

TRANSNET FREIGHT RAIL

an Operating Division of **TRANSNET SOC LTD**

[Registration No. 1990/000900/30]

REQUEST FOR PROPOSAL [RFP]

**FOR THE PURCHASE AND REMOVAL OF NON-FERROUS SCRAP METAL AS AND WHERE
AVAILABLE FROM VARIOUS TRANSNET SITES FOR A PERIOD OF THREE YEARS**

RFP NUMBER CPAC/JHB/9733
ISSUE DATE: 06 December 2012
CLOSING DATE: 19 February 2013
CLOSING TIME: 12:00
BID VALIDITY PERIOD: 120 days from Closing Date

“PREVIEW COPY ONLY”

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LIST OF ACRONYMS

B-BBEE	Broad-Based Black Economic Empowerment
CD	Compact/computer disc
DPE	Department of Public Enterprises
DTI	Department of Trade and Industry
EME	Exempted Micro Enterprise
FBP	Further Bonus Points
FRC	Further Recognition Criteria
ID	Identity Document
JV	Joint Venture
LOI	Letter of Intent
NDA	Non-Disclosure Agreement
NGP	New Growth Path
OD	Transnet Operating Division
PTN	Post-Tender Negotiations
QSE	Qualifying Small Enterprise
RFP	Request for Proposal
SD	Supplier Development
SME	Small Medium Enterprise
SOC	State Owned Company
TAC	Transnet Acquisition Council
VAT	Value-Added Tax
ZAR	South African Rand

**RFP FOR THE PURCHASE AND REMOVAL OF NON-FERROUS SCRAP METAL AS AND WHERE AVAILABLE
FROM VARIOUS TRANSNET SITES FOR A PERIOD OF THREE YEARS**

Section 1: NOTICE TO BIDDERS

1 PROPOSAL REQUEST

Responses to this RFP [hereinafter referred to as a **Bid** or a **Proposal**] are requested from persons, companies, close corporations or enterprises [hereinafter referred to as an **entity, Respondent** or **Bidder**] for the Purchase and Removal of Non-Ferrous Scrap Metal from various Transnet sites [**the Services**].

On or after 06 December, the RFP documents may be inspected at, and are obtainable from the office of the Secretariat, Inyanda House 1, 21 Wellington Road, Park Town, Johannesburg, on payment of an amount of R1,000.00 [one thousand S. A. Rand] [inclusive of VAT] per set.

Payment is to be made as follows:

Bank:	Standard Bank
Account Number:	203 158598
Branch:	Braamfontein
Branch code:	004805
Account Name:	Transnet Freight Rail
Reference:	CRAC/JHB/9733

NOTES –

- a) This amount is not refundable.
- b) A receipt for such payment made must be presented when collecting the RFP documents and submitted thereafter with your Proposal.

RFP documents will only be available until 14:00 on 29 January 2013.

N.B: Pursuant to note (b) above, should a third party [such as a courier] be instructed to collect RFP documents on behalf of a Respondent, please ensure that this person [the third party] has a "proof of payment" receipt for presentation to Transnet when collecting the RFP documents.

Any additional information or clarification will be faxed or emailed to all Respondents, if necessary.

2 NON-COMPULSORY BRIEFING

A non-compulsory pre-proposal RFP briefing will be conducted at Railwayman's Inn, Esselenpark, Gauteng, on the **30 January 2013**, at 12:30 for a period of ± 2hours. [Respondents to provide own transportation and accommodation].

- 2.1 Respondents without a valid RFP document in their possession will not be allowed to attend the RFP briefing.
- 2.2 The briefing session will start punctually at 10:00 and information will not be repeated for the benefit of Respondents arriving late.

3 PROPOSAL SUBMISSION

Proposals **in duplicate [1 original and 1 copy] plus a CD copy** must reach the Secretariat, Transnet Freight Rail Acquisition Council before the closing hour on the date shown below, and must be enclosed in a sealed envelope which must have inscribed on the outside:

RFP No:	CRAC/JHB/9733
Description	PURCHASE AND REMOVAL OF NON-FERROUS SCRAP METAL FROM VARIOUS TRANSNET SITES
Closing date and time:	19 February 2013 @ 10:00
Closing address	<i>[Refer to options in paragraph 4 below]</i>

Envelopes must not contain documents relating to any RFP other than that shown on the envelope. All envelopes must reflect the return address of the Respondent on the reverse side.

4 DELIVERY INSTRUCTIONS FOR RFP

4.1 Delivery by hand

If delivered by hand, the envelope is to be deposited in the Transnet Freight Rail tender box which is located in the foyer of Inyanda House 1, 21 Wellington Road, Park Town, Johannesburg, and should be addressed as follows:

THE SECRETARIAT
TRANSNET FREIGHT RAIL ACQUISITION COUNCIL
INYANDA HOUSE 1
21 WELLINGTON ROAD
PARK TOWN
JOHANNESBURG 2001
GAUTENG

- a) The measurements of the "tender slot" are 400mm wide x 100mm high, and Respondents must please ensure that response documents or files are no larger than the above dimensions. Responses which are too bulky [i.e. more than 100mm thick] must be split into two or more files, and placed in separate envelopes, each such envelope to be addressed as required in paragraph 3 above.
- b) Delivery must take place before the closing date and time of the RFP and during the official office hours, i.e. Mondays to Fridays, between the hours of 07:30 to 13:00 and 13:30 to 15:30.

4.2 Dispatch by courier

If dispatched by courier, the envelope must be addressed as follows and delivered to the Office of The Secretariat, Transnet Freight Rail Acquisition Council and a signature obtained from that Office:

THE SECRETARIAT
TRANSNET FREIGHT RAIL ACQUISITION COUNCIL
INYANDA HOUSE 1
21 WELLINGTON ROAD
PARK TOWN
JOHANNESBURG 2001
GAUTENG

- a) Delivery must take place before the closing date and time of the RFP and during the official office hours, i.e. Mondays to Fridays, between the hours of 07:30 to 13:00 and 13:30 to 15:30.
- 4.3 Please note that this RFP closes punctually at **10:00 on Tuesday 19 February 2013**.
- 4.4 If responses are not delivered as stipulated herein, such responses will not be considered and will be treated as "NON-RESPONSIVE" and will be disqualified.
- 4.5 No email or facsimile responses will be considered, unless otherwise stated herein.
- 4.6 The responses to this RFP will be opened as soon as practicable after the expiry of the time advertised for receiving them.
- 4.7 Transnet shall not, at the opening of responses, disclose to any other company any confidential details pertaining to the Proposals / information received, i.e. pricing, delivery, etc. The names and locations of the Respondents will be divulged to other Respondents upon request.
- 4.8 No slips are to be attached to the response documents. Any additional conditions must be embodied in an accompanying letter. Subject only to clause 15 [*Alterations made by the Respondent to Bid Prices*] of the General Bid Conditions, alterations, additions or deletions must not be made by the Respondent to the actual RFP documents.

5 BROAD-BASED BLACK ECONOMIC EMPOWERMENT AND SOCIO-ECONOMIC OBLIGATIONS

Transnet fully endorses and supports the Government's Broad-Based Black Economic Empowerment Programme and it is strongly of the opinion that all South African business enterprises have an equal obligation to redress the imbalances of the past.

Transnet would therefore prefer to do business with enterprises who share these same values and who are prepared to contribute to meaningful B-BBEE initiatives [including, but not limited to subcontracting and Joint Ventures] as part of their tendered responses. All proposed transactions will be evaluated accordingly.

With respect to B-BBEE and socio-economic obligations, this RFP will be evaluated as follows:

EVALUATION CRITERIA	Section 1 Reference	Final Weighted Points
B-BBEE:		
- Scorecard	Paragraph 5.1	10
- Further Recognition Criteria [Current & Future Status]	Paragraph 5.4	5
- Further Bonus Points	Paragraph 5.5	5
Supplier Development [SD] Initiatives & Values	Paragraph 5.6	20
Maximum points allocated for B-BBEE and SD:		40

5.1 B-BBEE Scorecard and Rating

When Transnet invites prospective service providers / contractors to submit Proposals for its various expenditure or revenue programmes, it requires Respondents [*Large Enterprises and QSE's - see*

below] to have their B-BBEE status verified in compliance with the Government Gazette No 34612, Notice No. 754 dated 23 September 2011. Valid B-BBEE Verification Certificates must be issued by:

- a) Verification Agencies accredited by the South African National Accreditation System [**SANAS**];
or
- b) Registered Auditors approved by the Independent Regulatory Board of Auditors [**IRBA**], in accordance with the approval granted by the Department of Trade and Industry.

A Verification Certificate issued must reflect the weighted points attained by the measured entity for each element of the scorecard as well as the overall B-BBEE rating.

Enterprises will be rated by Verification Agencies or Registered Auditors based on the following:

- a) **Large Enterprises** [i.e. annual turnover greater than R35 million]:
 - Rating level based on all seven elements of the B-BBEE scorecard
- b) **Qualifying Small Enterprises – QSE** [i.e. annual turnover between R5 million and R35 million]:
 - Rating based on any four of the elements of the B-BBEE scorecard
- c) **Exempted Micro Enterprises – EME** [i.e. annual turnover less than R5 million]:

In accordance with B-BBEE Codes of Good Practice [Statement 000, Section 4], any enterprise with annual total revenue of R 5 million or less qualifies as an EME.

- Automatic rating of B-BBEE Level 4 irrespective of race or ownership
- Black¹ ownership greater than 50% or Black Women ownership greater than 50% automatically qualify as B-BBEE Level 3

Sufficient evidence to qualify as an EME would be a certificate [which may be in the form of a letter] from an auditor, accounting officer or a Verification Agency accredited by SANAS. The certificate must confirm the company's turnover, Black ownership / Black female ownership and B-BBEE status level.

Respondents are required to furnish proof of the above to Transnet. [i.e. a detailed scorecard as stipulated above in respect of Large Enterprises and QSEs, or a certificate in respect of EMEs].

Transnet will allocate a maximum of **10 [ten] points** to the Respondent's final score based on an entity's B-BBEE scorecard rating. [Refer **Annexure A** for further details].

N.B. Failure to submit a B-BBEE certificate, which is valid as at the Closing Date of this RFP, will result in a score of zero being allocated for B-BBEE.

Turnover: Kindly indicate your entity's annual turnover for the past year:

R _____

*All Respondents must complete and return the B-BBEE Preference Points Claim Form attached hereto as **Annexure A**.*

¹ **Black** means South African Blacks, Coloureds and Indians, as defined in the B-BBEE Act, 53 of 2003

5.2 B-BBEE Joint Ventures and/or Subcontractors

In addition to the above, Respondents who would wish to enter into a Joint Venture [JV] with or subcontract portions of the contract to B-BBEE entities must state in their RFPs the percentage of the total contract value that would be allocated to such B-BBEE entities, should they be successful in being awarded any business. A valid B-BBEE Verification Certificate in respect of such B-BBEE JV-partners and/or subcontractor(s), as well as a breakdown of the distribution of the aforementioned percentage must also be furnished with the RFP Bid to enable Transnet to evaluate in accordance with the processes outlined in the B-BBEE Preference Points Claim Form appended hereto as Annexure A.

- a) If contemplating a JV, Respondents should also submit a signed JV agreement between the parties clearly stating the percentage [%] split of business and the associated responsibilities of each party. If such a JV agreement is unavailable, the JV partners must submit confirmation in writing of their intention to enter into a JV agreement/partnership should they be awarded business by Transnet through this RFP process. This written confirmation must clearly indicate the percentage [%] split of business and the responsibilities of each party. In such cases, award of business will only take place once a signed copy of a JV agreement is submitted to Transnet.
- b) If contemplating subcontracting, please note that a Respondent will not be awarded points for B-BBEE if it is indicated in its Proposal that such Respondent intends subcontracting more than 25% [twenty-five per cent] of the value of the contract to an entity that does not qualify for at least the same points that the Respondent qualifies for, unless the intended subcontractor is an EME with the capability to execute the contract.

5.3 B-BBEE Registration

In addition to the Verification Certificate, Transnet recommends that Respondents register their B-BBEE compliance and supporting documentation on the Department of Trade and Industry's [DTI] National B-BBEE IT Portal and Opportunities Network and provide Transnet with proof of registration in the form of an official B-BBEE Profile issued by the DTI.

Transnet would wish to use the DTI B-BBEE IT Portal as a data source for tracking B-BBEE compliance.

For instructions to register and obtain a DTI B-BBEE Profile go to <http://bee.thedti.gov.za>

5.4 Further Recognition Criteria

Transnet encourages its suppliers, contractors and service providers to constantly strive to improve their B-BBEE rating. Whereas Respondents will be allocated points in terms of a preference point system based on its B-BBEE scorecard to be assessed as detailed in paragraph 5.1 above, in addition to such scoring, a further **5% [five per cent]** will be allocated to a Respondent's score based on the "Further Recognition Criteria" [FRC] on an ascending scale.

3 points for FRC [Current Status] will be allocated based on the extent to which the Respondent's current ownership, management control and employment equity meets or exceeds certain minimum targets.

2 points for FRC [**Future Targets**] will be allocated based on the extent to which the Respondent commits to meet, sustain or exceed Transnet's minimum compliance targets with its proposed target score to be achieved during the contract period.

*All Respondents are required to submit their FRC Claim Form for FRC Current Status and FRC Future Targets with their Proposals by completion of **Annexure C** appended hereto. [Refer Annexure C for further instructions]*

5.5 Further Bonus Points [FBP]

Transnet places great emphasis on providing business opportunities for new and emerging entities in line with the transformation objectives of the New Growth Path [NGP]. For this reason "**Further Bonus Points**" will be awarded to those Respondents classified as EMEs and QSEs, as defined in the B-BBEE Act No. 53 of 2003. In this regard all EME Respondents will receive **5 FBPs** and all QSE Respondents **3 FBPs**, which will be allocated to their final scores.

5.6 Supplier Development Initiatives

Historically in South Africa there has been a lack of investment in infrastructure, skills and capability development and inequality in the income distribution and wealth of a significant portion of the population. There have been a number of Government initiatives developed to address these challenges. In particular, the New Growth Path [NGP] developed in 2010 aligns and builds on previous policies to ensure the achievement of Government's development objectives for South Africa.

Transnet fully endorses and supports Government's New Growth Path policy through its facilitation of Supplier Development [SD] initiatives. Hence Supplier Development Initiatives are a prerequisite for this RFP and are included in the Evaluation Criteria, with a maximum total score of **20 [twenty] points**.

*Respondents are to submit a signed SD Bid Document and a completed **Annexure D** – Supplier Development Value Summary [for further instructions refer to **Section 10** together with **Appendix (iii)** – Guidelines for the Completion of a Supplier Development Bid Document].*

Note: Should a JV be envisaged, the principal Respondent is required to submit the required responses as indicated above.

6 COMMUNICATION

Respondents are warned that a Proposal will be liable to disqualification should any attempt be made by a Respondent either directly or indirectly to canvass any officer or employee of Transnet in respect of this RFP between the closing date and the date of the award of the business.

6.1 For specific queries relating to this RFP, an RFP Clarification Request Form should be submitted before **12:00 on 05 February 2013**, substantially in the form set out in Section 12 hereto. In the interest of fairness and transparency Transnet's response to such a query will then be made available to the other Respondents who have collected RFP documents. For this purpose all Respondents are required to indicate by email their intention to respond to this RFP by informing Transnet of their contact details as soon as possible but on or before **05 February 2013** to Arthur.Branford@transnet.net.

6.2 After the closing date of the RFP, a Respondent may only communicate with the Secretariat of the Transnet Acquisition Council, at telephone number 011 544 9577/9494, email Arthur.Branford@transnet.net or facsimile number 011 308 3967 on any matter relating to its RFP Proposal.

Respondents found to be in collusion with one another will be automatically disqualified and restricted from doing business with Transnet in the future.

7 INSTRUCTIONS FOR COMPLETING THE RFP

- 7.1 Sign one set of original documents [sign, stamp and date the bottom of each page]. This set will serve as the legal and binding copy. A duplicate set of documents is required. This second set must be a copy of the original signed Proposal.
- 7.2 Both sets of documents are to be submitted to the address specified in paragraph 4 above.
- 7.3 A CD copy of the RFP Proposal must be submitted. Please provide files in MS Word / Excel format, not PDF versions, noting that the signed original set will be legally binding.
- 7.4 All returnable documents tabled in the Proposal Form [Section 4] must be returned with your Proposal.

8 COMPLIANCE

The successful Respondent [hereinafter referred to as the **Contractor**] shall be in full and complete compliance with any and all applicable laws and regulations.

9 ADDITIONAL NOTES

- 9.1 Changes by the Respondent to its submission will not be considered after the closing date.
- 9.2 The person or persons signing the Proposal must be legally authorised by the Respondent to do so [Refer Section 6 – Signing Power, Resolution of the Board of Directors]. A list of those person(s) authorised to negotiate on behalf of the Respondent [if not the authorised signatories] must also be submitted along with the Proposal together with their contact details.
- 9.3 Transnet will not do business with companies involved in B-BBEE fronting practices.
- 9.4 Transnet may wish to visit the Respondent's place of business during this RFP process.
- 9.5 Transnet reserves the right to undertake post-tender negotiations [PTN] with selected Respondents or any number of short-listed Respondents, such PTN to include, at Transnet's option, any evaluation criteria listed in this RFP document.
- 9.6 Unless otherwise expressly stated, all Proposals furnished pursuant to this RFP shall be deemed to be offers. Any exceptions to this statement must be clearly and specifically indicated.

**FAILURE TO OBSERVE ANY OF THE AFOREMENTIONED REQUIREMENTS
MAY RESULT IN A PROPOSAL BEING REJECTED**

10 DISCLAIMERS

Respondents are hereby advised that Transnet is not committed to any course of action as a result of its issuance of this RFP and/or its receipt of Proposals. In particular, please note that Transnet reserves the right to:

- 10.1 modify the scope of the RFP's Services and request Respondents to re-bid on any such changes;
- 10.2 reject any Proposal which does not conform to instructions and specifications which are detailed herein;
- 10.3 disqualify Proposals submitted after the stated submission deadline [Closing Date];
- 10.4 not necessarily accept the highest priced Proposal;
- 10.5 reject all Proposals, if it so decides;
- 10.6 withdraw the RFP on good cause shown;
- 10.7 award a contract in connection with this Proposal at any time after the RFP's closing date;
- 10.8 award a contract for only a portion of the proposed Services which are reflected in the scope of this RFP;
- 10.9 split the award of the contract between more than one Contractor; or
- 10.10 award a contract based on the required segregation of duties with regard to the handling, storage, transportation, processing and purchasing of the scrap metals; or
- 10.11 make no award of a contract.

In addition, Transnet reserves the right to exclude any Respondent from the bidding process who has been convicted of a serious breach of law during the preceding 5 [five] years, including but not limited to breaches of the Competition Act 89 of 1998. Respondents are required to indicate in Section 11 [*Breach of Law*] whether or not they have been found guilty of a serious breach of law during the past 5 [five] years.

Transnet reserves the right to lower the threshold for Technical, B-BBEE and/or Supplier Development and/or Local Retention Factor by 10% [ten per cent] if no Bidders pass the predetermined minimum threshold.

Kindly note that Transnet will not reimburse any Respondent for any preparatory costs or other work performed in connection with its Proposal, whether or not the Respondent is awarded a contract.

11 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.

Transnet urges its clients, suppliers and the general public

to report any fraud or corruption to

TIP-OFFS ANONYMOUS: 0800 003 056

**RFP FOR THE PURCHASE AND REMOVAL OF NON-FERROUS SCRAP METAL AS AND WHERE AVAILABLE
FROM VARIOUS TRANSNET SITES FOR A PERIOD OF THREE YEARS**

Section 2: BACKGROUND, OVERVIEW AND SCOPE OF REQUIREMENTS

1 BACKGROUND

Transnet generates non-ferrous scrap through its maintenance and refurbishment operations. The scrap is accumulated at Transnet's Supply Chain Services [SCS] scrapyards and other specified and designated locations, at Transnet's option.

The collection points are located at the centres listed in **Appendix (iv) [Loading and Safe Custody Locations]** hereto and removal of such scrap within a designated collection zone will be controlled by a Transnet representative at each location.

The Contractor shall only have claim to non-ferrous scrap metal that has been placed in these designated collection zones and Transnet reserves the right to dispose of any other non-ferrous scrap metals by any other means it chooses and to whomsoever it wishes.

2 EXECUTIVE OVERVIEW

Whereas Transnet is seeking a partner(s) to provide solutions for the procurement of its Non-Ferrous Scrap Metals nationally, it also seeks to improve its current processes for the provision of these Services to its end user community throughout its locations.

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

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

- to provide a solution to ensure continuous removal of non-ferrous scrap to ensure continuity of business in the Transnet workshops and to prevent stock-piling at the Transnet Freight Rail scrap yards;
- reduce the risk of theft through the prompt collection of scrap;
- provide Transnet with the maximum price possible for the sale of non-ferrous scrap; and
- eliminate inputs from Transnet in the disposal process other than directing and controlling the operations.

3 SCOPE OF REQUIREMENTS

3.1 Details of Non-Ferrous Scrap

Transnet's Non-Ferrous Scrap which is to be sold to the preferred Bidder(s) consists of the following:

ITEM NO.	SPECIFICATION	DESCRIPTION
A		
Clean non-ferrous scrap metal products without any foreign attachments:		
1	50/1995	Contact catenary wire [overhead track wire] with 99% pure copper
2	50/5603	Contact catenary wire [overhead track wire] contaminated with aluminium coating and small steel attachments
3	50/2648	Copper [communication wire] 99% pure
B		
Clean non-ferrous scrap metal products without any foreign attachments:		
4	50/2369	Bronze
5	50/484	Brass
6	50/2483	Aluminium
7	50/3881	Non-Magnetic Stainless Steel
8	50/3882	Magnetic Stainless Steel
9	50/2268	Brass Bearings with white metal
10	50/3528	White Metal Ingots
11	50/3553	White Metal Dross or Slag
C		
Unclean non-ferrous scrap metal:		
12	50/3299	Unclean irony non-ferrous scrap mixed metal products of all types, grades and descriptions
13	50/2887	Unclean irony non-ferrous scrap metal products containing copper, including electric copper cable
14	50/2762	Insulated motor copper, i.e. coils and leads without any steel or electric cable
D		
Other:		
15	50/3161	Lead acid batteries
16	TBA	Tungsten including tool tips

3.2 Delivery and Collection of Skips

- a) The Contractor will be required to deliver empty skips to various sites where the material is generated and where skips are required. The skips will be filled with non-ferrous scrap generated on the sites and when the skips are full they must be removed by the Contractor and replaced by empty skips.

- b) It is imperative that each skip has stencilled on both sides a serial number as well as the mass thereof when empty.
- c) It is critical that the skips are collected and replaced in the designated sites timeously, as directed by Transnet from time to time, in order to reduce the risk of theft.
- d) Transnet will under no circumstances be obliged to make available equipment to facilitate the Contractor's loading operation at its various sites. The Contractor must provide its own vehicles for this purpose, equipped to handle the loading of the scrap. Transnet will position scrap in such a manner on the day of collection so as to ease the loading process.

3.3 Mass Measurement

- a) The mass of the road trucks delivering empty and collecting full skips will be determined on a Transnet weighbridge where available. If a Transnet weighbridge is not available the weighing will be on a mutually agreed weighbridge and the cost for weighing will be for the Contractor's account.
- b) The mass of any consignment, for payment purposes, will be taken as the mass recorded on a Transnet weighbridge or a mutually agreed weighbridge where a Transnet weighbridge is not available. Representatives of both Parties will be present at the weighing. Such reading will be final.
- c) An employee of Transnet shall at all times accompany the vehicle collecting the non-ferrous metals to a weighbridge so as to ensure that the correct mass is recorded.
- d) All weighbridges used for this purpose must be calibrated on or before the commencement of any future contract and thereafter every 3 (three) months. Calibration certificates must be furnished to SCS HQ on the 1st day of each quarter.

3.4 Quantity of Scrap

- a) Estimated volumes of non-ferrous scrap per site will be discussed at the RFP briefing session to be held at Esselenpark on 30 January 2013
- b) Transnet does not undertake to supply any quantity of non-ferrous scrap nor shall Transnet be under any obligation or liability in the event of none being available at any time.
- c) It is a condition of this RFP that the Contractor shall accept such quantities of non-ferrous scrap that may become available from the areas controlled by various centres from time to time.

3.5 General conditions

- a) In order to pre-qualify for final evaluation, Respondents must commit to the retention of a minimum of **40 [forty] per cent** of any future Scrap Metal purchases from Transnet for the benefit of local foundries in South Africa. A maximum of **60 [sixty] per cent** of the Scrap Metal so procured may be exported. *Please indicate your acceptance of this prescribed local retention factor.*

Acceptance of 40% Local Retention Factor:

YES	
-----	--

Details of contractual proof of retention will be discussed and agreed during Post Tender Negotiations with the preferred Bidders).

- b) It would be a condition of this RFP and any subsequent contract that from time to time, if and when required, the Contractor will be obliged to assist with the upliftment and removal of copper wire from Transnet sites. **Respondents must confirm their ability to undertake such work, stating the availability of people resources and suitable equipment to do so.**
- c) Under no circumstance will the Contractor be allowed to re-work or sort material on Transnet sites, unless given prior approval by Transnet.
- d) The process for scrap removal will be based on a Service Level Agreement, to be agreed between the Parties, to ensure that Transnet workshops and other areas can operate fluently and efficiently during this process.
- e) Respondents must confirm that they have the necessary and appropriate equipment to handle and remove the scrap. Failure to do so will result in a Respondent being disqualified.
- f) All costs related to the transport of scrap will be for the Contractor's account. **A list of vehicles suitable for the removal of scrap must be submitted with the Respondent's Proposal.**

4 GREEN ECONOMY / CARBON FOOTPRINT

Whereas Transnet cannot prescribe a Respondent's commitment to environmental issues and carbon footprint, Transnet would wish to have an understanding of your company's position in this regard, including key environmental characteristics such as waste disposal, recycling and energy conservation. *Please submit details of your entity's policies in this regard.*

5 GENERAL CONTRACTOR OBLIGATIONS

- 5.1 The Contractor(s) shall be fully responsible to Transnet for the acts and omissions of persons directly or indirectly employed by them.
- 5.2 The Contractor(s) must comply with the requirements stated in this RFP.

6 SERVICE LEVELS

- 6.1 An experienced national account representative(s) is required to work with Transnet's procurement department. Additionally, there shall be a minimal number of people, fully informed and accountable for this agreement.
- 6.2 Transnet reserves the right to request that any member of the Contractor's team involved on the Transnet account be replaced if deemed not to be adding value for Transnet.
- 6.3 The process for scrap removal will be based on a Service Level Agreement, to be agreed between the Parties, to ensure that Transnet workshops and other areas can operate fluently and efficiently during this process.
- 6.4 The Contractor must provide a telephone number for customer service calls.

6.5 Failure of the Contractor to comply with stated service level requirements to be incorporated in the contract will give Transnet the right to cancel the contract in whole, without penalty to Transnet, giving 30 [thirty] days' notice to the Contractor of its intention to do so.

Acceptance of Service Levels:

YES	
-----	--

NO	
----	--

7 RISK

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

7.1 Quality of Services provided:

7.2 Continuity of the provision of Services:

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

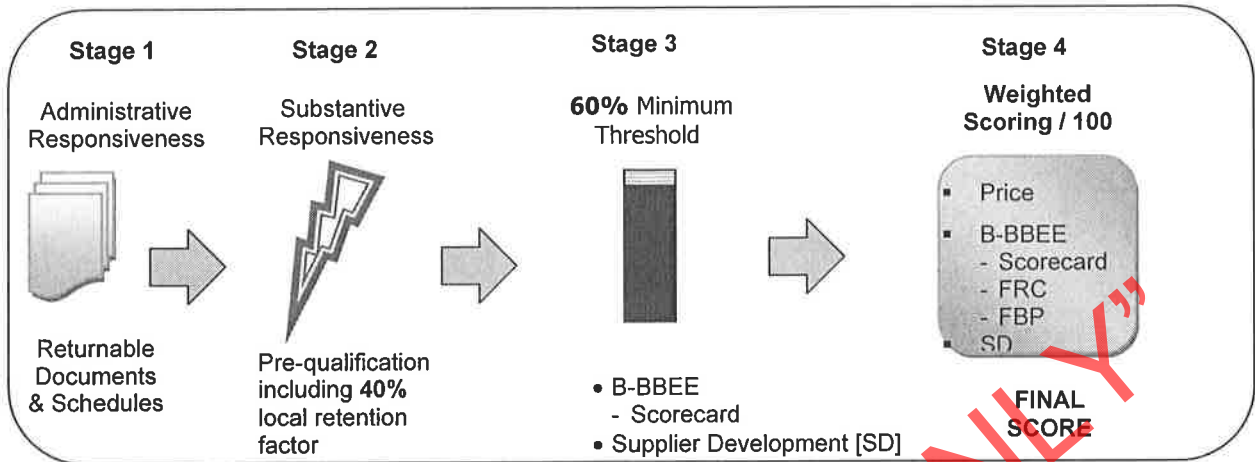
8 REFERENCES

Please indicate below the company names and contact details of existing customers whom Transnet may contact to seek third party evaluations of your current service levels and experience:

NAME OF COMPANY	CONTACT PERSON	TELEPHONE

9 PRE-QUALIFICATION AND EVALUATION METHODOLOGY AND CRITERIA

Transnet will utilise the following methodology and criteria in selecting a preferred Contractor, if so required:



9.1 STAGE ONE: Test for Administrative Responsiveness

The test for administrative responsiveness will include the following:

Pre-Qualification Criteria	RFP Reference
<ul style="list-style-type: none"> Whether the Bid has been lodged on time 	<i>Section 1 paragraph 3</i>
<ul style="list-style-type: none"> Whether all returnable documents and/or schedules [where applicable] were completed and returned by the closing date and time 	<i>Section 4</i>
<ul style="list-style-type: none"> Whether the Bid documentation has been duly signed by the Respondent. 	<i>Section 1 paragraph 7.1</i>

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

9.2 STAGE TWO: Test for Substantive Responsiveness to RFP

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

Pre-Qualification Criteria	RFP Reference
<ul style="list-style-type: none"> Whether any pre-qualification criteria set by Transnet, have been met 	<i>Section 1 paragraphs 6, 10.3</i> <i>Section 4 – validity period</i> <i>Appendix (i), General Bid Conditions clause 17</i> <i>Sections 10 & 11</i>
<ul style="list-style-type: none"> Whether the Bid contains a priced offer 	<i>Section 3</i>

Pre-Qualification Criteria	RFP Reference
<ul style="list-style-type: none"> Whether the Bidder complies with the restriction on exports and has confirmed its obligation to export no more than 60% of the Scrap Metal to be purchased from Transnet, the balance of 40% to be retained in South Africa for offer to local foundries 	Section 2 Paragraph 3.5(a)
<ul style="list-style-type: none"> Whether the Bid materially complies with the scope and/or specification given 	All Sections
<ul style="list-style-type: none"> Entity's financial stability [analysis of 3-year audited financial statements] 	Section 3

The test for substantive responsiveness [Stage Two] must be passed for a Respondent's Proposal to progress to Stage Three for further pre-qualification

9.3 STAGE THREE: Test Minimum Threshold for B-BBEE and Supplier Development Initiatives

a) B-BBEE Scorecard:

Pre-Qualification Criterion	RFP Reference
<ul style="list-style-type: none"> Current status evaluated according the B-BBEE Accreditation scorecard 	Section 1, paragraph 5 & Preferential Points Claim Form, Annexure A

b) Supplier Development Bid Document and SD Value Summary:

Pre-Qualification Criteria	% Weighting	RFP Reference
Supplier Development Bid Document:		Appendix (iii) & Annexure D
<ul style="list-style-type: none"> Technology transfer / sustainability 	5	
<ul style="list-style-type: none"> New skills development 	25	
<ul style="list-style-type: none"> Job creation and/or preservation 	30	
<ul style="list-style-type: none"> Small business promotion 	25	
<ul style="list-style-type: none"> Rural integration and regional development 	15	

The test for meeting the B-BBEE and SD threshold [Stage Three] must be passed for a Respondent's Proposal to progress to Stage Four for further pre-qualification

Transnet reserves the right to lower the threshold percentage.

9.4 **STAGE FOUR: Evaluation and Final Weighted Scoring**a) **Price Criteria:**

Evaluation Criteria	% Weighting	RFP Reference
• Commercial offer	70	<i>Section 3</i>
• Payments terms	15	<i>General Bid Conditions, clause 17</i>
• Ability to provide financial guarantee	15	<i>General Bid Conditions, clause 13</i>

b) **Broad-Based Black Economic Empowerment criteria**

- **B-BBEE - current scorecard** [*Refer paragraph 9.3 (a) above*]
- **Further Recognition Criteria – current status**

Evaluation Criteria [Current Status]	% Weighting	RFP Reference
• Ownership	50	<i>Annexure C</i>
• Management control	25	
• Employment equity	25	

- **Further Recognition Criteria – future targets**

Evaluation Criteria [Future Status]	% Weighting	RFP Reference
• Ownership	40	<i>Annexure C</i>
• Management control	20	
• Employment equity	20	
• Enterprise Development	10	
• Preferential Procurement	10	

- **Further Bonus Points**

Evaluation Criteria	Maximum Point
• Qualifies as an QSE	3
• Qualifies as an EME	5

c) **Supplier Development Bid Document** [Refer paragraph 9.3 (b) above]

9.5 **SUMMARY: Pre-Qualification Thresholds and Final Evaluated Weightings**

Pre-Qualification Criteria	Minimum Threshold [%]
B-BBEE and Supplier Development	60%

Evaluation Criteria	Final Weighted Scores
Price	60
B-BBEE - Scorecard	10
- Further Recognition Criteria	5
- Bonus Points	5
Supplier Development Initiatives	20
TOTAL SCORE:	100

Note: Transnet reserves the right to conduct post-tender negotiations with the preferred Respondent(s)

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RFP FOR THE PURCHASE AND REMOVAL OF NON-FERROUS SCRAP METAL AS AND WHERE AVAILABLE FROM VARIOUS TRANSNET SITES FOR A PERIOD OF TWO YEARS

Section 3: PRICING, SCRAP SPECIFICATIONS, INVOICING AND PAYMENT SCHEDULE

1 PRICING SCHEDULE AND SPECIFICATIONS

Please offer on all items. Partial bids will not be considered. Respondents are to complete the Pricing Schedule below:

ITEM NO.	SPECIFICATION	DESCRIPTION	PRICE
A		Clean non-ferrous scrap metal products without any foreign attachments:	PRICE PER PERCENTAGE OF THE LONDON METAL EXCHANGE [LME]
1	50/1995	Contact catenary wire [overhead track wire] with 99% pure copper	R _____ [in words]
2	50/5603	Contact catenary wire [overhead track wire] contaminated with aluminium coating and small steel attachments	R _____ [in words]
3	50/2648	Copper [communication wire] 99% pure	R _____ [in words]
B		Clean non-ferrous scrap metal products without any foreign attachments:	PRICE PER TON SOUTH AFRICAN RANDS [ZAR]
4	50/2369	Bronze	R _____ [in words]
5	50/484	Brass	R _____ [in words]
6	50/2483	Aluminium	R _____ [in words]
7	50/3881	Non-Magnetic Stainless Steel	R _____ [in words]
8	50/3882	Magnetic Stainless Steel	R _____ [in words]
9	50/2268	Brass Bearings with white metal	R _____ [in words]

ITEM NO.	SPECIFICATION	DESCRIPTION	PRICE
10	50/3528	White Metal Ingots	R _____ [in words]
11	50/3553	White Metal Dros or Slag	R _____ [in words]
C	Unclean non-ferrous scrap metal:		PRICE PER TON SOUTH AFRICAN RANDS [ZAR]
12	50/3299	Unclean irony non-ferrous scrap mixed metal products of all types, grades and descriptions	R _____ [in words]
13	50/2887	Unclean irony non-ferrous scrap metal products containing copper, including electric copper cable	R _____ [in words]
14	50/2762	Insulated motor copper, i.e. coils and leads without any steel or electric cable	R _____ [in words]
D	Other:		PRICE PER TON SOUTH AFRICAN RANDS [ZAR]
15	50/3161	Lead acid batteries	R _____ [in words]
16	TBA	Tungsten including tool tips	R _____ [in words]

Notes to Respondents for completion of Pricing Schedule:

- (i) The Respondent's offers for Items No. 1, 2 and 3 must be on a percentage basis of the London Metal Exchange [LME] price as appearing in the LME Bulletin. Respondents will be invoiced for the category of non-ferrous metal removed.
- (ii) It will be a condition of any contract awarded as a result of this RFP that the Contractor's percentages for items 1, 2 and 3 shall remain fixed for the duration of the contract and that Rand [ZAR] prices in respect of the balance of the items will be reviewed monthly.
- (iii) Tax Invoices will be processed by Transnet on the day/date of removal of non-ferrous scrap from any of the Transnet sites and the daily spot rate for Rand/Dollar exchange will apply to percentage-based prices. The mechanism of the application of the LME pricing will be negotiated for any contract which is awarded.
- (iv) Where non-ferrous scrap is available 'as and where' lying, all loading and railage costs [if applicable] will be for the Contractor's account.

2 INVOICING AND PAYMENT

- 2.1 Invoices will be processed by Transnet on the day/date of removal of non-ferrous scrap from any of the Transnet sites and the daily spot rate for Rand/Dollar exchange will apply. The mechanism of the application of the LME [London Metal Exchange] pricing will be negotiated for any contract which is awarded.
- 2.2 Scrap collected by the Contractor during the month will be invoiced by the Senior Administrator [Reverse Logistics] concerned, who will fax a copy of a Tax Invoice together with the weighbridge cards to the Contractor. [Originals can be collected or posted as required by the Contractor].
- 2.3 Payment of the full value of the scrap plus Value-Added Tax [VAT] must be effected to Transnet Freight Rail [Procurement] by bank deposit or electronic transfer within 7 [seven] days from date of the Tax Invoice. Banking details will be provided to the Contractor.
- 2.4 If payment is not received within 7 [seven] days, no further scrap will be made available until the outstanding payment is received.

Please indicate preferred method of payment:

- a) Bank Deposit: _____, or
- b) Bank Transfer: _____
- 2.5 Transnet may require a Contractor to lodge a deposit as surety for its future purchases of scrap metal from Transnet, the amount of such deposit to be commensurate with the contract value. Details of such a requirement will be discussed with short-listed Respondents prior to the award of any contract.
- 2.6 If payment is not received within the specified period, monthly compounded interest will be invoiced based on the amount outstanding at the prime interest rate determined by the Standard Bank SA Ltd, plus 1%

Respondents are required to submit their 3-year audited financial statements for large enterprises and QSE's and or individual statements of assets, liabilities and guarantees with their Proposal in order to enable Transnet to establish financial stability. A Bidder deemed financially unstable will be disqualified.

ADDRESS FOR NOTICES

The law of the Republic of South Africa shall govern any contract created by the acceptance of this RFP. The *domicilium citandi et executandi* shall be a place in the Republic of South Africa to be specified by the Respondent hereunder, at which all legal documents may be served on the Respondent who shall agree to submit to the jurisdiction of the courts of the Republic of South Africa. Foreign Respondents shall, therefore, state hereunder the name of their authorised representative in the Republic of South Africa who has the power of attorney to sign any contract which may have to be entered into in the event of their Proposal being accepted and to act on their behalf in all matters relating to such contract.

Respondent to indicate the details of its *domicilium citandi et executandi* hereunder:

Name of Entity: _____

Facsimile: _____

Address: _____

NOTIFICATION OF AWARD OF RFP

As soon as possible after approval to award the contract(s), the successful Respondent [**the Contractor**] will be informed of the acceptance of its Proposal. Unsuccessful Respondents will be advised in writing of the name of the successful Contractor and the reason as to why their Proposals have been unsuccessful, for example, in the category of price, B-BBEE status or for any other reason.

VALIDITY PERIOD

Transnet requires a validity period of **120 [one hundred and twenty days] days** [from closing date] against this RFP.

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

The Respondent must disclose hereunder the full name(s) and address(s) of the director(s) or members of the company or close corporation [C.C.] on whose behalf the RFP is submitted.

- (i) Registration number of company / C.C. _____
- (ii) Registered name of company / C.C. _____
- (iii) Full name(s) of director/member(s) Address/Addresses ID Number(s)

LEGISLATION TO BE COMPLIED WITH BY THE CONTRACTOR

For the services to be provided as set out in Section 2 hereto, the Contractor will observe and ensure compliance with all requirements and obligations as set out in the labour and related legislation of South Africa, including, the following:

- Skills Development Act, 97 of 1998 [SDA];

- Employment Equity Act, 55 of 1998 [EEA];
- Basic Conditions of Employment Act, 75 of 1997 [BCEA];
- Labour Relations Act, 1995 [LRA];
- Occupational Health and Safety Act, 85 of 1993 [OHSE];
- Compensation for Occupational Injuries and Diseases Act, 130 of 1993 [COIDA];
- Customs and Excise Act, 91 of 1964, and Regulations; and
- Second-Hand Goods Act, 23 of 1955 [as amended from time to time]

CONFIDENTIALITY

All information related to this RFP is to be treated with strict confidence. In this regard Respondents are required to complete and return a signed copy of the Non-Disclosure Agreement appended hereto as **Annexure B**. All information related to a subsequent contract, both during and after completion thereof, will be treated with strict confidence. Should the need however arise to divulge any information gleaned from provision of the Services, which is either directly or indirectly related to Transnet’s business, written approval to divulge such information must be obtained from Transnet.

INDEMNITIES

The Contractor shall be liable to make good any damage which may be caused to Transnet’s property by its servants or agents whilst upon Transnet premises, whether or not such damage is due to negligence on the part of such servants or agents. The Contractor shall and hereby does further indemnify Transnet SOC Ltd against liability for any loss of or damage to property whether belonging to it, its servants or agents or any third party, or for the death of or injury to any person, which may be caused either directly or indirectly.

DISCLOSURE OF PRICES TENDERED

Respondents must indicate below whether Transnet may disclose their tendered prices and conditions to other Respondents:

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

PRICE REVIEW

The Contractor(s) will be obliged to submit to a monthly price review. Transnet reserves the right to benchmark this price offering/s against the highest price(s) received as per any benchmarking exercise.

If the Respondent’s prices are found to be lower than the benchmarked price(s), then the Respondent shall match or better such price(s) within 30 (thirty) days, failing which the contract may be terminated at Transnet’s discretion or the particular scrap items sold outside the contract.

COMMENCEMENT PERIOD

Respondents must state hereunder the period within which they can commence with the contract after notification of award of business.

.....Days/Weeks/Months

RETURNABLE DOCUMENTS

Returnable Documents or **Documents** means all the documents, Sections and Annexures, as listed in the tables below.

- a) Respondents are required to submit with their Proposals the **mandatory Returnable Documents**, as detailed below.

Failure to provide all these Returnable Documents will result in a Respondent's disqualification. Bidders are therefore urged to ensure that all these Documents are returned with their Proposals.

All Sections, as indicated in the footer of each page, must be signed, stamped and dated by the Respondent. Please confirm submission of these mandatory Returnable Documents by so indicating [√] in the table below:

RETURNABLE DOCUMENTS	SUBMITTED [√]
SECTION 2 : Background, Overview and Scope of Requirements	
SECTION 3 : Pricing, Scrap Specifications, Invoicing and Payment Schedule	
- Audited Financial Statements for previous 3 years [Large Enterprises and QSEs] and or individual statements of assets, liabilities and guarantees	
SECTION 4 : Proposal Form	
SECTION 5 : Original valid Tax Clearance Certificate [RSA entities only]. If a JV or subcontractor is involved, submit a Tax Clearance Certificate for each entity.	
SECTION 6 : Signing Power - Resolution of Board of Directors	
SECTION 7 : Certificate of Acquaintance with RFP Documents	
SECTION 8 : Certificate of Acquaintance with the General Bid Conditions – Scrap Metal	
SECTION 9 : Certificate of Acquaintance with the Terms and Conditions of Contract	
SECTION 10 : RFP Declaration Form	
SECTION 11 : Breach of Law Form	
SECTION 13 : Code of Conduct	
SECTION 15 : Supplier Development Initiatives	
- Supplier Development Bid Document	
SECTION 16 : SPECIAL CONDITIONS OF CONTRACT	
ANNEXURE A : B-BBEE Preference Points Claim Form	
ANNEXURE B : Non-Disclosure Agreement	
ANNEXURE C : Further Recognition Criteria	
ANNEXURE D : Supplier Development Value Summary	

b) In addition to the requirements of section (a) above, Respondents are further required to submit with their Proposals the following **essential Returnable Documents** as detailed below.

Failure to provide all these Returnable Documents may result in a Respondent's disqualification. Bidders are therefore urged to ensure that all these documents are returned with their Proposals.

All Sections, as indicated in the footer of each page, must be signed, stamped and dated by the Respondent. Please confirm submission of these essential Returnable Documents by so indicating [√] in the table below:

RETURNABLE DOCUMENTS	SUBMITTED [√]
SECTION 1 : Notice to Bidders	
- Valid B-BBEE Verification Certificate [RSA Large Enterprises and QSEs]	
- Valid B-BBEE certificate from auditor, accounting officer or SANAS accredited Verification Agency [RSA EMEs]	
SECTION 5 : Vendor Application Form	
- Original cancelled cheque or bank verification of banking details	
- Certified copies of IDs of shareholder/directors/members [as applicable]	
- Certified copy of Certificate of Incorporation [CM29/CM9 name change]	
- Certified copy of share certificates [CK1/CK2 if C.C.]	
- Entity's letterhead	
- Certified copy of VAT Registration Certificate [RSA entities only]	
- Certified copy of valid Company Registration Certificate [if applicable]	
SECTION 14 : Certificate of attendance of RFP Briefing	

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 Tax Clearance Certificate and valid B-BBEE Verification Certificate, for the duration of any contract emanating from this RFP. Should the Respondent be awarded the contract [**the Agreement**] and fail to present Transnet with such renewals as and when they become due, Transnet shall be entitled, in addition to any other rights and remedies that it may have in terms of the eventual Agreement, to terminate such Agreement forthwith without any liability and without prejudice to any claims which Transnet may have for damages against the Respondent.

By signing these RFP documents, the Respondent is deemed to acknowledge that he/she has made himself/herself thoroughly familiar with all the conditions governing this RFP, including those contained in any printed form stated to form part hereof, and Transnet SOC Ltd will recognise no claim for relief based on an allegation that the Respondent overlooked any such condition or failed properly to take it into account for the purpose of calculating tendered prices or otherwise.

SIGNED at _____ on this _____ day of _____ 20____

SIGNATURE OF WITNESSES

ADDRESS OF WITNESSES

1 _____

Name _____

2 _____

Name _____

SIGNATURE OF RESPONDENT'S AUTHORISED REPRESENTATIVE:

NAME: _____

DESIGNATION: _____



RFP FOR THE PURCHASE AND REMOVAL OF NON-FERROUS SCRAP METAL AS AND WHERE AVAILABLE FROM VARIOUS TRANSNET SITES FOR A PERIOD OF THREE YEARS

Section 5: VENDOR APPLICATION FORM

Respondents are to furnish the following documentation and complete the Vendor Application Form below:

1. **Original** cancelled cheque **OR** letter from the Respondent’s bank verifying banking details [**with bank stamp**]
2. **Certified copy** of Identity Document(s) of Shareholders/Directors/Members [*where applicable*]
3. **Certified copy** of Certificate of Incorporation, CM29 / CM9 [*name change*]
4. **Certified copy** of Share Certificates [CK1/CK2 if CC]
5. **Original** letterhead confirm physical and postal addresses
6. **Original** valid SARS Tax Clearance Certificate [RSA entities only]
7. **Certified copy** of VAT Registration Certificate [RSA entities only]
8. A signed letter from your entity’s auditor or accountant confirming most recent annual turnover figures
9. **Certified copy** of valid Company Registration Certificate [*if applicable*]

Note: *No contract shall be awarded to any South African Respondent whose tax matters have not been declared by SARS to be in order.*

Vendor Application Form

Entity’s trading name			
Entity’s registered name			
Entity’s Registration Number or ID Number if a Sole Proprietor			
Form of entity [v]	<input type="checkbox"/> CC	<input type="checkbox"/> Trust	<input type="checkbox"/> Pty Ltd
	<input type="checkbox"/> Limited	<input type="checkbox"/> Partnership	<input type="checkbox"/> Sole Proprietor
How many years has your entity been in business?			
VAT number [if registered]			
Entity’s telephone number			
Entity’s fax number			
Entity’s email address			
Entity’s website address			
Bank name		Branch & Branch code	
Account holder		Bank account number	
Postal address			

Respondent’s Signature

Date & Company Stamp

		Code	
Physical address		Code	
Contact person			
Designation			
Telephone			
Email			
Annual turnover range [last financial year]	< R5 m	R5 - 35 m	> R35 m
Does your entity provide/procure	Products	Services	Both
Area of collection	National	Provincial	Local
Is your entity a public or private entity	Public	Private	
Does your entity have a Tax Directive or IRP30 Certificate	Yes	No	
Main product or services [e.g. Scrap Merchant]			

Complete B-BBEE Ownership Details:

% Black ownership	% Black women ownership	% Disabled Black ownership
Does your entity have a B-BBEE certificate	Yes	No
What is your B-BBEE status [Level 1 to 9 / Unknown]		
How many personnel does the entity employ	Permanent	Part-time

If you are an existing Vendor with Transnet please complete the following:

Transnet contact person	
Contact number	
Transnet Operating Division	

Duly authorised to sign for and on behalf of Entity / Organisation:

Name		Designation	
Signature		Date	

RFP FOR THE PURCHASE AND REMOVAL OF NON-FERROUS SCRAP METAL AS AND WHERE AVAILABLE FROM VARIOUS TRANSNET SITES FOR A PERIOD OF THREE YEARS

Section 6: SIGNING POWER – RESOLUTION OF BOARD OF DIRECTORS

NAME OF ENTITY: _____

It was resolved at a meeting of the Board of Directors held on _____ that

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

in his/her capacity as indicated above is/are hereby authorised to enter into, sign, execute and complete any documents relating to this Proposal and any subsequent Agreement for the procurement of Scrap Metals.

FULL NAME _____

SIGNATURE CHAIRMAN

FULL NAME _____

SIGNATURE SECRETARY

“PREVIEW COPY ONLY”

**RFP FOR THE PURCHASE AND REMOVAL OF NON-FERROUS SCRAP METAL AS AND WHERE AVAILABLE
FROM VARIOUS TRANSNET SITES FOR A PERIOD OF THREE YEARS**

Section 7: CERTIFICATE OF ACQUAINTANCE WITH RFP DOCUMENTS

NAME OF ENTITY:

1. I/we _____ do hereby certify that i/we acquainted myself/ourselves with all the documentation comprising this RFP and all conditions contained therein, as laid down by Transnet SOC Ltd for the carrying out of the proposed procurement/supply/service/works for which I/we submitted my/our Proposal.
2. I/we furthermore agree that Transnet SOC Ltd shall recognise no claim from me/us for relief based on an allegation that I/we overlooked any RFP/contract condition or failed to take it into account for the purpose of calculating my/our offered prices or otherwise.
3. I/we understand that the accompanying Bid will be disqualified if this Certificate is found not to be true and complete in every respect.
4. For the purposes of this Certificate and the accompanying Bid, I/we understand that the word "competitor" shall include any individual or organisation, other than the Bidder, whether or not affiliated with the Bidder, who:
 - a) has been requested to submit a Bid in response to this Bid invitation;
 - b) could potentially submit a Bid in response to this Bid invitation, based on their qualifications, abilities or experience; and
 - c) provides the same Services as the Bidder and/or is in the same line of business as the Bidder
5. 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 will not be construed as collusive bidding.
6. In particular, without limiting the generality of paragraph 5 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - a) prices;
 - b) geographical area where Services will be rendered [market allocation]
 - c) methods, factors or formulas used to calculate prices;
 - d) the intention or decision to submit or not to submit, a Bid;
 - e) the submission of a Bid which does not meet the specifications and conditions of the RFP; or
 - f) bidding with the intention not winning the Bid.

Respondent's Signature

Date & Company Stamp

- 7. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quantity, specifications and conditions or collection particulars of the Services to which this RFP relates.
- 8. 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.
- 9. I/We am/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.

SIGNED at _____ on this _____ day of _____ 20____

SIGNATURE OF WITNESS

SIGNATURE OF RESPONDENT

“PREVIEW COPY ONLY”

RFP FOR THE PURCHASE AND REMOVAL OF NON-FERROUS SCRAP METAL AS AND WHERE AVAILABLE FROM VARIOUS TRANSNET SITES FOR A PERIOD OF THREE YEARS

Section 8: CERTIFICATE OF ACQUANTANCE WITH THE GENERAL BID CONDITIONS – SALE OF SCRAP METAL

[appended hereto as Appendix (i)]

NAME OF ENTITY:

I/We _____

do hereby certify that I/we acquainted myself/ourselves with all the documentation comprising the General Bid Conditions – Sale of Scrap Metal as received on _____ *[insert date]* from Transnet SOC Ltd for the carrying out of the proposed Services for which I/we submitted my/our Proposal.

I/We furthermore agree that Transnet SOC Ltd shall recognise no claim from me/us for relief based on an allegation that I/we overlooked any terms and conditions of the General Bid Conditions or failed to take it into account for the purpose of calculating my/our offered prices or otherwise.

I/We confirm having been advised that a signed copy of this Schedule can be submitted in lieu of the entire General Bid Conditions as confirmation in terms of the Returnable Schedule.

SIGNED at _____ on this _____ day of _____ 20____

SIGNATURE OF WITNESS

SIGNATURE OF RESPONDENT

RFP FOR THE PURCHASE AND REMOVAL OF NON-FERROUS SCRAP METAL AS AND WHERE AVAILABLE FROM VARIOUS TRANSNET SITES FOR A PERIOD OF THREE YEARS

Section 9: CERTIFICATE OF ACQUAINTANCE WITH THE TERMS AND CONDITIONS OF CONTRACT FOR PURCHASE OF SCRAP METAL

[appended hereto as Appendix (ii)]

NAME OF ENTITY:

I/We _____ do hereby certify that I/we acquainted myself/ourselves with all the documentation comprising the Terms and Conditions of Contract as received on _____ [insert date] from Transnet SOC Ltd for the carrying out of the proposed Services for which I/we submitted my/our Proposal.

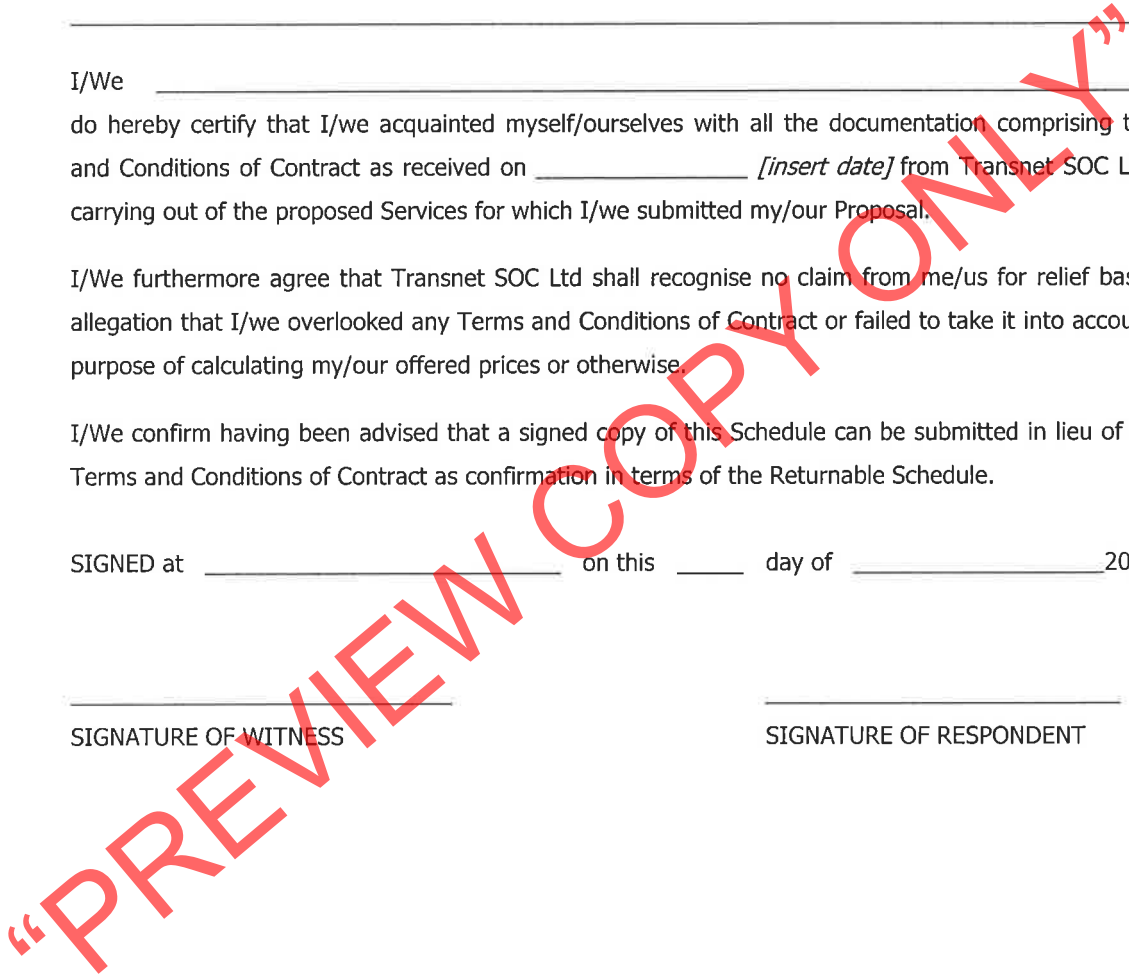
I/We furthermore agree that Transnet SOC Ltd shall recognise no claim from me/us for relief based on an allegation that I/we overlooked any Terms and Conditions of Contract or failed to take it into account for the purpose of calculating my/our offered prices or otherwise.

I/We confirm having been advised that a signed copy of this Schedule can be submitted in lieu of the entire Terms and Conditions of Contract as confirmation in terms of the Returnable Schedule.

SIGNED at _____ on this _____ day of _____ 20__

SIGNATURE OF WITNESS

SIGNATURE OF RESPONDENT



**Respondents should also note the obligations as set out in
clause 16 [Terms and Conditions of Contract]
of the General Bid Conditions [Appendix (i)] which reads as follows:**

- 16.1 *The Contractor 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.*
- 16.2 *Should the Respondent find any conditions unacceptable, it should indicate which conditions are unacceptable and offer alternatives by written submission on its company letterhead. 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.*

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RFP FOR THE PURCHASE AND REMOVAL OF NON-FERROUS SCRAP METAL AS AND WHERE AVAILABLE FROM VARIOUS TRANSNET SITES FOR A PERIOD OF THREE YEARS

Section 10: RFP DECLARATION FORM

NAME OF ENTITY: _____

We _____ do hereby certify that:

1. Transnet has supplied and we have received appropriate responses to any/all questions [as applicable] which were submitted by ourselves for RFP Clarification purposes;
2. we have received all information we deemed necessary for the completion of this Request for Proposal [**RFP**];
3. at no stage have we received additional information relating to the subject matter of this RFP from Transnet sources, other than information formally received from the designated Transnet contact(s) as nominated in the RFP documents;
4. we are satisfied, insofar as our entity is concerned, that the processes and procedures adopted by Transnet in issuing this RFP and the requirements requested from Bidders in responding to this RFP have been conducted in a fair and transparent manner; and
5. furthermore, we declare that a family, business and/or social relationship exists / does not exist [delete as applicable] between an owner / member / director / partner / shareholder of our entity and an employee or board member of the Transnet Group.
6. If such a relationship exists, Respondent is to complete the following section:

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

ADDRESS:

Indicate nature of relationship with Transnet:

[Failure to furnish complete and accurate information in this regard may lead to the disqualification of a response and may preclude a Respondent from doing future business with Transnet]

- 7. 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.
- 8. We accept that any dispute pertaining to this Bid will be resolved through the Ombudsman process and will be subject to the Terms of Reference of the Ombudsman. The Ombudsman process must first be exhausted before judicial review of a decision is sought. [Refer "Important Notice to Respondents" overleaf].
- 9. We further accept that Transnet reserves the right to reverse an award of business or decision based on the recommendations of the Ombudsman without having to follow a formal court process to have such award or decision set aside.

SIGNED at _____ on this ____ day of _____ 20__

For and on behalf of _____ duly authorised hereto	AS WITNESS:
Name:	Name:
Position:	Position:
Signature:	Signature:
Date:	
Place:	

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IMPORTANT NOTICE TO RESPONDENTS

- **Transnet has appointed a Procurement Ombudsman to investigate any material complaint in respect of RFPs exceeding R5, 000,000.00 [five million S.A. Rand] in value. Should a Respondent have any material concern regarding an RFP process which meets this value threshold, a complaint may be lodged with Transnet's Procurement Ombudsman for further investigation.**
- **It is incumbent on the Respondent to familiarise himself/herself with the Terms of Reference for the Transnet Procurement Ombudsman, details of which are available for review at Transnet's website www.transnet.net.**
- **An official complaint form may be downloaded from this website and submitted, together with any supporting documentation, within the prescribed period, to procurement.ombud@transnet.net**
- **For transactions below the R5, 000,000.00 [five million S.A. Rand] threshold, a complaint may be lodged with the Chief Procurement Officer of the relevant Transnet Operating Division.**
- **All Respondents should note that a complaint must be made in good faith. If a complaint is made in bad faith, Transnet reserves the right to place such a Bidder on its List of Excluded Bidders.**

RFP FOR THE PURCHASE AND REMOVAL OF NON-FERROUS SCRAP METAL AS AND WHERE AVAILABLE FROM VARIOUS TRANSNET SITES FOR A PERIOD OF THREE YEARS

Section 11: BREACH OF LAW FORM

NAME OF ENTITY: _____

I/We _____

do hereby certify that I/we **have/have not been** found guilty during the preceding 5 [five] years of a serious breach of law, including but not limited to a breach of the Competition Act, 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.

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____

SIGNATURE OF WITNESS

SIGNATURE OF RESPONDENT

RFP FOR THE PURCHASE AND REMOVAL OF NON-FERROUS SCRAP METAL AS AND WHERE AVAILABLE FROM VARIOUS TRANSNET SITES FOR A PERIOD OF THREE YEARS

Section 12: RFP CLARIFICATION REQUEST FORM

RFP No: CRAC/JHB/9733

RFP deadline for questions / RFP Clarifications: Before 12:00 on 05 February 2013

TO: Transnet SOC Ltd
 ATTENTION: The Secretariat, Transnet Freight Rail Acquisition Council [TFRAC]
 EMAIL: Arthur.Branford@transnet.net
 DATE: _____
 FROM: _____

RFP Clarification No [to be inserted by Transnet]

REQUEST FOR RFP CLARIFICATION

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RFP FOR THE PURCHASE AND REMOVAL OF NON-FERROUS SCRAP METAL AS AND WHERE AVAILABLE FROM VARIOUS TRANSNET SITES FOR A PERIOD OF THREE YEARS

Section 13: CODE OF CONDUCT

Transnet aims to achieve the best value for money when buying or selling goods and obtaining services. This however must be done in an open and fair manner that supports and drives a competitive economy. Underpinning our process are several acts and policies that any contractor dealing with Transnet must understand and support. These are:

- Section 217 of the Constitution - the five pillars of Public PSCM [Procurement and Supply Chain Management]: fair, equitable, transparent, competitive and cost effective;
- The Public Finance Management Act [PFMA];
- The Broad-Based Black Economic Empowerment Act [B-BBEE]; and
- The Prevention and Combating of Corrupt Activities Act.

This Code of Conduct has been included in this RFP to formally apprise prospective Transnet contractors of Transnet's expectations regarding the behaviour and conduct of its Contractors

Prohibition of bribes, kickbacks, unlawful payments, and other corrupt practices

Transnet is in the process of transforming itself into a self-sustaining State Owned Company [SOC], actively competing in the logistics industry. Our aim is to become a world class, profitable, logistics organisation. As such, our transformation is focused on adopting a performance culture and to adopt behaviours that will enable this transformation.

- a) *Transnet will not participate in corrupt practices and therefore expects its Contractors to act in a similar manner.*
- Transnet and its employees will follow the laws of this country and keep accurate business records that reflect actual transactions with our Contractors.
 - Employees must not accept or request money or anything of value, directly or indirectly, to:
 - illegally influence their judgement or conduct or to ensure the desired outcome of a sourcing activity;
 - win or retain business or to influence any act or decision of any decision stakeholders involved in sourcing decisions; or
 - gain an improper advantage.
 - There may be an occasion when a Contractor is confronted with fraudulent or corrupt behaviour by a Transnet employee. We expect our Contractors to use our "Tip-offs Anonymous" Hot line to report these acts [0800 003 056].
- b) *Transnet is firmly committed to the ideas of free and competitive enterprise.*
- Contractors are expected to comply with all applicable laws and regulations regarding fair competition and antitrust.

- Transnet does not engage with non-value adding agents or representatives solely for the purpose of increasing B-BBEE spend [fronting].
- c) *Transnet's relationship with Contractors requires us to clearly define requirements, exchange information and share mutual benefits.*
- Generally, Contractors have their own business standards and regulations. Although Transnet cannot control the actions of our Contractors, we will not tolerate any illegal activities. These include, but are not limited to:
 - misrepresentation of their product [e.g. origin of manufacture, specifications, intellectual property rights];
 - collusion;
 - failure to disclose accurate information required during the sourcing activity [e.g. ownership, financial situation, B-BBEE status];
 - corrupt activities listed above; and
 - harassment, intimidation or other aggressive actions towards Transnet employees.
 - Contractors must be evaluated and approved before any materials, components, products or services are sold to them. Rigorous due diligence is conducted and the Contractor is expected to participate in an honest and straight forward manner.
 - Contractors must record and report facts accurately, honestly and objectively. Financial records must be accurate in all material respects.

Conflicts of interest

A conflict of interest arises when personal interests or activities influence [or appear to influence] the ability to act in the best interests of Transnet. Examples include, but are not limited to:

- Doing business with family members
- Having a financial interest in another company in our industry

RFP FOR THE PURCHASE AND REMOVAL OF NON-FERROUS SCRAP METAL AS AND WHERE AVAILABLE FROM VARIOUS TRANSNET SITES FOR A PERIOD OF THREE YEARS

Section 14: CERTIFICATE OF ATTENDANCE OF RFP BRIEFING

It is hereby certified that –

1. _____

2. _____

Representative(s) of _____ *[name of entity]*
attended the RFP briefing in respect of the proposed Services to be rendered in terms of this RFP on
_____ 20____

TRANSNET'S REPRESENTATIVE

RESPONDENT'S REPRESENTATIVE

DATE _____

DATE _____

EMAIL _____

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RFP FOR THE PURCHASE AND REMOVAL OF NON-FERROUS SCRAP METAL AS AND WHERE AVAILABLE FROM VARIOUS TRANSNET SITES FOR A PERIOD OF THREE YEARS

Section 15: SUPPLIER DEVELOPMENT INITIATIVES

1. Aim and Objectives

Historically in South Africa there has been a lack of investment in infrastructure, skills and capability development and an inequality in the income distribution and wealth of a significant portion of the population. There have been a number of Government initiatives developed to address these challenges. In particular, the New Growth Path [NGP] developed in 2010 aligns and builds on previous policies to ensure the achievement of Government's development objectives for South Africa. Transnet fully endorses and supports Government's New Growth Path policy.

The key focuses of the NGP include:

- increasing employment intensity of the economy
- addressing competitiveness
- balancing spatial development of rural areas and poorer provinces
- reducing the carbon intensity of the economy
- creating opportunities in improving regional and global cooperation
- enabling transformation that benefits a wider range of social actors in society e.g. workers, rural communities, youth and women

Transnet, as a State Owned Company [SOC], plays an important role to ensure these objectives are achieved. Therefore, the purchasing of goods and services needs to be aligned to Government's objectives for developing and transforming the local supply base. Transnet's mission is to transform its supplier base by engaging in targeted supplier development initiatives to support localisation and industrialisation whilst providing meaningful opportunities for Black² South Africans with a particular emphasis on:

- Youth [16 to 35 year olds]
- Black women
- People with disabilities
- Small businesses
- Rural integration

2. Supplier Development [SD]

To facilitate the implementation of Supplier Development initiatives, Transnet has adapted an existing framework from the Department of Public Enterprises [DPE]. This framework allows for a basic set of principles to be applied to appropriately targeted SD initiatives. Supplier development initiatives aim to build local suppliers who are competitive through building capability and capacity. Hence the framework has been termed the Increased Competitiveness, Capability and Capacity Supplier Development Classification Matrix

² "Black" means South African Blacks, Coloureds and Indians, as defined in the B-BBEE Act, 53 of 2003

[**IC³ Matrix**]. Currently there are four quadrants of SD initiatives which Transnet considers according to the IC³ Matrix. This RFP has been identified as ***focused***, involving limited industrial leverage and high commercial value.

Accordingly, Transnet requests all Respondents to submit a **Supplier Development Bid Document** demonstrating their commitment and support for the New Growth Path Policy and how an appointment in terms of this RFP would assist in achieving the NGP objectives.

- a) For a detailed understanding of the IC³ Matrix, the respective SD initiatives and their objectives, please refer to the "Guidelines for the Completion of a Supplier Development Bid Document" appended hereto as ***Appendix (iii)***.
- b) The following Supplier Development [**SD**] focus areas have been identified and are included in the prescribed evaluation criteria, namely:

Category	Description
Transfer of Technology and Intellectual Property Rights [IPR]	Transfer technology, IPR and methodology to small businesses
New Skills development	Skills transfer & skills education which will occur as a result of the award of contract
Job Creation and Preservation	Number of jobs created and preserved resulting from the award of contract
Small Business Promotion	Encouragement for growth and the expansion of emerging local firms, through procurement and support mechanisms
Rural Integration and Regional Development	Incorporation of the use of rural labour and regional businesses which will contribute to NGP objectives

Green economy / carbon footprint: The potential reduction of the economy's carbon intensity [i.e. creation of a greener economy] should be regarded as a key priority within all the above SD Categories and for all proposed SD initiatives

- c) The Supplier Development Bid Document is to be submitted as a separate document, developed in line with the criteria set out in ***Annexure D [Supplier Development Value Summary]*** appended hereto. The Supplier Development Bid Document is a detailed narrative document explaining the Respondent's Bid value as summarised in Annexure D. There is no prescribed format for this document. This SD Bid Document will represent a binding commitment on the part of the successful Respondent. The SD Bid Document should outline the type of activities you intend to embark upon should you be awarded the contract. This Bid Document should also provide an overview of what you intend to achieve, when, and the mechanisms whereby you will achieve those objectives.
- d) Annexure D must also be completed, indicating by cross-reference the detailed areas which have been addressed in your SD Bid Document for each of the evaluation criteria listed in paragraph 1.2 (b) above, together with the Value Indicators therefor.

Notes for completion of SD Bid Document:

- (i) Respondents are urged to pay careful attention to the compilation of the SD Bid Document [including Annexure D] since this will form an essential component of the evaluation of your Proposal.
- (ii) Respondents are required to address each of the aspects under the detailed SD Description as a minimum for submission. This is not an exhaustive list however, and Respondents must not be limited to these choices when compiling each section.
- (iii) Please provide detailed calculations to illustrate how your estimated Rand values provided in Annexure D have been derived.
- (iv) Respondents are required to provide an electronic copy [CD] of the completed Annexure D as part of your SD Bid Document submission.

3. **Additional contractual requirements**

Should a contract be awarded through this RFP process, the successful Respondent(s) [hereinafter referred to as **the Contractor**] will be contractually committed, *inter alia*, to the following conditions:

- a) The Contractor will be required to submit a Supplier Development Plan within 45 [forty-five] days from the signature date of a Letter of Intent [**LOI**]. This SD Plan represents additional detail in relation to the SD Bid Document providing an explicit breakdown of the nature, extent, timelines and monetary value of the SD commitments which the Contractor proposes to undertake and deliver during the term of the contract. Specific milestones, timelines and targets will be recorded to ensure that the SD Plan is in line with Transnet's SD objectives and that implementation thereof is completed within the term of the contract.
- b) The SD Plan may require certain additions or updates to the initial SD Bid Document in order to ensure that Transnet is satisfied that development objectives will be met.
- c) The Contractor will need to ensure that the relevant mechanisms and procedures are in place to allow for access to information to measure and verify the Contractor's compliance with its stated SD commitments.
- d) The Contractor will be required to provide:
 - (i) monthly status updates to Transnet for each SD initiative. [Detailed requirements will be provided by Transnet];
 - (ii) quarterly status reports for Transnet and the DPE. [Detailed reporting requirements will be provided by Transnet]; and
 - (iii) a final Supplier Development report, to be submitted to Transnet prior to the expiry date of the contract, detailing delivery, implementation and completion of all SD components plus auditable confirmation of the Rand value contribution associated with each such SD commitment.
- e) All information provided by the Contractor in order to measure its progress against its stated targets will be auditable.
- f) The Contractor will be required to submit this SD Plan to Transnet in writing, within 45 [forty-five] days after signature of a Letter of Intent [**LOI**], where after both parties must reach an agreement [signed by both parties] within 20 [twenty] days. Transnet will reserve the right to reduce or increase the

number of days in which the Contractor must submit its SD Plan if it is deemed reasonable, based on the degree of complexity of the SD initiative.

- g) The contract will be conditional on agreement being reached by the parties on the SD Plan submitted by the Contractor. Therefore failure to submit or thereafter to agree to the SD Plan within the stipulated timelines will result in the non-award of such a contract or termination thereof.
- h) Failure to adhere to the milestones and targets defined in an SD Plan may result in the invocation of financial penalties, to be determined at Transnet's discretion, which equate to the monetary value of any such SD initiative which the Contractor fails to deliver, as well as providing Transnet cause to terminate the contract in certain cases where material milestones are not being achieved.

4. **Supplier Development Documentation**

Your **SD Bid Document** [including Annexure D], to be submitted as part of your RFP Proposal, will represent a binding commitment on the part of the successful Respondent.

Appended herewith is the following documentation:

- **SD Guideline Document – Appendix (iii)**

This document must be used as a guideline to complete the SD Bid Document.

- **SD Value Summary – Annexure D**

This template must be completed as part of the Bid which will represent a binding financial commitment on the part of the successful Respondent.

Failure to submit a Supplier Development Bid Document which includes all the required Annexures, to be completed as indicated in this Section will result in disqualification of your Proposal.

**RFP FOR THE PURCHASE AND REMOVAL OF NON-FERROUS SCRAP METAL AS AND WHERE AVAILABLE
FROM VARIOUS TRANSNET SITES FOR A PERIOD OF THREE YEARS**

Section 16: SPECIAL CONDITIONS OF CONTRACT

1 SPECIAL CONDITONS APPLICABLE TO THE FUTURE SALE OF SCRAP METAL BY TRANSNET

- 1.1 All transport companies, subcontractors and/or agents [collectively referred to as **authorised third parties**] of a Contractor must be approved by Transnet prior to such authorised third parties being allowed access to Transnet sites and/or to remove materials from a Transnet site. All conditions, instructions, procedures applicable to the Contractor will apply equally to all authorised third parties.
- 1.2 The Contractor will be subject to an undertaking that under no circumstances will it accept any Transnet-related scrap from any other source except Transnet and such acceptance from Transnet shall be in accordance with the provisions of an awarded contract only.
- 1.3 Transnet sites are to be regarded as operational at all times. Working on these sites must be done within the required Transnet SHE Rules.
- 1.4 The Contractor must undertake to destruct from its original form and to granulate all non-ferrous material collected from Transnet. Scrap bought from Transnet cannot be on-sold to another dealer without prior total destruction of the scrap material. Respondents are to confirm that they have the correct equipment to perform this operation and must submit a list of such equipment together with their Proposal.
- The onus will be on Respondents who intend to export the scrap to establish from the Director General, Industries, Commerce and Tourism, Pretoria, prior to the submission of their RFP, whether or not an export permit will be granted for the scrap to be purchased against this RFP.
- 1.5 Under no circumstance will an exporter be permitted to export Transnet material in its original form. The Contractor will adhere at all times to Government policies and regulatory frameworks applicable for this type of material.

2 CONTRACTUAL SAFETY CLAUSES WHICH WILL FORM PART OF ANY RESULTING CONTRACT

The Parties agree on the following arrangements according to section 37 (2) of the Occupational Health and Safety Act, 1993 [Act 85 of 1993] to ensure compliance with the mandatory provisions of the Act:

- 2.1 that the Contractor is an "employer" in its own right as defined in section 1 of Act 85 of 1993 and that it must fulfil all its obligations as an employer in terms of the Act;
- 2.2 the Contractor shall comply with the requirements of Act 85 of 1993 in its entirety;
- 2.3 where special permits are required, such as electrical switching, hot work permits, etc. the Contractor shall obtain these from a source designated by Transnet for this purpose, and all requirements of the Contractor must rigidly comply with such permits;
- 2.4 the Contractor shall appoint a Health and Safety Coordinator to liaise with Transnet on matters pertaining to occupational health and safety;

- 2.5 the appointed Health and Safety Coordinator must liaise at least once a week with the Health and Safety Section / Risk Manager / Occupational Risk Manager [as applicable] of Transnet;
- 2.6 the Contractor shall furnish the Health and Safety Section / Risk Manager / Occupational Risk Manager [as applicable] of Transnet immediately with full particulars of any subcontractor which may be involved in the contract in order that the subcontractor itself can be made aware of all the clauses in this contract pertaining to health and safety issues;
- 2.7 the Contractor shall advise the Health and Safety Section / Risk Manager / Occupational Risk Manager [as applicable] of Transnet of any hazardous situations which may arise from work being performed either by the Contractor or its subcontractor;
- 2.8 copies of all appointments as required by the Act must be given to the Health and Safety Section / Risk Manager / Occupational Risk Manager [as applicable] of Transnet;
- 2.9 a letter of good standing in terms of Section 80 [Employer to register with the Compensation Commissioner of the Compensation for Occupational Injuries and Disease Act 1993 [Act 130 of 1993] must also be furnished;
- 2.10 all clauses in the contract pertaining health and safety form an integral part of the contract and if not complied with may be construed as a material breach of such contract; and
- 2.11 all loading and removal operations must be strictly in accordance with the Health and Safety Act [Act 85 of 1993]. Respondents to confirm that they will adhere to this requirement:
 YES _____ NO _____

3 RISK ASSESSMENT AND HEALTH AND SAFETY PLANNING

In addition to compliance with the conditions set forth in section 10.2 above, the Parties further agree on the following arrangements according to section 37 (2) of the Occupational Health and Safety Act, 1993 [Act 85 of 1993] to ensure compliance with the mandatory provisions of the Act:

- 3.1 The Contractor shall conduct a risk assessment of the work to be performed, such assessment to be undertaken by a competent person prior to the commencement of work, in order to identify risks and hazards to which persons may be exposed, to analyse and to evaluate identified hazards.
- 3.2 The Contractor shall have a documented Health and Safety Plan based on the risks and hazards identified before commencement of work.
- 3.3 The Health and Safety Plan shall include the following:
- a) the safety management structure to be instituted with all appointments in terms of the Act and Regulations;
 - b) the safe working methods and procedures to be implemented to ensure work is performed in compliance with the Act;
 - c) the safety equipment, devices and clothing to be made available by the Contractor to its employees;
 - d) the site access control measures pertaining to health and safety to be implemented; and
 - e) control measures for ensuring that the Health and Safety Plan is maintained and monitored for the duration of the contract.

- 3.4 The Contractor shall ensure that all work is performed under the close supervision of a person trained to understand the hazards associated with the work performed and who has authority to ensure that the necessary precautionary measures are implemented.
- 3.5 The Contractor shall stop any subcontractor from executing work which is not in accordance with the Health and Safety Plan or which poses a threat to health and safety of persons.
- 3.6 The Contractor shall ensure that all its employees and visitors undergo health and safety induction pertaining to the hazards prevalent, proof of such training to be kept on file.
- 3.7 In the event where the risk assessment reveals the risk relating to working from an elevated position, the Contractor shall cause the designation of a competent person, responsible for the preparation of a Fall Protection Plan.
- 3.8 The Fall Protection Plan shall include:
- a) a risk assessment of all work carried out from an elevated position;
 - b) procedures and methods to address all the identified risks per location;
 - c) evaluation of employees' physical and psychological fitness necessary to work in elevated positions;
 - d) the training of employees working from an elevated position; and
 - e) procedures addressing the inspection, testing and maintenance of all fall protection equipment.
- 3.9 The Contractor shall ensure that a Health and Safety File is available which shall include all documentation as required by the Act, together with a copy of the Contractor's and its subcontractor's Risk Assessment and Health and Safety Plan.
- 3.10 No alcohol or any other intoxicating substance shall be allowed on Transnet premises. The Contractor shall not allow anyone under or suspected to be under the influence of alcohol or any other intoxicating substance on Transnet premises.
- 3.11 All incidents referred to in Section 24 of the Act involving the Contractor and its subcontractor on Transnet premises, shall be reported as prescribed. Transnet hereby retains an interest in the issue of any investigation, formal inquiry conducted in terms of Section 31 and 32 of the Act into any incident involving the Contractor, its subcontractor, or any person or machinery under its control on Transnet premises.

4 ACCESS CONTROL

- 4.1 In respect of services undertaken on the property [Sites] of Transnet that have been declared as National Key points by the Minister of Defence, the Contractor shall at all times comply and enforce the provisions of the National Key Points Act, 102 of 1980, and its directive as well as the provisions of the Control of Access to Public Premises and Vehicles Act, 53 of 1985, as amended, and all other applicable legislation.
- 4.2 Where services are undertaken on the property of Transnet that has been declared as a port in terms of the National Ports Act, 12 of 2005, the Contractor shall at all times comply and enforce the provisions of the Port Rules as well as the provisions of the Merchant Shipping (Maritime Security) Regulations, 2004 or any legislation that may replace it.

- 4.3 The Contractor must ensure that no person shall, without the permission of a nominated representative of Transnet, [**the Authorised Officer**], enter any premises or any vehicle in respect of which a directive has been issued by the Client in terms of subsection (2)(b) of the Control of Access to Public Premises and Vehicles Act, 53 of 1985, as amended.
- 4.4 For the purpose of the granting of that permission an Authorised Officer may require that the person concerned shall:
- a) furnish his name, address and any other relevant information required by the Authorised Officer;
 - b) produce proof of his identity to the satisfaction of the Authorised Officer;
 - c) declare whether he has a firearm or any potential dangerous object in his possession, custody or under his control;
 - d) declare what the contents are of any vehicle, suitcase, attaché case, bag, handbag, folder, envelope, parcel or container of any nature which he has in his possession or custody or under his control, and show those contents to the Authorised Officer;
 - e) subject himself and anything which he has in his possession or custody or under his control to an examination by an electronic or other apparatus in order to determine the presence of any potential dangerous object; and
 - f) in the case of premises or a vehicle or a class of premises or vehicles determined by the Minister of Safety and Security by Gazette, be searched by an Authorised Officer.
- 4.5 Where an Authorised Officer grants permission in terms of this clause, he may do so subject to conditions regarding the carrying or displaying of proof that the necessary permission has been granted, to visit a specific person, office or area, the duration of his presence on or in the premises or vehicle, the escorting of the person concerned while he is on or in the premises or vehicle, and such other requirements as he may consider necessary.
- 4.6 Subject to the provisions of the Trespass Act, 6 of 1959, an Authorised Officer shall at any time remove any person from any premises or vehicle if:
- a) that person enters or enters upon the premises or vehicle concerned without the permission contemplated in this clause;
 - b) that person refuses or fails to observe a condition contemplated in this clause; or
 - c) the Authorised Officer considers it necessary for the safeguarding of the premises or vehicle concerned or the contents thereof or for the protection of the people therein or thereon.
- 4.7 The search of a female shall only be carried out by a female security officer in private, and should at all times be done in a courteous and dignified manner.

5 CONTRACT INSURANCES

All insurances against accidents and third party losses or damages will be for the Contractor’s account. In this regard the Respondent makes the following declaration:

I hereby declare that the insurance policies detailed below will be effected by us, in accordance with Transnet’s Standard Terms and Conditions of Contract and the Special Conditions hereto, prior to the commencement date of any business to be contracted with Transnet hereafter, in terms of this RFP:

- a) Workmen’s Compensation [Act No. 30 of 1941, as amended];
- b) Stated Benefits and Common Law Liability Insurance;
- c) Construction Plant and Allied Equipment [where applicable];
- d) Off-Site Manufacturing Risks [where applicable]; and
- e) Marine Insurance for Plant and Material transported to the Site from outside the Republic of South Africa [where applicable].

COPIES OF RELEVANT DOCUMENTS / POLICIES WILL BE SUBMITTED UPON REQUEST.

SIGNATURE:

NAME OF SIGNATORY:

OFFICIAL CAPACITY:

“PREVIEW COPY ONLY”



ANNEXURE A: B-BBEE PREFERENCE POINTS CLAIM FORM

This preference form contains general information and serves as a claim for preference points for Broad-Based Black Economic Empowerment [**B-BBEE**] Status Level of Contribution. The bidder's claim for preference points in respect of its compliance targets for Further Recognition Criteria [**FRC**] will be evaluated in accordance with the FRC table incorporated in the RFP documents.

1. INTRODUCTION

1.1 A total of 20 preference points shall be awarded as follows:

	POINTS
B-BBEE STATUS LEVEL OF CONTRIBUTION	10
FURTHER RECOGNITION CRITERIA [FRC]	5
FURTHER BONUS POINTS	5
Total points for B-BBEE and FRC shall not exceed	20

1.2 Failure on the part of a bidder to fill in and/or to sign this form and submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System [**SANAS**] or a Registered Auditor approved by the Independent Regulatory Board of Auditors [**IRBA**] or an Accounting Officer as contemplated in the Close Corporation Act [**CCA**] together with the bid will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

1.3 Transnet 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 Transnet.

2. GENERAL DEFINITIONS

2.1 "**all applicable taxes**" include value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;

2.2 "**B-BBEE**" means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;

2.3 "**B-BBEE status 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;

2.4 "**bid**" means a written offer in a prescribed or stipulated form in response to an invitation by Transnet for the provision of goods, works or services;

2.5 "**Broad-Based Black Economic Empowerment Act**" means the Broad-Based Black Economic Empowerment Act, 2003 [Act No. 53 of 2003];

2.6 "**consortium or joint venture**" means an association of persons for the purpose of combining their expertise, property, capital, efforts, skills and knowledge in an activity for the execution of a contract;

2.7 "**contract**" means the agreement that results from the acceptance of a bid by Transnet;

- 2.8 **"control"** means the possession and exercise of legal authority and power to manage the assets, goodwill and daily operations of a business and the active and continuous exercise of appropriate managerial authority and power in determining the policies and directing the operations of the business;
- 2.9 **"EME"** means any enterprise with an annual total revenue of R5 [five] million or less;
- 2.10 **"firm price"** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs and excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- 2.11 **"functionality"** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;
- 2.12 **"person"** includes reference to a juristic person;
- 2.13 **"subcontract"** means the primary contractor's assigning or leasing or making out work to, or employing another person to support such primary contractor in the execution of part of a project in terms of the contract;
- 2.14 **"total revenue"** bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Empowerment Act and promulgated in the Government Gazette on 9 February 2007;
- 2.15 **"trust"** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
- 2.16 **"trustee"** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

3. ADJUDICATION USING A POINT SYSTEM

- 3.1 The bidder obtaining the highest number of total points for the evaluation criteria as enumerated in Section 2 of the RFP will be awarded the contract.
- 3.2 Points scored will be rounded off to 2 [two] decimal places.
- 3.3 In the event of equal points scored, the bid will be awarded to the bidder scoring the highest number of preference points for B-BBEE.
- 3.4 However, when functionality is part of the evaluation process and two or more bids have scored equal points including equal preference points for B-BBEE, the successful bid will be the one scoring the highest score for functionality.
- 3.5 Should two or more bids be equal in all respect, the award shall be decided by the drawing of lots.

4. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTION

4.1 Preference points shall be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of Points [Maximum 10]
1	10
2	9
3	8
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

Note: Refer to Section 1 of the RFP document for further information in terms of B-BBEE ratings.

- 4.2 Bidders other than EMEs must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.
- 4.3 A trust, consortium or joint venture will qualify for points for its B-BBEE status level as a legal entity, provided that the entity submits its B-BBEE status level certificate.
- 4.4 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- 4.5 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialised scorecard contained in the B-BBEE Codes of Good Practice.
- 4.6 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 subcontracting more than 25% [twenty-five per cent] of the value of the contract to any other enterprise that does not qualify for at least the same number of points that such a bidder qualifies for, unless the intended subcontractor is an EME that has the capability and ability to execute the subcontract.
- 4.7 A person awarded a contract may not subcontract more than 25% [twenty-five per cent] 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 subcontracted to an EME that has the capability and ability to execute the subcontract.

5. B-BBEE STATUS AND SUBCONTRACTING

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

B-BBEE Status Level of Contributor _____ = _____ [maximum of 10 points]

Note: Points claimed in respect of this paragraph 5.1 must be in accordance with the table reflected in paragraph 4.1 above and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or an Accounting Officer as contemplated in the Close Corporation Act.

5.2 Subcontracting:

Will any portion of the contract be subcontracted? YES/NO [delete which is not applicable]

If YES, indicate:

- (i) What percentage of the contract will be subcontracted?%
- (ii) The name of the subcontractor
- (iii) The B-BBEE status level of the subcontractor
- (iv) Is the subcontractor an EME? YES/NO

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BID DECLARATION

I/we, the undersigned, who warrants that he/she is duly authorised to do so on behalf of the company/firm certify that points claimed, based on the B-BBEE status level of contribution indicated in paragraph 6 above, qualifies the company/firm for the preference(s) shown and I / we acknowledge that:

- (i) The information furnished is true and correct.
- (ii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 6 above, the contractor may be required to furnish documentary proof to the satisfaction of Transnet that the claims are correct.
- (iii) If the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, Transnet 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) restrict the bidder or contractor, its shareholders and directors, and/or associated entities, or only the shareholders and directors who acted in a fraudulent manner, from obtaining business from Transnet for a period not exceeding 10 years, after the *audi alteram partem* [hear the other side] rule has been applied; and/or
 - (e) forward the matter for criminal prosecution.

WITNESSES:

1.

2.

.....

SIGNATURE OF BIDDER

DATE:

COMPANY NAME:

ADDRESS:

BID REFERENCE NO: CRAC/JHB/9733



Annexure B

NON-DISCLOSURE AGREEMENT

entered into by and between

TRANSNET FREIGHT RAIL

an Operating Division of **TRANSNET SOC LTD**

Registration Number 1990/000900/30

and

Registration Number _____

RFP Number CRAC/JHB/9733

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THIS AGREEMENT is made between

Transnet Freight Rail [Transnet] [Registration No. 1990/000900/30]

whose registered office is at Inyanda House 1, 21 Wellington Road. Park Town, Johannesburg 2001,

and

_____ **[the Company]** [Registration No _____]

whose registered office is at _____

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:
 - a) 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
 - b) 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

- c) following such disclosure, becomes available to the Receiving Party or its Agents (as can be demonstrated by its written records or other reasonable evidence) from a source other than the Disclosing Party or its Agents, which source is not bound by any duty of confidentiality owed, directly or indirectly, to the Disclosing Party in relation to such information;
- 1.4 **Group** means any subsidiary, any holding company and any subsidiary of any holding company of either party; and
- 1.5 **Information** means all information in whatever form including, without limitation, any information relating to systems, operations, plans, intentions, market opportunities, know-how, trade secrets and business affairs whether in writing, conveyed orally or by computer-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 such Receiving Party 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:
- a) 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
- b) 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 2.3b) above, it shall promptly notify the Disclosing Party and cooperate with the Disclosing Party regarding the form, nature, content and purpose of such disclosure or any action which the Disclosing Party may reasonably take to challenge the validity of such requirement.
- 2.5 In the event that any Confidential Information shall be copied, disclosed or used otherwise than as permitted under this Agreement then, upon becoming aware of the same, without prejudice to any rights or remedies of the Disclosing Party, the Receiving Party shall as soon as practicable notify the Disclosing Party of such event and if requested take such steps (including the institution

of legal proceedings) as shall be necessary to remedy (if capable of remedy) the default and/or to prevent further unauthorised copying, disclosure or use.

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

3 RECORDS AND RETURN OF INFORMATION

- 3.1 The Receiving Party agrees to ensure proper and secure storage of all Information and any copies thereof.
- 3.2 The Receiving Party shall keep a written record, to be supplied to the Disclosing Party upon request, of the Confidential Information provided and any copies made thereof and, so far as is reasonably practicable, of the location of such Confidential Information and any copies thereof.
- 3.3 The Company shall, within 7 (seven) days of receipt of a written demand from Transnet:
- a) return all written Confidential Information (including all copies); and
 - b) 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 3.3b) 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 of the Bill of Rights (Section 14) in connection with this Bid and shall procure that its personnel shall observe the provisions of such Act (as applicable) or any amendments and re-enactments thereof and any regulations made pursuant thereto.
- 8.2 The Receiving Party warrants that it and its Agents have the appropriate technical and organisational measures in place against unauthorised or unlawful processing of data relating to the Bid and against accidental loss or destruction of, or damage to such data held or processed by them.

9 GENERAL

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

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ANNEXURE C1: FURTHER RECOGNITION CRITERIA (CURRENT)

Transnet encourages its suppliers to constantly strive to improve their B-BBEE rating. Whereas Respondents will be allocated points in terms of a preference point system based on its B-BBEE scorecard to be assessed as detailed in Section 1, paragraph 5.1, in addition to such scoring, a further **3% [3 per cent]** will be allocated to Respondents score based on the following Further Recognition Criteria [FRC] This will be calculated on an ascending scale. Will be allocated based on the extent to which the Respondent's current ownership, management control and employment equity meets or exceeds certain minimum targets.

Respondents are to insert their current FRC score in the table below.

If a Respondents fails to complete the "Current Status Percentage % column, this will result in a "nil" score being allocated for its FRC Current Status.

Ownership Indicator	Required Responses	Compliance Target	Current Status (%)
1. The percentage of the business owned by Black ¹ persons	<i>Provide a commitment based on the extent to which ownership in the hands of Black persons as a percentage of total ownership of the organisation would be sustained or increased over the contract period.</i>	Points will be allocated for any score $\geq 51\%$ to 100%, on a sliding scale	
2. The percentage of the business owned by Black women	<i>Provide a commitment based on the extent to which ownership in the hands of Black women as a percentage of total ownership of the organisation would be sustained or increased over the contract period.</i>	Points will be allocated for any score $\geq 30\%$ to 100%, on a sliding scale	
3. The percentage of the business owned by Black youth ²	<i>Provide a commitment based on the extent to which ownership in the hands of Black youth as a percentage of total ownership of the organisation would be sustained or increased over the contract period.</i>	Points will be allocated for any score $\geq 5\%$ to 100%, on a sliding scale	
4. The percentage of the business owned by Black persons living with disabilities	<i>Provide a commitment based on the extent to which ownership in the hands of Black disabled persons as a percentage of total ownership of the organisation would be sustained or increased over the contract period.</i>	Points will be allocated for any score $\geq 3\%$ to 100%, on a sliding scale	

¹ "Black" means South African Blacks, Coloureds and Indians, as defined in the B-BBEE Act, 53 of 2003

² "Black youth" means Black persons from the age of 16 to 35

Management Control Indicator	Required Responses	Compliance Target	Current Status (%)
5. The percentage of Black Board members in relation to the total number of Board members	<i>Provide a commitment based on the extent to which the number of Black Board members, as a percentage of the total Board, would be sustained or increased over the contract period.</i>	Points will be allocated for any score >50% to 100%, on a sliding scale	
6. The percentage of Black female Board members in relation to the total number of Board members	<i>Provide a commitment based on the extent to which the number of Black female Board members, as a percentage of the total Board, would be sustained or increased over the contract period.</i>	Points will be allocated for any score >30% to 100%, on a sliding scale	
7. The percentage of Black senior managers involved in day to day management of the organisation, in relation to the total senior management cadre	<i>Provide the percentage of Blacks that would be appointed or retained by the Board and would be operationally involved in the day to day senior management of the business, with individual responsibility for overall and/or financial management of the business and actively involved in the development and implementation of overall strategy, over the contract period.</i>	Points will be allocated for any score ≥40% to 100%, on a sliding scale	
8. The percentage of Black middle managers involved in day to day management of the organisation, in relation to the total middle management cadre.	<i>Provide the percentage of Blacks that would be retained or appointed by the organisation in the middle management cadre and would be operationally involved in the day to day management of the business, with individual responsibility for a particular area within the business and actively involved in the day to day management of the organisation, over the contract period.</i>	Points will be allocated for any score ≥63% to 100%, on a sliding scale	
9. The percentage of Black junior managers involved in day to day management of the organisation, in relation to the total junior management cadre.	<i>Provide the percentage of Blacks that would be retained or appointed by the organisation in the junior management cadre and would be operationally involved in the day to day running of the business, with individual responsibility for a particular area within the business and actively involved in a supervisory role with regards to the day to day management of the organisation, over the contract period.</i>	Points will be allocated for any score ≥68% to 100%, on a sliding scale	

Employment Equity Indicator	Required Responses	Compliance Target	Current Status (%)
10. The percentage of Black employees as a percentage of the total number of employees in the organisation.	<i>Provide a commitment based on the extent to which the number of Black employees would be sustained or increased as a percentage of the organisation's total workforce, over the contract period.</i>	Points will be allocated for any score $\geq 65\%$ to 100%, on a sliding scale	
11. The percentage of Black women employees as a percentage of the total workforce.	<i>Provide a commitment based on the increase in the number of Black women employees as a percentage of the organisation's total workforce, or sustained over the contract period.</i>	Points will be allocated for any score $\geq 40\%$ to 100%, on a sliding scale	
12. The percentage of Black youth employed in relation to the total number of employees in the organisation.	<i>Provide a commitment based on the extent to which the percentage of Black youth employed, in relation to the total of all employees in the organisation, would be sustained or increased over the contract period.</i>	Points will be allocated for any score $\geq 40\%$ to 100%, on a sliding scale	
13. The percentage of Black disabled employees in relation to the total number of employees in the organisation.	<i>Provide a commitment based on the extent to which the percentage of Black disabled employees, in relation to the total of all employees in the organisation, would be sustained or increased over the contract period.</i>	Points will be allocated for any score $\geq 2\%$ to 10%, on a sliding scale	

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ANNEXURE C2: FURTHER RECOGNITION CRITERIA [FUTURE TARGETS]

Transnet encourages its suppliers to constantly strive to improve their B-BBEE rating. Whereas Respondents will be allocated points in terms of a preference point system based on its B-BBEE scorecard to be assessed as detailed in Section 1, paragraph 5.1, in addition to such scoring, a further **2% [per cent]** will be allocated to Respondents score based on the following Further Recognition Criteria [**Future Targets**] on an ascending scale.

2 [two] points for FRC will be allocated based on the extent to which the Respondent's current ownership, management control and employment equity meets or exceeds certain minimum targets. .

Respondents are to insert their future targets (%) for the Further Recognition Criteria indicators [i.e. not the % change but the end-state quantum expressed as a percentage] in the table below. This will indicate how you would intend to sustain or improve your FRC compliance rating over the contract period, which will represent a binding commitment to the successful Respondent.

Ownership Indicator	Required Responses	Compliance Target	Future Target (%)
1. The percentage of the business owned by Black ¹ persons.	<i>Provide a commitment based on the extent to which ownership in the hands of Black persons as a percentage of total ownership of the organisation would be sustained or increased over the contract period.</i>	Points will be allocated for any score $\geq 51\%$ to 100%, on a sliding scale	
2. The percentage of your business owned by Black women.	<i>Provide a commitment based on the extent to which ownership in the hands of Black women as a percentage of total ownership of the organisation would be sustained or increased over the contract period.</i>	Points will be allocated for any score $\geq 30\%$ to 100%, on a sliding scale	
3. The percentage of the business owned by Black youth ²	<i>Provide a commitment based on the extent to which ownership in the hands of Black youth as a percentage of total ownership of the organisation would be sustained or increased over the contract period.</i>	Points will be allocated for any score $\geq 5\%$ to 100%, on a sliding scale	
4. The percentage of the business owned by Black persons living with disabilities	<i>Provide a commitment based on the extent to which ownership in the hands of Black disabled persons as a percentage of total ownership of the organisation would be sustained or increased over the contract period.</i>	Points will be allocated for any score $\geq 3\%$ to 100%, on a sliding scale	

¹ "Black" means South African Blacks, Coloureds and Indians, as defined in the B-BBEE Act, 53 of 2003

² "Black youth" means Black persons from the age of 16 to 35

Management Control Indicator	Required Responses	Compliance Target	Future Targets (%)
5. The percentage of Black Board members in relation to the total number of Board members	<i>Provide a commitment based on the extent to which the number of Black Board members, as a percentage of the total Board, would be sustained or increased over the contract period.</i>	Points will be allocated for any score >50% to 100%, on a sliding scale	
6. The percentage of Black female Board members in relation to the total number of Board members	<i>Provide a commitment based on the extent to which the number of Black female Board members, as a percentage of the total Board, would be sustained or increased over the contract period.</i>	Points will be allocated for any score >30% to 100%, on a sliding scale	
7. The percentage of Black senior managers involved in day to day management of the organisation, in relation to the total senior management cadre	<i>Provide the percentage of Blacks that would be appointed or retained by the Board and would be operationally involved in the day to day senior management of the business, with individual responsibility for overall and/or financial management of the business and actively involved in the development and implementation of overall strategy, over the contract period.</i>	Points will be allocated for any score ≥40% to 100%, on a sliding scale	
8. The percentage of Black middle managers involved in day to day management of the organisation, in relation to the total middle management cadre.	<i>Provide the percentage of Blacks that would be retained or appointed by the organisation in the middle management cadre and would be operationally involved in the day to day management of the business, with individual responsibility for a particular area within the business and actively involved in the day to day management of the organisation, over the contract period.</i>	Points will be allocated for any score ≥63% to 100%, on a sliding scale	
9. The percentage of Black junior managers involved in day to day management of the organisation, in relation to the total junior management cadre.	<i>Provide the percentage of Blacks that would be retained or appointed by the organisation in the junior management cadre and would be operationally involved in the day to day running of the business, with individual responsibility for a particular area within the business and actively involved in a supervisory role with regards to the day to day management of the organisation, over the contract period.</i>	Points will be allocated for any score ≥68% to 100%, on a sliding scale	

Employment Equity Indicator	Required Responses	Compliance Target	Future Targets (%)
10. The percentage of Black employees as a percentage of the total number of employees in the organisation.	<i>Provide a commitment based on the extent to which the number of Black employees would be sustained or increased as a percentage of the organisation's total workforce, over the contract period.</i>	Points will be allocated for any score $\geq 65\%$ to 100%, on a sliding scale	
11. The percentage of Black women employees as a percentage of the total workforce.	<i>Provide a commitment based on the increase in the number of Black women employees as a percentage of the organisation's total workforce, or sustained over the contract period.</i>	Points will be allocated for any score $\geq 40\%$ to 100%, on a sliding scale	
12. The percentage of Black youth employed in relation to the total number of employees in the organisation.	<i>Provide a commitment based on the extent to which the percentage of Black youth employed, in relation to the total of all employees in the organisation, would be sustained or increased over the contract period.</i>	Points will be allocated for any score $\geq 40\%$ to 100%, on a sliding scale	
13. The percentage of Black disabled employees in relation to the total number of employees in the organisation.	<i>Provide a commitment based on the extent to which the percentage of Black disabled employees, in relation to the total of all employees in the organisation, would be sustained or increased over the contract period.</i>	Points will be allocated for any score $\geq 2\%$ to 10%, on a sliding scale	
Preferential Procurement Indicator	Required Responses	Compliance Target	Future Targets (%)
14. B-BBEE procurement spend from all suppliers based on the B-BBEE procurement recognition level as a percentage of total measured procurement spend	<i>Provide a commitment based on the extent to which B-BBEE spend would be sustained or increased over the contract period.</i>	Score will be allocated for any score $\geq 50\%$ to 100%, on a sliding scale	
15. B-BBEE procurement spend from QSEs based on the applicable B-BBEE procurement recognition levels as a percentage of total measured procurement spend	<i>Provide a commitment based on the extent to which B-BBEE spend from QSEs would be sustained or increased over the contract period</i>	Score will be allocated for any percentages $\geq 10\%$ to 100%, on a sliding scale	
16. B-BBEE procurement spend from EMEs based on the applicable B-BBEE procurement recognition levels as a percentage of total measured procurement spend	<i>Provide a commitment based on the extent to which B-BBEE spend from EMEs would be sustained or increased over the contract period</i>	Score will be allocated for any percentages $\geq 10\%$ to 100%, on a sliding scale	

Preferential Procurement Indicator [continued]	Required Response	Compliance Target	Future Targets (%)
17. B-BBEE procurement spend from any of the following suppliers as a percentage of total measured procurement spend: <ul style="list-style-type: none"> Suppliers who are ≥ 51% Black-owned Suppliers who are ≥51% Black women-owned 	<i>Provide a commitment based on the extent to which spend from suppliers who are more than 51% Black-owned or 51% Black women-owned would be maintained or increased over the contract period.</i>	Points will be allocated for any percentages ≥15% to 100%, on a sliding scale	
Enterprise Development Indicator	Required Response	Compliance Target	Future Target (%)
18. The organisation's annual spend on Enterprise Development as a percentage of Net Profit after Tax [NPAT]	<i>Provide a commitment based on the retention or increase in your organisation's annual spend on Enterprise Development initiatives, as a percentage of its Net Profit after Tax, over the contract period.</i>	Points will be allocated for any percentages ≥3% of NPAT,	

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