together with all the prescribed documents to the Department of Forestry, Fisheries and Environment (DFFE).
- Review and understand existing project data and information which will be provided by Transnet to the EAP on request.
- Identify project information gaps and list information requirements.
- Project initiation meeting and site visit.

The deliverables include, but not limited to –

- Environmental authorisation amendment application forms and other relevant documents.
- Minutes of all project progress and planning meetings.
- Project plan and schedule.

### **5.1.2 Task 2: Public participation**

- Tasks will include but not necessarily be limited to the following main activities.
- Plan, implement and manage all aspects of the public participation programme for all the parts of the Project. This includes keeping a detailed record of all public participation activities, comments received and responses to these in terms of the NEMA Regulations.
- Develop and maintain a comprehensive database of stakeholders as required by the NEMA Regulations. The database shall differentiate clearly with respect to key stakeholders as required by the NEMA Regulations.
- Announce and advertise the environmental assessment process and application for environmental authorisation amendment appropriately, in terms of the requirements of the NEMA Regulations.
- Such announcements and advertisements shall include but not necessarily be limited to press releases, a background information document, site notice boards, letters to stakeholders, telephone calls, e-mail correspondence and information placed on the internet.
- Public participation shall be carried out during impact assessment and appeal phases if and when necessary and as required by the NEMA Regulations.
- Liaise and consult with the competent authority and other government departments that are relevant to the Project.
- Where appropriate organise, conduct and record the discussions and inputs received from workshops aimed at the Competent Authority and key stakeholders.
- Where appropriate organise and convene appropriate focus group meetings to inform the public of the contents of, the findings and recommendations contained in the Basic Assessment Report (BAR).
- Record comments and inputs from stakeholders and draw up a Comments and Response report based on the feedback obtained from stakeholders.

- Include the Comments and Response Report in the Draft and Final BAR.
- Appropriate distribution of all reports and documentation in compliance with the Regulations and as required by the Competent Authority.
- Ongoing consultation with authorities and the broader stakeholder base throughout the process.
- Notification to stakeholders of the decision of the competent authority on the application.
- Handle any appeals in consultation with the Employer, as and when necessary.

The deliverables include, but not limited to -

- Register of I&APs, stakeholders and lead stakeholders.
- Minutes of all relevant project and public meetings, workshops and discussions.
- All public documents such as advertisements, background information document, letters, press releases and the like.
- Reports (e.g. comments response report, public participation report, BAR, etc).

### **5.1.3 Task 3 Basic Assessment**

The tasks involved include but are not necessarily limited to:

- Project management.
- Prepare a plan of study for BA.
- Identify and draw up final terms of reference for specialist studies (where necessary)
- Appoint specialists to carry out studies (where necessary)
- Undertake site visits.
- Arrange and conduct integration meetings with specialists.
- Review specialist reports.
- Compile draft basic assessment report (BAR).
- Compile draft environmental management plan (EMP).
- Employer and public review of draft BAR and draft EMP.
- Arrange and conduct meetings, workshops and interactions with stakeholders.
- Analyse feedback from Stakeholders and compile final BAR and final EMP.
- Finalise documentation and submit to authorities for consideration.

The deliverables include, but not limited to -

- Specialist Reports (where required)
- Draft basic assessment report (DBAR).
- Final basic assessment report (BAR).

- Minutes of all relevant project planning and progress meetings.

#### **5.1.4 Task 4: Project Management**

Tasks will include but not necessarily be limited to the following main activities.

- Project planning and management of all project tasks and deliverables.
- Hold project planning and coordination meetings.
- Submit monthly project progress reports to the Employer.
- Attend and take the minutes of Employer's formal monthly project progress meetings.
- Draw up and revise the project programme when necessary.
- Manage specialist investigations.
- Manage review processes.
- Liaise with Employer.
- Liaise with authorities.

The deliverables include, but not limited to -

- General project communication.
- Minutes of all project related meetings.
- Project management of basic assessment process.
- Project management of public participation process.
- Project management of specialists.
- Draft Basic Assessment Report.
- Draft Environmental Management Plan.
- Final Basic Assessment Report.
- Final Environmental Management Plan.

## **6. QUALITY AND SERVICE**

The Service Provider shall ensure that its employees tasked with providing the required services to TPT are competent, have the required expertise, experience and in possession of the academic requirement, to fulfil its responsibilities as set out in the scope of work herein.

### **6.1 Specialist Studies**

- The EAP will be required to appoint specialists to undertake the specialist studies that will be required for the EA.

### **6.2 Consulting Team Requirements**

The team must have personnel who have the following key competencies:

- Basic Assessment Process or Environmental Impact Assessment Process
- Project management
- Public participation/ facilitation

### **6.3 Composition of the team**

- The entire team must have a Bachelor's degree/B-tech/National Diploma in Environmental management or relevant qualification.
- The EAP must be EAPASA registered and have undertaken and completed at least five Basic Assessment processes or Environmental Impact Assessment.
- The Project Manager must have at least five years' experience in managing Basic Assessment processes.
- The team must include a proficient public participation facilitator/company with a minimum of five years' experience in stakeholder engagement. The public participation process must be cognisant of language requirements and ensure that consultation with I&APs is open and transparent.
- Any sub-consultants contracted by the appointed EAP to undertake specialist studies or other relevant environmental approval processes, must meet the following requirements.
- NOTE: Should a team member leave the organisation the replacement person will be expected to have the required qualifications listed.

## **7. PROGRAMME**

The Consultant must provide a programme of work to achieve the objectives of the study in line with the start and completion date as per the EIA regulations.



## 8. TECHNICAL REQUIREMENTS

Service Providers will be evaluated according to the following criteria:

Technical Criteria		% Weightings
<p><b>Previous Experience</b></p>	<p>The service provider must provide a list of five (5) past/current Basic Assessments or Environmental Impact Assessment projects on a company letterhead, list to include:</p> <ul style="list-style-type: none"> <li>• Name of client company</li> <li>• Contact detail for the client company</li> </ul> <p><b><u>Supporting documents:</u></b></p> <p>Service provider should provide a project plan that addresses all 3 points indicated above.</p>	<ul style="list-style-type: none"> <li>• <b>30% of points</b> = company letterhead indicating a list of EIA or BA services rendered and contact details. List includes five (5) or more project services.</li> <li>• <b>20% of points</b> = company letterhead indicating a list of EIA or BA services rendered and contact details. List includes four (4) project services. services.</li> <li>• <b>10% of points</b> = company letterhead indicating a list of EIA or BA services rendered and contact details. List includes three (3) project services.</li> <li>• <b>5% of points</b> = company letterhead indicating a list of EIA or BA services rendered and contact details. List includes two (2) project services.</li> <li>• <b>0% of points</b> = No information provided</li> </ul>
<p><b>Composition of key personnel</b></p>	<p>The service provider should provide proof of qualification and experience.</p>	<ul style="list-style-type: none"> <li>• <b>30% of points</b> = Diploma/B-tech/Degree in Environmental Management, EAPASA registration and 3-5 years' or</li> </ul>

	<ul style="list-style-type: none"> <li>Supporting Documents Diploma/B-tech/Degree in Environmental Management or relevant qualification.</li> <li>EAPASA registration</li> <li>CV stipulating five (5) years' experience in Basic Assessment processes and Stakeholder Engagement.</li> </ul>	<p>more experience.</p> <ul style="list-style-type: none"> <li><b>20% of points</b> = Diploma/B-tech/Degree in Environmental Management, EAPASA registration and 1-2 years' experience.</li> <li><b>10% of points</b> = Diploma/B-tech/Degree in Environmental Management, EAPASA registration and less than 1 year experience.</li> <li><b>0% of points</b> = No information provided</li> </ul>
<p><b>Project plan</b></p>	<p>The service provider must submit a detailed project plan that complies with the scope of work. Project plan must clearly indicate:</p> <ul style="list-style-type: none"> <li>Projected Timeframes of the activities to be completed, which will result in the Environmental Authorisation being given by Authorities, inclusive of the regulated timeframes for EIA/BA process;</li> <li>Milestones and deliverables; and</li> <li>Detailed explanations on how activity durations were estimated</li> </ul>	<ul style="list-style-type: none"> <li><b>10% of points</b> = Service provider provided a project plan that addresses all 3 points requested</li> <li><b>5% of points</b> = Service provider provided a project plan that addresses 1 or 2 points requested</li> <li><b>0% of points</b> = No project plan information or project timeframes provided</li> </ul>

	<p><b><u>Supporting document</u></b></p> <p>Service provider should provide a project plan that addresses all 3 points indicated above.</p>	
<p><b>Approach paper</b></p>	<p>Service provider should provide the Approach Paper that addresses the following Key activities as a minimum:</p> <ul style="list-style-type: none"> <li>• TASK 1: Project Initiation.</li> <li>• TASK 2: Public Participation process.</li> <li>• TASK 3: Basic Assessment.</li> <li>• TASK 4: Project paper that addresses all four key activities</li> </ul> <p>Each of the key activities above must relate to the scope of work.</p> <p><u>Supporting document</u></p> <p>Service provider should provide the approach paper that addresses all four Task activities and the sub activities</p>	<ul style="list-style-type: none"> <li>• <b>25% of points</b> = Approach paper covers all four (4) key activities</li> <li>• <b>15 % of points</b> = Approach paper covers all three (3).</li> <li>• <b>5% of points</b> = Approach paper covers two (2) or one (1) key activity.</li> <li>• <b>0% of points</b> = Not submitted the required information.</li> </ul>

The minimum qualifying score required is 75% out of 100%.

#### **9. CONTRACT TIMEFRAME:**

The contract timeframe is for 12 months.

#### **10. THE CONSULTANT'S INVOICES**

When the Project Manager certifies payment following an assessment date, the Consultant complies with the following procedure for invoicing submission. The invoice must correspond to the Employer's Agent assessment of the amount due to the Consultant. The Consultant shall familiarise himself with the Payment and Invoicing requirements set out below, and comply with it in all respects. Payment is subject to the absolute and complete compliance with the Payment and Invoicing requirements indicated below and elsewhere in this Task Order. The risk of the Contract Specialist not receiving Consultant's Invoices as specified below resides with the Consultant.

The invoice shall correspond to the Employer's Agent assessment of the amount due to the Consultant as stated in the payment certificate.

The invoice states the following:

- Invoice addressed to Transnet SOC Limited;
- Transnet Limited's VAT No: 4720103177;
- Invoice sequence number;
- The Consultant's VAT Number; and
- The amount paid to date

The invoice contains the supporting detail:

- The description of the work completed and claimed for;
- Cost breakdown of work previously claimed, currently claimed, and balance outstanding for each section of work.

#### **11. ANNEXURES**

- Annexure A- Baseline inspection report- East London Port Terminal
- Annexure B- Baseline inspection report- Durban Container Terminal



**Technical Evaluation Scorecard for the Provision of Environmental Assessment Practitioner (EAP) for the National Fuel Tank at Transnet Port Terminal**

Criteria		Documentation required	Target	Scoring principle	Comments
Measurable criteria	1. Previous Experience	<p>The service provider must provide a list of five (5) past/current Basic Assessments or Environmental Impact Assessment projects on a company letterhead, list to include:</p> <ul style="list-style-type: none"> <li>• Name of client company</li> <li>• Contact detail for the client company</li> </ul> <p><b>Supporting document</b> A list of five (5) past/current Basic Assessments or Environmental Impact Assessment projects on a company letterhead, list to include:</p> <ul style="list-style-type: none"> <li>• Name of client company</li> <li>• Contact detail for the client company</li> </ul>	30%	<ul style="list-style-type: none"> <li>• 30% of points = company letterhead indicating a list of EIA or BA services rendered and contact details. List includes five (5) or more project services.</li> <li>• 20% of points = company letterhead indicating a list of EIA or BA services rendered and contact details. List includes four project services.</li> <li>• 10% of points = company letterhead indicating a list of EIA or BA services rendered and contact details. List includes three project services.</li> <li>• 5% of points = company letterhead indicating a list of EIA or BA services rendered and contact details. List includes one or two project services.</li> <li>• 0% of points = No information provided</li> </ul>	
	2. Composition of Key personnel	<p>The service provider should provide proof of qualification and experience for each member of the team conducting the assessment. (<b>NOTE:</b> Should a team member leave the organisation the replacement person will be expected to have the required qualifications listed.)</p> <p><b>Supporting document</b></p> <ul style="list-style-type: none"> <li>• Diploma/B-tech/Degree in Environmental Management or relevant qualification.</li> <li>• EAPASA registration</li> <li>• CV stipulating five (5) years' experience in Basic Assessment processes and Stakeholder Engagement</li> </ul>	30%	<ul style="list-style-type: none"> <li>• 30% of points = Diploma/B-tech/Degree in Environmental Management, EAPASA and 3-5 or more years' experience.</li> <li>• 20% of points = Diploma/B-tech/Degree in Environmental Management, EAPASA and 1-2 years' experience.</li> <li>• 10% of points = Diploma/B-tech/Degree in Environmental Management, EAPASA and less than 1 year experience.</li> <li>• 0% of points = No information provided</li> </ul>	
	3. Project Plan	<p>The service provider must submit a detailed project plan that complies to the scope of work. Project plan must clearly indicate:</p> <ul style="list-style-type: none"> <li>• Projected Timeframes of the activities to be completed, which will result in the Environmental Authorisation being given by Authorities, inclusive of the regulated timeframes for EIA/BA process;</li> <li>• Milestones and deliverables; and</li> <li>• Detailed explanations on how activity durations were estimated</li> </ul> <p><b>Supporting document</b> Service provider should provide a project plan that addresses all 3 points indicated above.</p>	10%	<ul style="list-style-type: none"> <li>• 10% of points = Service provider provided a project plan that addresses all 3 points requested</li> <li>• 5% of points = Service provider provided a project plan that addresses 1 or 2 points requested</li> <li>• 0% of points = No project plan information or project timeframes provided</li> </ul>	
	4. Approach Paper	<p>The service provider should provide the Approach Paper that addresses the following Key activities as a minimum as per the Scope of Work:</p> <ul style="list-style-type: none"> <li>• <b>TASK 1:</b> Project Initiation;</li> <li>• <b>TASK 2:</b> Public Participation process;</li> <li>• <b>TASK 3:</b> Basic Assessment;</li> <li>• <b>TASK 4:</b> Project Management;</li> </ul> <p>Each of the key activities above must relate to the scope of work.</p> <p><b>Supporting document</b> Service provider should provide the approach paper that addresses all four Task activities and the sub activities</p>	30%	<ul style="list-style-type: none"> <li>• 30% of points = Approach paper covers all four (4) Task activities.</li> <li>• 15 % of points = Approach paper covers three (3) Task activities.</li> <li>• 5% of points = Approach paper covers two(2) or one (1) Task activities.</li> <li>• 0% of points = Not submitted the required information.</li> </ul>	

	TOTAL RATING		100%		
		Technical Qualification Threshold = 75%			

Document Title:

**PRICING SCHEDULE**

Project Title:

**THE PROVISION OF ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP) FOR THE NATIONAL FUEL TANK FACILITY AT TRANSNET PORT TERMINAL FOR A PERIOD OF 12 MONTHS.**

**REVISION 01: REQUEST FOR QUOTATION**



**THE PROVISION OF ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP) FOR NATIONAL FUEL TANK FACILITY AT TRANSNET PORT TERMINAL FOR A PERIOD OF 12 MONTHS**

<b>SCOPE OF WORK REFERENCE NUMBER</b>	<b>DESCRIPTION</b>	<b>UNIT</b>	<b>QUANTITY</b>	<b>TOTAL AMOUNT</b>
	<b>EXECUTION ACCORDING TO SCOPE OF WORK</b>			
5.1.1	Task 1: Project Initiation	Item	1	
5.1.2	Task 2: Public participation	Item	1	
5.1.3	Task 3 Basic Assessment	Item	1	
5.1.4	Task 4: Project Management	Item	1	
	Travel & Disbursement costs – Attach a detailed table of disbursement costs	Item	1	
	<b>SUBTOTAL 1</b>			
	Add VAT at 15%			
	<b>Total Tender Amount (including VAT )</b>			



TRANSNET PORT TERMINALS	PRICE SCHEDULE	Page 3 of 3	Rev 01	ENVIRONMENTAL ASSESSMENT PRACTITIONER
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Transnet Request for Quotation No TPT/2024/10/0034/80890/RFQ

FOR THE PROVISION OF ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP) FOR NATIONAL FUEL TANK FACILITY AT  
TRANSNET PORT TERMINAL FOR A PERIOD OF TWELVE (12) MONTHS.



**STANDARD TERMS AND CONDITIONS OF CONTRACT**

**between**

**TRANSNET SOC LTD**

Registration Number 1990/000900/30

**And**

.....

Registration Number .....

**FOR THE APPOINTMENT OF A SERVICE PROVIDER FOR THE PROVISION OF ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP) FOR NATIONAL FUEL TANK FACILITY AT TRANSNET PORT TERMINAL FOR A PERIOD OF TWELVE (12) MONTHS.**

**CONTRACT NUMBER                    TPT/2024/10/0034/80890/RFQ**

**DURATION                                12 Months**

**COMMENCEMENT DATE            To be Confirmed**

**EXPIRY DATE                            To Be confirmed**

FOR THE PROVISION OF ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP) FOR NATIONAL FUEL TANK FACILITY AT TRANSNET PORT TERMINAL FOR A PERIOD OF TWELVE (12) MONTHS.

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FOR THE PROVISION OF ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP) FOR NATIONAL FUEL TANK FACILITY AT TRANSNET PORT TERMINAL FOR A PERIOD OF TWELVE (12) MONTHS.

**Schedule 1 – SCHEDULE OF REQUIREMENTS**

## **1 SOLE AGREEMENT**

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

## **2 CONFORMITY WITH ORDER**

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

## **3 DELIVERY AND TITLE**

3.1 The delivery dates and addresses are those in the Order. Time shall be of the essence in respect of the Supplier/Service Provider's obligations under the Order.

3.2 The Supplier/Service Provider will not be excused for delay in delivery or performance except due to circumstances outside its control and then only subject to the Supplier/Service Provider having notified Transnet in writing on becoming aware of such circumstances. Transnet may terminate an Order, in whole or in part, without incurring any liability to the Supplier/Service Provider if such a delay becomes, in Transnet's absolute opinion, significant.

**4** If on delivery, the Goods/services do not conform to the Order, Transnet may reject the Goods/Services and the Supplier/Service Provider shall promptly rectify any defects or in Transnet's opinion, supply appropriate replacement Goods/Services at the Supplier/Service Provider's expense within the specified delivery times, without any liability due by Transnet.

## **5 PRICE AND PAYMENT**

5.1 Prices specified in an Order cannot be increased. Payment for the Goods/Services shall be made by Transnet against an original undisputed invoice(s) [a Tax Invoice], supporting documentation and month-end statement from the Supplier/Service Provider. Tax Invoices plus supporting documentation shall be posted to the address shown in the Order.

5.2 Payment of the Supplier/Service Provider's valid Tax Invoice(s) will be made by Transnet in the South African currency and on the terms stated in the Order, the standard payment

FOR THE PROVISION OF ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP) FOR NATIONAL FUEL TANK FACILITY AT TRANSNET PORT TERMINAL FOR A PERIOD OF TWELVE (12) MONTHS.

terms being 30 [thirty] days from date of receipt by Transnet of a month-end statement, unless otherwise agreed to in writing. Transnet shall arrange for payment of such Tax Invoices and any pre-authorised additional expenses incurred, provided that the authorised expenses are supported by acceptable documentary proof of expenditure incurred [where this is available]. Any amounts due in terms of these Terms shall be paid to the Supplier/Service Provider, taking into account any deduction or set-off and bank charges.

## **6 PROPRIETARY RIGHTS LIABILITY**

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

- a) procure for Transnet the right to continue using the infringing Goods/Services; or
- b) modify or replace the Goods/services so that they become non-infringing,

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

## **7 PROPRIETARY INFORMATION**

All information which Transnet has divulged or may divulge to the Supplier/Service Provider and any information relating to Transnet's business which may have come into the Supplier/Service Provider's possession whilst carrying out an Order, and the existence of the Order, shall be treated by the Supplier/Service Provider as confidential information and shall not, without Transnet's prior written consent, be disclosed to any third party, or be used or copied for any purposes other than to perform the Order. This clause does not apply to information which is public knowledge or available from other sources other than by breach of this Term. Upon

request by Transnet, the Supplier/Service Provider shall return all materials issued pursuant to the Order and, pending this, shall protect Transnet's rights in any such materials. Such confidential information shall at all material times be the property of Transnet.

## **8 PROTECTION OF PERSONAL INFORMATION**

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

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

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

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

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

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

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



- vi. they have appropriate technical and organisational measures in place to safeguard the security, integrity and authenticity of all information in their possession or under their control in terms of this Agreement;
  - vii. they identify all reasonably foreseeable internal and external risks to personal information in their possession or under their control; establish and maintain appropriate safeguards against the risks identified; regularly verify that the safeguards are effectively implemented; and ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards;
  - viii. such personal information is protected against unauthorised or unlawful processing, accidental loss, destruction or damage, alteration, disclosure or access.
- 9.1. The Parties agree that if personal information will be processed for additional purposes beyond the original purpose for which it was obtained, explicit consent must be obtained beforehand from those persons whose information will be subject to such processing.
- 9.2. Should it be necessary for either Party to disclose or otherwise make available the personal information to any third party (including sub-contractors and employees) that is not already consented to, it may do so only with the prior written consent of the other Party. The Party requiring such consent shall require of all such third parties, appropriate written undertakings to be provided, containing similar terms to that set forth in this clause, and dealing with that third party's obligations in respect of its processing of the personal information. Following approval by the other Party, the Party requiring consent agrees that the provisions of this clause shall mutatis mutandis apply to all authorised third parties who process personal information.
- 9.3. The Parties shall ensure that any persons authorized to process information on their behalf (including employees and third parties) will safeguard the security, integrity and authenticity of all information. Where necessary to meet this requirement, the Parties shall keep all personal information and any analyses, profiles, or documents derived therefrom logically separated from all other information and documentation held by it.
- 9.4. The Parties shall carry out regular assessments to identify all reasonably foreseeable internal and external risks to the personal information in its possession or under its control. The Parties shall implement and maintain appropriate safeguards against the risks which it identifies and shall also regularly verify that the safeguards which it has in place have been effectively implemented.
- 9.5. The Parties agree that they will promptly return, destroy or de-identify any personal information in their possession or control which belongs to the other Party once it no longer serves the purpose for which it was collected in relation to this Agreement, subject to any legal retention requirements. This may be at the request of the other Party and includes circumstances where a person has requested the Parties to delete all instances of their

personal information. The information will be destroyed or de-identified in such a manner that it cannot be reconstructed to its original form, linking it to any particular individual or organisation.

9.6. Personal Information security breach:

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

## 9 PUBLICITY

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

## 10 NON-CONFORMANCE OF SERVICES PROCURED

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

FOR THE PROVISION OF ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP) FOR NATIONAL FUEL TANK FACILITY AT TRANSNET PORT TERMINAL FOR A PERIOD OF TWELVE (12) MONTHS.

*10.2 Failure by the Supplier/Service Provider to fully comply with NCR within the period stated in sub-clause 10.1 above, shall entitle Transnet to further conditions to which the Supplier/ Service Provider must discharge in order to close the NCR or to terminate the order without giving the Supplier/Service Provider written notice of termination in terms of this Agreement.*

## **11 TERMINATION OF ORDER**

11.1 Notwithstanding the date of signature hereof, the commencement date of this Order is ..... and will expire on ..... , unless:

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

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

11.3 Transnet shall pay the Supplier/Service Provider a fair and reasonable price for justified work in progress, where such price reflects only those costs not otherwise recoverable by the Supplier/Service Provider, at the time of termination, and the Supplier/Service Provider shall give Transnet full assistance to check the extent of such work in progress. Payment of such price shall be in full and final satisfaction of any claims arising out of such termination and upon such payment the Supplier/Service Provider shall deliver to Transnet all work, including any materials, completed or in progress. The sum payable to the Supplier/Service Provider under this clause will not in any event exceed the total amount that would have been payable to the Supplier/Service Provider had the Order not been terminated.

11.4 In the event of termination the Supplier/Service Provider must submit all claims within 2 [two] months of termination after which time claims will only be met in what Transnet considers exceptional circumstances.

11.5 If the Goods/services are not provided in accordance with an Order, the Order shall be deemed terminated and the Supplier/Service Provider shall compensate Transnet for any

costs incurred in obtaining substitute Goods/services or any damage caused due to the failure or delay in the delivery.

11.6 Both parties to this agreement reserve the right to terminate this agreement:

13.6.1. If the other commits a material breach of this contracts and fails to remedy such breach within a stipulated time frame or within a reasonable time;

13.6.2. There is non-performance from either of the parties; or

13.6.3. If the other party is unable to perform its obligations under this agreement.

## **12 ACCESS**

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

## **13 WARRANTY**

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

## **14 INSOLVENCY**

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

## **15 SUBCONTRACTING**

15.1 The Supplier/Service Provider may only enter into a subcontracting arrangement with the approval of Transnet. If the Supplier subcontracts a portion of the contract to another person without declaring it to Transnet, Transnet must penalise the Supplier up to 10% of the value of the contract.

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- 15.2 Should Transnet approve the Supplier's/Service Provider's subcontracting arrangement, the Supplier/Service Provider and not the sub-contractor will at all times be held liable for performance in terms of its contractual obligations.
- 15.3 The Supplier/Service Provider may not subcontract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- 15.4 The Supplier/Service Provider may not subcontract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level of contributor than the Supplier, unless the contract is subcontracted to an Exempted Micro Enterprise (EME) that has the capability and ability to execute the subcontract.

## **16 PAYMENT TO SUB-CONTRACTORS**

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

## **17 CESSIONS AND ASSIGNMENTS AS PER NT INSTRUCTION NOTE 08 OF 2022/2023**

- 17.1 The Supplier/Service Provider is not allowed to cede its rights for payment in terms of this Agreement without prior written approval from Transnet. Cession shall only be applicable as follows:
  - a) Cession must only be applicable to the transfer of right to payment for goods/services delivered/rendered by a Supplier/Service Provider to an FSP or State Institutions;

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- b) The written request for cession must be by the Supplier/Service Provider and not a third party; and
- c) The written request by the Supplier/Service Provider must be accompanied by the cession agreement.

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

## **18 SUPPLIER INTEGRITY PACT**

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

## **19 DATABASE OF RESTRICTED SUPPLIERS**

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

## **20 NOTICES**

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

## **21 LAW**

Orders shall be governed by and interpreted in accordance with South African law and any disputes arising herein shall be subject to South African arbitration under the rules of the Arbitration Foundation of South Africa, which rules are deemed incorporated by reference in this clause. The reference to arbitration shall not prevent Transnet referring the matter to any South African courts, having jurisdiction, to which the Supplier/Service Provider hereby irrevocably submits but without prejudice to Transnet's right to take proceedings against the Supplier/Service Provider in other jurisdictions and/or obtaining interim relief on an urgent basis from a court of competent jurisdiction pending the decision in other courts or from instituting in any court of competent jurisdiction any proceedings for an interdict or any other injunctive

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relief. If the Supplier/Service Provider does not have a registered office in the South Africa it will at all times maintain an agent for service of process in South Africa and shall give Transnet the name and address of such agent as such may be amended, in writing, from time to time.

## **22 GENERAL**

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

## **23 COUNTERPARTS**

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

FOR THE PROVISION OF ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP) FOR NATIONAL FUEL TANK FACILITY AT TRANSNET PORT TERMINAL FOR A PERIOD OF TWELVE (12) MONTHS.

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

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





## SCHEDULE 1 – SCHEDULE OF REQUIREMENTS

**DESCRIPTION FOR THE PROVISION OF ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP) FOR NATIONAL FUEL TANK FACILITY AT TRANSNET PORT TERMINAL FOR A PERIOD OF TWELVE (12) MONTHS.**

**SERVICE PROVIDER** .....

**CONTRACT NUMBER** **TPT/2024/10/0034/80890/RFQ**

**DURATION** **TWELVE (12) MONTHS.**

**COMMENCEMENT DATE** **To be Confirmed**

**EXPIRY DATE** **To be Confirmed**

With reference to the Standard Terms and Conditions of Contract, Reference Number **TPT/2024/10/0034/80890/RFQ** dated ....., ("Contract") between Transnet SOC Ltd ("Transnet") and ..... (the "Service Provider") pursuant to which you have agreed to perform certain services for and on behalf of Transnet subject to such Contract.

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

**1. Description of the Services**

The scope of services to be performed by the service provider is the provision of Environmental Assessment Practitioner (EAP) for National Fuel Tank Facility at Transnet Port Terminal for a period of twelve (12) months.

**2. Scope of Services**

The details for the services to be provided are as stipulated in **Annexure A**.

**2.1 Deliverables**

The service provider shall:

- Compiling evidence pack for purposes of the hearing.
- Attending to consultations with the employers’ representative i.e initiator;
- Testifying in the disciplinary proceedings and leading evidence in chief.
- Attending to cross examination by the employees’ representative.
- Attending to re-examination; and
- Assisting the employer representative in any manner necessary.

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

<b>Transnet Contract Manager</b>	
Designation	
Operating Division	
Address	
Telephone	
Email	

<b>Service Provider’s Account Manager</b>	
Designation	
Address	
Telephone	
Email	

**4. Performance Review Meetings**

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

**5. Fees & Disbursements**

5.1 In consideration of the performance of the Services by the Service Provider pursuant to this Work Order, Transnet will pay to it an amount not exceeding R ..... (excluding)..... R ..... (Including VAT).

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

**SIGNED** for and on behalf of

**SIGNED** for and on behalf of

.....

**Transnet SOC Ltd**

Signature.....

Signature.....

Name.....

Name.....

Position.....

Position.....

Date.....

Date.....

**APPENDIX 1**

**Address for Notices**

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

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

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

**The Service Provider**

**Transnet**

Addressee:

Addressee:

.....

Transnet SOC Ltd

Attention: .....

Attention: Legal department

Physical Address:

Physical Address:

.....

202 Anton Lembede Street

.....

Durban

.....

4000

Postal Address:

Postal Address:

.....

.....

.....

.....

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

**APPENDIX 2**

**Non- Disclosure Agreement**

Date: ..... 20--

I (*name*) .....

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

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

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

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

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

SIGNED at \_\_\_\_\_ on \_\_\_\_\_ 2024.

(*Signature*) .....

in the presence of: -

Witness name: .....

Witness Signature: .....

Witness address: .....  
.....



**GENERAL BID CONDITIONS**

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## 1 DEFINITIONS

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

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

## 2 GENERAL

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

## 3 SUBMITTING OF BID DOCUMENTS

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

## 4 USE OF BID FORMS

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



## **5 BID FEES**

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

## **6 VALIDITY PERIOD**

6.1 The Respondents must hold their Bid valid for acceptance by Transnet at any time within the requested validity period after the closing date of the bid.

6.2 Respondents may be requested to extend their validity period for a specified additional period. In such instances, Respondents will not be allowed to change any aspect of their Bid, unless they are able to demonstrate that the proposed change/s is as a direct and unavoidable consequence of Transnet's extension of the validity period.

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

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

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

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

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

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

## **10 UNAUTHORISED COMMUNICATION ABOUT BIDS**

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

## **11 RETURNABLE DOCUMENTS**

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

## **12 DEFAULTS BY RESPONDENTS**

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

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

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

### **13 CURRENCY**

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

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

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

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

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

### **16 EXCHANGE AND REMITTANCE**

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

## **17 ACCEPTANCE OF BID**

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

## **18 NOTICE TO UNSUCCESSFUL RESPONDENTS**

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

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

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

## **20 CONTRACT DOCUMENTS**

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

## **21 LAW GOVERNING CONTRACT**

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

## **22 IDENTIFICATION**

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

## **23 RESPONDENT'S SAMPLES**

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

## **24 SECURITIES**

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

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

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

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

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

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

## **26 EXPORT LICENCE**

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

## **27 QUALITY OF MATERIAL**

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

## **28 VALUE-ADDED TAX**

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

28.2 In respect of foreign Services rendered:

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

## **29 IMPORTANT NOTICE TO RESPONDENTS REGARDING PAYMENT**

29.1 Method of Payment

- a) The attention of the Respondent is directed to the Terms and Conditions of Contract which set out the conditions of payment on which Bid price(s) shall be based.
- b) However, in addition to the foregoing the Respondent is invited to submit offers based on alternative methods of payment and/or financing proposals.
- c) The Respondent is required to give full particulars of the terms that will be applicable to its alternative offer(s) and the financial merits thereof will be evaluated and taken into consideration when the Bid is adjudicated.

- d) The Respondent must, therefore, in the first instance, tender strictly in accordance with clause 29.1 (a) above. Failure to comply with clause 29.1 (a) above may preclude a Bid from further consideration.

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

#### 29.2 Conditional Discount

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

### 30 CONTRACT QUANTITIES AND DELIVERY REQUIREMENTS

#### 30.1 Contract Quantities

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

#### 30.2 Delivery Period

- a) **Period Contracts and Fixed Quantity Requirements**

It will be a condition of any resulting contract/order that the delivery period embodied therein will be governed by the provisions of the Terms and Conditions of Contract.
- b) **Progress Reports**

The Supplier/Service Provider may be required to submit periodical progress reports with regard to the delivery of the Goods/Services.
- c) **Emergency Demands as and when required**

If, due to unforeseen circumstances, supplies of the Goods/Services covered by the Bid are required at short notice for immediate delivery, the Supplier/Service Provider will be given first right of refusal for such business. If it is unable to meet the desired critical delivery period, Transnet reserves the right to purchase such supplies as may be required to meet the emergency outside the contract if immediate delivery can be offered from any other source.

The *Total or Partial Failure to Perform the Scope of Supply* section in the Terms and Conditions of Contract will not be applicable in these circumstances.

### **31 PLANS, DRAWINGS, DIAGRAMS, SPECIFICATIONS AND DOCUMENTS**

#### 31.1 Copyright

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

#### 31.2 Drawings and specifications

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

#### 31.3 Respondent's drawings

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

#### 31.4 Foreign specifications

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

### **32 BIDS BY OR ON BEHALF OF FOREIGN RESPONDENTS**

32.1 Bids submitted by foreign principals may be forwarded directly by the principals or by its South African representative or agent to the designated official of Transnet according to whichever officer is specified in the Bid Documents.

32.2 In the case of a representative or agent, written proof must be submitted to the effect that such representative or agent has been duly authorised to act in that capacity by the principal. Failure to submit such authorisation by the representative or agent shall disqualify the Bid.

32.3 When legally authorised to prepare and submit Bids on behalf of their principals not domiciled in the Republic of South Africa, representatives or agents must compile the Bids in the names of such principals and sign them on behalf of the latter.

32.4 South African representatives or agents of a successful foreign Respondent must when so required enter into a formal contract in the name of their principals and must sign such contract on behalf of the latter. In every such case a legal Power of Attorney from their principals must be furnished to Transnet by the South African representative or agents authorising them to enter into and sign such contract.

a) Such Power of Attorney must comply with Rule 63 (Authentication of documents executed outside the Republic for use within the Republic) of the Uniform Rules of Court: Rules

regulating the conduct of the proceedings of the several provincial and local divisions of the Supreme Court of South Africa.

- b) The Power of Attorney must be signed by the principal under the same title as used in the Bid Documents.
- c) If a Power of Attorney held by the South African representative or agent includes matters of a general nature besides provision for the entering into and signing of a contract with Transnet, a certified copy thereof should be furnished.
- d) The Power of Attorney must authorise the South African representative or agent to choose the *domicilium citandi et executandi*.

32.5 If payment is to be made in South Africa, the foreign Supplier/Service Provider [i.e. the principal, or its South African agent or representative], must notify Transnet in writing whether, for payment by electronic funds transfer [EFT]:

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

32.6 The attention of the Respondent is directed to clause 24 above [Securities] regarding the provision of security for the fulfilment of contracts and orders and the manner and form in which such security is to be furnished.

### **33 DATABASE OF RESTRICTED SUPPLIERS**

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

### **34 CONFLICT WITH ISSUED RFX DOCUMENT**

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

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

## **INTEGRITY PACT**

Between

**TRANSNET SOC LTD**

Registration Number: 1990/000900/30

("Transnet")

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

## **PREAMBLE**

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

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

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

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

## **1 OBJECTIVES**

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

## **2 COMMITMENTS OF TRANSNET**

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

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

### 3 OBLIGATIONS OF THE BIDDER / SUPPLIER

- 3.1 Transnet has a '**Zero Gifts**' Policy. No employee is allowed to accept gifts, favours or benefits.
- a) Transnet officials and employees **shall not** solicit, give or accept, or from agreeing to solicit, give, accept or receive directly or indirectly, any gift, gratuity, favour, entertainment, loan, or anything of monetary value, from any person or juridical entities in the course of official duties or in connection with any operation being managed by, or any transaction which may be affected by the functions of their office.
  - b) Transnet officials and employees **shall not** solicit or accept gifts of any kind, from vendors, suppliers, customers, potential employees, potential vendors, and suppliers, or any other individual or organisation irrespective of the value.
  - c) Under **no circumstances** should gifts, business courtesies or hospitality packages be accepted from or given to prospective suppliers participating in a tender process at the respective employee's Operating Division, regardless of retail value.
  - d) Gratuities, bribes or kickbacks of any kind must never be solicited, accepted or offered, either directly or indirectly. This includes money, loans, equity, special privileges, personal favours, benefit or services. Such favours will be considered to constitute corruption.
- 3.2 The Bidder / Supplier commits itself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of its bid or during any ensuing contract stage in order to secure the contract or in furtherance to secure it and in particular the Bidder / Supplier commits to the following:
- a) The Bidder / Supplier will not, directly or through any other person or firm, offer, promise or give to Transnet or to any of Transnet's employees involved in the bidding process or to any third person any material or other benefit or payment, in order to obtain in exchange an advantage during the bidding process; and
  - b) The Bidder / Supplier will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any employee of Transnet, connected directly or indirectly with the bidding process, or to any person, organisation or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the contract.
- 3.3 The Bidder / Supplier will not collude with other parties interested in the contract to preclude a competitive bid price, impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract. The Bidder / Supplier further commits itself to delivering against all agreed upon conditions as stipulated within the contract.
- 3.4 The Bidder / Supplier will not enter into any illegal or dishonest agreement or understanding, whether formal or informal with other Bidders / Suppliers. This applies in particular to certifications, submissions or non-submission of documents or actions that are restrictive or to introduce cartels into the bidding process.
- 3.5 The Bidder / Supplier will not commit any criminal offence under the relevant anti-corruption laws of South Africa or any other country. Furthermore, the Bidder /Supplier will not use for illegitimate purposes or for restrictive purposes or personal gain, or pass on to others, any information provided by Transnet as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
- 3.6 A Bidder / Supplier of foreign origin shall disclose the name and address of its agents or representatives in South Africa, if any, involved directly or indirectly in the registration or bidding process. Similarly, the Bidder / Supplier of South African nationality shall furnish the name and address of the foreign principals, if any, involved directly or indirectly in the registration or bidding process.
- 3.7 The Bidder / Supplier will not misrepresent facts or furnish false or forged documents or information in order to influence the bidding process to the advantage of the Bidder / Supplier or detriment of Transnet or other competitors.

- 3.8 Transnet may require the Bidder / Supplier to furnish Transnet with a copy of its code of conduct. Such code of conduct must address the compliance programme for the implementation of the code of conduct and reject the use of bribes and other dishonest and unethical conduct.
- 3.9 The Bidder / Supplier will not instigate third persons to commit offences outlined above or be an accessory to such offences.
- 3.10 The Bidder/Supplier confirms that they will uphold the ten principles of the United Nations Global Compact (UNGC) in the fields of Human Rights, Labour, Anti-Corruption and the Environment when undertaking business with Transnet as follows:
- a) Human Rights
    - Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights; and
    - Principle 2: make sure that they are not complicit in human rights abuses.
  - b) Labour
    - Principle 3: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;
    - Principle 4: the elimination of all forms of forced and compulsory labour;
    - Principle 5: the effective abolition of child labour; and
    - Principle 6: the elimination of discrimination in respect of employment and occupation.
  - c) Environment
    - Principle 7: Businesses should support a precautionary approach to environmental challenges;
    - Principle 8: undertake initiatives to promote greater environmental responsibility; and
    - Principle 9: encourage the development and diffusion of environmentally friendly technologies.
  - d) Anti-Corruption
    - Principle 10: Businesses should work against corruption in all its forms, including extortion and bribery.

#### **4 INDEPENDENT BIDDING**

- 4.1 For the purposes of this undertaking in relation to any submitted Bid, the Bidder declares to fully understand that the word "competitor" shall include any individual or organisation, other than the Bidder, whether or not affiliated with the Bidder, who:
- a) has been requested to submit a Bid in response to this Bid invitation;
  - b) could potentially submit a Bid in response to this Bid invitation, based on their qualifications, abilities or experience; and
  - c) provides the same Goods and Services as the Bidder and/or is in the same line of business as the Bidder.
- 4.2 The Bidder has arrived at his submitted Bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium will not be construed as collusive bidding.
- 4.3 In particular, without limiting the generality of paragraph 4.2 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
- a) prices;
  - b) geographical area where Goods or Services will be rendered [market allocation];
  - c) methods, factors or formulas used to calculate prices;
  - d) the intention or decision to submit or not to submit, a Bid;

- e) the submission of a Bid which does not meet the specifications and conditions of the RFP; or
  - f) bidding with the intention of not winning the Bid.
- 4.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the Goods or Services to which his/her Bid relates.
- 4.5 The terms of the Bid as submitted have not been, and will not be, disclosed by the Bidder, directly or indirectly, to any competitor, prior to the date and time of the official Bid opening or of the awarding of the contract.
- 4.6 Bidders are aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, Bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and/or may be reported to the National Prosecuting Authority [**NPA**] for criminal investigation and/or may be restricted from conducting business with the public sector for a period not exceeding 10 [ten] years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

## **5 DISQUALIFICATION FROM BIDDING PROCESS**

- 5.1 If the Bidder / Supplier has committed a transgression through a violation of paragraph 3 of this Integrity Pact or in any other form such as to put its reliability or credibility as a Bidder / Supplier into question, Transnet may reject the Bidder's / Supplier's application from the registration or bidding process and remove the Bidder / Supplier from its database, if already registered.
- 5.2 If the Bidder / Supplier has committed a transgression through a violation of paragraph 3, or any material violation, such as to put its reliability or credibility into question, Transnet may after following due procedures and at its own discretion also exclude the Bidder / Supplier from future bidding processes. The imposition and duration of the exclusion will be determined by the severity of the transgression. The severity will be determined by the circumstances of the case, which will include amongst others the number of transgressions, the position of the transgressors within the company hierarchy of the Bidder / Supplier and the amount of the damage. The exclusion will be imposed for up to a maximum of 10 (ten) years. However, Transnet reserves the right to impose a longer period of exclusion, depending on the gravity of the misconduct.
- 5.3 If the Bidder / Supplier can prove that it has restored the damage caused by it and has installed a suitable corruption prevention system, or taken other remedial measures as the circumstances of the case may require, Transnet may at its own discretion revoke the exclusion or suspend the imposed penalty.

## **6 DATABASE OF RESTRICTED SUPPLIERS**

- 6.1 The process of restriction is used to exclude a company/person from conducting future business with Transnet and other organs of state for a specified period. No Bid shall be awarded to a Bidder whose name (or any of its members, directors, partners or trustees) appear on the Register of Tender Defaulters kept by National Treasury, or who have been placed on National Treasury's List of Restricted Suppliers. Transnet reserves the right to withdraw an award, or cancel a contract concluded with a Bidder should it be established, at any time, that a bidder has been restricted with National Treasury by another government institution.
- 6.2 All the stipulations on Transnet's restriction process as laid down in Transnet's Supply Chain Policy and Procurement Procedures Manual are included herein by way of reference. Below follows a condensed summary of this restriction procedure.
- 6.3 On completion of the restriction procedure, Transnet will submit the restricted entity's details (including the identity number of the individuals and registration number of the entity) to National Treasury for placement on National Treasury's Database of Restricted Suppliers for the specified period of exclusion. National

Treasury will make the final decision on whether to restrict an entity from doing business with any organ of state for a period not exceeding 10 years and place the entity concerned on the Database of Restricted Suppliers published on its official website.

- 6.4 The decision to restrict is based on one of the grounds for restriction. The standard of proof to commence the restriction process is whether a "*prima facie*" (i.e. on the face of it) case has been established.
- 6.5 Depending on the seriousness of the misconduct and the strategic importance of the Goods/Services, in addition to restricting a company/person from future business, Transnet may decide to terminate some or all existing contracts with the company/person as well.
- 6.6 A supplier or contractor to Transnet may not subcontract any portion of the contract to a restricted company.
- 6.7 Grounds for restriction include: If any person/Enterprise which has submitted a Bid, concluded a contract, or, in the capacity of agent or subcontractor, has been associated with such Bid or contract:
- a) Has, in bad faith, withdrawn such Bid after the advertised closing date and time for the receipt of Bids;
  - b) has, after being notified of the acceptance of his Bid, failed or refused to sign a contract when called upon to do so in terms of any condition forming part of the bid documents;
  - c) has carried out any contract resulting from such bid in an unsatisfactory manner or has breached any condition of the contract;
  - d) has offered, promised or given a bribe in relation to the obtaining or execution of the contract;
  - e) has acted in a fraudulent or improper manner or in bad faith towards Transnet or any Government Department or towards any public body, Enterprise or person;
  - f) has made any incorrect statement in a certificate or other communication with regard to the Local Content of his Goods or his B-BBEE status and is unable to prove to the satisfaction of Transnet that:
    - (i) he made the statement in good faith honestly believing it to be correct; and
    - (ii) before making such statement he took all reasonable steps to satisfy himself of its correctness;
  - g) has submitted false information regarding any other matter required in terms of the Preferential Procurement Regulations, 2017 issued in terms of the Preferential Procurement Policy Framework Act which will affect the evaluation of a Bid or where a Bidder has failed to declare any subcontracting arrangements;
  - h) caused Transnet damage, or to incur costs in order to meet the contractor's requirements and which could not be recovered from the contractor;
  - i) has litigated against Transnet in bad faith.

## **7 PREVIOUS TRANSGRESSIONS**

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

## 8 SANCTIONS FOR VIOLATIONS

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

## 9 CONFLICTS OF INTEREST

- 9.1 A conflict of interest includes, inter alia, a situation in which:
- a) A Transnet employee has a personal financial interest in a bidding / supplying entity; and
  - b) A Transnet employee has private interests or personal considerations or has an affiliation or a relationship which affects, or may affect, or may be perceived to affect his / her judgment in action in the best interest of Transnet, or could affect the employee's motivations for acting in a particular manner, or which could result in, or be perceived as favouritism or nepotism.
- 9.2 A Transnet employee uses his / her position, or privileges or information obtained while acting in the capacity as an employee for:
- a) Private gain or advancement; or
  - b) The expectation of private gain, or advancement, or any other advantage accruing to the employee must be declared in a prescribed form.

Thus, conflicts of interest of any bid committee member or any person involved in the sourcing process must be declared in a prescribed form.

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

## 10 DISPUTE RESOLUTION

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

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

## 11 GENERAL

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

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

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

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

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

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

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**NON-DISCLOSURE AGREEMENT**

FOR THE PROVISION OF ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP) FOR NATIONAL FUEL TANK FACILITY AT TRANSNET PORT TERMINAL FOR A PERIOD OF TWELVE (12) MONTHS.

**THIS AGREEMENT is made between**

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

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

**and**

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**WHEREAS**

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

**IT IS HEREBY AGREED**

**1. INTERPRETATION**

In this Agreement:

- 1.1 **Agents** mean directors, officers, employees, agents, professional advisers, contractors or sub-contractors, or any Group member;
- 1.2 **Bid or Bid Document** means Transnet's Request for Information [**RFI**] Request for Proposal [**RFP**] or Request for Quotation [**RFQ**], as the case may be;
- 1.3 **Confidential Information** means any information or other data relating to one party [the **Disclosing Party**] and/or the business carried on or proposed or intended to be carried on by that party and which is made available for the purposes of the Bid to the other party [the **Receiving Party**] or its Agents by the Disclosing Party or its Agents or recorded in agreed minutes following oral disclosure and any other information otherwise made available by the Disclosing Party or its Agents to the Receiving Party or its Agents, whether before, on or after the date of this Agreement, and whether in writing or otherwise, including any information, analysis or specifications derived from, containing or reflecting such information but excluding information which:
  - 1.3.1 is publicly available at the time of its disclosure or becomes publicly available [other than as a result of disclosure by the Receiving Party or any of its Agents contrary to the terms of this Agreement]; or
  - 1.3.2 was lawfully in the possession of the Receiving Party or its Agents [as can be demonstrated by its written records or other reasonable evidence] free of any restriction as to its use or disclosure prior to its being so disclosed; or
  - 1.3.3 following such disclosure, becomes available to the Receiving Party or its Agents [as can be demonstrated by its written records or other reasonable evidence] from a source other than the Disclosing Party or its Agents, which source is not bound by any duty of confidentiality owed, directly or indirectly, to the Disclosing Party in relation to such information;

FOR THE PROVISION OF ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP) FOR NATIONAL FUEL TANK FACILITY AT TRANSNET PORT TERMINAL FOR A PERIOD OF TWELVE (12) MONTHS.

1.4 **Group** means any subsidiary, any holding company and any subsidiary of any holding company of either party; and

1.5 **Information** means all information in whatever form including, without limitation, any information relating to systems, operations, plans, intentions, market opportunities, know-how, trade secrets and business affairs whether in writing, conveyed orally or by machine-readable medium.

## 2. CONFIDENTIAL INFORMATION

2.1 All Confidential Information given by one party to this Agreement [the **Disclosing Party**] to the other party [the **Receiving Party**] will be treated by the Receiving Party as secret and confidential and will not, without the Disclosing Party's written consent, directly or indirectly communicate or disclose [whether in writing or orally or in any other manner] Confidential Information to any other person other than in accordance with the terms of this Agreement.

2.2 The Receiving Party will only use the Confidential Information for the sole purpose of technical and commercial discussions between the parties in relation to the Bid or for the subsequent performance of any contract between the parties in relation to the Bid.

2.3 Notwithstanding clause 2.1 above, the Receiving Party may disclose Confidential Information:

2.3.1 to those of its Agents who strictly need to know the Confidential Information for the sole purpose set out in clause 2.2 above, provided that the Receiving Party shall ensure that such Agents are made aware prior to the disclosure of any part of the Confidential Information that the same is confidential and that they owe a duty of confidence to the Disclosing Party. The Receiving Party shall at all times remain liable for any actions of such Agents that would constitute a breach of this Agreement; or

2.3.2 to the extent required by law or the rules of any applicable regulatory authority, subject to clause 2.4 below.

2.4 In the event that the Receiving Party is required to disclose any Confidential Information in accordance with clause 2.3.2 above, it shall promptly notify the Disclosing Party and cooperate with the Disclosing Party regarding the form, nature, content and purpose of such disclosure or any action which the Disclosing Party may reasonably take to challenge the validity of such requirement.

2.5 In the event that any Confidential Information shall be copied, disclosed or used otherwise than as permitted under this Agreement then, upon becoming aware of the same, without prejudice to any rights or remedies of the Disclosing Party, the Receiving Party shall as soon as practicable notify the Disclosing Party of such event and if requested take such steps [including the institution of legal proceedings] as shall be necessary to remedy [if capable of remedy] the default and/or to prevent further unauthorised copying, disclosure or use.

2.6 All Confidential Information shall remain the property of the Disclosing Party and its disclosure shall not confer on the Receiving Party any rights, including intellectual property rights over the Confidential Information whatsoever, beyond those contained in this Agreement.

## 3. RECORDS AND RETURN OF INFORMATION

3.1 The Receiving Party agrees to ensure proper and secure storage of all Information and any copies thereof.

FOR THE PROVISION OF ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP) FOR NATIONAL FUEL TANK FACILITY AT TRANSNET PORT TERMINAL FOR A PERIOD OF TWELVE (12) MONTHS.

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

#### **4. ANNOUNCEMENTS**

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

#### **5. DURATION**

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

#### **6. PRINCIPAL**

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

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

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

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

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

FOR THE PROVISION OF ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP) FOR NATIONAL FUEL TANK FACILITY AT TRANSNET PORT TERMINAL FOR A PERIOD OF TWELVE (12) MONTHS.

**9. GENERAL**

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

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